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Attorneys for Plaintiff AMANDA POWELL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF NEVADA

AMANDA POWELL, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

BRIARPATCH COOPERATIVE OF
NEVADA, INC., a California corporation;
BRIARPATCH FOOD CO-OP, an unknown
business entity; NEVADA COUNTY
BRIARP, an unknown business entity; and
DOES 1 through 100, inclusive,

Defendants.

Case No. CU0001207

**DECLARATION OF JENNIFER M.
GERSTENZANG, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: June 20, 2025

Time: 10:00am

Judge: Hon. Rober Tice-Raskin

Dept.: 6

1 I, Jennifer Gerstenzang, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and co-counsel
4 of record for Plaintiff AMANDA POWELL (hereafter “Plaintiff”) in this wage and hour class action
5 filed against BRIARPATCH COOPERATIVE OF NEVADA, INC., BRIARPATCH FOOD CO-OP,
6 and NEVADA COUNTY BRIARP. (hereinafter “Defendants”).

7 2. This declaration is being submitted in support of Plaintiff’s motion for Preliminary
8 Approval of Class Action and PAGA Settlement.

9 **I. EXHIBITS**

10 3. Attached hereto as **Exhibit “1”** is a true and correct copy of the Class Action and PAGA
11 Settlement Agreement (“Agreement”). Attached as **Exhibit “A”** to the Agreement is a true and correct
12 copy of the proposed Class Notice.

13 4. Attached hereto as **Exhibit “2”** is a true and correct copy of the proof of filing with the
14 Labor and Workforce Development Agency notice of this settlement with the Agreement and Motion
15 for Preliminary Approval of Class Action and PAGA Settlement evidencing Class Counsel’s
16 compliance with California Labor Code Section 2699(1)(2).

17 5. Attached hereto as **Exhibit “3”** is a true and correct copy of the bid for settlement
18 administration submitted by Apex Class Action LLC, in the amount of \$9,990.00.

19 **II. INTRODUCTION**

20 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
21 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm’s length.
22 The Settlement confers substantial benefits to the Class Members. The relief offered by the Settlement
23 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
24 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Settlement Class
25 Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class
26 certification being denied or of Defendants prevailing at trial. Given that there are approximately 675
27 Participating Class Members, **the average gross recovery is approximately \$807.42.** (Net Settlement
28 Amount divided by Class Members).

1 7. As discussed below, the proposed Settlement satisfies all criteria for preliminary
2 settlement approval and falls within the range of reasonableness. The average Individual Settlement
3 Payment to the Class Members meets or exceeds awards in similar wage and hour class actions.
4 Moreover, the proposed Class is appropriate for provisional certification. Accordingly, Plaintiff
5 respectfully requests the Court grant preliminary approval of the Settlement.

6 **III. FACTS AND PROCEDURE**

7 **A. Overview of the Litigation**

8 8. Defendants own and operate grocery stores in California, including in Nevada County,
9 where Plaintiff worked. This action asserts claims on behalf of all individuals who are or were
10 employed by Defendants as non-exempt employees in the State of California during the Class Period.
11 Plaintiff was employed by Defendants as a non-exempt employee, from approximately August of 2021
12 to January of 2023. At all times during her employment, Plaintiff earned an hourly wage and was
13 entitled to legally compliant meal and rest periods, and minimum, regular and overtime wages for all
14 hours worked. Throughout her employment, Plaintiff was subject to Defendants' policies and
15 procedures.

16 9. Generally, Plaintiff alleges that Defendants failed to include non-discretionary
17 compensation into the regular rate of pay for purposes of calculating overtime, meal period premiums,
18 and sick pay compensation, failed to provide legally compliant meal and rest periods, failed to pay for
19 all hours worked, and failed to reimburse for necessary business expenses. Defendants forcefully deny
20 liability for each of Plaintiff's claims. Further, Defendants assert that they fully complied with all
21 applicable employment laws and raised several other significant defenses to Plaintiff's claims, including
22 but not limited to, asserting that they paid employees for all hours worked, maintained facially
23 compliant meal and rest period policies, issued compliant wage statements, and timely paid all wages
24 when due.

25 10. On December 1, 2023, Plaintiff served Defendants and the Labor and Workforce
26 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA
27 Notice set forth the facts and theories supporting Defendants' alleged violations of various provisions
28 of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and

1 of her intent to pursue claims under California Labor Code Private Attorneys General Act, California
2 Labor Code Sections 2698 *et seq.* (“PAGA”).

3 11. On February 5, 2024, Plaintiff filed a putative class and PAGA representative action
4 Complaint against Defendants in Nevada County Superior Court, Case No. CU0001207. The claims
5 for relief Plaintiff asserted on behalf of herself and the putative class and aggrieved employee group
6 are: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of
7 California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California
8 Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194,
9 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202
10 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid
11 During Employment); (7) Violation of California Labor Code 226(a) (Non-compliant Wage
12 Statements); (8) Violation of California Labor Code 1174(d) (Failure to Keep Requisite Payroll
13 Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business
14 Expenses); (10) Violation of California Business & Professions Code §§ 17200 *et seq.*; and (11)
15 Violation of California Labor Code § 2698 *et seq.* (California Labor Code Private Attorneys General
16 Act of 2004).

17 12. The Parties agreed relatively early to mediate the Action. In preparation for mediation,
18 the Parties engaged in informal discovery including Defendants’ policies and practices regarding the
19 alleged violations, and time and pay data for a sample of Class Members. On November 11, 2024, the
20 Parties participated in a full day mediation under the guidance of an experienced wage and hour neutral,
21 Brandon McKelvey. Unable to resolve the case at the November 11, 2024, mediation, the Parties
22 exchanged further information and returned to mediation on December 2, 2024. On December 3, 2024,
23 after arms-length negotiations and bargaining, the Parties reached an agreement to settle and signed a
24 Memorandum of Understanding. After reaching an agreement in principle, the Parties drafted and
25 negotiated a long-form settlement agreement, which is the subject of the instant motion.

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1 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

2 13. Months before filing the Action, Class Counsel began their pre-filing investigation into
3 Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with
4 Plaintiff. At the conclusion of the interviews, Class Counsel determined that each Plaintiff's complaints
5 justified further inquiry.

6 14. Class Counsel subsequently requested Plaintiff's employee file from Defendants. In
7 response, Defendants produced various documents, including but not limited to, copies of Defendants'
8 policies, Plaintiff's pay summary and Plaintiff's payroll records. Class Counsel reviewed and analyzed
9 the documents and determined the documents appeared to substantiate Plaintiff's claim that Defendants
10 failed to, among other things, accurately calculate the regular rate of pay for purposes of paying meal
11 period premiums, overtime, and redeemed sick pay, provide compliant meal and rest breaks, and pay
12 for all time worked.

13 15. Considering the many anticipated factual disputes, the Parties agreed that it would be in
14 the best interest of both Parties to mediate the matter. Defendants produced time and payroll records
15 for the Class Members, aggregate workweek and pay period data for the Class Members, average hourly
16 rate for the Class Members, and copies of applicable handbooks, policies, and agreements.

17 16. Class Counsel then retained the statisticians and economists at Berger Consulting Group
18 ("BCG") to evaluate the Class Members' payroll and time data. BCG provides data analysis and
19 damage modeling consulting services, specializing in wage and hour class actions. BCG's team of
20 financial and data analysts are credentialed and experienced experts in their fields and have provided
21 their expertise on thousands of cases. Stated differently, the BCG is well-qualified to analyze
22 Defendants' time and payroll data.

23 17. BCG analyzed Defendants' time and payroll data to assist in the development of various
24 damage models. Among other things, BCG determined the approximate number of work shifts,
25 workweeks, pay periods, average length of shift, and average number of hours worked per workweek
26 and pay periods during the Class Period. BCG also estimated the number of meal and rest period
27 violations, the amount of unpaid wages, and the amount of off-the-clock work performed by the Class
28 Members during the Class Period.

1 18. In advance of mediation, Class Counsel created several damage models predicated on the
2 BCG analysis. Class Counsel's models calculated Defendants' potential liability exposure while
3 accounting for the uncertainties of continued litigation. These damage models informed and guided
4 Class Counsel during the mediated settlement discussions.

5 19. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
6 determining Plaintiff's suitability as a putative class representative through interviews, background
7 investigations, and analysis of her employment file; (2) evaluating all of Plaintiff's potential claims; (3)
8 researching similar wage and hour class actions as to the claims brought, the nature of the positions,
9 and the type of employer; (4) analyzing the Class Members' time and payroll records; (5) analyzing
10 Defendants' labor policies and practices; (6) researching settlements in similar cases as well as
11 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
12 estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and (9)
13 participating in two separate days of mediation. This investigation allowed Class Counsel to fully assess
14 the nature and magnitude of the claims being settled, as well as the impediments to recovery, such as to
15 make an independent assessment of the reasonableness of the terms to which the Parties have agreed.

16 20. Class Counsel only agreed to enter the Settlement following this thorough investigation
17 and evaluation of Plaintiff's claims. Based on their investigation of the facts, applicable law, and
18 marketplace for similar settlements, and considering the risk of significant delay and uncertainty
19 associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly
20 believe this Agreement to be in the best interests of the Class Members. Because the Settlement's terms
21 are fair, reasonable, and adequate, the Court should preliminarily approve the Settlement.

22 **C. The Parties Settled at Mediation**

23 21. On November 11, 2024, and again on December 2, 2024, the Parties conducted full days
24 of mediation with Brandon McKelvey, a respected mediator of wage and hour class and representative
25 actions. Brandon McKelvey helped manage the Parties' expectations and provided a useful, neutral
26 analysis of the issues and risks to both sides. The Parties made substantial progress with the mediator's
27 assistance. Namely, the Parties exchanged information regarding their respective claims and defenses,
28 including their respective evaluations of the damages. Although the first mediation was unsuccessful,

1 the second mediation concluded with a settlement, the complete and final terms of which are now set
2 forth in the Agreement. Class Counsel submit that the Settlement constitutes a fair, adequate, and
3 reasonable compromise of the claims at issue.

4 **IV. ARGUMENT**

5 **A. The Court Should Preliminarily Approve the Proposed Class Action Settlement**

6 1. The Parties Reached the Settlement Through Arm's-Length Bargaining Led by 7 Experienced Counsel.

8 22. The Parties participated in mediation with the highly respected mediator Brandon
9 McKelvey. Brandon McKelvey managed the Parties' expectations and provided a useful, neutral
10 analysis of the issues and risks to both sides. (*In re Apple Computer, Inc. Derivative Litig.* No. C 06-
11 4128 JF (HRL), 2008 U.S. Dist. LEXIS 108195 (N.D. Cal. Nov. 5, 2008) (mediator's participation
12 weighs considerably against any inference of a collusive settlement); *D'Amato v. Deutsche Bank* (2d.
13 Cir. 2001) 236 F.3d 78, 85 (a "mediator's involvement in pre-certification settlement negotiations helps
14 to ensure that the proceedings were free of collusion and undue pressure.")) At all times, the Parties'
15 negotiations were at an arm's length, adversarial, and non-collusive. After two days of mediated
16 negotiations, the mediation concluded with a settlement.

17 23. Once the Parties reached a settlement, the Parties engaged in negotiations regarding the
18 written terms of the class action and PAGA settlement. The Agreement is the final product of the
19 mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable
20 compromise of the claims at issue.

21 2. Class Counsel's Thorough Investigation Provided an Objective Measurement of the 22 Settlement's Reasonableness.

23 24. As set forth in greater detail above, Class Counsel conducted a very thorough
24 investigation into the factual and legal issues in dispute. In addition to informal discovery, document
25 review, data analysis and legal research, Class Counsel also researched similar wage and hour actions.
26 Although no two cases are identical, this research provided Class Counsel with a marker to inform
27 settlement discussions and, ultimately, to measure this settlement against. The investigation allowed
28

1 Class Counsel to realistically assess the value of the claims and intelligently engage defense counsel in
2 settlement discussions that culminated in the proposed settlement now before the Court.

3 25. Class Counsel only agreed to enter the Settlement following their thorough investigation
4 and evaluation of Plaintiff's claims. Based on an investigation of the facts, applicable law, and
5 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
6 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believe this
7 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
8 reasonable, and adequate, the Court should preliminarily approve the Settlement.

9 **A. The Gross Settlement Amount Meets the Recognized Range of Reasonableness.**

10 26. The Maximum Settlement Fund of \$982,500.00 is fair and reasonable considering the
11 nature and magnitude of the claims being settled and the various potential impediments to recovery.
12 Prior to mediation, Class Counsel retained BCG to develop economic damage models measuring
13 Defendants' liability exposure while accounting for the uncertainties of continued litigation. The
14 various models were informed by Class Counsel's investigation, including the analysis of a significant
15 sample of time and payroll data. Class Counsel projected Defendants' liability exposure for *class claims*
16 (excluding PAGA penalties) to be approximately \$2,947,484.95 if successful at trial. This projection
17 reflects the uncertainty regarding several of the claims, together with the uncertainty surrounding
18 derivative liability for inaccurate wage statements and waiting time penalties. Thus, the Maximum
19 Settlement Fund of \$982,500.00 represents approximately 33.33% of Defendants' *class-wide* liability
20 exposure as estimated by Class Counsel. The following summarizes Defendants' estimated exposure.

21 (1) Estimated Exposure for Miscalculation of the Regular Rate of Pay

22 27. Plaintiff alleged that Defendants failed to include certain non-discretionary bonuses and
23 shift differentials when calculating the regular rate of pay when paying overtime, paying meal
24 premiums, and redeeming sick pay. Specifically, Plaintiff alleges that certain compensation identified
25 on wage statements as SD1, SD2, RFB, SGB, B and OBM represent non-discretionary incentive
26 compensation that Defendants should have calculated into Class Members' regular rate of pay, but
27 failed to. Plaintiff estimates Defendants' liability as a result of its alleged failure to properly calculate
28 the regular rate of pay to be \$25,626.00.

1 (1) Estimated Exposure for Meal Period Violations

2 28. Plaintiff also alleged that Defendants subjected Class Members to missed, late and
3 interrupted meal periods. Defendants' timekeeping records show that 31.1% of shifts between 5 and 6
4 hours went without a recorded first meal break, Defendants' did not produce a meal period waiver, and
5 in most of these instances did not pay a meal period premium. Furthermore, the records suggest that
6 because 66.5% of all meal periods were exactly 30 minutes in length, Defendants may have engaged in
7 an unlawful practice of rounding time for purposes of meal periods. Defendants argued, among other
8 things, that compliant meal periods were offered, and employees were responsible for managing their
9 own time and complying with company meal period practices. Defendants further argued that the 30-
10 minute meal periods were not evidence of rounding, but instead showed strict adherence by Class
11 Members to their 30-minute meal breaks. In light of the foregoing, and considering Defendants'
12 defenses, Plaintiff estimated Defendants' potential exposure for this claim to be approximately
13 \$479,259.00.

14 (2) Estimated Exposure for Rest Period Violations

15 29. Plaintiff also alleged that Defendants failed to provide compliant rest periods. Unlike
16 most employers, Defendants required Class Members to clock in and out for paid rest breaks.
17 Defendants therefore maintained time records for rest breaks, thus lending this to be a class-certifiable
18 claim. This data allowed Plaintiff's experts to calculate the violation rate of 14.3%, and Plaintiff further
19 alleges Defendants failed to pay rest period premiums for these rest period violations. Defendants
20 argued having Class Members clock out for rest breaks cultivated a company culture that would make
21 it *more likely* Class Members would take these breaks, and that a record indicating a missed rest break
22 did not necessarily mean a rest break was indeed missed, just that the break was not recorded. Moreover,
23 Defendants contend this claim is highly individualized, and establishing liability likely would entail
24 competing testimony stating either rest breaks were taken, or rest breaks were voluntarily waived. (*See,*
25 *e.g., Ordonez v. Radio Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at *11 ("Because of the
26 competing testimony before the Court, plaintiff's evidence that defendant may have an illegal, written
27 rest break policy is insufficient for this Court to find that common issues predominate."); *Villa v. United*
28 *Site Servs. of California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiff's

own evidence confirms that the written policy does not generate uniform practices”).) In light of the foregoing, and considering Defendants’ defenses, Plaintiff estimated Defendants’ potential exposure for this claim to be approximately \$280,121.05.

(3) Estimated Exposure for Waiting Time Penalties

30. Plaintiff also alleged that the Defendants’ labor code violations resulted in derivative liability for waiting time penalties. Although these *penalties* represented a large dollar amount of exposure, this is Plaintiff’s most uncertain claim. Specifically, Defendants argued that Plaintiff could not prove the “willful” prong needed to obtain waiting time penalties under Labor Code section 203. In light of the foregoing, and considering Defendants’ defenses, Plaintiff estimated Defendants’ potential exposure for this claim to be approximately \$174,991.40.

(4) Estimated Exposure for Wage Statement Violations

31. Plaintiff also alleged that Defendants failed to furnish its employees with accurate itemized wage statements. Specifically, Plaintiff alleges that as a result of Defendants’ failure to pay all meal and rest premiums owed, Plaintiff and other Class Members are entitled to derivative wage statement penalties. Defendants maintain that this claim would fail because the underlying claims would fail and that, even if it failed to furnish accurate wage statements, Plaintiff could not establish the injury requirement on a class-wide basis. In light of the foregoing, and considering Defendants’ defenses, Plaintiff estimated Defendants’ potential exposure for this claim to be approximately \$406,325.00.

(5) Estimated Exposure for Off-the-Clock Work and Unpaid Overtime

32. Plaintiff further alleged that Defendants failed to pay Class Members for time spent working off-the-clock. Specifically, Plaintiff alleged that she and Class Members were required to wait in line before clocking in for work, sometimes up to several minutes before each shift. Plaintiff further alleged that in some instances, Class Members were not paid at their overtime rate for time worked in excess of eight hours. In light of the foregoing, and considering Defendants’ defenses, Plaintiff estimated Defendants’ potential exposure for this claim to be approximately \$521,218.50.

(6) Estimated Exposure for Failure to Reimburse for Business Expenses

33. Plaintiff alleged that Defendants required Plaintiff and Class Members to use their personal cell phones to do their jobs but were not reimbursed. Specifically, Plaintiff alleges that she and

1 the Class Members were required to use their personal cell phones to receive and send text messages to
2 and from managers regarding scheduling, trainings, and other work-related matters. This policy was
3 memorialized in writing that the Class received as part of their onboarding paperwork. Defendants
4 denied any liability for this claim and contend that Class Members were given the option to “opt out”
5 on the referenced onboarding form. In light of the foregoing, and considering Defendants’ defenses,
6 Plaintiff estimated Defendants’ potential exposure for this claim to be approximately \$273,175.00.

7 (7) Defendant’s PAGA Exposure

8 34. In all, Class Counsel projected Defendants’ liability exposure for PAGA claims to be
9 \$3,047,500 if successful at trial.

10 35. Here, the Parties negotiated a good faith PAGA Payment in the amount of \$50,000 which
11 is 5% of the Maximum Settlement Fund. This amount falls well within the range of approved PAGA
12 Payment. The LWDA Payment of \$37,500.00 represents seventy-five percent (75%) of the PAGA
13 Payment and will be paid to the LWDA. The Aggrieved Employee Payment of \$12,500.00 represents
14 the remaining twenty-five percent (25%) of the PAGA Payment, which shall be distributed to the
15 Aggrieved Employees and is within the range of PAGA Payment approved by courts and should be
16 approved.

17 36. In order to recover any PAGA penalties, Plaintiff would be required at trial to prove each
18 of the underlying Labor Code violations. (See Cardenas v. McLane Foodservice, Inc., 2011 U.S. Dist.
19 LEXIS 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot
20 recover on behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor
21 Code by the defendant.").) Here, Plaintiff would need to prove that each Aggrieved Employee suffered
22 a violation for each pay period the employee worked. Again, Defendants raised several defenses that
23 presented serious threats to the claims of the Plaintiff and the Aggrieved Employees. In addition to
24 those arguments discussed, supra, Defendants also argued that the Court of Appeals decision in Cacho
25 v. Eurostar, Inc. (2019) 43 Cal.App.5th 885, weakened Plaintiff’s claims on liability, value, and
26 manageability as to the rest period claims.

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1 **B. Inherent Risks of Continued Litigation and Defendant’s Financial Condition**
2 **Support Preliminary Approval.**

3 37. With respect to the most immediate challenge, i.e., class certification, the risks attendant
4 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
5 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
6 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
7 the trial court to enter judgement in favor of the employer. (*See also O’Conner v. Uber Technologies,*
8 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
9 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
10 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
11 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
12 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
13 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
14 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
15 harm); *Campbell v. Best Buy Stores, L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
16 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
17 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
18 certification of driver meal and rest period claims based on the predominance of individual issues).
19 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
20 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
21 settlement.

22 38. Finally, continuing to litigate this action would require continued and extensive resources
23 coupled with significant Court time to proceed through trial and post-trial motions; which can often
24 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
25 extensive expert testimony, particularly with regards to damages. But even if Plaintiff is successful at
26 trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
27 Defendants would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
28 the risk of an appeal and subsequent reversal is real.

1 39. Further, Defendant's poor financial condition supports preliminary approval of the
2 settlement. During the litigation, Defendant raised the possibility that it would be unable to satisfy a
3 class-wide settlement due to its financial condition. Not accepting Defendant's representation, Class
4 Counsel requested supporting financial documents from Defendant. Additionally, Class Counsel
5 retained Certified Public Accountant, Kenneth L. Creal, to analyze Defendant's financial condition and
6 assess Defendant's ability to satisfy a class-wide settlement. Mr. Creal analyzed Defendant's publicly
7 available financial information, and a number of Defendant's financial documents that it produced to
8 Class Counsel, including Defendant's tax returns for 2021 and 2022, and Defendant's balance sheet and
9 income and expense figures for Defendants' business. Based on a review of Defendant's financial
10 documents, Mr. Creal determined that Defendant could not afford a settlement larger than the one
11 contemplated here. Moreover, the payment plan contemplated by the Agreement is appropriate here
12 because it allows for Defendant to work toward accumulating the settlement funds.

13 40. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$300,000.00 that
14 is roughly between 13.44% ("Aggressive Model") and 39.74% ("Conservative Model") of Defendant's
15 maximum class wide liability exposure for damages and statutory penalties. Given the amount of the
16 settlement here, as compared to potential value of the claims, offset by the various inherent risks to
17 continued litigation, the settlement is fair and reasonable. Notably, as discussed above, Defendant
18 raised the possibility that it would be unable to satisfy a class-wide settlement due to its financial
19 condition. Accordingly, the Gross Settlement Amount accounts for the risk that Defendant would be
20 unable to satisfy a larger settlement than the one contemplated here.

21 **B. Proposed Notice Informs the Class About the Case and Settlement**

22 41. The Parties jointly drafted the Class Notice which fairly and neutrally informs the Class
23 Members of their rights and remedies. The Administrator will first verify addresses, then mail the
24 proposed Class Notice in English and Spanish to all Class Members. The Notice will include
25 information regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms,
26 the procedure, and time period within which to request exclusion or object to the Settlement, the date
27 for the final approval hearing, the formula used to calculate settlement payments, and the terms and
28 scope of the Class Released Claims. Agreement at ¶ 54.

42. The Parties negotiated this method to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost effective administration of the Settlement.

C. The Court Should Preliminarily Approve the Class Representative Payment

43. The Settlement provides for a Class Representative Enhancement of \$10,000.00 for Plaintiff. The enhancement payment is fair and reasonable compensation for Plaintiff's efforts bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring with Class Counsel on the status of her case and the strategies for prosecuting the claims, and reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief for the Class Members.

44. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class Representative Enhancement once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated Class Representative Enhancement.

D. The Court Should Preliminary Approve the Attorneys' Fees and Litigation Costs

45. Class Counsel took this matter on a contingency fee basis and invested significant time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class Members. Considering the positive outcome for the Class Members, and in light of the supporting authority, the proposed Attorneys' Fees and Litigation Costs payment is fair and reasonable.

46. Plaintiff will file a formal motion for the negotiated Attorneys' Fees and Litigation Costs, including arguments and lodestar information in support of the request, once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing is sufficient for preliminary approval of the negotiated attorneys' fees.

E. The Court Should Provisionally Certify the Settlement Class

47. For Settlement, Plaintiff contends, and Defendants do not dispute, that provisional certification of the Class is appropriate.

48. Because all Class Members are Defendants' current and former employees, the class is readily ascertainable from Defendants' regular business records, i.e., payroll records.

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49. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the entire Class. Factually, Defendants' policies and practices apply class-wide and Defendants' liability can be determined by facts common to all members of the class. The wage and hour issues are both numerous and substantial, and a class action is the most advantageous method of dealing with the claims of the Class Members.

50. Plaintiff's wage and hour claims are typical of the proposed Class because they arise from the same factual basis and are based on the same legal theories applicable to the other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class Members. Plaintiff alleges that she was injured by the same company-wide practices to which the proposed Class Members were subject to and seeks the same relief. Plaintiff has already demonstrated her ability to advocate for the interests of the Class Members by initiating this litigation and evaluating the proposed settlement to assure that it is fair.

51. A class action is superior to a multitude of individual lawsuits. Given the size and amount of each individual claim, the Class Members likely have little incentive to litigate their claims on an individual basis because the out-of-pocket expense and personal commitment necessary to litigate each claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case adjudication.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 28th day of April 2025, at San Diego, California.

ZAKAY LAW GROUP, APLC

By: Jennifer M. Gerstenzang, Esq.
Attorneys for Plaintiff

EXHIBIT 1

**STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT
AND RELEASE OF CLAIMS**

This Stipulation of Class Action and PAGA Settlement and Release of Claims is entered into by and between Plaintiff AMANDA POWELL, individually and on behalf of the Settlement Class and Defendants BRIARPATCH FOOD CO-OP and BRIARPATCH COOPERATIVE OF NEVADA COUNTY, INC., and NEVADA COUNTY BRIARP¹ (collectively “BriarPatch”), subject to the terms and conditions hereof and the approval of the Court.

I. DEFINITIONS

1. “Action” or “Lawsuit” refers to the civil action filed February 5, 2024, in the Superior Court of the State of California, County of Nevada, captioned as *AMANDA POWELL, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. BRIARPATCH COOPERATIVE OF NEVADA, INC., a California Corporation; BRIARPATCH FOOD CO-OP, an unknown business entity; NEVADA COUNTY BRIARP, an unknown business entity; and DOES 1 through 100, inclusive*, Case No. CU0001207.

2. “Agreement” or “Settlement” or “Settlement Agreement” means this Stipulation of Class Action Settlement and Release of Claims.

3. “Class” or “Class Members” shall include all individuals who are or were employed by Defendants as non-exempt employees in the State of California during the Class Period.

4. “Class Counsel” means and refers to Jean-Claude Lapuyade of JCL Law Firm, APC, Shani O. Zakay of Zakay Law Group, APLC, and Lawyers for Justice, P.C.

5. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and resolution of this Action and their expenses and costs incurred in connection with this Action, paid

¹ The Complaint also names a nonexistent entity, Nevada County BriarP, as an erroneously-sued Defendant. As “Nevada County BriarP” does not exist, this Agreement’s references to “Defendants” or “BriarPatch” reflect only the correctly-named existing entities.

from the Maximum Settlement Fund.

6. “Class Data” means information regarding Class Members that Defendants will, in good faith, compile from its payroll and other business records and provide to the Settlement Administrator. It shall be formatted in a form acceptable to the Settlement Administrator and shall include the following information for each Class Member: (1) employee identification number; (2) full name; (3) last known address; (4) start and end dates of employment; (5) Social Security Number; (6) the number of Compensable Workweeks associated with each individual during the Class Period; and (7) the number of Compensable pay periods associated with each PAGA Covered Employee during the PAGA Period.

7. “Class Period” or “Settlement Period” means the period of time from February 5, 2020, until February 1, 2025, inclusive.

8. “Class Released Claims” means any and all claims for wages, statutory and civil penalties (but not PAGA Penalties), monies, damages, liquidated damages, premiums, restitution, injunctive and declaratory relief, pre-judgment and post-judgment interest, attorneys’ fees and costs, that were alleged in the Action and/or claims which could have reasonably been alleged based on the same set of operative facts pled therein, including, but not limited to: (1) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198, and the applicable IWC Wage Orders, including failure to properly calculate and apply the regular rate of pay; (2) failure to provide meal breaks and meal break premiums in violation of California Labor Code sections 226.7, 512(a), and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest break premiums in violation of California Labor code section 226.7, the California Code of Regulations, and the applicable IWC Wage Orders; (4) failure to pay wages in violation of California Labor Code sections 224, 246, 558, 1194, 1194.2, 1197, 1198, the California Code of Regulations, and the applicable IWC Wage Orders; (5) failure to pay all wages earned at separation of employment in violation of California Labor Code sections 201, 202, and 203; (6) failure to correctly pay all wages timely during employment in violation of California Labor Code section 200, 204, 210, and 246; (7) failure to provide accurate itemized wage statements in

violation of California Labor Code sections 226(a), 226(e), and 226.3; (8) failure to maintain accurate employment records in violation of California Labor Code section 1174; (9) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (10) violation of Business and Professions Code section 17200, et seq. based on the Labor Code sections alleged and with respect to the statutory penalties claimed in the Action, any source of obligation as a basis for claiming such penalties during the Class Period (the “Released Claims”) against the Released Parties. The release of the Class Released Claims shall be given full *res judicata* and *collateral estoppel* effect upon entry of the judgment in this Action so as to bar any Settlement Class Member from filing or pursuing the Class Released Claims during the Class Period against the Released Parties in any forum.

9. “Class Representative Enhancement” means the amount that the Court authorizes to be paid to Plaintiff AMANDA POWELL in addition to her Individual Settlement Payment and PAGA Individual Payment, as applicable, in recognition of her efforts and risks in assisting with the prosecution of the Action and in exchange for executing the General Release provided herein.

10. “Class Representative” means Plaintiff AMANDA POWELL in her capacity as the representative of the Class Members.

11. “Compensable Workweeks” means any seven (7) consecutive days beginning on Sunday and ending on Saturday during which a Class Member worked for Defendants during the Class Period, according to Defendants’ records.

12. “Counsel for Defendants” shall refer to Robert I. Lockwood and William A. Cosmopulos of LITTLER MENDELSON, P.C.

13. “Court” means the Superior Court of California for the County of Nevada.

14. “Data Period” means the period of time from February 5, 2020, until the date of the Parties’ first mediation session on November 11, 2024.

15. “Defendants” means BRIARPATCH FOOD CO-OP and BRIARPATCH COOPERATIVE OF NEVADA COUNTY, INC. (collectively “BriarPatch”).

16. “Effective Date” means: (a) the date upon which the time for appeal of the Court’s

order granting final approval of the Settlement Agreement and entry of judgment expires (i.e., the sixty-first day after the Court grants final approval); unless (b) an appeal is timely filed, then “Effective Date” means the date of final resolution of any appeal from the order granting final approval of the Settlement Agreement and entry of judgment or dismissal of the appeal.

17. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Settlement Class Member.

18. “Maximum Settlement Fund” means the amount of Nine Hundred Eighty-Two Thousand and Five Hundred Dollars and No Cents (\$982,500.00), which includes the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs. The Maximum Settlement Fund is all-in with no reversion and exclusive of the employer’s share of payroll tax, if any, triggered by any payment under this Settlement. Defendants will deposit the Maximum Settlement Fund in two installments, as described herein.

19. “Net Settlement Amount” or “NSA” means the Maximum Settlement Fund, less Class Counsel Award, Class Representative Enhancement, PAGA Payment, and Settlement Administration Costs.

20. “Notice Packet” means the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A.

21. “PAGA” means the California Labor Code Private Attorneys General Act of 2004.

22. “PAGA Covered Employees” means all individuals who were employed by Defendants in California as non-exempt employees during the PAGA Period, regardless of whether they submitted a valid Request for Exclusion or otherwise opted out of the Settlement.

23. “PAGA Letter” means the letter or notice, pursuant to California Labor Code section 2699.3, that Plaintiff conveyed to the California Labor and Workforce Development Agency (“LWDA”) on or about December 1, 2023, describing Defendants’ alleged violations under the California Labor Code.

24. “PAGA Payment” means the portion of the Maximum Settlement Fund that is

designated as civil penalties pursuant to PAGA in the total amount of Fifty Thousand Dollars and No Cents (\$50,000.00).

25. “PAGA Pay Period” means, for purposes of calculating the distribution of the PAGA Payment to PAGA Covered Employees, the number of pay periods of employment during the PAGA Period that each PAGA Covered Employee worked in California.

26. “PAGA Individual Payment” means the amount paid from the PAGA Payment to PAGA Covered Employees.

27. “PAGA Period” means the period of time from December 1, 2022, until February 1, 2025, inclusive.

28. “PAGA Released Claims” means the release of the Released Parties by the Labor Workforce Development Agency (“LWDA”), State of California, and by Plaintiff AMANDA POWELL as representative of and proxy for the LWDA, from all claims for civil penalties under the Labor Code pursuant to the Private Attorneys General Act (Cal. Lab. Code §§ 2698 et seq.) that were alleged in the PAGA Letter, the operative complaint in the Action, and/or claims for PAGA penalties which reasonably could have been alleged based on the same set of operative facts pled therein, including, but not limited to claims for PAGA penalties arising from violations of California Labor Code sections 201, 202, 203, 204, 210, 224, 226, 226.3, 226.7, 246, 256, 510, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804. The release of PAGA Released Claims shall be given full res judicata and collateral estoppel effect upon entry of the judgment in this Action so as to bar the LWDA and any PAGA Covered Employees from filing or pursuing the PAGA Released Claims during the PAGA Period against the Released Parties in any forum.

29. “Parties” means Plaintiff and Defendants, collectively, and “Party” shall mean either Plaintiff or Defendants, individually.

30. “Payment Ratio” means the respective Compensable Workweeks for each Class Member divided by the total Compensable Workweeks for all Class Members.

31. “Plaintiff” means AMANDA POWELL.

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

33. “Released Parties” means Defendants BRIARPATCH FOOD CO-OP, and BRIARPATCH COOPERATIVE OF NEVADA COUNTY, INC., and each and all of their past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, owners, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.

34. “Request for Exclusion” means a written statement requesting exclusion containing the Class Member’s name, signature, address, and telephone number to be mailed by the Class Members who wish to opt out of the Settlement Class. To be effective, the Request for Exclusion must be in the form described in Paragraph 54(g), post-marked by the Response Deadline, and received by the Settlement Administrator.

35. “Response Deadline” means the forty-five (45) calendar days after the Settlement Administrator mails Notice Packets to Class Members and is the last date on which Class Members may submit Requests for Exclusion or Objections to the Settlement.

36. “Settlement Administrator” or “Claims Administrator” means Apex Class Action, LLC.

37. “Settlement Class Members” or “Settlement Class” means all Class Members who do not timely submit a valid Request for Exclusion to be excluded from the Class as provided in this Agreement.

II. RECITALS

38. On February 5, 2024, Plaintiff filed a putative class and PAGA representative action Complaint against Defendants in Nevada County Superior Court captioned as *AMANDA POWELL, individually, and on behalf of other members of the general public similarly situated*

and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. BRIARPATCH COOPERATIVE OF NEVADA, INC., a California Corporation; BRIARPATCH FOOD CO-OP, an unknown business entity; NEVEDA COUNTY BRIARP, an unknown business entity; and DOES 1 through 100, inclusive, Case No. CU0001207. The claims for relief Plaintiff asserted on behalf of herself and the putative class and aggrieved employee group are: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code 226(a) (Non-compliant Wage Statements); (8) Violation of California Labor Code 1174(d) (Failure to Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200 et seq.; and (11) Violation of California Labor Code § 2698 et seq. (California Labor Code Private Attorneys General Act of 2004). Plaintiff's Action seeks compensation in the form of wages, penalties, restitution, interest, attorneys' fees and costs of suit, along with injunctive relief.

39. Defendants filed an answer to the Complaint on March 25, 2024, asserting general and affirmative defenses.

40. Plaintiff and Defendants engaged in a voluntary exchange of information concerning the claims and defenses set forth in the Action, including Defendants' policies and practices regarding the alleged violations, and time and pay data. Plaintiff and Defendants additionally have each conducted independent investigations and fact finding.

41. On November 11, 2024, Plaintiff and Defendants participated in a full day of mediation under the guidance of an experienced wage and hour neutral, Brandon McKelvey. Unable to resolve the case at the November 11, 2024, mediation, the Parties exchanged further

information and returned to mediation on December 2, 2024. On December 3, 2024, the Parties accepted the mediator's proposal and agreed to resolve all claims in this Action.

42. Defendants deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute the damages and penalties claimed by Plaintiff, and further contend that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative action treatment.

43. The Plaintiff and Class Representative is represented by Class Counsel. Class Counsel investigated the facts relevant to the Action, including reviewing documents and information provided by Defendants. Based on their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendants is fair, reasonable, and adequate, and in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendants, uncertainties regarding a class and representative action trial on the merits, and numerous potential appellate issues. Defendants are agreeing to this Settlement to avoid the cost of further litigation. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action on the terms set forth herein.

III. TERMS OF AGREEMENT

44. Settlement Consideration. Defendants shall pay the Maximum Settlement Fund, which shall fund the Individual Settlement Payments, the Class Representative Enhancement, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs, as specified in this Agreement. Defendants shall not be required to pay more than the Maximum Settlement Fund, except its share of payroll taxes. Defendants' share of employer side payroll taxes shall be paid together with the first installment of the Maximum Settlement Fund in accordance with the terms of the Settlement. This settlement is non-reversionary and none of the Maximum Settlement Fund shall revert to Defendants.

45. Release by All Settlement Class Members. Upon the Effective Date, each Class

Member (including Plaintiff) who does not timely submit a valid Request for Exclusion, shall, for the Class Period, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully release and forever discharge the Released Parties from the Class Released Claims.

46. General Release By Plaintiff. In addition to the Settlement Class Members' Released Claims, described above, in exchange for the consideration recited in this Agreement, including but not limited to the Class Representative Enhancement, Plaintiff, for herself and for any decedent, heirs, legal representatives, successors and assigns, hereby irrevocably and unconditionally releases, acquits and forever discharges the Released Parties, from any and all claims, demands, damages, liquidated damages, monies, penalties, restitution, injunctive relief, attorneys' fees, costs, liabilities and/or causes of action of whatever kind or character, whether known or unknown, which Plaintiff ever had, now has, has asserted or may hereafter assert or claim to have against the Released Parties arising out of or relating in any way to any acts, circumstances, facts, transactions, or omissions based on facts occurring up to and including the date Plaintiff signs this Agreement. This release includes but is not limited to any and all claims related to unlawful discrimination, harassment, retaliation, and reasonable accommodation; related to the terms and conditions of employment; for penalties, compensation or benefits; and/or for wrongful termination of employment under arising under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1866, the Civil Rights Act of 1991, the Americans with Disabilities Act, as amended, 42 U.S.C. § 1981, as amended, the Fair Labor Standards Act, as amended and the Portal to Portal Act, the Equal Pay Act, the Employee Retirement Income Security Act, as amended, the Consolidated Omnibus Budget Reconciliation Act, the Rehabilitation Act of 1973, the Family and Medical Leave Act, the California Fair Employment and Housing Act, the California Constitution, the California Labor Code, the California Government Code, the California Civil Code; and any and all other federal, state and local statutes, ordinances, regulations, rules and other laws, and any and all claims based on equity, constitutional, statutory, common law or regulatory grounds as well as any other claims based on

theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional and/or negligent infliction of emotional distress, or damages under any other federal, state or local statutes, ordinances, regulations, rules or laws, except for such claims that cannot be released by law. With respect to the claims referenced in this paragraph, Plaintiff shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits Plaintiff may otherwise have had pursuant to section 1542 of the California Civil Code, which states that:

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.

Plaintiff's Initials:  AP

47. This Agreement, including the General Release by Plaintiff shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, pension or retirement benefits, or any other claim or right that as a matter of law cannot be waived or released. Moreover, regardless of whether Plaintiffs sign this Agreement, nothing in any agreement, policy, or practice, including this Agreement (i) limits or affects Plaintiff's right to challenge the validity of this Agreement under the ADEA or the Older Worker Benefit Protection Act (OWBPA), (ii) prevents Plaintiff from communicating with, filing a charge or complaint with; providing documents or information voluntarily or in response to a subpoena or other information request to; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, the Occupational Safety and Health Administration, law enforcement, or any other any federal, state or local agency charged with the enforcement of any laws, or from testifying, providing evidence, responding to a subpoena or discovery request in court litigation or arbitration,

or (iii) prevents a non-management, non-supervisory employee from engaging in protected concerted activity under Section 7 of the NLRA or under similar state law such as joining, assisting, or forming a union, bargaining, picketing, striking, or participating in other activity for mutual aid or protection, or refusing to do so; this includes using or disclosing information acquired through lawful means regarding wages, hours, benefits, or other terms and conditions of employment, except where the information was entrusted to the employee in confidence by Defendants as part of the employee's job duties. In addition, nothing in this Agreement shall be construed to prevent the disclosure of factual information related to any acts of sexual assault, sexual harassment, workplace harassment or discrimination, failure to prevent an act of workplace harassment or discrimination, or act of retaliation against a person for reporting harassment or discrimination related to the case; or prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that Plaintiff has reason to believe is unlawful; or waives Plaintiff's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the Defendants, or on the part of the agents or employees of the Defendants, when Plaintiff has been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature. In addition, nothing in this Agreement limits or affects Plaintiff's right to disclose or discuss sexual harassment or sexual assault disputes. By signing this Agreement, Plaintiff is waiving her right to recover any individual relief (including any backpay, frontpay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought by Plaintiff or on Plaintiff's behalf by any third party, except for any right Plaintiff may have to receive a payment or award from a government agency (and not the Defendants) for information provided to the government agency or where otherwise prohibited.

48. PAGA Release by PAGA Covered Employees and Labor Workforce Development Agency. Upon the Effective Date, the Labor Workforce Development Agency, State of California, and Plaintiff as representative of and proxy for the LWDA, 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 the PAGA Released Claims.

49. Conditions Precedent. This Settlement will become final only upon the occurrence of all of the following events:

- a) The Court enters an order granting preliminary approval of the Settlement;
- b) The Court enters an order granting final approval of the Settlement and a Final Judgment;
- c) If an objector appears at the final approval hearing, the time for appeal of the Final Judgment and Order Granting Final Approval of Class Action Settlement expires; or, if an appeal is timely filed, there is a final resolution of any appeal from the Judgment and Order granting Final Approval of Class Action Settlement; and
- d) Defendants fully fund the Maximum Settlement Fund.

50. Certification of the Settlement Class and Nullification of Settlement Agreement. The Parties stipulate to conditional class certification of the Settlement Class for the Class Period for purposes of settlement only. In the event this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become final or effective, or if all conditions precedent are not met, or is reversed, withdrawn, or modified by the or any Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the claims as described herein:

- a. This Settlement Agreement shall be void *ab initio* and of no force or effect and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural;
- b. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect and shall not be admissible in any judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and
- c. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses, or arguments in the Action, including with respect to the issue of class certification.

51. Tax Treatment. Each Party to this Agreement (for purposes of this section, the “acknowledging party” and each Party to this Agreement other than the acknowledging party, an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Agreement.

52. Preliminary Approval Motion. At the earliest practicable time, Plaintiff and Class Counsel shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. Any dispute regarding forms of notices and other documents necessary to implement the Settlement contained in the Agreement, if not timely resolved among the Parties, shall be referred to the Court. Class Counsel shall seek a prompt hearing date to obtain preliminary approval of the Settlement.

53. Settlement Administrator. The Settlement Administrator shall be responsible for: (a) calculating the number of Compensable Workweeks and the Payment Ratio and Individual Settlement Payment for each Class Member and PAGA Covered Employee; (b) processing and mailing payments to the Class Representative, Class Counsel, the LWDA and Settlement Class Members; (c) printing and mailing the Notice Packets to the Class Members as directed by the

Court; (d) receiving and reporting the objections and Requests for Exclusion; (e) distributing tax forms to the Settlement Class Members and PAGA Covered Employees (f) providing declaration(s), as necessary, in support of preliminary and/or final approval of this Settlement; (g) calculating and withholding all taxes from the wage portion of the payments to Settlement Class Members; (h) calculating and notifying Defendants of their portion of the taxes on the wage portion of the payments to Settlement Class Members and accepting payment of such taxes from Defendants; (i) timely depositing all tax payments with the appropriate government entities; and (j) other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

54. Settlement Administration.

a. Class Data. No later than thirty (30) calendar days after execution of this Settlement Agreement, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Notice Packets to Class Members. The Class Data shall be confidential. The Settlement Administrator shall not provide the Class Data to Class Counsel or Plaintiff or any third party or use the Class Data or any information contained therein for any purpose other than to administer this Settlement.

b. Notice Packets. The Notice Packet shall contain the Notice of Class Action Settlement in a form substantially similar to the form attached hereto as Exhibit A. The Notice of Class Action Settlement shall set forth the material terms of the Settlement, including the release to be given by all members of the Settlement Class who do not request to be excluded from the Settlement Class. All Class Members who are PAGA Covered Employees shall be advised that they will be part of the PAGA settlement, whether or not they elect to opt-out of the class settlement. The Notice Packet also shall be individualized by including the Class Members' estimated Individual Settlement Payment and for Class Members, the number of Compensable Workweeks.

c. Notice By First Class U.S. Mail. Upon receipt of the Class Data, the

Settlement Administrator will perform a search based on the National Change of Address Database and/or similar database(s) to update and correct any known or identifiable address changes. No later than twenty-one (21) calendar days after preliminary approval of the Settlement, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. In the event more than one address is identified, the Settlement Administrator shall mail to each potentially valid address.

d. Undeliverable Notices. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine a correct address by lawful use of skip-tracing, or other search using the name, address and/or Social Security number of the Class Member involved, and shall then perform a re-mailing if another mailing address is identified by the Settlement Administrator. The deadlines for Class Members' Requests for Exclusion and written objections will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

e. Disputes Regarding Individual Settlement Payments. Class Members will have the opportunity, should they disagree with Defendants' records regarding the Compensable Workweeks worked by Class Members stated on the Notice of Class Action Settlement, to provide documentation and/or an explanation to show contrary Compensable Workweeks. If there is a dispute, the Settlement Administrator will consult with Defendants to determine whether an adjustment is warranted.

f. Disputes Regarding Administration of Settlement. Any disputes not subject to resolution by the Settlement Administrator concerning the administration of the Settlement will

be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court or the Settlement Administrator, counsel for the Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

g. Request for Exclusion. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit to the Settlement Administrator a written statement requesting exclusion from the Settlement. The written statement must: (1) state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement in the matter of *Amanda Powell v. BriarPatch Cooperative of Nevada, Inc., BriarPatch Food Co-op, and Nevada County Briarp* (Case No. CU0001207); (2) contain the name (and former name(s), if any), address, and the last four digits of the Social Security number of the person requesting exclusion; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address in the Notice Packet. The Request for Exclusion will not be valid if it is not timely submitted by the Response Deadline and received by the Settlement Administrator. The date of the postmark on the return mailing envelope transmitting the Request for Exclusion shall be the exclusive means used to determine whether the Request for Exclusion was timely submitted. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon, however, all PAGA Covered Employees will receive their PAGA Individual Payments and will be releasing the PAGA Released Claims since they cannot opt out of the PAGA settlement. Class Members who fail to submit a valid and timely written Request for Exclusion on or before the Response Deadline shall be bound by the terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Class Members who have timely submitted Requests for Exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Class

to submit Requests for Exclusion from the Settlement.

h. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to object to the Settlement must serve on the Settlement Administrator by first class mail a written statement of objection (“Notice of Objection”) by the Response Deadline. The date of the postmark on the envelope transmitting the Objection shall be deemed the exclusive means for determining that a Notice of Objection was submitted timely. The Notice of Objection must be signed by the Settlement Class Member and state: (1) the full name of the Settlement Class Member (and former names, if any); (2) the dates of employment of the Settlement Class Member; (3) the last four digits of the Settlement Class Member’s Social Security number; and (4) the reason(s) for the objection; and (5) name and case number of this matter. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to file or serve written objections to the Settlement or solicit or encourage Settlement Class Members to appeal from the Order and Final Judgment. Class Members who submit a Request for Exclusion are not entitled to object to the Settlement. Class Members who do not submit a written Objection may still appear at the Final Approval hearing and make an objection orally.

55. Funding and Allocation of the Maximum Settlement Fund. Upon satisfaction of the preconditions described in this Settlement Agreement, and pursuant to the timeline and instructions herein, Defendants shall fund the Maximum Settlement Fund in two separate installments. Defendants will deposit Five Hundred Sixty-Seven Thousand Five Hundred and Ten Dollars and Zero Cents of the Maximum Settlement Fund (\$567,510.00) into a Qualified Settlement Fund to be established by the Settlement Administrator within thirty (30) calendar days after the Effective Date. Within the same thirty (30) days, Defendants also will provide the Settlement Administrator a list identifying all Settlement Class Members who have garnishments and liens, the amounts of each individual’s garnishments and liens, and the name and address of the person or entity that is entitled to receive payment of such garnishments and liens. Defendants will deposit the remaining amount of the Maximum Settlement Fund (\$414,990.00) into the

Qualified Settlement Fund to be established by the Settlement Administrator within one-hundred eighty (180) calendar days following the Effective Date.

a. PAGA Payment. As part of the Motion for Order Granting Preliminary Approval, Plaintiff and Class Counsel shall seek approval from the Court of the PAGA Payment of Fifty Thousand Dollars and Zero Cents (\$50,000.00). Any portion of the requested PAGA Payment that is not approved by the Court shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall send to the LWDA Seventy-Five Percent (75%) of the approved PAGA Payment no later than fifteen (15) calendar days after Defendants send the second installment of the Maximum Settlement Fund amount to Settlement Administrator. The Settlement Administrator shall pay Twenty-Five Percent (25%) of the approved PAGA Payment to the PAGA Covered Employees no later than fifteen (15) calendar days after Defendants send the first installment of the Maximum Settlement Fund amount to the Settlement Administrator. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all PAGA Covered Employees during the PAGA Period. The respective PAGA Pay Periods will be divided by the total PAGA Pay Periods for all PAGA Covered Employees, resulting in the “PAGA Payment Ratio” for each PAGA Covered Employee. Each PAGA Covered Employee’s PAGA Payment Ratio will then be multiplied by the PAGA Individual Payment to calculate each PAGA Covered Employee’s estimated share of the PAGA Payment.

b. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount upon receipt of the first installment. The payments shall be calculated in accordance with the following steps: Using the Class Data, the Settlement Administrator shall calculate the total Compensable Workweeks for all Settlement Class Members by adding the number of Compensable Workweeks worked by each Settlement Class Member during the Class Period. The respective Compensable Workweeks for each Settlement Class Member will be divided by the total Compensable Workweeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement Class

Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated Individual Settlement Payments.

c. Tax Allocation. For tax purposes, the Individual Settlement Payments shall be allocated Twenty Percent (20%) to the payment of wages and other taxable damages, which will be subject to income and payroll tax withholding and all other authorized and required deductions and Eighty Percent (80%) to interest, penalties, liquidated damages, and other damages which are not subject to income or payroll tax withholding, but which are subject to all other required authorized deductions. All applicable deductions or withholding required by law or expressly authorized by the Settlement Class Member, including payments of any garnishments and liens, will be withheld from the Individual Settlement Payment. It shall be the responsibility of the Settlement Administrator to timely and properly withhold from Individual Settlement Payments payable to Settlement Class Members all applicable payroll and employment taxes, including all federal, state, and local income taxes, and to prepare and deliver the necessary tax documentation and, thereafter, to cause the appropriate deposits of withholding taxes and informational and other tax return filing to occur.

d. Mailing. The Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class Members' last known mailing address no later than fifteen (15) calendar days after Defendants send the first installment of the Maximum Settlement Fund amount to Settlement Administrator.

e. Expiration and Cy Pres. All checks mailed to the Class Members that are not cashed within 180 calendar days of payment shall be distributed to a **Sierra Harvest**, a 501(c)(3) non-profit organization (Tax ID 90-1026798) dedicated to supporting local farmers and increasing the availability of fresh, healthy foods in the Nevada City, California, community, as Cy Pres, in accordance with CCP 384, or a similar nonprofit organization as approved by the Court.

f. Class Representative Enhancement. Plaintiff and Class Counsel shall draft and file with the Court the necessary papers for approval of the Class Representative Enhancement Payment. Defendants agree not to oppose or object to any application or motion by Plaintiff for a

Class Representative Enhancement of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff. The Settlement Administrator shall pay the Class Representative Enhancement to Plaintiff from the Maximum Settlement Fund no later than fifteen (15) calendar days after Defendants send the first installment of the Maximum Settlement Fund amount to Settlement Administrator. Any portion of the requested Class Representative Enhancement that is not awarded to the Class Representative shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for her Class Representative Enhancement. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on the respective Class Representative Enhancement and shall hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement. The Class Representative Enhancement shall be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class Member and Plaintiff's PAGA Individual Payment. In the event that the Court reduces or does not approve the requested Class Representative Enhancement, Plaintiff shall not have the right to revoke the Settlement, and it will remain binding.

g. Class Counsel Award. Plaintiff and Class Counsel shall draft and file with the Court the necessary papers for approval of the attorneys' fees and costs. Defendants agree not to oppose or object to any application or motion by Class Counsel for attorneys' fees not to exceed one-third, or 1/3 of the Maximum Settlement Fund, with one-third of the Maximum Settlement Fund being \$327,500.00. Additionally, Defendants agree not to oppose or object to any application or motion by Class Counsel for costs not to exceed Forty Thousand Dollars (\$40,000.00) from the Maximum Settlement Fund for all past and future litigation costs and expenses necessary to prosecute, settle and administer the Action as supported by a declaration from Class Counsel. The Parties agree that any and all claims for reasonable attorneys' fees and costs have been settled by this Agreement and that neither Plaintiff, Settlement Class Members, nor Class Counsel shall seek payment of attorneys' fees or reimbursement of costs/expenses from the Released Parties except as set forth in this Agreement. Any portion of the requested Class

Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall pay the approved Class Counsel Award to Class Counsel from the Maximum Settlement Fund no later than fifteen (15) calendar days after Defendants send the second installment of the Maximum Settlement Fund amount to the Administrator. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, and it will remain binding. Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement.

h. Settlement Administration Costs. Plaintiff and Class Counsel shall draft and file with the Court the necessary papers for approval of payment to the Settlement Administrator of the costs of administration of the Settlement from the Maximum Settlement Fund. Defendants agree not to oppose or object to any application or motion by Plaintiff for payment of up to Nine Thousand Nine Hundred and Ninety Dollars and Zero Cents (\$9,990.00) to the Settlement Administrator. Any portion of the requested payment to the Settlement Administrator that is not awarded to the Settlement Administrator shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall pay the approved Settlement Administration Costs no later than fifteen (15) calendar days after Defendants send the second installment of the Maximum Settlement Fund amount to Settlement Administrator.

i. Net Settlement Amount. The Parties estimate the amount of the Net Settlement Amount as follows:

Maximum Settlement Fund:	\$982,500
Class Representative Enhancement:	-\$10,000

Class Counsel's Fees:	-\$327,500
Class Counsel's Costs:	-\$40,000
PAGA Payment:	-\$50,000
	<i>(\$37,500 to the LWDA and \$12,500 to the PAGA Covered Employees)</i>
Settlement Administration Costs:	-\$9,990
Net Settlement Amount	\$545,010

56. Final Approval Motion. At the earliest practicable time following the expiration of the Response Deadline, Plaintiff shall file with the Court a Motion for Order Granting Final Approval and Entering Judgment, which motion shall request final approval of the Settlement and the amounts payable for the Class Representative Enhancement, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs.

a. Final Approval Order and Judgment. The Order Granting Final Approval of Class Action Settlement and Entering of Judgment shall be lodged with the Court no later than seven (7) days before the Final Approval Hearing. Plaintiff shall be responsible for drafting and filing the motion for Final Approval and for entry of Judgment. Plaintiff will provide Defendants with a copy of the motion(s) at least five (5) business days before the filing of the motion(s). The Order Granting Final Approval of Class Action Settlement and Entering of Judgment shall, among other things:

i. Find that the Court has personal jurisdiction over all Settlement Class Members and that the Court has subject matter jurisdiction to approve this Stipulation of Settlement;

ii. Certify the Class for Settlement purposes only;

iii. Approve the Settlement, adjudging the terms thereof to be fair, reasonable, adequate, and in the best interests of each of the Parties and the Class Members, and directing consummation of its terms and provisions;

iv. Approve Class Counsel's application for an award of attorneys' fees and costs, and the Class Representative Enhancements;

v. Approve the payment of reasonable Settlement Administration

Costs;

vi. Enter Judgment pursuant to California Rules of Court, rule 3.7969(h); and

vii. Permanently bar Plaintiff and all Class Members who have not been timely and validly excluded from the Settlement from filing or prosecuting any of the Released Claims against the Released Parties.

viii. Permanently bar the LWDA and any other individual or entity from filing or prosecuting any of the PAGA Released Claims against the Released Parties.

b. Without affecting the finality of the Final Judgment, the Court shall retain continuing jurisdiction over the Action, the Parties, and the Settlement Class, as well as the administration and enforcement of the Settlement. Any disputes or controversies arising with respect to the interpretation, consummation, enforcement, or implementation of the Settlement, not committed to resolution in the discretion of the Settlement Administrator as provided in this Agreement, shall be presented by motion to the Court. Notice of the Final Judgment shall be given by Plaintiff to Defendants and the Class Members as set forth in the Order Granting Final Approval of Class Action Settlement and Entering Judgment, which notice shall satisfy the requirements of California Rules of Court, rule 3.771. The Parties agree the time within which to bring this action to trial under CCP Section 583.310 shall be extended from the date of the signing of this Agreement by all Parties until the entry of the final approval order and judgment or if not entered the date this Agreement shall no longer be of any force or effect.

57. Option to Terminate Settlement. If, after the Response Deadline, the total number of Class Members who submitted timely and valid Requests for Exclusion from the Settlement is more than ten percent (10%) of all Class Members, Defendants shall have, in their sole discretion, the option to terminate this Settlement. If Defendants exercise the option to terminate this Settlement, Defendants shall: (a) provide written notice to Class Counsel within fifteen (15) calendar days after receiving a report from the Settlement Administrator informing Defendants that the total number of timely and valid Requests for Exclusion is more than ten percent (10%) of

the total Class Members and (b) pay all Settlement Administration Costs incurred up to the date or as any result of the termination; and the Parties shall proceed in all respects as if this Agreement had not been executed.

58. Workweek Information and Escalator Clause. Defendants represent that there are approximately 675 Settlement Class Members who worked approximately 37,882 workweeks during the Data Period. In regard hereto, the Settlement Administrator will provide a declaration under penalty of perjury confirming the number of Settlement Class Members and Compensable Workweeks in the three (3) business days prior to filing of the Motion for Preliminary Approval. If the actual number of Compensable Workweeks worked by Class Members during the Data Period exceeds the above number by more than 10%, the Maximum Settlement Fund will be increased by the same number of percentage points above 10% by which the actual number of Compensable Workweeks exceeds 37,882 (for example, if such increase in Compensable Workweeks is 15% over 37,882, the Maximum Settlement Fund will increase by 5%). Alternatively, at Defendants' option, Defendants may elect to end the Class Period on the date on which the number of Compensable Workweeks reaches 41,671.

59. No Impact on Benefit Plans. Neither this Settlement nor any amounts paid under the Settlement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendants-sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendants' benefit plans, policies, or bonus programs. Defendants retain the right to modify the language of their benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that

additional contributions or benefits are not required by this Settlement.

60. Notices. Unless otherwise specifically provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third (3rd) business day after mailing by United States certified mail, return receipt requested, addressed as follows:

To Plaintiff and the Settlement Class:

ZAKAY LAW GROUP, APLC
Shani O. Zakay, Esq.

5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047

JCL LAW FIRM, APC
Jean-Claude Lapuyade
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292

To Defendants:

LITTLER MENDELSON, P.C.
Robert I. Lockwood
William Cosmopulos
101 Second Street, Suite 1000
San Francisco, CA 94105
Telephone: (415) 433-1940

61. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement.

62. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

63. Entire Agreement. This Agreement and any attached Exhibits constitute the entire Agreement between the Parties relating to the Settlement. All prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or a Party's legal counsel are merged herein. No rights hereunder may be waived except

in writing.

64. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The person signing this Agreement on behalf of Defendants represents and warrants that they are authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that she is authorized to sign this Agreement and that she has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

65. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

66. California Law Governs. All terms of this Agreement and the Exhibit hereto and any disputes arising hereunder shall be governed by and interpreted according to the laws of the State of California.

67. Counterparts. This Agreement may be executed electronically via DocuSign or other electronic format in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Agreement shall exchange among themselves copies or originals of the signed counterparts. Copies, including scanned copies of this Agreement and electronic copies in PDF format that may be furnished by email, and the signatures (electronic or otherwise) contained therein, shall be effective as the original Agreement.

68. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this Settlement after extensive arms-length negotiations, considering all relevant factors, present and potential.

69. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement

and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith.

70. Waiver of Certain Appeals. The Parties agree, with the exception of the attorneys' fees award, provided the attorneys' fees sought do not exceed the amount provided herein, to waive any and all rights to appeal, this waiver being contingent upon the Court entering the Final Judgment as provided herein. This waiver includes waiver of all rights to any post-judgment proceeding and appellate proceeding, including, but not limited to, motions for relief from judgment and motions to amend or alter the judgment.

71. No Admissions. Plaintiff has claimed and continues to claim that the Released Claims have merit and give rise to liability on the part of Defendants. Defendants have claimed and continue to claim that the Released Claims lack merit and do not give rise to the alleged liability. This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no documents referred to herein and no action taken to carry out this Agreement may be construed or used as an admission by or against the Defendants or Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted.

72. Consideration Period. Plaintiff understands she has at least five (5) business days from the date she receives this Agreement to consider the terms of this Agreement, including whether to sign this Agreement ("Consideration Period"). If Plaintiff chooses to sign this Agreement before the Consideration Period ends, Plaintiff represents that it is because she freely chose to do so after carefully considering its terms. Plaintiff agrees with Defendants that changes, whether material or immaterial, do not toll or restart the running of the Consideration Period. Plaintiff agrees the Defendants have made no threats or promises to induce her to sign earlier.

73. Advice of Counsel. Plaintiff acknowledges that she has read and fully understands the terms of this Agreement. Defendants advise Plaintiff, in writing, to consult with an attorney of her choice, including but not limited to Class Counsel, regarding the terms of this Agreement

prior to signing this Agreement. Plaintiff has been represented by her legal counsel, who has read and explained to her the entire contents of this Agreement, as well as explained the legal consequences of the release.

IN WITNESS THEREOF, this Stipulation of Class Action Settlement and Release of Claims is executed by the Parties and their authorized attorneys, as of the day and year herein set forth.

DATED: 02/20/2025 By: 
Amanda Powell (Feb 20, 2025 17:24 PST)
AMANDA POWELL

DATED: _____ By: _____
Title: _____
Signature: _____
BRIARPATCH COOPERATIVE OF
NEVADA COUNTY, INC.

DATED: _____ By: _____
Title: _____
Signature: _____
BRIARPATCH FOOD CO-OP

APPROVED AS TO FORM:

prior to signing this Agreement. Plaintiff has been represented by her legal counsel, who has read and explained to her the entire contents of this Agreement, as well as explained the legal consequences of the release.

IN WITNESS THEREOF, this Stipulation of Class Action Settlement and Release of Claims is executed by the Parties and their authorized attorneys, as of the day and year herein set forth.

DATED: _____ By: _____
AMANDA POWELL

DATED: 2/13/25 By: Christopher Maher
Title: CEO
Signature: [Signature]
BRIARPATCH COOPERATIVE OF
NEVADA COUNTY, INC.

DATED: 2/13/25 By: Christopher Maher
Title: CEO
Signature: [Signature]
BRIARPATCH FOOD CO-OP

APPROVED AS TO FORM:

DATED: February 21, 2025

ZAKAY LAW GROUP, APLC

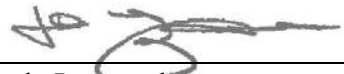
By: 

Shani O. Zakay

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: February 21, 2025

JCL LAW FIRM, APC

By: 

Jean-Claude Lapuyade

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: _____

LAWYERS FOR JUSTICE, PC

By: _____
Edwin Aiwarzian

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: _____

LITTLER MENDELSON, P.C.

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____
Shani O. Zakay

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: _____

JCL LAW FIRM, APC

By: _____
Jean-Claude Lapuyade

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: 02/21/2025 _____

LAWYERS FOR JUSTICE, PC

By:  _____

Edwin Aiwazian
Joanna Ghosh
Maria Halwadjian
Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: 02/20/2025 _____

LITTLER MENDELSON, P.C.

By:



Robert I. Lockwood

William A. Cosmopulos

Attorneys for Defendants

BRIARPATCH COOPERATIVE OF
NEVADA COUNTY, INC., BRIARPATCH
FOOD CO-OP, NEVADA COUNTY
BRIARP.

4875-9129-1378.4 / 112139-1003

ADDENDUM TO STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE OF CLAIMS

This Addendum to the February 21, 2025, Stipulation of Class Action and PAGA Settlement and Release of Claims is entered into by and between Plaintiff AMANDA POWELL, individually and on behalf of the Settlement Class and Defendants BRIARPATCH FOOD CO-OP and BRIARPATCH COOPERATIVE OF NEVADA COUNTY, INC., and NEVADA COUNTY BRIARP¹ (collectively “BriarPatch”), subject to the terms and conditions hereof and the approval of the Court.

The number of Compensable Workweeks has triggered the Escalator Clause in Paragraph 58 of the Agreement, and Defendants have elected to truncate the Class Period as of June 30, 2024. All definitions, terms, and conditions of the Agreement remain unchanged, with the exception of the following revisions:

IV. REVISIONS

7. “Class Period” or “Settlement Period” means the period of time from February 5, 2020, until June 30, 2024, inclusive.

58. Workweek Information and Escalator Clause. Defendants represent that there are approximately 675 Settlement Class Members who worked approximately 37,882 workweeks during the Data Period. In regard hereto, the Settlement Administrator will provide a declaration under penalty of perjury confirming the number of Settlement Class Members and Compensable Workweeks in the three (3) business days prior to filing of the Motion for Preliminary Approval. If the actual number of Compensable Workweeks worked by Class Members during the Data Period exceeds the above number by more than 10%, the Maximum Settlement Fund will be increased by the same number of percentage points above 10% by which the actual number of

¹ The Complaint also names a nonexistent entity, Nevada County BriarP, as an erroneously-sued Defendant. As “Nevada County BriarP” does not exist, this Agreement’s references to “Defendants” or “BriarPatch” reflect only the correctly-named existing entities.

Compensable Workweeks exceeds 37,882 (for example, if such increase in Compensable Workweeks is 15% over 37,882, the Maximum Settlement Fund will increase by 5%). Alternatively, at Defendants' option, Defendants may elect to end the Class Period on the date on which the number of Compensable Workweeks reaches 41,671.

a. Analysis of the complete data set shows the number of Compensable Workweeks during the Data Period is 45,707, which exceeds 110% (41,671) of the initial approximation. The total Compensable Workweeks exceeds 41,671 in the first workweek after June 30, 2024. Accordingly, Defendants elect to truncate the Class Period as of June 30, 2024, inclusive.

IN WITNESS THEREOF, this Addendum to the Stipulation of Class Action Settlement and Release of Claims is executed by the Parties' authorized attorneys, as of the day and year herein set forth.

DATED: March 25, 2025

ZAKAY LAW GROUP, APLC

By: _____



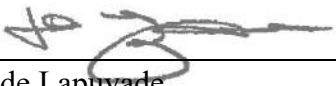
Shani O. Zakay

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: March 25, 2025

JCL LAW FIRM, APC

By: _____


Jean-Claude Laptuyade

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: March 26, 2025

LAWYERS FOR JUSTICE, PC

By: _____


Edwin Aiwazian
Elizabeth Parker-Fawley
Arman Marukyan
Joanna Ghosh
Maria Halwadjian

Counsel for Plaintiff AMANDA POWELL,
individually, on behalf of The State of
California, and on behalf of all others
similarly situated

DATED: 3/25/2025

LITTLER MENDELSON, P.C.

By: _____


Robert I. Lockwood
William A. Cosmopulos

Attorneys for Defendants
BRIARPATCH COOPERATIVE OF
NEVADA COUNTY, INC., BRIARPATCH
FOOD CO-OP, NEVADA COUNTY
BRIARP.

EXHIBIT A

EXHIBIT A

[CLASS MEMBER NAME]

NOTICE OF CLASS ACTION SETTLEMENT
POWELL v. BRIARPATCH FOOD CO-OP, BRIARPATCH COOPERATIVE OF NEVADA
COUNTY, INC., and NEVADA COUNTY BRIARP

Superior Court of California, County of Nevada
Case No.: CU0001207

If you are a current or former non-exempt employee who worked for BriarPatch Food Co-op, BriarPatch Cooperative of Nevada County, Inc., and/or Nevada County Briarp (“Defendants”) within the State of California at any time from February 5, 2020, until June 30, 2024, inclusive (the “Class Period”), a class action lawsuit may affect your rights and you may be entitled to a payment under this proposed settlement (“the Settlement”).

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

- This is a class action lawsuit that involves a class defined as “all individuals who are or were employed by Defendants as non-exempt employees in the State of California during the Class Period.”
- Amanda Powell (“Plaintiff”) contends that Defendants violated provisions of the California Labor Code by allegedly failing to properly pay all wages during and at the end of employment, provide compliant meal and rest periods and pay premiums for missed meal and rest periods, reimburse all business expenses, and provide compliant pay stubs, as well as other related claims, and engaging in unfair competition.
- Plaintiff also alleges a claim for civil penalties under the California Private Attorneys General Act for Defendants’ alleged Labor Code violations.
- Defendants deny all of Plaintiff’s claims and assert that they have complied with all legal obligations owed to Plaintiff and all employees implicated by these claims.
- There has been a settlement that affects your legal rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or Defendants’ defenses.

- You have several options available to you:

DO NOTHING	By doing nothing, you will receive a share of the settlement proceeds, and you will give up any rights to sue Defendants and the Released Parties separately regarding all claims and causes of action of whatever kind or nature that are alleged, related to or that reasonably could have arisen out of the same facts alleged in the Complaint that are the subject of this class action lawsuit.
ASK TO BE EXCLUDED (OPT OUT) OF THE CLASS SETTLEMENT BUT NOT THE PAGA SETTLEMENT	Get out of this lawsuit. Get no benefits from the Settlement. Keep rights. If you ask to be excluded, you will not receive a share of the class action settlement proceeds, and you keep any rights you may have to sue Defendants and the Released Parties separately about the same legal claims alleged in this class action lawsuit. You cannot opt-out of the PAGA portion of the proposed Settlement. Aggrieved Employees under PAGA remain eligible for an PAGA Individual Payment.
OBJECT	Object to the terms of this Settlement.

Your options are explained in this notice.
To make a claim or object, you must act by XXXXX.

1. Why did I get this notice?

A settlement has been reached in a class action lawsuit that was brought on behalf of the following class of people defined as “all individuals who are or were employed by Defendants as non-exempt employees in the State of California during the Class Period.”

You have received this notice because Defendants’ records indicate that you are a member of the Class.

2. What is this lawsuit about?

On February 5, 2024, Plaintiff filed a putative class and PAGA representative action Complaint against Defendants in Nevada County Superior Court captioned as *AMANDA POWELL, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act v. BRIARPATCH COOPERATIVE OF NEVADA, INC., a California Corporation; BRIARPATCH FOOD CO-OP, an unknown business entity; NEVEDA COUNTY BRIARP, an unknown business entity; and DOES 1 through 100, inclusive*, Case No. CU0001207. The claims for relief Plaintiff asserted on behalf of herself and the putative class and aggrieved employee group are: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums); (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (4) Violation of California Labor Code §§ 1194,

1197, and 1197.1 (Unpaid Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment); (7) Violation of California Labor Code 226(a) (Non-compliant Wage Statements); (8) Violation of California Labor Code 1174(d) (Failure to Keep Requisite Payroll Records); (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); (10) Violation of California Business & Professions Code §§ 17200 et seq.; and (11) Violation of California Labor Code § 2698 et seq. (California Labor Code Private Attorneys General Act of 2004).

Defendants deny all of Plaintiff's claims, deny that they have liability to Plaintiff or any other Class Member, and asserts that they have complied with all of their legal obligations to their employees.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendants' defenses.

4. Why did this case settle?

The Parties reached a settlement to avoid the risk and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendants dispute Plaintiff's claims, Defendants have also concluded that further litigation would be protracted and expensive and would also divert resources, including management and employee time.

5. What are the terms of the settlement and how much will I receive?

Subject to final Court approval, the Settlement Agreement provides that Defendants will pay the gross amount of Nine Hundred Eighty-Two Thousand Five Hundred Dollars and Zero Cents (\$982,500.00) (the "Maximum Settlement Fund") to fully resolve the allegations in the Action. Defendants will deposit one installment of the Maximum Settlement Fund (\$567,510.00) into a Qualified Settlement Fund to be established by the Settlement Administrator within thirty (30) calendar days after the Effective Date. Defendants will deposit the remaining amount of the Maximum Settlement Fund (\$414,990.00) into the Qualified Settlement Fund to be established by the Settlement Administrator within one-hundred eighty (180) calendar days following the Effective Date.

"Effective Date" means: (a) the date upon which the time for appeal of the Court's order granting final approval of the Settlement Agreement and entry of judgment expires (i.e., the sixty-first day after the Court grants final approval); unless (b) an appeal is timely filed, then "Effective Date" means the date of final resolution of any appeal from the order granting final approval of the Settlement Agreement and entry of judgment or dismissal of the appeal.

Under the Settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Class Representative Enhancement to the Named Plaintiff - \$10,000
- Attorneys' Fees— \$327,500
- Attorneys' Costs – \$40,000
- PAGA Payment – \$50,000 (\$37,500 to the LWDA and \$12,500 to be distributed to the “aggrieved” employee group).
- Settlement Administration Expenses – \$9,990

After these deductions, approximately \$545,010 (the “Net Settlement Amount”) will be available for payments to be made to the Class Members receiving this notice. The Individual Settlement Payments shall be paid from the Net Settlement Amount upon receipt of the first installment.

The Net Settlement Amount will be available for distribution to Settlement Class Members. Each Class Member who does not timely submit a valid Request for Exclusion to be excluded from the Class (“Settlement Class Member”) will be receive a *pro rata* portion of the Net Settlement Fund (“Individual Settlement Payment”). Individual Settlement Payments will be mailed to Settlement Class Members' last known mailing address no later than fifteen (15) calendar days after Defendants fund the first installment. The payments will be calculated in accordance with the following steps:

The Settlement Administrator will calculate the total Compensable Workweeks for all Settlement Class Members by adding the number of Compensable Workweeks worked by each Settlement Class Member during the Class Period. Defendants represent that there are approximately 675 Settlement Class Members who worked approximately 37,882 workweeks during the Data Period. The respective Compensable Workweeks for each Settlement Class Member will be divided by the total Compensable Workweeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member. Each Settlement Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated Individual Settlement Payments.

“Compensable Workweeks” means any seven (7) consecutive days beginning on Sunday and ending on Saturday during which a Class Member worked for Defendants during the Class Period, according to Defendants' records.

In addition, the employee's share of PAGA Penalties will be paid to Class Members who worked during the PAGA Period. The employee's share of the PAGA Penalties will be distributed no later than fifteen (15) calendar days after Defendants send the first installment of the Maximum Settlement Fund to the Settlement Administrator.

The PAGA Individual Payment paid to each PAGA Covered Employee shall be calculated by adding up the total number of PAGA Pay Periods for all PAGA Covered Employees during the PAGA Period. The respective PAGA Pay Periods will then be divided by the total PAGA Pay Periods for all PAGA Covered Employees, resulting in the “PAGA Payment Ratio” for each

PAGA Covered Employee. Each PAGA Covered Employee's PAGA Payment Ratio will then be multiplied by the PAGA Individual Payment to calculate each PAGA Covered Employee's estimated share of the PAGA Payment.

"PAGA Covered Employees" means all individuals who were employed by Defendants in California as non-exempt employees during the PAGA Period, regardless of whether they submitted a valid Request for Exclusion or otherwise opted out of the Settlement. "PAGA Period" means the period of time from December 1, 2022, until February 1, 2025.

"PAGA Pay Period" means, for purposes of calculating the distribution of the PAGA Payment to PAGA Covered Employees, the number of pay periods of employment during the PAGA Period that each PAGA Covered Employee worked in California.

Based on Defendants' records, and the Parties' current assumptions, your Individual Class Payment as a Class Member is estimated to be \$ [REDACTED] (less withholding). The actual amount you may receive likely will be different and will depend on a number of factors. This amount does not include any PAGA Penalties that may be owed to you under the Settlement. If you disagree with this information and would like someone to look into the matter, please follow the procedure below.

The above estimates are based on Defendants' records showing that you worked [REDACTED] Compensable Workweeks during the Class Period.

6. What if I disagree with the number of eligible compensable workweeks attributed to me shown above?

If you believe that you worked more workweeks during the Class Period, you may dispute your Individual Class Payment calculation by providing written documentation to the Settlement Administrator at the address listed below, supporting your position on or before [RESPONSE DEADLINE]. Your dispute must contain: your full name, address, signature, last four digits of your Social Security number, the case name and an explanation of the dispute, along with any supporting documentation confirming the payment amounts attributed to you are incorrect.

7. What do I have to do to receive a share of the settlement?

If you wish to receive a payment under the terms of this settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share at [REDACTED]. You will be covered by the release summarized in Section 8, below.

You must cash your check within 180 calendar days of payment. Otherwise, all checks mailed to Class Members that are not cashed within 180 calendar days of payment shall be distributed to Sierra Harvest, a Cy Pres, in accordance with California Code of Civil Procedure section 384.

8. What rights am I giving up?

Upon the Effective Date and funding in full by Defendants of the Maximum Settlement Fund, each Class Member who does not timely submit a valid Request for Exclusion to be excluded from the Class, will, for the Class Period, fully release and forever discharge the Released Parties from certain claims they may have as follows:

Class Released Claims means any and all claims for wages, statutory and civil penalties (but not PAGA Penalties), monies, damages, liquidated damages, premiums, restitution, injunctive and declaratory relief, pre-judgment and post-judgment interest, attorneys' fees and costs, that were alleged in the Action and/or claims which could have reasonably been alleged based on the same set of operative facts pled therein, including, but not limited to: (1) failure to pay overtime wages in violation of California Labor Code sections 204, 510, 1194, 1198, and the applicable IWC Wage Orders, including failure to properly calculate and apply the regular rate of pay; (2) failure to provide meal breaks and meal break premiums in violation of California Labor Code sections 226.7, 512(a), and the applicable IWC Wage Orders; (3) failure to provide rest breaks and rest break premiums in violation of California Labor code section 226.7, the California Code of Regulations, and the applicable IWC Wage Orders; (4) failure to pay wages in violation of California Labor Code sections 246, 1197, 1198, 1194, 1194.2, the California Code of Regulations, and the applicable IWC Wage Orders; (5) failure to pay all wages earned at separation of employment in violation of California Labor Code sections 201, 202, and 203; (6) failure to correctly pay all wages timely during employment in violation of California Labor Code section 200, 204, 210, and 246; (7) failure to provide accurate itemized wage statements in violation of California Labor Code sections 226(a) and 226(e); (8) failure to maintain accurate employment records in violation of California Labor Code section 1174; (9) failure to indemnify employees for all necessary business expenditures in violation of California Labor Code section 2802 and 2804; (10) violation of Business and Professions Code section 17200, et seq. based on the Labor Code sections alleged and with respect to the statutory penalties claimed in the Action, any source of obligation as a basis for claiming such penalties during the Class Period (the "Released Claims") against the Released Parties. The release of the Class Released Claims shall be given full *res judicata* and *collateral estoppel* effect upon entry of the judgment in this Action so as to bar any Settlement Class Members from filing or pursuing the Class Released Claims during the Class Period against the Released Parties in any forum.

Upon the Effective Date and funding in full by Defendants of the Maximum Settlement Fund, the Labor Workforce Development Agency ("LWDA"), State of California and Plaintiff as a proxy for the LWDA, 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 the PAGA Released Claims as follows:

"PAGA Released Claims" means the release of the Released Parties by the Labor Workforce Development Agency ("LWDA"), State of California, and by Plaintiff AMANDA POWELL as representative of and proxy for the LWDA, from all claims for civil penalties under the Labor Code pursuant to the Private Attorneys General Act (Cal. Lab. Code §§ 2698 et seq.) that were alleged in the PAGA Letter, the operative complaint in the Action, and/or claims for PAGA penalties which reasonably could have been alleged based on the same set of operative facts pled therein, including, but not limited to claims for PAGA penalties arising from violations of

California Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, and 2804. The release of PAGA Released Claims shall be given full *res judicata* and *collateral estoppel* effect upon entry of the judgment in this Action so as to bar the LWDA and any PAGA Covered Employees from filing or pursuing the PAGA Released Claims during the PAGA Period against the Released Parties in any forum.

“Released Parties” means Defendants BRIARPATCH FOOD CO-OP, and BRIARPATCH COOPERATIVE OF NEVADA COUNTY, INC., and each and all of their past and present parent, subsidiary, and affiliated corporations, entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, owners, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.

9. What if I do not wish to be involved?

You can opt out of this Settlement and retain your rights instead of receiving a payment under this Settlement. To do so, you must submit a written statement requesting exclusion from the Settlement. The written statement must (1) state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement in the matter of *Amanda Powell v. BriarPatch Cooperative of Nevada, Inc., BriarPatch Food Co-op, and Nevada County Briarp* (Case No. CU0001207); (2) contain your name, address, and the last four digits of the Social Security number; (c) be signed by you; and (d) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address in the Notice Packet. Your written statement must be mailed to the Settlement Administrator and be postmarked no later than [RESPONSE DEADLINE], or it will not be considered and you will still remain a Settlement Class Member and be bound by the Settlement. The Settlement Administrator’s address is:

18 Technology Drive, Suite 154
Irvine, CA 92618
c/o Apex Class Action, LLC

Class Members who are PAGA Covered Employees do not have a right to exclude themselves or object to the PAGA portion of the Settlement and will be covered by the release of claims for civil penalties under the PAGA.

Anyone who submits a timely and valid Request for Exclusion letter will not be deemed a Settlement Class Member and will not receive any payment as part of this Settlement, except for a pro-rata portion of the PAGA Payment. Such persons will keep any rights to sue Defendants and the Released Parties separately about the claims in this Action, except for the claims for civil penalties under the PAGA.

10. What if I have an objection?

Any objection to the Settlement must be in writing, include: (1) your full name (and former names, if any); (2) dates of employment; (3) last four digits of your Social Security number; (4) reason(s) for the objection; and (5) name and case number of this matter. Your written statement must be mailed to the Settlement Administrator and be postmarked no later than [RESPONSE DEADLINE]. Either of the Parties may file a responsive document to any objection with the Court. You may also appear at the Final Approval Hearing in Dept. 6 of the Superior Court of the State of California, County of Nevada, 201 Church Street #5, Nevada City, CA, 95959 on _____, 2025, at XXX. (Pacific Time), to have your objection heard by the Court. If you object to the settlement, you will remain a Settlement Class Member, and if the Court approves the settlement over your objection, you will be bound by the terms of the Settlement Agreement in the same way as Class Members who do not object.

11. Do I need to hire my own legal counsel?

No, Class Counsel is working on your behalf. However, if you would like to hire your own legal counsel, you are free to do so at your own expense.

<u>Class Counsel:</u> ZAKAY LAW GROUP, APLC Shani O. Zakay, Esq. 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619) 255-9047 JCL LAW FIRM, APC Jean-Claude Lapuyade 5440 Morehouse Drive, Suite 3600 San Diego, CA 92121 Telephone: (619) 599-8292 LAWYERS <i>for</i> JUSTICE, PC 450 North Brand Blvd., Suite 900 Glendale, California 91203 Telephone: (818) 265-1020 Facsimile: (818) 265-1021	<u>Counsel for Defendants:</u> Littler Mendelson, P.C. Robert I. Lockwood William A. Cosmopulos 101 Second Street, Suite 1000 San Francisco, CA 94105
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12. What happens next in the case?

The Settlement has only been preliminarily approved by the Court. The Court will hold a hearing in Dept. 6 of the Superior Court of the State of California, County of Nevada, 201 Church Street #5, Nevada City, CA, 95959 on _____, 2025, at XXX. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs and

the costs of Settlement Administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I seek further information?

This notice is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you may review the detailed "Settlement Agreement" on file with the Clerk of the Court. The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the Superior Court of the State of California, County of Nevada, 201 Church Street #5, Nevada City, CA, 95959.

For further information, you may also telephone the Settlement Administrator at 1-800-355-0700 or Class Counsel (listed above).

Please do not telephone the Court, the Office of the Clerk, or Defendants for information regarding this Settlement.

EXHIBIT 2

EXHIBIT 3



Quotation Request:

Rachel Newman
Zakay Law Group, APC
rachel@zakaylaw.com
619.255.9047

Case Name:

Date:
RFP Number:

Powell v. Briarpatch Cooperative of Nevada, Inc.

Tuesday, January 7, 2025
11780013

Prepared By:

Sean Hartranft
Apex Class Action LLC
Sean@apexclassaction.com
949.878.3676

Settlement Specifications	
Estimated Class Size:	675
Certified Language Translation:	Yes
Static Settlement Website	No
Percentage of Undeliverable Mail	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	2	\$250.00
Data Analyst	Per Hour	\$150.00	2	\$300.00
*Data provided must be in a workable format. Apex can standardize provided data at an additional cost of \$150/hr.				
Sub Total:				\$550.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.50	675	\$1,012.50
USPS First Class Postage	Per Piece	\$0.69	675	\$465.75
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	135	\$270.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	1	\$75.00
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	2	\$150.00
NCOA Address Update (USPS)	Static Rate	\$147.25	1	\$147.25
Certified Language Translation: Spanish	Static Rate	\$1,200.00	1	\$1,200.00
Sub Total:				\$3,440.50

Project Management				
Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	2	\$180.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
Sub Total:				\$620.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$175.00	1	\$175.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
			Sub Total:	\$175.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	3	\$360.00
Account Management and Reconciliation	Per Hour	\$140.00	3	\$420.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.25	675	\$843.75
USPS First Class Postage	Per Piece	\$0.69	675	\$465.75
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	68	\$135.00
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	9	\$900.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,250.00	1	\$1,250.00
			Sub Total:	\$4,374.50

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	2	\$270.00
Project Management Reconciliation	Per Hour	\$100.00	2	\$200.00
Declarations	Per Hour	\$120.00	3	\$360.00
			Sub Total:	\$830.00

			WILL NOT EXCEED:	\$9,990.00
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Thank you for your business!



Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. Apex may derive financial benefits from financial institutions in connection with the deposit and investment of funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.