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on behalf of herself and all others similarly situated

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

SHARON ELIZABETH HERBERT, on behalf
of herself and all others similarly situated,

Plaintiffs,

v.

FRIEDMAN'S HOME IMPROVEMENT, a
California corporation; and DOES 1 to 10,
inclusive,

Defendants.

CLASS ACTION

Case No.: 23CV01246

Assigned for All Purposes To:
Hon. Oscar A. Pardo

**DECLARATION OF MARTA MANUS IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: February 11, 2026

Time: 3:00 p.m.

Dept.: 19

Complaint filed: October 27, 2023

FAC filed: January 3, 2024

Trial Date: Not set

**DECLARATION OF MARTA MANUS IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

I, Marta Manus, declare:

1. I am an attorney licensed to practice before all courts of the State of California. I am counsel for the Plaintiff Sharon Elizabeth Herbert and have personal knowledge of the facts herein. If called as a witness, I could and would competently testify thereto.

I. PROCEDURAL HISTORY

2. On October 27, 2023, Plaintiff commenced the Action by filing a class action complaint against Friedman's Home Improvement ("Defendant") for various violations of the California Labor Code on an individual and class-wide basis. Plaintiff gave timely written notice to the Labor and Workforce Development Agency ("LWDA") and Defendant that Plaintiff also intended to proceed with a representative action under the Private Attorneys General Act of 2004 ("PAGA"), (LWDA-CM-990264-23).

3. On January 3, 2024, after the 65-day statutory period passed, Plaintiff filed a First Amended Complaint ("FAC"), adding a claim for civil penalties under PAGA, Labor Code §2698, *et seq.* The FAC includes the following causes of action against Defendant for: (1) Failure to pay all wages; (2) Failure to provide all meal periods; (3) Failure to authorize and permit all paid rest periods; (4) Failure to timely furnish accurate itemized wage statements; (5) Derivative violations of Labor Code §§ 201-202; (6) Independent violations of Labor Code §§ 201-202; and (7) Unfair Business Practices. The FAC is the Operative Complaint.

4. Plaintiff contends, via the Operative Complaint, that Defendant violated California's wage and hour laws by failing to pay all wages, failing to provide all meal periods, failing to authorize and permit all paid rest periods, failing to provide accurate itemized wage statements, failing to derivatively timely pay final wages due upon separation of employment, failing to independently timely pay final wages due upon separation of employment, and thereby also violating California Business & Professions Code sections 17200, *et seq.*, and incurring penalties under PAGA.

5. On August 13, 2024, the Parties participated in a mediation presided over by

1 respected wage and hour class action mediator Steven J. Serratore, Esq. Although the Parties did
2 not reach a settlement on the day of mediation, they continued to engage in settlement
3 negotiations and were ultimately able to reach a settlement. The Parties, recognizing the burdens
4 and risks of continuing with the litigation, entered into the Settlement Agreement to resolve all
5 claims in the Operative Complaint.

6 **II. THE SETTLEMENT**

7 6. To settle the Action, will pay the Gross Settlement Amount of \$2,200,000 (Two
8 Million Two Hundred Thousand Dollars and Zero Cents, exclusive of the employer's portion of
9 payroll taxes and fees (i.e. Defendant will pay the employer-side payroll taxes on the wages
10 portion separately from the Gross Settlement Amount). It shall be an opt-out class, there is no
11 claim form requirement, and no residual will revert to Defendant. The Gross Settlement Amount
12 represents approximately 52% of the maximum estimated exposure including PAGA Penalties,
13 which demonstrates that the settlement is fair and reasonable. The estimated Net Settlement
14 Amount of \$1,376,666.67 represents approximately 29% of the estimated overall value, further
15 supporting the reasonableness of the Settlement. Thus, the Settlement represents a fair and
16 reasonable recovery for the claims in the Operative Complaint.

17 7. There is total of approximately 128,000 Workweeks worked by approximately
18 1,438 Class Members during the Class Period, resulting in a recovery of an estimated \$10.75 per
19 Workweek (estimated NSA of \$1,376,666.67 divided by 128,000). Each Class Member will
20 receive an *average* Individual Settlement Award of approximately \$957.34 (estimated NSA of
21 \$1,376,666.67 divided by 1,438 Class Members), with the *highest* estimated Individual
22 Settlement Award of approximately \$3,203.50 (total weeks in the Class Period (298) multiplied
23 by \$10.75). Additional proposed disbursements from the GSA are as follows:

24 Class Counsel Fees Payment	Up to \$733,333.33 (1/3 of the Gross Settlement Amount)
25 Class Counsel Litigation Expenses Payment	Up to \$30,000
26 Administration Costs	Estimated to be up to \$20,000
27 Class Representative Service Award	Up to \$10,000 to Plaintiff

PAGA Penalties

\$30,000 (\$22,500 to LWDA; \$7,500 to Aggrieved Employees)

8. As detailed in the Settlement Agreement, the Parties have selected Rust Consulting, Inc. (“Rust”) as the Administrator, an experienced class action settlement administrator, to administer this Settlement. The Parties respectfully request that this Court appoint Rust to handle the Class Notice and claims administration procedures, including posting the Judgment on its website. To my knowledge, none of the parties or attorneys involved in this Action has ever had any financial interest in or affiliation with the proposed Administrator.

9. Following preliminary approval, the Administrator will mail the Court approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, with Spanish Translation (“Class Notice”) per the Settlement Agreement. The Parties respectfully request that this Court approve the Class Notice to be disseminated to the Class consistent with the manner and timing as set forth in this Memorandum and the Settlement Agreement.

III. SETTLEMENT DOCUMENTS

10. The Parties have finalized the terms of the following documents and confirmed that the Class Notice will be translated into Spanish. True and correct copies of the Settlement Agreement and Class Notice attached hereto:

- a. Class Action And PAGA Settlement Agreement attached hereto as **Exhibit 1**;
- b. Class Notice attached to the Settlement Agreement (Exhibit 1 herein) as **Exhibit A**; and

11. Attached hereto as **Exhibit 2** is true and correct copy of the Declaration Eric Bishop on behalf of Rust.

12. Attached hereto as **Exhibit 3** is a true and correct copy of the confirmation of submission of PAGA settlement to the LWDA.

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IV. CONDITIONAL CERTIFICATION OF THE CLASS FOR SETTLEMENT PURPOSES

13. The Class definition is sufficiently specific to enable potential Class Members and the Court to identify the Class Members, all of whom have indeed been identified by Defendant's employment and payroll records. The Settlement proposes the following Class: all non-exempt employees employed by Defendant in California at any time from October 27, 2019, through July 14, 2025 (the "Class Period"). It shall be an opt-out class. There are approximately 1,438 Class Members, which is sufficient to satisfy numerosity requirements.

14. The proposed Class Representative worked for Defendant as a non-exempt employee under Defendant's uniform employment policies applicable all persons employed by Defendant in California during the Class Period (defined above). Plaintiff asserts that these are all policy questions that are uniform and can be proven by common objective evidence. The evidence to support these claims on a class wide basis consists of Defendant's policies, payroll records, time records and the forms of wage statements given to Defendant's non-exempt employees. The Class Representative was subject to the same policies as other Class Members.

15. Plaintiff's claims are typical of those of other Class Members. The Class Representative has agreed to act as such and understands their responsibilities. The Class Representative has no claims or other interests that are antagonistic to the Class.

V. PRELIMINARY APPROVAL OF THE SETTLEMENT

16. The Settlement for each participating Class Member is fair, reasonable, and adequate given the inherent risk of litigation, the risk relative to trial, and the costs of litigation. The Settlement represents a fair and reasonable value of all claims. There is no claim form required so all Class Members will be paid unless they opt out, and there is no reversion to Defendant. Finally, the only governmental involvement in this case is the existence of a PAGA claim, and Plaintiffs have notified the LWDA of this Settlement. (Ex. 3.) The Settlement Amount balanced against the merits of the Plaintiff's case is reasonable.

17. Here, the Settlement was reached through arm's-length negotiation with an experienced, highly regarded neutral mediator, Steven J. Serratore, Esq. Before advance of

1 mediation, Class Counsel conducted a thorough investigation into the facts of, and applicable
2 law to, the Action. Plaintiff's counsel provided Defendant's counsel with a comprehensive listing
3 of informal discovery items required to engage in a constructive mediation. Defendant provided
4 timekeeping and payroll records for a sample of 296 Class members (approximately 20% of the
5 Class). Prior to mediation, Plaintiff therefore obtained and analyzed the production of payroll
6 data for Class Members and the necessary policy documents through informal discovery to
7 properly evaluate the strengths and weaknesses of the claims and engage in meaningful
8 settlement discussions. Plaintiff hired an expert, Berger Consulting Group – Economic Data
9 Analysts, to prepare damage calculations and an exposure analysis for the mediation.

10 18. The Settlement here provides pro rata distribution to Class Members based upon
11 the number of Workweeks worked during the Class Period. Accordingly, the Settlement treats
12 the Class Members equitably, and the proposed distribution plan supports preliminary approval.

13 19. The Settlement that has been reached, subject to this Court's approval, is the
14 product of tremendous effort and a great deal of expense by the Parties and their Counsel. Class
15 Counsel are knowledgeable about and have done extensive research with respect to the
16 applicable law and potential defenses to the claims of the Class Members. The Parties
17 investigated relevant law as applied to the facts of the case, potential defenses, and damages
18 claimed by Plaintiff on behalf of herself, the Class, and the Aggrieved Employees.

19 20. Based on the documents and information provided by Defendant and their own
20 independent investigation and evaluation, Class Counsel and Plaintiff are of the opinion that the
21 Settlement with Defendant for the consideration and on the terms set forth in this Settlement is
22 fair, reasonable, and adequate, and is in the best interest of the Class Members in light of all
23 known facts and circumstances, including the risk of significant delay and uncertainty associated
24 with litigation, various defenses asserted by Defendant, and numerous potential appellate issues.

25 21. The Gross Settlement Amount is, of course, a compromise figure. Plaintiff
26 considered the risks of decertification, the risks related to proof of Plaintiff's claims, and the
27 strengths and weaknesses of Defendant's defenses. Plaintiff also considered the possibility that if
28 a settlement were reached after additional years of litigation, the great expenses of litigation

1 would reduce the amount of funds available to Class Members for settlement. Furthermore,
2 Plaintiff took into consideration the time delay and financial repercussions of liability trials,
3 numerous damages trials, and the possibility of an appeal by Defendant. The details for the
4 reasonably expected recovery per claim are detailed below in the following paragraphs.

5 **22. Failure to Pay All Wages Due for Off-the-Clock Work**

6 *a. Facts*

7 Plaintiff alleged that during Plaintiff's and Class Members' employment with Defendant,
8 they performed work but were not compensated therefor.

9 For example, Defendant expected Plaintiff and Class Members to perform work-related
10 activities pre-shift, post-shift, and while clocked out for meals, such as assisting customers as
11 they entered the store and/or in the parking lot. Specifically, Plaintiff spent approximately five
12 minutes before and five minutes after every shift assisting customers. Another witness reported
13 that Defendant contacted him while he was clocked out for meal periods.

14 Defendant also required Plaintiff and Class Members to wait in line at the single
15 timeclock provided before they could clock in. Employees were not permitted to clock in more
16 than six minutes before or three minutes after the start of their shift, creating a bottleneck at the
17 timeclock. Further, Defendant disciplined any employee that clocked in late. Accordingly,
18 Plaintiff and others Class Members waited approximately five minutes every shift to clock in.

19 Finally, Defendant routinely contacted Plaintiff and Class Members when they were
20 clocked out for a meal period.

21 *b. Law*

22 Labor Code §§ 510 and 1194 require employers to pay applicable wages for all hours
23 worked. "Hours worked" means the time during which an employee is subject to the control of
24 an employer and includes all the time during which the employee is suffered or permitted to
25 work, whether or not required to do so." (8 C.C.R. §11040(2)(K); *Morillion v. Royal Packing*
26 *Co.* (2000) 22 Cal.4th 575, 582.)

27 *c. Expected Recovery*

28 Plaintiff conservatively estimated fifteen (15) minutes of unpaid time per shift (70.8%

1 attributed to overtime hours based on an analysis of time records). Plaintiff's expert multiplied
2 the average hourly rate of pay and the overtime rate of pay for 70.8% of the shifts for each year
3 by the number of shifts worked during each year in the liability period. The estimated total
4 amount of unpaid wages for other off-the-clock work totaled \$4,377,669. Plaintiff estimated the
5 probability of prevailing on this claim is approximately 20% because Defendant contended that
6 proof of this claim would depend largely on anecdotal evidence such as Class Member testimony
7 as there are not records of time worked off-the-clock, and ultimately this claim may be
8 determined to be too individualized for purposes of class certification. As such, the Plaintiff's
9 adjusted calculated exposure for this claim was calculated to be approximately **\$875,533.80**.

10 23. **Failure to Pay Overtime Wages**

11 a. *Facts*

12 Defendant's overtime policy provides, "Overtime between 8 hours and 10 hours may be
13 waived by mutual consent between the Member and Company to allow for flexibility in
14 scheduling." Class Member time and pay records show unpaid overtime for hours worked over
15 eight hours in a day throughout the class period.

16 Further, Defendant paid Class Members bonuses and other incentive pay but did not
17 include this compensation in Class Members' regular rate of pay to calculate overtime.

18 b. *Law*

19 "Any work in excess of eight hours in one workday and any work in excess of 40 hours
20 in any one workweek and the first eight hours worked on the seventh day of work in any one
21 workweek shall be compensated at the rate of no less than one and one-half times the regular rate
22 of pay for an employee." (Labor Code § 510.)

23 "[A]n employee's 'regular rate of pay' for purposes of Labor Code section 510 and the
24 IWC wage orders is not the same as the employee's straight time rate (i.e., his or her normal
25 hourly wage rate)." (Alvarado v. Dart Container Corp. of California (2018) 4 Cal.5th 542, 554.)
26 Instead, the regular rate of pay must include "adjustments to the straight time rate, reflecting,
27 among other things, shift differentials and the per-hour value of any nonhourly compensation the
28 employee has earned," such as incentive pay. (Ibid.) Earned bonuses must also be included in the

regular rate of pay. (*Marin v. Costco Wholesale Corp.* (2008) 169 Cal.App.4th 804, 807 [holding that bonus must be included in overtime rate calculation]; 29 U.S.C. § 207(e) [regular rate includes “all remuneration for employment paid to, or on behalf of, the employee”].)

An employee cannot waive overtime wages. (Labor Code §§ 219, 1194.)

c. Expected Recovery

Based on the data provided by Defendant, the total exposure for this claim is approximately \$137,469. The probability of prevailing on this claim was estimated at approximately 90% because, according to Plaintiff, the time and pay records to prove liability and damages. The risk is simply the general risks of class certification and trial. As such, the adjusted exposure for this claim was calculated at approximately **\$123,772.10**.

24. Failure to Provide All Meal Periods:

a. Facts

Defendant failed to always provide legally compliant meal breaks because Defendant frequently interrupted the meal periods of Class Members. Plaintiff alleged that Defendant required Class Members to carry walk-talkies and respond to calls even while on a meal period, which was disputed by Defendant.

b. Law

Employers must generally provide “a first meal period [of at least 30 minutes] no later than the end of an employee's fifth hour of work, and a second meal period [of at least 30 minutes] no later than the end of an employee's 10th hour of work.” (*Brinker v. Superior Court* (2012) 53 Cal.4th 1004, 1041.)

Time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations. (*Donohue v. AMN Services, LLC* (2021) 11 Cal. 5th 58, 74.) “If an employer’s records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty, and no meal period was provided.” (*Id.* at p. 74.) To the extent the employer asserts that “the employee waived the opportunity to have a work-free break,” the “burden is on the employer, as the party asserting waiver, to plead and prove it.” (*Ibid.*) Under the *Donohue* presumption, a plaintiff seeking certification satisfies his burden to

1 establish commonality and predominance on a meal period claim by presenting class member
2 time records reflecting presumptive meal period violations. (*Estrada v. Royalty Carpet Mills,*
3 *Inc.* (2022) 76 Cal.App.5th 685, 720.)

4 ***Defendant's Waiver Defense***

5 Defendant produced a sampling of meal period waivers. Plaintiff anticipates that
6 Defendant will argue that employees with valid waivers rarely suffered meal period violations.

7 Employees may waive their meal period, in writing, for shifts of more than five but less
8 than six hours. (8 C.C.R. § 11070(11)(A).)

9 However, waivers do not cure interruptions to meal periods actually taken because, in
10 such a situation, it is not the employee's choice. In other words, if an employee chooses to take a
11 meal period instead of waiving it, Defendant cannot claim that an employee waived an
12 uninterrupted meal period.

13 ***c. Expected Recovery***

14 Plaintiff's damages expert determined that Class Members' maximum recovery was
15 approximately \$1,694,639 for unique meal period violations, including an offset for meal
16 premiums in the amount of \$63,485 paid by Defendant, resulting in approximately \$1,631,154 of
17 unpaid wages owed for this claim.

18 Defendant contended that employees were provided with the opportunity to take all meal
19 periods, and if they did not do so, it was purely voluntary. Defendant argued that under
20 California law, employers do not have a duty to ensure that employees take all meal periods, so
21 long as they provide meal periods and do not inhibit employees from taking all compliant meal
22 periods. Further, Defendant paid meal period premiums for some facial violations. Accordingly,
23 based on Defendant's defenses and hurdles of class certification, Plaintiff adjusted recovery for
24 the meal period claim was discounted by 50% for an adjusted estimated exposure of
25 approximately **\$815,577.**

26 **25. Failure to Authorize All Rest Periods:**

27 ***a. Facts***

28 Defendant failed to always authorize and permit compliant rest periods for Plaintiff and

1 the other Class Members because it required them to remain at the worksite during their rest
2 breaks. Defendant’s rest period policy that stated, in pertinent part, “Do not leave the premises
3 during your rest period.” Even after this written policy allegedly changed in 2021, Class
4 Members were instructed that they were not allowed to leave on rest breaks. Further, Class
5 Members were required to carry walkie-talkies and respond to calls during their breaks.

6 Defendant’s written rest period policy was further facially unlawful, providing, “All team
7 members working four hours or more are entitled to a paid ten-minute rest period; two ten
8 minutes breaks if you are scheduled for eight or more hours daily.”.

9 *b. Law*

10 The California Supreme Court held, “During required rest periods, employers ***must . . .***
11 ***relinquish any control over how employees spend their break time.***” (*Augustus v. ABM Security*
12 *Servs., Inc.* (2016) 2 Cal.5th 257, 260, emphasis added.) This includes both meal and rest
13 periods. (*Ibid.*; *Brinker v. Superior Court* (2012) 53 Cal.4th 1004, 1038-1039 [discussing
14 requirement to relinquish control over employees during breaks].)

15 Restricting employees to the employer’s premises, i.e., controlling where an employee
16 must physically spend his or her rest period, is a form of employer control, just as the Supreme
17 Court in *Brinker* found that an employer impermissibly exerts control over an employee during a
18 meal period when it restricts the employee to the employer’s premises. (*Id.* at p. 1036
19 [employees must be “free to leave the premises” during meal periods].)

20 Indeed, the Court in *Augustus* found that the Labor Code and the applicable Wage Order
21 provisions treat meal periods and rest periods identically with respect to the employer’s
22 obligation to relinquish control over employees. The Court noted that “section 226.7’s
23 prohibition applies in identical fashion to meal and rest periods, with its premium-pay remedy
24 (§226.7(b)) triggered by the failure to provide either.” (*Augustus, supra*, 2 Cal.5th at p. 265,
25 emphasis added.) Citing *Brinker*, the Court explained that “during meal periods, employers must
26 ‘relieve the employee of all duty and relinquish any employer control over the employee and
27 how he or she spends the time.’” (*Ibid.*) Therefore, “It would be difficult to cast aside section
28 226.7’s parallel treatment of meal periods and rest periods and conclude that employers had

1 completely distinct obligations when providing meal and rest periods. What makes sense instead
2 is to infer that *employers' responsibilities are the same for meal and rest periods* - an inference
3 that also reflects the protective purpose of both.” (*Id.* at p. 265, emphasis added.)

4 As the *Augustus* Court held, requiring employees to be tethered to a physical location
5 (especially where it would be possible to take off-premises rest periods), does not comport with
6 the law. “[O]ne cannot square the practice of compelling employees to remain at the ready,
7 *tethered by time and policy to particular locations* or communications devices, with the
8 requirement to relieve employees of all work duties and employer control during 10-minute rest
9 periods.” (*Id.* at p. 269, emphasis added; see e.g., *Vasquez v. Leprino Foods Co.* (E.D. Cal. Apr.
10 3, 2023) No. 117CV00796AWIBAM, 2023 WL 2763745, at *2 [“Leprino's written rest break
11 policy is relevant to the certified issue of whether Leprino's policies and practices effectively put
12 class members on-call during their breaks”].) Indeed, according to the California Supreme Court,
13 under California law an employee must be free to tend to personal activities such as “tak[ing] a
14 brief walk—five minutes out and five minutes back” during a rest period. (*Id.* at p. 270, citation
15 omitted.)

16 **Any policy that discourages employees from taking legally compliant breaks is**
17 **unlawful.** (*Brinker, supra*, 53 Cal.4th at p. 1040 [forbidding employers from “exerting coercion
18 against the taking of, creating incentives to forgo, or otherwise encouraging the skipping of
19 legally protected breaks”].) By adding an employer-imposed affirmative requirement to remain
20 “tethered by time and policy *to particular locations*,” an employer violates its statutory
21 obligation “to relieve employees of all work duties and employer control during 10-minute rest
22 period.” (*Ibid.*, emphasis added.)

23 *c. Expected Recovery*

24 Plaintiff’s expert’s damages analysis assumed a 100% violation rate on shifts of 3.5 or
25 more hours for an estimated maximum recovery is approximately \$12,991,534 in unpaid rest
26 period premiums. Defendant contended that Class Members were permitted all required breaks
27 and were not discouraged or prevented from taking their rest breaks. Because no records reflect
28 whether the Class Members took rest breaks, Plaintiff estimated the probability of prevailing on

1 this claim was approximately 10%. As such, the realistic exposure for this claim is
2 approximately **\$1,299,153.40.**

3 **26. Failure To Provide Compliant Wage Statements:**

4 *a. Facts*

5 If Plaintiff prevails on any of the underlying wage claims, she will prevail on the
6 derivative Labor Code § 226 claim, because Defendant did not accurately report the Class
7 Members' total hours worked and wages due.

8 *b. Law*

9 Labor Code § 226(a) requires every employer, semimonthly or at the time of each
10 payment of wages, to furnish each of its employees an accurate itemized statement in writing
11 showing, among other things, total hours worked by the employee, all applicable hourly rates in
12 effect during each pay period and the corresponding number of hours worked at each hourly rate.
13 The only triable issue of this claim is whether the violation of § 226 was knowing and
14 intentional, which can be established by demonstrating that Defendant was "aware of the factual
15 predicate underlying the violation[s]." (*Novoa v. Charter Commc'ns, LLC* (E.D. Cal. 2015), 100
16 F.Supp.3d 1013, 1028.)

17 *c. Expected Recovery*

18 Plaintiff's expert's damages analysis estimated that the maximum recovery for this claim
19 was approximately \$1,929,900 for the one-year statutory period. However, Plaintiff must prove
20 intentional violations to prevail. Further, this is a penalty and not a wage loss, and courts rarely
21 grant the full amount of the penalty. Based on these risks, Plaintiff calculated the exposure for
22 this claim at approximately 10% of the maximum, for a total expected recovery of **\$192,990.**

23 **27. Failure to Pay all Wages Due Upon Separation – Labor Code § 203:**

24 *a. Facts*

25 If Plaintiff prevails on any of the underlying wage claims, she will prevail on the
26 derivative Labor Code § 203 claim, because Defendant has not paid all wages and penalties as a
27 result of these alleged violations. A total of 873 Class Members separated employment since
28 October 27, 2020.

1 Under Labor Code §§ 201-203, Class Members who are no longer employed by
2 Defendant are entitled to 30 days of waiting time penalties because Defendant did not pay them
3 all wages due and/or related penalties upon separation. This violation is derivative and so if
4 Plaintiff prevails on the substantive wage claims, she will prevail on this claim. The only
5 potential liability issue is whether the violations are “willful.” However, Defendant has not
6 provided any argument or evidence of a good faith defense.

7 Thus, Defendant is liable to Plaintiff and Class Members for waiting time penalties for
8 failing to provide their final paycheck in a timely manner.

9 *b. Law*

10 Under Labor Code § 203, the employees who are no longer employed by Defendant are
11 entitled to 30 days of waiting time penalties because Defendant did not pay them all wages due
12 and/or related penalties upon separation.

13 *c. Expected Recovery*

14 During the statutory three-year period, approximately 873 employees left Defendant’s
15 employ. Based on average hourly rate, the 30-day maximum waiting time penalties is
16 approximately \$4,516,777. Plaintiff estimated approximately 10% chance of prevailing at the
17 time of trial on this claim as it is simply derivative of the underlying claims, and Plaintiff must
18 prove this is a “willful” violation to prevail. Furthermore, trial judges rarely if ever grant the full
19 amount of the penalty on top of wages owed. Finally, there are the general risks of trial. As such,
20 the adjusted calculated exposure for this claim was approximately **\$451,677.70**.

21 28. **Business & Professions Code § 17200, et seq:** Regarding the claim for
22 violations of Business & Professions Code section 17200, *et. seq.*, the forgoing analysis assumes
23 the longer four-year statute of limitations that is available under the UCL for the unpaid wage
24 and break violations. This cause of action is derivative of the other claims that have already been
25 analyzed. Accordingly, the damages available under this cause of action have already been
26 analyzed or are duplicative of damages discussed above.

27 29. **PAGA Penalties – Labor Code § 2698, et seq:** Regarding the claim for
28 violations of the Private Attorneys General Act (PAGA), the maximum potential exposure was

1 calculated as \$10,462,000 using the initial violation rate of \$100 per pay period per each
2 violation. Using \$100 per pay period for only one violation (instead of each violation), the
3 PAGA penalties would equal \$1,965,500 (19,655 PAGA pay periods x \$100). The strength of
4 the PAGA claim would be impacted by the factors discussed above for the non-PAGA claims.
5 Based on recent PAGA decisions, even if Plaintiff were successful on this claim through trial,
6 the Court would likely exercise its discretion under PAGA and significantly reduce the penalties
7 and would also not impose PAGA penalties on top of Cal. Labor Code § 226 and 203 penalties.
8 Thus, the maximum PAGA penalties of \$10,462,000 were reduced by 90% for a revised
9 calculated exposure of a total of \$1,046,200 in PAGA penalties. Given the discretionary nature
10 of PAGA penalties and the need to prove each underlying violation, the \$30,000 that the parties
11 allocated to PAGA Penalties is a reasonable settlement of that claim. Of this amount, 25%, or
12 \$7,500.00, will be distributed to Aggrieved Employees.

13 30. The proposed PAGA Penalties portion of the Settlement is both just and in the
14 public's interest. The Parties believe and agree that the Settlement provides for a fair, adequate,
15 and reasonable resolution of the representative PAGA claim. The Parties also believe that the
16 proposed Settlement is to the advantage of the State of California and the Aggrieved Employees
17 when considering the time and expense necessary to complete protracted litigation which,
18 regardless of the verdict, would undoubtedly be subject to further significant delay and expense
19 pending possible appeals. Moreover, the Settlement provides a substantial sum to the State. It
20 also provides a small sum to each PAGA Member on a pro-rata basis based on the number of
21 PAGA Pay Periods they worked during the PAGA Period (defined as the period from October
22 27, 2022, through July 14, 2025.)

23 31. Based upon the foregoing, this case had a reasonable value of approximately
24 \$3,758,704 for the underlying Labor Code claims. After considering the sharply disputed factual
25 and legal issues involved in the lawsuit, the risks attending further prosecution, and the
26 substantial benefits to be received under the compromise and settlement of the action, Class
27 Counsel are of the opinion that settlement is in the best interests of the Class and is fair and
28 reasonable. Accordingly, the Gross Settlement Amount of \$2,200,000.00 represents

1 approximately 58% of the maximum potential value of the underlying Labor Code claims
2 (valued at \$3,758,704) and approximately 46% of the overall value including PAGA penalties
3 (total case value of \$4,804,904 (\$3,758,704 + \$1,046,200), which is an exceptional result. The
4 estimated Net Settlement Amount of \$1,376,666.67 represents approximately 29% of the overall
5 value of \$4,804,904, further supporting the reasonableness of the Settlement.

6 32. After analyzing and weighing the evidence discussed above as well as the legal
7 issues, Class Counsel and Plaintiff concluded that the settlement of \$2,200,000.00 represents a
8 fair and reasonable discount from the realistic recovery. The Settlement will allow the parties to
9 avoid the expense and time commitments of continued litigation and provides a significant
10 benefit for the Class which would not otherwise have been available. The Gross Settlement
11 Amount of \$2,200,000.00 is a fair, reasonable, and adequate settlement for the claims at issue.

12 **VI. THE NOTICE PROCEDURE SHOULD BE APPROVED.**

13 33. The Class Notice provides proper notice to the Class of the terms of the
14 Settlement Agreement and the options available to the Class, including the ability of the
15 Class Members to Opt-Out or submit a Request for Exclusion from the non-PAGA portion
16 of the Settlement and not be bound by the non-PAGA portion of the Settlement Agreement
17 or receive any Individual Class Payment under it; to object to the terms of the Settlement; or
18 to do nothing and receive a Settlement Payment and be bound by the terms of the
19 Settlement; the date of the Final Approval Hearing, and how to obtain further information
20 through Class Counsel, the Administrator's website, or the Court's docket. The Class Notice
21 will be sent via first-class mail to each of the approximately 1,438 Class Members at their
22 addresses from Defendant's records. The Class Notice will also be translated into Spanish
23 per the Parties Settlement Agreement.

24 34. Class Members will receive separate checks for their Individual Class
25 Payment and Individual PAGA Payment, respectively.

26 35. The Class Notice should be approved as the best and most practicable way to
27 ensure the greatest possible number of Class Members will receive notice. Plaintiff
28 respectfully requests that this Court approve the Class Notice to be disseminated to the Class

consistent with the manner and timing as set forth in this Memorandum and the Parties' Settlement Agreement.

VII. ATTORNEYS' EXPERIENCE

36. D.Law (formerly known as Davtyan Law Firm) prosecutes wage and hour cases, including class actions and PAGA actions on behalf of employees and others who have had their rights violated. D.Law, either on its own or with co-counsel, is currently serving as plaintiffs' counsel of record in numerous wage and hour and employment class action and PAGA action cases pending in both state and federal court.

37. D.Law is well-qualified and has ample experience, knowledge, and resources to act as counsel and represent Plaintiffs and the putative Class and aggrieved employees in this action. Our practice is exclusively focused on employment matters and representing plaintiffs in wage and hour actions with the same or similar causes of actions brought forth in the matter pending before this Court.

38. D.Law has litigated and successfully resolved many wage and hour class action cases involving failure to pay wages and derivative Labor Code claims and penalties. See e.g. *De La Rosa v. The Coca Cola Company et al.* (Superior Court of California in Napa, 17CV000787), *Harvey v. Bed Bath & Beyond of California Limited Liability Company* (Superior Court of California in Alameda, RG17885153), *Paredes v. Bottling Group LLC et. al.* (Superior Court of California in Kern), *Ramirez v. Harris Ranch Beef Company* (Superior Court of California in Fresno, 16CECG04103), *Gates v. Gate Gourmet, Inc. et. al.* (Southern District of California, 16-cv-01084-L-AGS), *Hargrave v. Antelope Valley Hospital* (Superior Court of California in Los Angeles, BC663252), *Ramirez v. Milton Roy et. al.* (Superior Court of California in Los Angeles, BC 632 276), *Hawkins v. AvalonBay Communities* (Superior Court of California in Santa Clara, 17CV316492), *Jones Tharpe et al. v. Sprint Corporation et al.* (Superior Court of California in Los Angeles, BC644645), *Ortega et al. v. Nestle Waters North America, Inc. et al.* (Superior Court of California in Los Angeles, BC623610), *Schultz v. Jimbo's Natural Family, Inc.* (Superior Court of California in San Diego, 37-2017-00022348-CUE-OE-CTL), *Ambrose v. Victor Valley Global et al.* (Superior Court of California in San Bernardino, CIVDS1709289), *Puerta-Gildardo v. Real*

1 Time Staffing Services LLC et. al. (Superior Court of California in Los Angeles, BC565445),
2 Vargo v. Pregis Innovative Packaging LLC (Superior Court of California in Tulare, 270836),
3 Conlin v. Aegis Senior Communities LLC (Northern District of California, 17-cv-05534-LHK),
4 Galarza v. Kloeckner Metals Corporation (Central District of California, 2:17-cv-04910-FMO),
5 Estes v. L3 Technologies, Inc. et al. (Southern District of California, 3:17-cv-02356-H-JMA),
6 Rowser v. Trunk Club, Inc. (Central District of California, 2:17-cv-05064-DSF-RAO), Leach v.
7 The Claremont Colleges, Inc. (Superior Court of California in Los Angeles, BC686451), Vaesau v.
8 PCT Enterprises, Inc. dba Precision Cabinets (Superior Court of California, County of Contra
9 Costa MSC18-02404), Terry v. TF Louderback, Inc. dba Bay Area Beverage Company (Superior
10 Court of the State of California, County of Contra Costa, MSC18-00859), Roach v. Westcare
11 California, Inc. (Superior Court of California in Kern County, BCV-17-102367-SDS), Patton v.
12 Church & Dwight Co., Inc. (Central District of California, EDCV 18-903-MWF (KKx)), Juarez v.
13 ISL Employees, Inc. (Superior Court of California in Madera, MCV074787), Ferraro v. USC
14 Verdugo Hill s Hospital, et al. (Superior Court of California in Los Angeles, 18STCV09463), Ford
15 v. Account Control Technology, Inc., et al. (Superior Court of California in Los Angeles,
16 19STCV09369), Ornelas v. iStorage, et al. (Superior Court of California in San Francisco, CGC-
17 18-571421), Martinez v. Ronpak, Inc. (Superior Court of California in Riverside, RIC1901307),
18 Barrera et al. v. Exclusive Wireless, Inc. (Superior Court of California in Stanislaus, 9000687),
19 Barajas v. Mancha Development Company LLC (Superior Court of California in Orange County,
20 30-2018-00974707-CU-OE-CXC), Prado v. IMAX Corporation dba IMAC Worldwide Home
21 (Superior Court of California in San Bernardino, CIVDS1820265), Rodriguez v. ND Industries,
22 Inc. (Superior Court of California in Los Angeles, 19STCV38096), Singletary v. Motel 6
23 Operating LP, et al. (Southern District of California, 3:20-cv-0270-LAB-AHG), Quizon v. CF
24 Watsonville East, LLC, et al. (Superior Court of California in Santa Cruz, 20CV01868),
25 Stephenson v. Bakersfield Dodge, Inc. (Superior Court of California in Kern, BCV-20-102693),
26 Bacerra v. Hugo Boss Retail, Inc. (Superior Court of California in San Diego, 37-2021-00002933-
27 CU-OE-CTL), Walker v. Ariat International, Inc. (Superior Court of California in Alameda,
28 HG19026439), Orr v. Petvet Care Centers (California) Inc. (Superior Court of California in Santa

1 Clara, 19CV354063), Jimenez v. OEC Distribution Services, Inc. (Superior Court of California in
2 San Bernardino, CIVDS1915743), Viridi v. Absolute Security International (Superior Court of
3 California in San Bernardino, CIVDS 1909589), Raj v. First Transit, Inc (Superior Court of
4 California in Sacramento, 34-2021-00295895-CU-OE-GDS), Marchbanks v. Torrid
5 Administration, Inc. (Superior Court of California in San Diego, 37-2020-00008179-CU-OE-NC),
6 among others.

7 39. I am a 2008 California Western School of Law graduate and was admitted to the
8 California State Bar in December 2008. Since graduating from law school, I have dedicated my
9 entire career to litigating employment class actions and PAGA representative actions. I have
10 litigated and settled hundreds of cases and have obtained numerous six and seven figure
11 settlements. As such, I have significant experience specifically working on wage and hour class
12 actions from the plaintiff's side.

13 40. The collective experience of the D.Law attorneys in litigating employment wage
14 and hour matters has been integral in identifying legal issues, evaluating the strengths and
15 weaknesses of a case, and generally negotiating fair and reasonable class and representative action
16 settlements. Practice in the narrow field of wage and hour litigation requires skill and knowledge
17 concerning the constantly evolving substantive law (state and federal), as well as the procedural
18 law of class and representative action litigation. In this action, the attorneys at D.Law are fully
19 equipped to use the skills and knowledge developed over decades of prosecuting and defending
20 wage and hour class actions to fairly and adequately represent the interests of the Class Members
21 and aggrieved employees. Therefore, based on our resources, experience, and knowledge, the
22 attorneys at D.Law are well-qualified to act as class counsel and represent the Plaintiffs and the
23 putative Class Members and aggrieved employees in this action.

24 41. We understand the responsibilities owed as counsel to the Settlement Class
25 Members and aggrieved employees we represent. The attorneys at D.Law thoroughly investigated
26 the claims asserted in this Action and have remained committed to dedicating the resources
27 necessary to represent the Class and vigorously pursue their claims. Based upon my experience and
28 understanding of the claims and defenses in this action, I believe the settlement is fair, adequate,

1 and reasonable for the Class Members and aggrieved employees and all involved, and that the
2 Settlement is well within the range of reasonableness that would permit it to be finally approved. I
3 am not aware of any conflict of interest with Plaintiff or any other Class Member that would
4 interfere with the duties as Class Counsel.

5 **VIII. THE STIPULATED AWARD OF ATTORNEYS' FEES AND COSTS**

6 42. Under the Settlement, Class Counsel will request, without opposition from
7 Defendant, an award of Attorneys' Fees and Costs of Seven Hundred Thirty-Three Thousand
8 Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$733,333.33), one-third of the Gross
9 Settlement Amount, and actual reasonable litigation costs incurred for reimbursement of actual
10 reasonable litigation costs, not to exceed \$30,000. This request is fair, reasonable, and adequate to
11 compensate Class Counsel for the substantial work they have put into this case and, moreover, the
12 risk they assumed by taking it in the first place. The attorneys' fees award is intended to reimburse
13 Class Counsel for all uncompensated work that they have already done and for all the work they
14 will continue to do in carrying out and overseeing the notification to Class Members,
15 communicating with Class Members regarding their claims, and assisting in the administration of
16 the settlement if it is preliminarily approved. At the time of filing the Motion for Final Approval of
17 Settlement and Attorneys' Fees and Costs, Plaintiff will submit detailed time records and invoices
18 supporting the request for attorneys' fees and litigation costs. Defendant will not oppose Class
19 Counsels' fees and cost request.

20 **IX. THE CLASS REPRESENTATIVE SERVICE AWARD**

21 43. The Settlement provides for a Class Representative Service Award of \$10,000 to
22 Plaintiff, for her service in litigating the action. Plaintiff has devoted substantial time to helping
23 Class Counsel effectively develop and prosecute this action at every stage of the litigation.
24 Plaintiff has provided Class Counsel with information about Defendant, reviewed documents,
25 consulted Class Counsel throughout the litigation, participated in the mediation process, and
26 reviewed and signed the settlement agreement. Plaintiff has spent a significant amount of time
27 with Class Counsel detailing their knowledge of Defendant's practices. Plaintiff has diligently,
28 adequately, and fairly represented the Class Members, and has not placed their interests above

1 any member of the putative Class. This sort of payment to a class representative has been a
2 common feature of settlements negotiated by Class Counsel and routinely approved by courts.
3 The Class Representative Service Award of \$10,000 is fair and reasonable in light of the service
4 provided by Plaintiff to the Class and the results achieved.

5 **X. THE PRESENCE OF A GOVERNMENTAL PARTICIPANT**

6 44. Class Counsel will be submitting the Settlement Agreement to the Labor and
7 Workforce Development Agency (LWDA) concurrently with the filing of this motion pursuant
8 to Labor Code § 2699(1)(2). On the date of the date of filing the Motion for Preliminary Approval,
9 Plaintiff submitted the Motion to the LWDA. Attached hereto as **Exhibit 3** is the LWDA
10 confirmation.

11 I declare under penalty of perjury under the laws of the State of California and the United
12 States of America that the foregoing is true and correct.

13 Executed on January 13, 2026, in San Diego, California.

14
15 

16 Marta Manus, Esq.

EXHIBIT 1

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FRIEDMAN'S HOME IMPROVEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SONOMA

SHARON ELIZABETH HERBERT, on
behalf of herself and all others similarly
situated,

Plaintiff,

vs.

FRIEDMAN'S HOME IMPROVEMENT, a
California corporation; and DOES 1 to 10,
inclusive,

Defendants.

CLASS ACTION

Case No. 23CV01246

Honorable Oscar A. Pardo
Department 19

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT**

Complaint filed: October 27, 2023
First Amended Complaint filed: January 3, 2024
Trial Date: Not set

1 This “Class Action and PAGA Settlement Agreement” (“Agreement”) is made by and between
2 plaintiff Sharon Elizabeth Herbert (“Plaintiff”) and Friedman’s Home Improvement (“Defendant”).
3 The Agreement refers to Plaintiff and Defendant collectively as “the Parties,” or individually as
4 “Party.”

5 **A. DEFINITIONS.**

6 1. “Action” means the Plaintiff’s lawsuit captioned *Sharon Elizabeth Herbert v.*
7 *Friedman’s Home Improvement* initiated on October 27, 2023, in the Superior Court for the County
8 of Sonoma, Case No. 23CV01246 and amended to add a PAGA cause of action on January 3, 2024.

9 2. “Administrator” means Rust Consulting, Inc. (“Rust”), and Rust is the neutral entity
10 the Parties have agreed to appoint to administer the Settlement.

11 3. “Administration Costs” means the amount the Administrator will be paid from the
12 Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
13 Administrator’s bid the parties have received from Rust.

14 4. “Aggrieved Employee” means all non-exempt employees employed by Defendant in
15 California any time from October 27, 2022, through July 14, 2025 (the “PAGA Period”).

16 5. “Class” means all non-exempt employees employed by Defendant in California at any
17 time from October 27, 2019, through July 14, 2025 (the “Class Period”). It shall be an opt-out class.

18 6. “Class Counsel” Emil Davtyan, Esq., David Yermian, Esq., Enoch J. Kim, Esq., and
19 Marta Manus, Esq., and the other attorneys of D.Law, Inc.

20 7. “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class
21 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiff will request
22 approval from the Court of up to one-third of the Gross Settlement Amount, i.e. up to \$733,333.33.

23 8. “Class Counsel Litigation Expenses Payment” means the amount allocated from the
24 Gross Settlement Amount to Class Counsel for reimbursement of reasonable and actual expenses
25 and costs incurred in the Action, not to exceed \$30,000. If Class Counsel Litigation Expenses
26 Payment is less than the amount requested, the difference will remain in the Net Settlement Amount
27 to be distributed to the Class Members.

28 9. “Class Data” means Class Member identifying information in Defendant’s possession:

including the Class Member's name, last-known mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods.

10. "Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

11. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods, and means including, but not limited to, the "National Change of Address Database", skip traces, and direct contact by the Administrator with Class Members.

12. "Class Notice" means the Court Approved Notice of Class Action and PAGA Settlement, with a Spanish translation if the parties deem necessary, to be mailed to Class Members, attached as Exhibit A and incorporated by reference into this Agreement.

13. "Class Period" means the period from October 27, 2019, through July 14, 2025.

14. "Class Representative" means the named Plaintiff Sharon Elizabeth Herbert, in the Action seeking Court approval to serve as a Class Representative.

15. "Class Representative Service Award" means the payment to the Class Representative for initiating the Action and providing services in support of the Action, and Defendant agreed not to object to a requested Class Representative Service Award of up to \$10,000.00, subject to Court approval.

16. "Court" means the Superior Court of California, County of Sonoma.

17. "Defendant" means named Defendant Friedman's Home Improvement.

18. "Defense Counsel" means Hieu T. Williams, Esq. and China M. Daly, Esq., of Hirschfeld Kraemer LLP.

19. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest date of the following occurrence: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members object to the Settlement, the day after the deadline for filing a notice

of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

20. “Final Approval” means the Court’s order granting final approval of the Settlement.

21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

22. “Gross Settlement Amount” means \$2,200,000 (Two Million Two Hundred Thousand Dollars and Zero Cents), which is the total amount Defendant agrees to pay under the Settlement.

23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Settlement Period.

24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Penalties, Class Representative Service Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Costs. The remainder is to be paid to Participating Class Members as Individual Class Payments.

29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

30. “Operative Complaint” means the operative First Amended Complaint.

31. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendant for at least a portion of one day during the PAGA Period.

32. "PAGA Period" means the period from October 27, 2022, through July 14, 2025.

33. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

34. "PAGA Notice" means Plaintiff's October 27, 2023, letter to LWDA (LWDA Case No. LWDA-CM-990264-23) and the Defendant providing notice pursuant to Labor Code section 2699.3, subd.(a).

35. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount (\$30,000), allocated 25% to the Aggrieved Employees (\$7,500) and 75% to LWDA (\$22,500) in settlement of PAGA claims.

36. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Class portion of the Settlement.

37. "Plaintiff" means Sharon Elizabeth Herbert, the named plaintiff in the Action.

38. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

39. "Release Effective Date" means the date Plaintiff, Class Members, and Aggrieved Employees effectively release all claims against the Released Parties. For the Participating Class Members and Aggrieved Employees, the Release Effective Date occurs upon the Effective Date, and the date Defendant fully funds the Gross Settlement Amount.

40. "Released Class Claims" means the class claims being released on the Release Effective Date and as described below.

41. "Released PAGA Claims" means the PAGA claims being released on the Release Effective Date as described below.

42. "Released Parties" means: Defendant and all of Defendant's former and present officers, directors, subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, owners, and assigns.

43. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class portion of the Settlement.

44. "Response Deadline" means forty-five (45) days after the Administrator mails Class Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or

1 mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his
2 or her objection to the Settlement. Class Members to whom Class Notice is resent after having been
3 returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days
4 beyond when the Response Deadline has expired to provide an appropriate response.

5 45. "Settlement" means the disposition of the Action effected by this Agreement and the
6 Judgment.

7 46. "Workweek" means any week during which a Class Member worked for Defendant
8 for at least one calendar day, during the Class Period, as recorded by Defendant's time and payroll
9 system.

10 **B. RECITALS.**

11 47. On October 27, 2023, Plaintiff commenced this Action by filing a Complaint alleging
12 causes of action against Defendant for: (1) Failure to pay all wages; (2) Failure to provide all meal
13 periods; (3) Failure to authorize and permit all paid rest periods; (4) Failure to timely furnish accurate
14 itemized wage statements; (5) Derivative violations of Labor Code §§ 201-202; (6) Independent
15 violations of Labor Code §§ 201-202; and (7) Unfair Business Practices. On the same date, Plaintiff
16 sent a letter to the Defendant and the Labor and Workforce Development Agency (LWDA) to
17 exhaust his remedies under PAGA, Labor Code §2698, et seq. On January 3, 2024, Plaintiff filed a
18 First Amended Complaint (Operative Complaint) adding a claim for civil penalties under PAGA.

19 48. Defendant denies the allegations in the Operative Complaint, denies any failure to
20 comply with the laws identified in the Operative Complaint, and denies all liability for the causes of
21 action alleged.

22 49. On August 13, 2024, the Parties participated in a mediation presided over by respected
23 wage and hour mediator Steven J. Serratore, Esq. Although the Parties did not reach a settlement on
24 the day of mediation, they continued to engage in settlement negotiations and were ultimately able
25 to reach a settlement.

26 50. Prior to mediation, Plaintiff obtained and analyzed the production of payroll data for
27 Class Members and the necessary policy documents through informal discovery to properly evaluate
28 the strengths and weaknesses of the claims and engage in meaningful settlement discussions.

1 Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v.*
2 *Foot Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*,
3 168 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

4 51. The Court has not granted class certification, and the Parties are stipulating to
5 conditional class certification for Settlement purposes only.

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

9 **C. MONETARY TERMS.**

10 53. Gross Settlement Amount. Except as otherwise provided by Paragraph F below,
11 Defendant will pay \$2,200,000.00 (Two Million Two Hundred Thousand Dollars and Zero Cents)
12 to fully settle, resolve, and extinguish all claims asserted in the Action, including without limitation
13 all claims asserted in the PAGA Notice. The Gross Settlement Amount is non-reversionary and does
14 not include employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
15 which Defendant will pay separately.

16 54. Schedule for Payment of the Gross Settlement Amount: Defendant shall fully fund the
17 Gross Settlement Amount and fund the amounts necessary to fully pay Defendant's share of payroll
18 taxes by transmitting the funds to a Qualified Settlement Fund established by the Administrator no
19 later than thirty (30) days after the Effective Date.

20 55. Payments from the Gross Settlement Amount. Subject to the terms and conditions of
21 this Agreement, the Administrator will make and deduct the following payments from the Gross
22 Settlement Amount in the amounts specified by the Court in the Final Approval:

23 56.1 To Plaintiff: A payment for the Class Representative Service Award to the Class
24 Representative, Sharon Elizabeth Herbert, of not more than \$10,000.00 (Ten Thousand Dollars) in
25 addition to any Individual Class Payment and any Individual PAGA Payment the Class
26 Representative is entitled to receive as a Participating Class Member. Defendant will not oppose
27 Plaintiff's request for a Class Representative Service Award that does not exceed this amount. As
28 part of the motion for the Class Counsel Fees Payment and Class Counsel Litigation Expenses

1 Payment, Plaintiff will seek Court approval for any Class Representative Service Award. If the Court
2 approves a Class Representative Service Award less than the amount requested, the Administrator
3 will retain the remainder in the Net Settlement Amount to be distributed to Participating Class
4 Members. The Administrator will pay the Class Representative Service Award using IRS Form
5 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
6 Representative Service Award.

7 56.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of
8 the Gross Settlement Amount, that is up to \$733,333.33, and a Class Counsel Litigation Expenses
9 Payment for actual costs incurred in litigation this action. Defendant will not oppose requests for
10 these payments. Plaintiff and/or Class Counsel will file a motion requesting Class Counsel Fees
11 Payment and Class Counsel Litigation Expenses Payment no later than 16 court days prior to the
12 Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class Counsel
13 Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested,
14 the Administrator will allocate the remainder to the Net Settlement Amount for distribution to
15 Participating Class Members. The Administrator will pay the Class Counsel Fees Payment and Class
16 Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes
17 full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class
18 Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant,
19 from any dispute or controversy regarding any division or sharing of any of these payments.

20 56.3 To the Administrator: An Administration Costs payment not to exceed \$20,0000
21 except for a showing of good cause and as approved by the Court. To the extent the Administration
22 Costs are less, or the Court approves payment of less than \$20,000, the Administrator will retain the
23 remainder in the Net Settlement Amount to be distributed to Participating Class Members.

24 56.4 To Each Participating Class Member: An Individual Class Payment is calculated
25 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
26 Participating Class Members during the Settlement Period, and (b) multiplying the result by each
27 individual Participating Class Member's Workweeks.

28 56.4(a) Tax Allocation of Individual Class Payments. 10% of each Participating Class

Member's Individual Class Payment will be allocated to wage claims (the "Wage Portion"). The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 90% of each Participating Class Member's Individual Class Payment will be allocated to interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion is not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

56.4(b) Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

56.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$30,000.00 will be paid from the Gross Settlement Amount, with 75% (\$22,500.00) allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual PAGA Payments. Aggrieved Employees cannot request exclusion.

56.5(a) The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$7,500.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and (b) multiplying the result by each individual Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

56.5(b) If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount to be distributed to Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

D. SETTLEMENT FUNDING AND PAYMENTS.

56. Class Workweeks. Based a on a review of its records, Defendant estimates that the number of Workweeks for 1,438 Class Members from October 27, 2019, through July 14, 2025, is 128,000 (the "Estimated Workweek Amount").

1 57. Class Data. Not later than fourteen (14) days after the Court grants Preliminary
2 Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form
3 of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
4 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and
5 for no other purpose, and restrict access to the Class Data to Administrator employees who need
6 access to the Class Data to effect and perform under this Agreement. Defendant has a continuing
7 duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member
8 identifying information and to provide corrected or updated Class Data as soon as reasonably
9 feasible. Without any extension of the deadline by which Defendant must send the Class Data to the
10 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
11 reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

12 58. Payments from the Gross Settlement Amount. The monies to be distributed pursuant
13 to paragraph 56 to the Participating Class Members (i.e. the Net Settlement Amount) and Aggrieved
14 Employees shall be paid to them by the Administrator within fourteen (14) days following the receipt
15 of the Gross Settlement Amount by the Administrator from Defendant.

16 59. The Administrator will issue checks for the Individual Class Payments and/or
17 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail. The face
18 of each check shall prominently state the date (180 days after the date of mailing) when the check
19 will be voided ("Void Date"). The Administrator will cancel all checks not cashed by the Void Date.
20 The Administrator will send checks for Individual Settlement Payments to all Participating Class
21 Members (including those for whom the Class Notice was returned undelivered). The Administrator
22 will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-
23 Participating Class Members who qualify as Aggrieved Employees (including those for whom Class
24 Notice was returned undelivered). Before mailing any checks, the Administrator must update the
25 recipients' mailing addresses using the National Change of Address Database.

26 60. The Administrator must conduct a Class Member Address Search for all Class
27 Members whose checks are returned undelivered without a USPS forwarding address. Within seven
28 (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS

forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

62. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

E. RELEASES OF CLAIMS. On the Release Effective Date, Plaintiff, Class Members, and Aggrieved Employees will release claims against all Released Parties as follows:

63. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, heirs, administrators, successors, and assigns generally, releases and discharges Released Parties from all claims, transactions, or occurrences, known or unknown, arising at any time up to the date of Plaintiff's execution of this Agreement ("Plaintiff's Released Claims"). The Plaintiff's Released Claims include, but are not limited to, all of the Released Class Claims, the Released PAGA Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. Plaintiff expressly waives and relinquishes the

provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

64. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences after the date of Plaintiff's execution of this Agreement. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

65. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, rights, demands, liabilities, and causes of action that were alleged, or reasonably could have been alleged, based on the facts alleged in the Operative Complaint, which occurred during the Class Period, including: failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to authorize and permit rest breaks; failure to timely pay wages during employment; failure to timely pay final wages upon separation from employment; failure to reimburse for business expenses; failure to provide complete and accurate wage statements; unfair business practices; California Labor Code sections 200-203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and IWC Wage Order Nos. 1, 3, 5, 7, 9, 12. Except as Set Forth in Paragraph 66 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Settlement Period (the "Released Class Claims"). The Released Class Claims do not include civil penalties pursuant to PAGA.

66. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period (“Released PAGA Claims”), including those claims for civil penalties under PAGA for underlying violations of the California Labor Code for: failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to authorize and permit rest breaks; failure to timely pay wages during employment; failure to timely pay final wages upon separation from employment; failure to reimburse for business expenses; failure to provide complete and accurate wage statements; unfair business practices; California Labor Code sections 200-203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and IWC Wage Order Nos. 1, 3, 5, 7, 9, 12. The Released PAGA Claims apply to claims arising during the PAGA Period. The Released PAGA Claims do not include any Aggrieved Employees’ individual (*i.e.* non-representative) claims for wages or damages.

67. Release Effective Date: As of the Release Effective Date, as defined above, all Participating Class Members shall release the Released Parties from the Released Class Claims and all Aggrieved Employees shall release the Released Parties from the Released PAGA Claims.

F. MOTION FOR PRELIMINARY APPROVAL. Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

68. Defendant’s Statement of Non-Opposition in Support of Preliminary Approval. Defendant may file a statement of non-opposition in support of preliminary approval to be filed with or after the Motion for Preliminary Approval documents.

69. Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, memorandum in support, Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Preliminary Approval order; (iii) a draft proposed Class Notice, (iv) a signed

1 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement
2 and attesting to its willingness to serve; competency; operative procedures for protecting the security
3 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
4 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
5 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
6 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and
7 disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or
8 the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its competency to
9 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
10 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint
11 (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2));
12 and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or
13 the Administrator. In their declarations, Plaintiff and Class Counsel shall aver that they are not aware
14 of any other pending matter or action asserting claims that will be extinguished or adversely affected
15 by the Settlement.

16 70. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
17 responsible for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will
18 obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for
19 Preliminary Approval no later than 16 (sixteen) court days before the hearing, unless otherwise
20 ordered by the Court, and deliver the Court’s Preliminary Approval to the Administrator.

21 71. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
22 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
23 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by
24 telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
25 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
26 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
27 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the
28 Court’s concerns.

1 **G. SETTLEMENT ADMINISTRATION.**

2 72. Selection of Administrator. The Parties have jointly selected Rust to serve as the
3 Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound
4 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange
5 for payment of Administration Costs. The Parties and their Counsel represent that they have no
6 interest or relationship, financial or otherwise, with the Administrator other than a professional
7 relationship arising out of prior experiences administering settlements.

8 73. Employer Identification Number. The Administrator shall have and use its own
9 employer identification number for purposes of calculating payroll tax withholdings and providing
10 reports to state and federal tax authorities.

11 74. Qualified Settlement Fund. The Administrator shall establish a settlement fund that
12 meets the requirements of a “Qualified Settlement Fund” (“QSF”) under US Treasury Regulation
13 section 468B-1 for the funding of the Gross Settlement Amount. Any interest that accrues on the
14 Gross Settlement Amount sums paid into the QSF prior to distribution by the Administrator will
15 become part of the Net Settlement Amount for distribution to Participating Class Members. The QSF
16 will be fully funded in one payment as addressed above.

17 75. Notice to Class Members.

18 76.1 No later than five (5) calendar days after receipt of the Class Data, the Administrator
19 shall notify Class Counsel that the list has been received and state the number of Class Members,
20 Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

21 76.2 Using best efforts to perform as soon as possible, and in no event later than fourteen
22 (14) days after receiving the Class Data, the Administrator will send to all Class Members identified
23 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with
24 Spanish translation as the parties have agreed substantially in the form attached to this Agreement
25 as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of
26 any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and
27 the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing
28 Class Notice, the Administrator shall update Class Member addresses using the National Change of

1 Address Database.

2 76.3 Not later than five (5) calendar days after the Administrator's receipt of any Class
3 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using
4 any forwarding address provided by the USPS. If the USPS does not provide a forwarding address,
5 the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to
6 the most current address obtained. The Administrator has no obligation to make further attempts to
7 locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second
8 time.

9 76.4 The deadlines for Class Members' written objections, challenges to Workweeks and/or
10 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days
11 beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose
12 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with
13 the re-mailed Class Notice.

14 76.5 If the Administrator, Defendant, or Class Counsel is contacted by or otherwise
15 discovers any persons who believe they should have been included in the Class Data and should
16 have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone,
17 and in good faith in an effort to agree on whether to include them as Class Members. If the Parties
18 agree, such persons will be Class Members entitled to the same rights as other Class Members, and
19 the Administrator will send, via overnight delivery, a Class Notice requiring them to exercise options
20 under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline
21 dates in the Class Notice, whichever are later.

22 76. Requests for Exclusion (Opt-Outs).

23 78.1 Class Members who wish to exclude themselves (opt-out of) the Class portion of
24 the Settlement must send the Administrator, by fax, email, or mail, a completed and signed Request
25 for Exclusion form not later than forty-five(45) days after the Administrator mails the Class Notice
26 (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). To be
27 valid, a Request for Exclusion form must be timely faxed, emailed, or postmarked by the Response
28 Deadline.

1 78.2 The Administrator may not reject a Request for Exclusion form as invalid because
2 it fails to contain all the information specified in the Class Notice. The Administrator shall accept
3 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
4 person as a Class Member and the Class Member's desire to be excluded. If the Administrator has
5 reason to question the authenticity of a Request for Exclusion form, the Administrator may demand
6 additional proof of the Class Member's identity. The Administrator shall make the initial decision
7 regarding the validity of a Request for Exclusion form, but the Court may review any decision made
8 by the Administrator.

9 78.3 Every Class Member who does not submit a timely and valid Request for
10 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
11 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
12 Members' releases under Paragraphs 66 and 67 of this Agreement, regardless of whether the
13 Participating Class Member actually receives the Class Notice or objects to the Settlement.

14 78.4 Every Class Member who submits a valid and timely Request for Exclusion is a
15 Non-Participating Class Member and shall not receive an Individual Class Payment or have the right
16 to object to the class action components of the Settlement. Because future PAGA claims are subject
17 to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are
18 Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 67
19 of this Agreement and are eligible for an Individual PAGA Payment.

20 77. Challenges to Calculation of Workweeks. Each Class Member shall have forty-five
21 (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for
22 Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA
23 Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge
24 the allocation by communicating with the Administrator via fax, email or mail. The Administrator
25 must encourage the challenging Class Member to submit supporting documentation. In the absence
26 of any contrary documentation, the Administrator is entitled to presume that the Workweeks and
27 PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the
28 Class Data. The Administrator shall promptly provide copies of all challenges to the calculation of

1 Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the
2 Administrator's determination of the challenges. The Administrator shall make the initial decision
3 regarding challenges to the calculation of Workweeks, but the Court may review any decision made
4 by the Administrator.

5 78. Objections to Settlement.

6 79.1 Only Participating Class Members may object to the class action components of
7 the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or
8 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
9 and/or Class Representative Enhancement Award.

10 79.2 Participating Class Members may send written objections to the Administrator, by
11 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an
12 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
13 Participating Class Member who elects to send a written objection to the Administrator must do so
14 not later than forty-five (45) days after the Administrator's mailing of the Class Notice (plus an
15 additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

16 79.3 Non-Participating Class Members have no right to object to any of the class action
17 components of the Settlement.

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

20 80.1 Website, Email Address and Toll-Free Number. The Administrator will establish,
21 maintain and use an internet website to post information of interest to Class Members including the
22 date, time, and location for the Final Approval Hearing and copies of the Agreement, Motion for
23 Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, motion for
24 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative
25 Service Award, the Final Approval, and the Judgment. The Administrator will also maintain and
26 monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and
27 emails.

28 80.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will

promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion forms submitted (whether valid or invalid).

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

80.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make the initial decision consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. Although the Administrator shall make the initial decision regarding challenges to the calculation of Workweeks, the Court may review any decision made by the Administrator.

80.5 Administrator’s Declaration. Not later than fourteen (14) days before the date by which Plaintiff is required to file the Motion for Final Approval, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court.

1 Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

2 80.6 Final Report by Settlement Administrator. Within ten (10) days after the
3 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide
4 Class Counsel and Defense Counsel with a final report detailing its disbursements by employee
5 identification number only of all payments made under this Agreement. At least fifteen (15) days
6 before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel
7 and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement
8 of all payments required under this Agreement. Class Counsel is responsible for filing the
9 Administrator's declaration in Court.

10 **F. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on Defendant's
11 review of its records, it is estimated that there are 1,438 Class Members who collectively worked a
12 total of 128,000 Workweeks from October 27, 2019, through July 14, 2025 (the "Estimated
13 Workweek Amount"). If it is determined that the actual number of Workweeks for all Class
14 Members during the Class Period exceeds the Estimated Workweek Amount by more than five
15 percent (5%), the Gross Settlement Amount will be increased by the same proportion or Defendant,
16 at its sole discretion, may elect to cut off the Class Period as of the date the Workweeks does not
17 exceed 134,400. For example, if the total number of Workweeks is 6% greater than 128,000
18 Workweeks, Defendant may elect to either: (1) increase the Gross Settlement Amount by 1% based
19 on the Workweek Value determined by the Administrator; or (2) modify the end date of the Class
20 Period (and corresponding PAGA Period) such that the total number of Workweeks does not exceed
21 134,400 Workweeks. If this provision is triggered so as to increase the Gross Settlement Amount,
22 the Parties agree that the portion of the Gross Settlement Amount allocated to attorneys' fees will
23 increase proportionally such that the total amount of attorneys' fees remains one third of the Gross
24 Settlement Amount after the upward adjustment required by this provision is implemented.

25 **G. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for
26 Exclusion identified in the Exclusion List exceeds fifteen percent (15%) of the total of all Class
27 Members, Defendant may, but is not obligated to, elect to withdraw from the Settlement. The Parties
28 agree that, if Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect

1 whatsoever, and that neither Party will have any further obligation to perform under this Agreement;
2 provided, however, Defendant will remain responsible for paying all Administration Costs incurred
3 to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later
4 than fifteen (15) days after the Administrator sends the final Exclusion List to Defense Counsel; late
5 elections will have no effect.

6 **H. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before
7 the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiff will file
8 in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the
9 PAGA portion of the settlement under Labor Code section 2699, subd. (l); a proposed Final
10 Approval; and a proposed Judgment (collectively “Motion for Final Approval”).

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

15 81. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
16 Approval on any material change to the Settlement (including, but not limited to, the scope of release
17 to be granted by Class Members), the Parties will expeditiously work together in good faith to
18 address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The
19 Court’s decision to award less than the amounts requested for the Class Representative Service
20 Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or
21 Administration Costs shall not constitute a material modification to the Agreement within the
22 meaning of this paragraph.

23 82. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment,
24 the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
25 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and
26 (iii) addressing such post-Judgment matters as are permitted by law.

27 83. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
28 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class

Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

84. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and Judgment. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Enhancement Award, Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

I. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

J. ADDITIONAL PROVISIONS.

85. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason, the Court does not grant

1 Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to contest
2 certification of any class for any reason, Defendant reserves all available defenses to the claims in
3 the Action, and Plaintiff reserves the right to move for class certification on any grounds available
4 and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to
5 settle the Action will have no bearing on, and will not be admissible in connection with, any litigation
6 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

7 86. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and
8 Defense Counsel separately agree that, until the Motion for Preliminary Approval is filed, they and
9 each of them will not disclose, disseminate and/or publicize, or cause or permit another person to
10 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly,
11 specifically or generally, to any person, corporation, association, government agency, or other entity
12 except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep
13 this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report
14 income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in
15 response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees
16 to immediately notify the other Party of any judicial or agency order, inquiry, or subpoena seeking
17 such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to,
18 directly or indirectly, initiate any conversation or other communication, before the filing of the
19 Motion for Preliminary Approval, with any third party regarding this Agreement or the matters
20 giving rise to this Agreement except to respond only that "the matter was resolved," or words to that
21 effect. This paragraph does not restrict Class Counsel's communications with Class Members in
22 accordance with Class Counsel's ethical obligations owed to Class Members.

23 87. No Solicitation. The Parties separately agree that they and their respective counsel and
24 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from
25 the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to
26 communicate with Class Members in accordance with Class Counsel's ethical obligations owed to
27 Class Members.

28 88. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement

1 together with its attached exhibits shall constitute the entire agreement between the Parties relating
2 to the Settlement, superseding any and all oral representations, warranties, covenants, or
3 inducements made to or by any Party.

4 89. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
5 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
6 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its
7 terms, and to execute any other documents reasonably required to effectuate the terms of this
8 Agreement including any amendments to this Agreement.

9 90. Cooperation. The Parties and their counsel will cooperate with each other and use their
10 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
11 Agreement, submitting supplemental evidence and supplementing points and authorities as
12 requested by the Court. In the event the Parties are unable to agree upon the form or content of any
13 document necessary to implement the Settlement, or on any modification of the Agreement that may
14 become necessary to implement the Settlement, the Parties will seek the assistance of mediator Kelly
15 Knight for resolution.

16 91. No Prior Assignments. The Parties separately represent and warrant that they have not
17 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber
18 to any person or entity and portion of any liability, claim, demand, action, cause of action, or right
19 released and discharged by the Party in this Settlement.

20 92. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
21 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
22 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part
23 10, as amended) or otherwise.

24 93. Modification of Agreement. This Agreement, and all parts of it, may be amended,
25 modified, changed, or waived only by an express written instrument signed by all Parties or their
26 representatives, and approved by the Court.

27 94. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
28 the benefit of, the successors of each of the Parties.

95. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.

96. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

97. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

98. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

99. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

100. Notice. All notices, demands, or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

D.LAW, INC.

David Yeremian

d.yeremian@d.law

Enoch J. Kim

e.kim@d.law

Marta Manus

m.manus@d.law

450 N. Brand Blvd., Suite 840

Glendale, CA 91203

Telephone: (818) 962-6465

Facsimile: (818) 962-6469

To Defendant:

HIRSCHFELD KRAEMER LLP

Hieu T. Williams (SBN 280585)

hwilliams@hkemploymentlaw.com

China M. Daly (SBN 300982)

cdaly@hkemploymentlaw.com
456 Montgomery Street, Suite 2200
San Francisco, CA 94104
Telephone: (415) 835-9000
Facsimile: (415) 834-0443

101. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or by email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

102. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

103. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

104. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable.

105. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED.

By the Parties:

DATED: 12/5/2025

DocuSigned by:

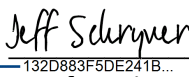

2A136297E0474EC...

Plaintiff Sharon Elizabeth Herbert

12/24/2025

DATED: _____

DocuSigned by:


132D883F5DE241B...

Friedman's Home Improvement

By: Jeff Schryver

Position: CFO

Approved by counsel:

DATED: 12/8/2025

D.LAW, INC.

By: 

David Yeremian

Enoch J. Kim

Marta Manus

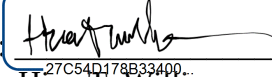
Counsel for Plaintiff Sharon Elizabeth Herbert

12/24/2025

DATED: _____

HIRSCHFELD KRAEMER LLP

DocuSigned by:

By: 
27C54D178B33400...

Hieu T. Williams

China M. Daly

Counsel for Defendant, Friedman's Home Improvement

EXHIBIT A

COURT APPROVED NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

Herbert, et al. v. Friedman’s Home Improvement
(Sonoma County Superior Court, Case No. 23CV01246)

***The Sonoma County Superior Court authorized this notice. Read it carefully!
It’s not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from the settlement of a class action lawsuit (“Settlement”) entitled *Herbert, et al. v. Friedman’s Home Improvement* filed by named plaintiff Sharon Elizabeth Herbert (“Plaintiff”) for alleged violations of the California Labor Code (the “Action”) against Friedman’s Home Improvement (“Defendant”). Plaintiff and Defendant are collectively referred to as the “Parties.”

The Action seeks payment of (1) unpaid wages, statutory damages and penalties, interest and attorneys’ fees on behalf of all Class Members, who are defined as all hourly or non-exempt employees employed by Defendant in California at any time from October 27, 2019, through July 14, 2025 (the “Class Period”); and (2) penalties under the California Private Attorneys General Act (“PAGA”) on behalf of all Aggrieved Employees, who are defined as all hourly or non-exempt employees employed by Defendant in California any time from October 27, 2022, through July 14, 2025 (the “PAGA Period”). PAGA is a California law that allows employees to bring claims for civil penalties on behalf of the California Labor and Workforce Development Agency (“LWDA”) and all aggrieved employees for alleged violations of the Labor Code, and any payment for PAGA penalties shall be paid 75% to the LWDA and 25% to all PAGA Members as civil penalties (rather than wages). Defendant strongly disputes Plaintiff’s allegations and claims and asserts that it has paid its employees in accordance with applicable law at all relevant times. The court has made no rulings or findings with regard to Plaintiff’s claims.

The proposed Settlement has two main parts: (1) a class action settlement requiring Defendant to fund Individual Class Payments to Class Members, and (2) a PAGA settlement requiring Defendant to fund Individual PAGA Payments to PAGA Members and pay penalties to the LWDA. Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class and PAGA Payments are shown in the charts below, along with the applicable data points from which these estimates are derived.

[CLASS MEMBER NAME] [ID/CONTROL NUMBER]

Data for Estimated Individual Class Payment	
Weeks Worked during Class Period	<u>Estimated</u> Individual Class Payment
INSERT	INSERT

Data for Estimated Individual PAGA Payment	
Pay Periods worked during PAGA Period	<u>Estimated</u> Individual PAGA Payment
INSERT	INSERT

Please note that the actual amount you receive may be different from the above and will depend on several factors. (If no amount is stated for your Individual PAGA Payment then, according to Defendant’s records, you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work for Defendant in California during the PAGA Period.) If you believe that you worked a different number of weeks during the periods than is shown in the chart above, you can submit a dispute by [DATE] (“Response Deadline”). See **Section 4, subsection 3** of this notice.

In granting preliminarily approval of the proposed Settlement and approving this notice, the Court has determined only that the proposed Settlement might be fair, adequate and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Your legal rights are affected whether you act or do not act. Read this notice carefully. You will be deemed to have read and understood it. At the Final Approval Hearing, the Court will decide whether

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

If you worked for Defendant in California during the Settlement Period and/or the PAGA Period, you have a few options as shown in the Chart below:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your full settlement payment, then no further action is required on your part. You will automatically receive a settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the Released Class Claims described in Section 3 below . <i>Defendant will not retaliate against you for participating or not participating in this Settlement.</i>
EXCLUDE YOURSELF	If you do not wish to participate in the Class portion of the proposed Settlement, you may "opt-out" of the Settlement of the Class Claims. If you choose to opt-out, you must submit a written request for exclusion by [DATE] (see Section 6 below for more details on how to opt-out). If you opt-out, you will no longer be a Participating Class Member, and you will (1) <u>not</u> receive an Individual Class Payment, but you will have the right to pursue the Released Class Claims described below subject to applicable statutes of limitations, and (2) be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees. See Section 6 of this notice.
OBJECT	If you decide to object to the Class portion of the proposed Settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement by [DATE] (see Section 7 for more details on how to object). In the alternative, you may object verbally in person at the Final Approval Hearing.
DISPUTE THE NUMBER OF WEEKS WORKED AND/OR NUMBER OF PAY PERIODS	If you believe the number of workweeks and/or pay periods that you were credited with working in the chart above is incorrect, you may submit a dispute and any supporting evidence to Rust Consulting, Inc. (the "Administrator"), a third party responsible for sending this notice (see Section 4 for more details on how to submit a dispute). Defendant's records will be presumed correct, but you may provide evidence to the Administrator showing how many workweeks and/or pay periods you believe you should be credited, and the Administrator will consider your documentation and decide.

YOU MAY ATTEND THE FINAL APPROVAL HEARING, BUT IT'S NOT REQUIRED	
DATE: [DATE] TIME: [TIME]	The Court's Final Approval Hearing is scheduled to take place on [DATE]. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. See Section 8 of this notice.

1. WHAT IS THE ACTION ABOUT?

The Action accuses Defendant of violating California labor laws due to the alleged failure to pay all wages, failure to pay all overtime wages, failure to provide all meal periods and rest breaks, failure to fully reimburse all work expenses, failure to timely pay wages upon separation of employment, failure to provide accurate itemized wage statements, and unfair and unlawful competition. Based on the same claims, Plaintiff also asserted a claim for civil penalties under PAGA.

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

Both Parties are represented by attorneys in the Action. See Section 9 below for the contact information for the attorneys representing Plaintiffs and for the third-party company responsible for administering this Settlement.

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

The Parties hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. By signing a lengthy written settlement agreement (“Agreement”), Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. In fact, Defendant contends that it has at all times complied with California law.

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits and has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at final hearing. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this notice, and scheduled a hearing to determine Final Approval.

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

1. The Gross Settlement Amount. Defendant have agreed to pay a total gross settlement amount of \$2,200,000.00 (the “GSA”) and will deposit the GSA into an account controlled by the Administrator. The Administrator will use the Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative’s Service Award, Class Counsel Fee Payment, Class Counsel Litigation Expenses payment, the Administrator’s Costs, and PAGA Penalties to be paid to the LWDA. Assuming the Court grants Final Approval of the settlement and that the Judgment entered by the Court becomes final, Defendant will fund the GSA, and payments will be made shortly thereafter. The Judgment will be final on the date the Court enters Judgment, or a later date if the Judgment is appealed.

2. Court Approved Deductions from Settlement Amount. At the Final Approval Hearing, Class Counsel will ask the Court to approve the following deductions from the Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to one-third (1/3) of the Gross Settlement Amount to Class Counsel for attorneys’ fees (\$733,333.33), plus reasonable costs and expenses actually incurred in the Action, not to exceed \$30,000.00. To date, Class Counsel has incurred fees and expenses in the Action without receiving payment.

B. Up to \$10,000.00 to the Class Representative as a Service Payment for litigating the Action, working with Class Counsel, and representing the Class. The Service Payment will be the only monies the Plaintiff will receive other than the Individual Class Payment and any Individual PAGA payment.

C. Up to \$20,000.00 to the Administrator for services administering the Settlement.

D. \$30,000.00 for PAGA Penalties, allocated 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their share of PAGA Pay Periods during the PAGA Period.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the remainder of the Settlement Amount (the “Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their pro rata share of total Workweeks the Participating Class Member worked during the Class Period.

4. Taxes Owed on Payments to Class Members. The Parties are asking the Court to approve an allocation of ten percent (10%) of each Individual Class Payment to taxable wages (“Wage Portion”) and ninety percent (90%) to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer-side payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the “void date”). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California State Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money. You will still be bound by the Judgment, even if you do not cash your check.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement not later than the Response Deadline. See Section 6 of this notice for details on how to Opt-Out.

7. The Proposed Settlement Will be Void If the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Rust Consulting, Inc. (the “Administrator”) to send this notice, calculate and make payments, and process Class Members’ requests for exclusion and objections. The Administrator will also assist the Parties with deciding any disputes over weeks worked, mail and re-mail (if necessary) settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant have fully funded the Settlement Amount, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or the “Released Parties” (which means Defendant and all of Defendant’s former and present officers, directors, subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, owners, and assigns) based on the facts alleged in the Operative Complaint for the duration of the Class Period, which are resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims, rights, demands, liabilities, and causes of action that were alleged, or reasonably could have been alleged, based on the facts alleged in the Operative Complaint, which occurred during the Class Period, including: failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to authorize and permit rest breaks; failure to timely pay wages during employment; failure to timely pay final wages upon separation from employment; failure to reimburse for business expenses; failure to provide complete and accurate wage statements; unfair business practices; California Labor Code sections 200-203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and IWC Wage Order Nos. 1, 3, 5, 7, 9, 12. Except as Set Forth in Paragraph 66 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims

for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Settlement Period (the "Released Class Claims"). The Released Class Claims do not include civil penalties pursuant to PAGA.

10. Released PAGA Claims. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period ("Released PAGA Claims"), including those claims for civil penalties under PAGA for underlying violations of the California Labor Code for: failure to pay minimum wage; failure to pay overtime; failure to provide meal periods; failure to authorize and permit rest breaks; failure to timely pay wages during employment; failure to timely pay final wages upon separation from employment; failure to reimburse for business expenses; failure to provide complete and accurate wage statements; unfair business practices; California Labor Code sections 200-203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 516, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802; and IWC Wage Order Nos. 1, 3, 5, 7, 9, 12. The Released PAGA Claims apply to claims arising during the PAGA Period. The Released PAGA Claims do not include any Aggrieved Employees' individual (i.e. non-representative) claims for wages or damages..

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

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period, and (b) multiplying the result by each Participating Class Members' Workweeks during the Class Period.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$7,500.00 by the total number of PAGA Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by the number of PAGA Pay Periods for each Aggrieved Employee during the PAGA Period.

3. Disputing Weeks Worked. The number of weeks you worked during the Class and PAGA Periods, as recorded in Defendant' records, are stated in the tables on page 1 of this notice. You have until **DATE** (the "Response Deadline") to dispute the number of Workweeks or PAGA Pay Periods credited to you by submitting a dispute to the Administrator. Section 9 of this notice has the Administrator's contact information. You need to support your dispute by sending copies of pay stubs or other records. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve challenges based on your submission and on input from Class Counsel and Defendant' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members and Aggrieved Employees. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (which includes every Class Member who does not opt-out) and Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if you are entitled to an Individual PAGA Payment).

2. Non-Participating Class Members/Aggrieved Employees Only. If you opted out of the Class settlement, but qualify as an Aggrieved Employee, then the Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employees, including those who opt out of the Settlement.

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

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

You will be treated as a Participating Class Member, participating fully in the Settlement, unless you opt-out of the Settlement before the Response Deadline. To opt-out, you must send by fax, email, or mail, a signed letter that includes your name, address and email address or telephone number and that reasonably communicates your election to be excluded

from the Class portion of the Settlement to the Administrator by the Response Deadline (as a reminder, the **“Response Deadline” is DATE**). Any person who submits a timely request for exclusion from the Class portion of the Settlement (1) will not have any rights under this Settlement, including the right to object to the Settlement; (2) will not be entitled to receive an Individual Class Payment; (3) will preserve the right to pursue the Released Class Claims, and (4) will not be bound by this Settlement, or the Judgment, as to the Released Class Claims.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class portion of the Settlement remain eligible to receive an Individual PAGA Payment.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement may wish to object. If you wish to object to the proposed Settlement, you may send by fax, email, or mail, a written objection to the Administrator and include any and all evidence and supporting documentation. Any written objections must be sent to the Administrator by the Response Deadline. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court at their own expense) to present verbal objections at the Final Approval Hearing.

8. WHEN IS THE FINAL APPROVAL HEARING?

On [REDACTED], at [REDACTED] a.m./p.m., the Court will hold a hearing in Department 19 of the Superior Court for the State of California, County of Sonoma located at 3055 Cleveland Avenue, Santa Rosa, CA, 95403 for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel’s applications for attorneys’ fees and costs, whether to approve the proposed payment to the LWDA, and whether to approve Plaintiff’s request for an Service Award. This hearing may be continued or rescheduled by the Court. Objectors to the proposed settlement will be provided notice if the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

If you have questions about this notice or the Settlement itself, or if you did not receive this notice in the mail and you believe that you are or may be a member of the Class, you should contact the Administrator for more information or to request that a copy of this notice be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them at the information below. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Marta Manus in Support of Motion for Preliminary Approval of Class Action and PAGA Settlement filed on [DATE] and available to be inspected at any time during regular business hours at the Clerk’s Office, Superior Court for the State of California, County of Sonoma, 3055 Cleveland Avenue, Santa Rosa, CA, 95403. You may also review the pleadings, records, and other papers on file in this lawsuit online at <https://sonoma.courts.ca.gov/online-services>. To access the case file, click on “Civil Case Information,” then type in the case number (23CV01246) where requested, and click “Search.” You may also email Class Counsel and request a copy of the Settlement Agreement.

You may also visit [URL] for information about upcoming hearings and to review case documents.

DO NOT TELEPHONE THE COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT

The contact information for Class Counsel and the Administrator are below:

Class Counsel	Administrator
Enoch J. Kim e.kim@d.law Marta Manus m.manus@d.law D.LAW, INC. 450 N Brand Blvd, Suite 840 Glendale, CA 91203 Tel: (818) 962-6465	Name Mailing Address Telephone Number

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT 2

D.LAW, INC.

Emil Davtyan (SBN 299363)

Emil@d.law

David Yeremian, Esq. (SBN 226337)

d.yeremian@d.law

Enoch J. Kim, Esq. (SBN 261146)

e.kim@d.law

Marta Manus, Esq. (SBN 260132)

m.manus@d.law

450 N. Brand Blvd. Suite 840

Glendale, CA 91203

Telephone: (818) 962-6465

Facsimile: (818) 962-6469

Attorneys for Plaintiff SHARON ELIZABETH HERBERT,
on behalf of herself and all others similarly situated

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

SHARON ELIZABETH HERBERT, on behalf
of herself and all others similarly situated,

Plaintiffs,

v.

FRIEDMAN'S HOME IMPROVEMENT, a
California corporation; and DOES 1 to 10,
inclusive,

Defendants.

CLASS ACTION

Case No.: 23CV01246

Assigned for All Purposes To:
Hon. Oscar A. Pardo

**DECLARATION OF ERIC BISHOP FOR
RUST CONSULTING, INC. RE:
SETTLEMENT ADMINISTRATION**

Date: February 11, 2026

Time: 3:00 p.m.

Dept.: 19

Complaint filed: October 27, 2023

FAC filed: January 3, 2024

Trial Date: Not set

DECLARATION OF ERIC BISHOP FOR RUST CONSULTING, INC., RE:
SETTLEMENT ADMINISTRATION

I, Eric Bishop, declare as follows:

1. I am a Senior Vice President for Rust Consulting, Inc. (“Rust”). My business address is 920 2nd Ave S, Suite 400, Minneapolis, MN 55402. My telephone number is (612) 968-1752. I am over twenty-one years of age and am authorized to make this declaration on behalf of Rust and myself. I have firsthand knowledge of the facts set forth in this declaration and, if called to do so, could testify competently to them.

2. Rust has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, property damage, employment discrimination, employment wage and hour, product liability, insurance and consumer issues. We have provided notification and/or claims administration services in more than 8,000 projects. Of these, approximately 4,000 were Labor & Employment cases.

3. Rust’s internal data security practices meet or exceed today’s exacting industry standards. Our enterprise-class data security measures are founded on standard business processes including a vigorous employee screening program, ongoing employee security training and a hardened production data center hosted at a Tier 1 network carrier, all designed for ensuring data integrity and security.

4. Rust is being engaged by Counsel to provide settlement administration services in the case Herbert v Friedman’s Home Improvement (“Settlement”). Duties will include: a) preparing, printing, and mailing of the Notice of Class Action Settlement (“Class Notice”); b) tracking of requests for exclusion; c) drafting, mailing, and tax reporting for Settlement Award checks to Class Members; and for such other tasks as the Parties mutually agree or the Court orders Rust to perform.

5. Rust will establish a mailing address to receive requests for exclusion, undeliverable Class Notices, and other communications from Class Members.

6. Rust will set up a phone number and will staff with live Customer Service Representatives to be available for Class Members to call with questions regarding the Settlement

and to provide address updates. Spanish speaking agents will be available.

7. Rust expects to receive text for the Class Notice from Counsel shortly after preliminary approval of the Settlement is granted.

8. Rust expects that Counsel for Defendant will provide Rust with a mailing list (“Class List”) containing the Class Members’ names, last known addresses, Social Security Numbers, and any other pertinent information necessary to carry out Rust’s duties.

9. Rust will mail the Class Notice prepared by the parties and approved by the Court. Rust will translate the notice into a Spanish version as well.

10. The mailing addresses contained in the Class List will be processed and updated utilizing the National Change of Address Database (“NCOA”) maintained by the U.S. Postal Service. The NCOA contains requested changes of address filed with the U.S. Postal Service. In the event that any individual has filed a U.S. Postal Service change of address request, the address listed with the NCOA will be utilized in connection with the mailing of the Class Notice.

11. For any Class Notices that are returned to Rust as undeliverable, Rust will perform address traces in an attempt to find an updated address. The address trace will utilize the Class Member’s name, previous address and Social Security Number. In the event an updated address is obtained, the Class Notice documents will be promptly re-mailed to those Class Members via First Class mail. For Class Notice documents that are returned by the Post Office with forwarding addresses attached, these Class Notice documents will be promptly re-mailed to those Class Members at the forwarding address via First Class mail.

12. Rust will be responsible for receiving and validating all requests for exclusions and objections to the Settlement.

13. Rust will be responsible for calculating award amounts and tax withholdings, printing and mailing payments including tax documents, establishing a Qualified Settlement Fund (“QSF”), setting up a bank account, and preparing annual tax filings on behalf of the QSF. Rust will establish and set up a QSF in this case based upon applicable laws and requirements.

14. Rust will be the fiduciary of the QSF and responsible for all payments and tax reporting from the QSF. The QSF will obtain its own tax ID and report taxes under that tax ID.

15. Rust will provide Project Management and Technical Consulting staff to manage all aspects of the administration and be available to Counsel.

16. Rust will post final judgment and the new date of the Final Approval Hearing, if continued by the Court, on its website, www.rustconsulting.com.

17. The total cost for the administration of this Settlement is \$17,993 unless the actual class size (approx. 1500) provided by counsel is materially different as that is the basis on which much of the estimate is provided (Exhibit A). The costs are comprised of the combination of the transactional costs for print, postage, banking activities, etc., as well as the hourly fees to carry out the administrative duties.

18. None of the parties or attorneys in this matter have a relationship (financial or otherwise) with Rust.

I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed this 9th day of December 2025, at Minneapolis, MN.

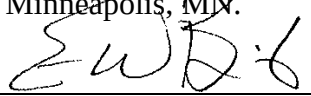

Eric Bishop

EXHIBIT A



**Settlement Administration Estimate
Herbert v Friedman's Home Improvement
August 12, 2024**

**Prepared by:
Eric Bishop
SVP, Client Services
612-359-2988
ebishop@rustconsulting.com**

EXPERIENCE

With experience on approximately 4,000 labor and employment cases, we are the nation's largest labor and employment settlement administrator. We have managed employment settlements with class sizes ranging from dozens to multi-million class members. In fact, we've been trusted to administer many of the nation's largest settlements, including the nation's top wage-and-hour cases in recent years.

DATA SECURITY

Our internal data security practices meet or exceed today's exacting industry standards. Our enterprise-class data security measures are founded on standard business processes including a vigorous employee screening program, ongoing employee security training and a hardened production data center hosted at a Tier 1 network carrier, all designed for ensuring data integrity and security.

DEDICATED SPECIALISTS

Our labor and employment case team is strictly dedicated to managing settlement administration for cases involving matters such as wage-and-hour, FLSA, discrimination and ERISA. They're specialists, not generalists, with an industry reputation for responsiveness and expertise in relevant areas such as the applicable banking and tax regulations. We are confident that Rust is the best choice for the administration of your settlement.

Project Summary

Estimated Class Size	1,500
<u>Project Cost</u>	
Mailed Notice	\$ 5,176
Telephone Support	\$ 2,172
Processing and Administration	\$ 55
Fund Distribution & Tax Reporting	\$ 4,210
Project Management	\$ 6,880
Other Out-of-pocket Expenses	\$ 250
Total Project Cost	\$ 18,743
	Discount
	\$ (750)
Total Project Cost w/ Discount	\$ 17,993

Key Assumptions

**Spanish Translation Included
No Claims Process
Telephone Support Included
Post Docs to Rust Standard Static Site
1 Funding to QSF
1 Installment Payments by Defendant
1 Distribution to Class
Uncashed Pmts Escheat**

Thank you for considering Rust Consulting, Inc. as your administrator -- we appreciate the opportunity to submit this estimate.



**Settlement Administration Estimate
Herbert v Friedman's Home Improvement
August 12, 2024**

**Prepared by:
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SVP, Client Services
612-359-2988
ebishop@rustconsulting.com**

Key Assumptions Used to Prepare this Estimate

Class Size	1,500	
Initial Mailed Notice:		
Mailed Notice	1,500	100.0%
Forwarded Notices	38	2.5%
Undeliverable Notices	225	15.0%
Re-Mailed Notices after Trace	180	80.0%
Telephone Support:		
Number of Telephone Contacts	150	10.0%
Connect Minutes per Call - CSRs	4.0	
Claimant Communications:		
Exclusions Received	8	0.5%
Payments	1,493	100.0%

Standard Hourly Rates*

SVP	\$175-\$275
Program Manager	\$160-\$180
Project Manager	\$100-\$140
Technical Consultant	\$110-\$180
Call Center Manager	\$125
CSR	\$ 43-\$ 50
Processor	\$ 43-\$ 50
Other	\$ 43-\$125

**Subject to change*

Additional Administration Assumptions Used to Prepare this Estimate:

Database Development: Receive and Process Database assumes that the data provided is complete with respect to the data components needed to mail and calculate settlement payments. Data that includes multiple records for individuals or work history that needs to be accumulated and totaled by individual generally requires additional efforts to bring to a point where it is final settlement data. These additional efforts can take a significant amount of time and should be considered when setting key settlement dates, especially the mailed notice deadline. Data must be provided in a complete, consistent, standardized electronic format. Rust's standard format is ASCII fixed width complete with field layout. Other formats may be accepted at Rust's discretion. Resources used to enhance or further develop non-standardized data will be billed on a time and materials basis according to Rust's Current Standard Hourly Rates.

CASS/NCOA/LACS: CASS - Coding Accuracy Support System; NCOA - National Change of Address; LACS - Locatable Address Conversion System.

Notice Package: Print and Mail per unit price is estimated. Actual prices will be provided after form is finalized prior to mailing.

Telephone Support included.

Processing & Administration: Receipt and Process Forms includes open, date stamp, label and data capture a 1-page form with up to five fields.

Project Management: Project Management fees are estimated and will be billed on actual time expended based on the rates found in the Current Standard Hourly Rates section above. The rates included in the estimate are a blended estimate of the rates listed above.

Out of Pocket Expenses: Includes post office box rental, overnight shipments, postage, labels, travel, long distance and other miscellaneous charges and expenses.

Pricing good for 90 days.



Settlement Administration Estimate
Herbert v Friedman's Home Improvement
August 12, 2024

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 ebishop@rustconsulting.com

Administrative Task	Estimated Quantity		Per Unit	Task Amount	Total
Database Development					
Receive and Process Database	2.0	Hours @	\$ 180	\$ 360	\$ 360
Additional Efforts to Finalize Settlement Data				<i>As Incurred</i>	
Initial Mailed Notice					
CASS / NCOA / LACS Processing				\$ 300	
Spanish Translation				\$ 800	
Print and Mail Notice Package	1,500	Notices @	\$ 1.00	\$ 1,500	
Postage - 1 Ounce First Class	1,500	Notices @	\$ 0.73	\$ 1,095	\$ 3,695
Follow-up to Initial Notice					
Receive Undeliverable Notices and Update Database	225	Notices @	\$ 0.35	\$ 79	
Address Trace	225	Traces @	\$ 1.75	\$ 394	
Remail Notice Package	218	Notices @	\$ 2.25	\$ 489	
Remail Postage - 1 Ounce First Class	218	Notices @	\$ 0.73	\$ 159	\$ 1,121
Telephone Support					
Telephone Support	6	Months @	\$ 350	\$ 2,100	
800# Charges	600	Minutes @	\$ 0.12	\$ 72	\$ 2,172
Website (Rust)					
Post Docs to Rust Website (not stand alone case site)	2	Hours @	\$ 165	Waived	
Hosting				NA	\$ -
Processing and Administration					
Receipt, Process, and Validate Forms	1	Hours @	\$ 55.00	\$ 55	\$ 55
Additional Administrative Services Requested by Client					<i>As Incurred</i>
Fund Distribution					
Print and Mail Payments	1,493	Payments @	\$ 1.00	\$ 1,493	
Postage - 1 Ounce First Class	1,493	Payments @	\$ 0.73	\$ 1,090	
Check Processing	1,493	Payments @	\$ 0.22	\$ 328	
FDIC Charges				\$ 150	
Monthly Bank Account Fee	6	Months @	\$ 75	\$ 450	\$ 3,510
Tax Reporting					
Annual Fee -Qualified Settlement Fund	1	Year @	\$ 500	\$ 500	
Individual Income Tax Reporting (W2 & 1099)	1	Year @	\$ 200	\$ 200	\$ 700
Project Management					
Senior Vice President	2	Hours @	\$ 225	<i>waived</i>	
Project Management	30	Hours @	\$ 180	\$ 5,400	
Technical Consulting	8	Hours @	\$ 185	\$ 1,480	\$ 6,880
Other Charges and Out-of-pocket Costs					
					\$ 250
Total Settlement Administration Estimate					\$ 18,743



Settlement Administration Estimate Herbert v Friedman's Home Improvement August 12, 2024

Prepared by:
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SVP, Client Services
612-359-2988
ebishop@rustconsulting.com

Terms and Conditions

All claims administration services to be provided by Rust Consulting to Customer shall be subject to the following terms and conditions:

1. **Services.** Subject to the terms hereof, Rust Consulting agrees to provide the Customer with claims administration services (hereinafter, "Claims Services") as specified in the Proposal provided to Customer to which these Terms and Conditions are attached.
2. **Term.** The terms of this agreement will remain in effect until completion of the Claims Services, unless earlier terminated in accordance with Section 10 hereof.
3. **Charges for Services.** Charges to the Customer for Claims Services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Customer to Rust Consulting. Actual fees charged by Rust Consulting to Customer may be greater or less than such estimate, and Customer shall be responsible for the payment of all such charges and expenses in accordance with Section 4 hereof. Furthermore, Customer will be responsible for payment of all state and local sales and use taxes, if any, levied upon the charges payable by the Customer hereunder. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Customer to the extent that funds are received from the taxing authorities offset these charges. Rust Consulting may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.
4. **Payment of Charges.** Payment by Customer of Rust Consulting's monthly invoices shall be due upon receipt thereof. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Customer's liability to Rust Consulting for payment of Claims Services. Claims Services are not provided on a contingency fee basis.
5. **Confidentiality.** Rust Consulting agrees to implement and maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Customer data provided to Rust Consulting by Customer in connection herewith. Should Rust Consulting ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Customer, Rust Consulting will promptly notify the Customer, unless prohibited by applicable law. The Customer shall have the option to (1) provide legal representation at the Customer's expense to avoid such access or (2) promptly reimburse Rust Consulting for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If Rust Consulting is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, Rust Consulting will not be liable for breach of said obligation.
6. **Standard Banking Procedures.** In accordance with Rust Consulting's standard banking procedures, Rust Consulting will establish a demand deposit checking account (i.e. non-interest bearing) for funds received related to a distribution, unless directed otherwise in writing by the parties or unless the settlement agreement stipulates otherwise. When directed to invest funds in an interest bearing or investment accounts, Rust Consulting intends to invest all funds in U.S. government backed securities, unless directed by the parties in writing or the settlement agreement or distribution plan to invest in other types of securities; however, even in cases where funds are temporarily placed in interest bearing or investment accounts, funds will eventually be migrated to a demand deposit checking account prior to a fund distribution.
7. **Rights in Data.** Rust Consulting does not convey nor does the Customer obtain any right in the programs, system data, or materials utilized or provided by Rust Consulting in the ordinary course of business in the performance of this Agreement.
8. **Document Retention.** Unless directed otherwise in writing by Customer, Rust Consulting will destroy undeliverable notice mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust Consulting will retain all bank and tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
9. **Limitation of Liability: Disclaimer of Warranty.** Rust Consulting warrants that our services will be performed with reasonable care in a diligent and competent matter. Our sole obligation will be to correct any non-conformance with this warranty. Rust Consulting shall not be liable, whether under theories of contract, negligence or other tort, statutory duty or other theories of liability in an amount exceeding the total charges to the Customer for the specific work affected by the error or omission. Rust Consulting will not be liable for any incidental, special, indirect, consequential or exemplary damages of any kind; or for any lost profits, lost opportunities, business interruption or for any liability incurred by the Customer or others to any third party. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR PARTICULAR PURPOSE.
10. **Termination.** The Claims Services to be provided under this Agreement may be terminated, at will by the Customer upon at least 30 calendar days' prior written notice to Rust Consulting. The Customer's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. Rust Consulting may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Customer is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Customer.
11. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of Rust Consulting or the Customer, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.
12. **Force Majeure.** To the extent performance by Rust Consulting of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond Rust Consulting's reasonable control, then such performance shall be excused and this Agreement, at Rust Consulting's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
13. **Nonwaiver of Rights.** No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.
14. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in the Court.
15. **Survival.** All accrued payment obligations hereunder, any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 7 (Rights in Data); Section 5 (Confidentiality); Section 9 (Limitation of Liability; Disclaimer of Warranty); and Section 14 (Jurisdiction).
16. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT 3