

PRIVATE ATTORNEYS GENERAL ACT – SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff David W. Kingsley (“Plaintiff”) and Defendant S. T. M. Automotive d/b/a S&S Distributors (the “Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS

- 1.1 “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *David W. Kingsley vs. S. T. M. Automotive dba S&S Distributors, et al.* Case No. C23-03095, filed on February 13, 2024, and pending in Superior Court of the State of California, County of Contra Costa.
- 1.2 “Administrator” means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4 “Aggrieved Employee” means Plaintiff and all other hourly-paid individuals who are or were employed by Defendant in California and who worked at least one pay period for Defendant in California during the PAGA period.
- 1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number and number of PAGA Pay Periods.
- 1.6 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee 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 Aggrieved Employees.
- 1.7 “Court” means the Superior Court of California, County of Contra Costa.
- 1.8 “Defense Counsel” means Sean Broderick and Paul Simpson of Simpson, Garrity, Innes & Jacuzzi, PC.
- 1.9 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final the day the Court enters Judgment.
- 1.10 “Gross Settlement Amount” means \$5,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, and the Administrator’s Expenses Payment.

- 1.11 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.13 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.14 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.15 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16 “PAGA Counsel” means E&L, LLP, the attorneys representing the Plaintiff in the Action.
- 1.17 “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19 “PAGA Period” means the period from December 7, 2023 to August 26, 2024.
- 1.20 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698. et seq.).
- 1.21 “PAGA Notice” means Plaintiff’s December 7, 2023, letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.22 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.23 “Plaintiff” means David W. Kingsley, the named plaintiff in the Action.
- 1.24 “Approval Order” means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25 “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26 “Released Parties” means Defendant S. T. M. Automotive d/b/a S&S Distributors, and each of each of their respective former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries,

and/or affiliates.

1.27 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.28 “Defendant” means named Defendant S. T. M. Automotive d/b/a S&S Distributors.

2. RECITALS

2.1 On December 7, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wage; (2) Failure to Pay Overtime Wages and Failure to Include Additional Remuneration When Calculating Overtime Wages; (3) Failure to Authorize or Permit Meal Periods; (4) Failure to Authorize or Permit Rest Periods; (5) Failure to Pay All Accrued and Vested Vacation/PTO; (6) Failure to Provide Sick Pay; (7) Failure to Indemnify Employees for Employment-Related Losses and Expenditures; (8) Failure to Timely Pay Earned Wages; (9) Failure to Timely Pay All Earned Wages and Final Paychecks At Time of Separation; (10) Failure to Provide Complete and Accurate Wage Statements; (11) Unfair Business Practices in Violation of Business and Professions Code Section 17200. The Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave written notice to Defendant and the LWDA by sending the PAGA Notice. And on February 13, 2024, Plaintiff filed a First Amended Complaint incorporating a cause of action for civil penalties pursuant to The Private Attorney’s General Act of 2004 (“PAGA”) pursuant to Labor Code Section 2698, *et seq.*

2.3 On August 26, 2024, the Parties participated in an all-day mediation presided over by Mr. Daniel Turner, Esq., which led to this Agreement to settle the action. Prior to mediation, Plaintiff obtained extensive informal discovery to evaluate the claims and defenses alleged. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (together, “*Dunk/Kullar*”).

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

3. MONETARY TERMS

3.1 Gross Settlement Amount: Except as otherwise provided by Paragraph 9 below, Defendant promises to pay the total \$5,000.00 and no more as the Gross Settlement Amount. Defendant shall pay \$5,000.00 immediately upon the order granting preliminary approval. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

Payment shall be first applied to Plaintiff's Individual Settlement, then to PAGA Penalties.

3.2 Payments from the Gross Settlement Amount: The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1 To PAGA Counsel: A PAGA Counsel Fees Payment of not more than \$500.00, and PAGA Counsel Litigation Expenses Payment of not more than \$75.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2 To the Administrator: An Administrator Expenses Payment not to exceed \$1,850.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$1,850.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$2,575.00 to be paid from the Gross Settlement Amount, with 75% (\$1,931.25) allocated to the LWDA PAGA Payment and 25% (\$643.75) allocated to the Individual PAGA Payments.

3.2.3.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$643.75) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.3.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

- 4.1 Aggrieved Employee Pay Periods: Based on a review of its records to date, Defendant estimates there are 11 Aggrieved Employees who worked a total 781 of PAGA Pay Periods.

If as of the date of Court Approval of the PAGA Settlement, the number of Pay Periods worked by the Aggrieved employees exceeds 781 by more than ten percent (10%) (i.e., 78 or more Pay Periods), then the amount of the Gross Settlement Amount shall correspondingly increase in proportion to the increased percentage. For example, if such increase in Pay Periods worked by Aggrieved Employees 25% over, then the PAGA Settlement Amount shall increase by 25%.

- 4.2 Aggrieved Employee Data: Within 20 days, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3 Funding of Gross Settlement Amount: Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

- 4.4 Payments from the Gross Settlement Amount: Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1 The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 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 Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3 For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled 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 Aggrieved Employee].

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

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiffs Release: Plaintiff and his, her or their respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or occurrences [that occurred during the PAGA Period], including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiffs Release"). Plaintiffs 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 outside the PAGA Period. 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 Plaintiffs Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs discovery of them.

5.2 Plaintiffs Waiver of Rights Under Civil Code Section 1542: For purposes of Plaintiff's Release, 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.

5.3 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 PAGA Period facts stated in the Operative Complaint, and the PAGA

Notice.

- 5.4 Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.
- 5.5 Release by Defendants: Except for the obligations to be performed under this Agreement, the Defendants, and each of them, for themselves and without limitation to, their predecessors and successors in interest, heirs, parent, subsidiaries, and affiliates, and each of their agents, assigns, members, officers, directors, shareholders, attorneys, vendors, representatives, and employees, hereby unconditionally releases and forever discharge Plaintiff, including, without limitation, his/her predecessors and successors in interest, heirs, parent, subsidiaries, and affiliates, and each of his/her agents, assigns, members, officers, directors, shareholders, attorneys, representatives, and employees of and from any and all past and present charges, claims, complaints, actions, causes of action, liabilities, obligations, promises, agreements, controversies, rights, damages, debts, costs, losses, attorneys' fees, expenses and compensation of any nature whatever, whether based on a tort, contract and/or other theory of recovery, and whether for compensation of punitive or statutory damages, (1) which Defendants now have, or which may hereafter accrue or otherwise be acquired, arising out of or relating to the Action, including, without limitation, any claims in any way relating to the Action, to Plaintiff's employment by the Defendants or the separation of Plaintiff from employment; and/or (2) arising in any other way whatsoever prior to the date of execution of this Agreement.
- 5.6 Defendants' Waiver of Rights Under Civil Code Section 1542. For purposes of Defendants' Release, Defendants expressly waive and relinquish 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.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file a stipulation or motion for approval of this Settlement.

- 6.1 Plaintiff's Responsibilities: Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section

2699.3, subd. (a)), Operative Complaint (Lab. Code, §2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.2 Responsibilities of PAGA Counsel: PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the stipulation or motion for approval of this Settlement no later than 60 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval to the Administrator.
- 6.3 Duty to Cooperate: If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION

- 7.1 Selection of Administrator: The Parties have jointly selected Phoenix Administration to serve as the Administrator and verified that, as a condition of appointment, Phoenix Administration agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number: The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund: The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties: The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES [and ESCALATOR CLAUSE]**: Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 11 Aggrieved Employees who worked 781 Pay Periods during the PAGA Period.

9. CONTINUING JURISDICTION OF THE COURT: The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1 Waiver of Right to Appeal: Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel 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 another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is formally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS

- 10.1 No Admission of Liability 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 have 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 representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 Integrated Agreement: Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 10.3 Attorney Authorization: PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation: The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the

Court for resolution.

- 10.5 No Prior Assignments: The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.
- 10.6 No Tax Advice: Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement: This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors: This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 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.
- 10.10 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.
- 10.11 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.
- 10.12 Use and Return of Aggrieved Employee Data: Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA 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 California Rules of Court rule. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.
- 10.13 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.
- 10.14 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.

- 10.15 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:

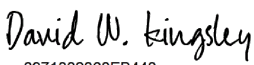
David Lavi
Arie Ebrahiman
E&L, LLP
8889 W. Olympic Blvd., 2nd Floor
Beverly Hills, California 90211
dlavi@ebralavi.com
arie@ebralavi.com
Telephone: (213) 213-00001

To Defendant:

Paul V. Simpson
Sean R. Broderick
Simpson, Garrity, Innes & Jacuzzi PC
2175 N. California Blvd, Suite 710
Walnut Creek, CA 94596
Telephone: (925) 322-8889
sbroderick@sgijlaw.com
psimpson@sgijlaw.com

- 10.16 Execution in Counterparts: This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or 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.
- 10.17 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 that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

Dated: 1/9/2025 _____

Signed by:

6974882368EB443...
Plaintiff

Dated: _____

Defendant

business day thereafter.

- 10.15 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:

David Lavi
Arie Ebrahimian
E&L, LLP
8889 W. Olympic Blvd., 2nd Floor
Beverly Hills, California 90211
dlavi@ebralavi.com
arie@ebralavi.com
Telephone: (213) 213-00001

To Defendant:

Paul V. Simpson
Sean R. Broderick
Simpson, Garrity, Innes & Jacuzzi PC
2175 N. California Blvd, Suite 710
Walnut Creek, CA 94596
Telephone: (925) 322-8889
sbroderick@sgijlaw.com
psimpson@sgijlaw.com

- 10.16 Execution in Counterparts: This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or 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.

- 10.17 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 that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

Dated: 1/9/2025

Signed by:
David W. Kingsley
6971892369EB443...
Plaintiff

Dated: 1-13-2025

Georgina Richey
Defendant

EXHIBIT “A”

NOTICE OF SETTLEMENT OF PAGA REPRESENTATIVE ACTION

David Kingsley vs. S. T. M. Automotive dba S&S Distributors
Superior Court of the State of California,
County of Contra Costa Case No. C23-03095

Eligible Employee

Address

Address

You are receiving this notice in connection with a Court-approved settlement (the “Settlement”) in the lawsuit entitled *David Kingsley vs. S. T. M. Automotive dba S&S Distributors, et al.*, filed in the Superior Court of the State of California for the County of Contra Costa, Case No. C23-03095 (the “**Action**”), brought on a representative basis under the Private Attorneys’ General Act of 2004 codified at California Labor Code section 2698, *et seq.* (“PAGA”). The Plaintiff in the lawsuit, David Kingsley (“Plaintiff”), and the Defendants *S. T. M. Automotive dba S&S Distributors* (“Defendants”) have agreed to a Settlement that provides for recovery of civil penalties for alleged violations of the California Labor Code on behalf of all “Aggrieved Employees,” defined as (1) all non-exempt employees employed by Defendant during the period from December 7, 2023 to August 26, 2024 (“PAGA Period”). The PAGA statute provides that 75% of any recovery pursuant to the Settlement be paid to the State of California and 25% of any recovery be paid to the Aggrieved Employees based upon the number of pay periods worked where there is an alleged California Labor Code violation during the PAGA Period.

Defendants deny all claims and allegations in the Action. Furthermore, Defendants deny they owe any penalties and assert that they have fully complied with all applicable Labor Code provisions. Nevertheless, to avoid further costs and time in defending the Action, Defendants have settled the Action. By settling the lawsuit, Defendants are not admitting that they have done anything wrong.

Effective on the date when Defendants fully fund the entire Gross Settlement Amount, 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 PAGA Period facts stated in the operative complaints and the PAGA Notices.

“Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

THIS SETTLEMENT DOES NOT RELEASE ANY INDIVIDUAL WAGE CLAIMS WHICH YOU MAY HAVE

By an Order dated **Approval Date**, the Superior Court of California approved the Settlement of the Released Claims. By approving the Settlement, the Court did not decide in favor of either Plaintiff or Defendants.

According to Defendants’ records, you are an Aggrieved Employee and are therefore entitled to a share of the Settlement based upon the Court-approved allocation. Enclosed with this Notice is your settlement check for your share. Your share is determined by the number of pay periods you worked during the PAGA Period relative to the total of pay periods worked by all Aggrieved Employees. Based on the total number of pay periods, the value of a pay period calculates to **[VALUE]**, which multiplied by your **[NUMBER]** pay periods, equals your share.

Your settlement check shall remain valid for one hundred eighty (180) days. Thereafter, the settlement check shall be canceled, and the Administrator shall transmit the funds represented by your check to the California Controller's Unclaimed Property Fund in your name. (sco.ca.gov).

Please Note: One hundred percent (100%) of the payment you are receiving in connection with the Settlement will be considered penalties reported on IRS Form 1099, and may be subject to local, state or federal

tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences of your settlement payment. Neither Plaintiff nor Defendants have made any representations or warranties regarding the taxation of your settlement payment. Nothing in this Notice or any other communication shall constitute or be construed or relied upon as tax advice.

PLEASE DO NOT CALL OR WRITE THE COURT OR OFFICE OF THE CLERK TO ASK QUESTIONS ABOUT THE SETTLEMENT. IF YOU HAVE ANY QUESTIONS, YOU MAY CALL OR WRITE TO THE SETTLEMENT ADMINISTRATOR AT:

ADMINISTRATOR NAME

WEBSITE

Phone: