David D. Cardone, Esq. (SBN 254954)
Adam J. Yarbrough, Esq. (SBN 247687)
Howard D. Bruno (SBN 348304)
DUNN DESANTIS WALT & KENDRICK, LLP
750 B Street, Suite 2620
San Diego, CA 92101
Telephone: (619) 573-4488
Facsimile: (619) 255-4868
dcardone@ddwklaw.com; ayarbrough@ddwklaw.com;
hbruno@ddwklaw.com

Attorneys for Plaintiff
SHAUNA STALNAKER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

SHAUNA STALNAKER, an individual and on behalf of other aggrieved employees, Plaintiffs, vs. BLUE PACIFIC ENGINEERING AND CONSTRUCTION, INC., a California corporation, SHAHRAM ELIHU, an individual, and DOES 1 through 50, inclusive, Defendants.	CASE NO. 37-2024-00022124-CU-WT-CTL **DECLARATION OF DAVID D. CARDONE IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT AND ENTRY OF JUDGMENT** Date: October 16, 2026 Time: 10:30 a.m. Dept: C-70 Judge: Hon. Carolyn Caietti Action Filed: May 13, 2024 Trial Date: Not Set **RESERVATION NO.: 101143**

I, David D. Cardone, Esq., declare as follows:

1. I am an attorney at law duly licensed to practice before all courts in the State of California. I am a partner of the law firm of DUNN DESANTIS WALT & KENDRICK, LLP, counsel of record for Plaintiff SHAUNA STALNAKER ("Plaintiff"). I make this Declaration in support of Plaintiff's motion for approval of the settlement of this action pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, et seq. (hereinafter "PAGA") with BLUE PACIFIC ENGINEERING AND CONSTRUCTION and SHAHRAM ELIHU (collectively "Defendants"). I have personal knowledge of the facts contained in this declaration. If called as a witness, I could and would competently testify to the following facts based upon my own personal knowledge.

2. I submit this Declaration in support of Plaintiff's Motion for Approval of PAGA Settlement.

3. On December 28, 2023, Plaintiff submitted a letter to the California Labor and Workforce Development Agency ("LWDA") to notify the LWDA pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, et seq.; ("PAGA") of Plaintiff's intent to seek civil penalties under PAGA for violations of Labor Code.

4. The letter was submitted via electronic filing, U.S. mail, and certified mail to LDWA and via certified mail to Defendants.

5. Attached hereto as **Exhibit 1** is a true and correct copy of the letter Plaintiff sent to LWDA and Defendants on December 28, 2023.

6. The LWDA did not respond to this notice within sixty-five (65) days, indicating it did not intend to investigate, thus allowing Plaintiff to file the instant lawsuit pursuant to Labor Code Section 2699.3(a)(2)(A).

7. On May 13, 2024, Plaintiff filed this action against her former employers.

8. In preparation for mediation, the parties exchanged substantial written discovery.

9. Defendant formally produced data and documents for Plaintiff to evaluate the PAGA claims and calculate the alleged exposure, including a sample of time and payroll records, and data regarding the number of aggrieved employees and pay periods.

10. Defendant also produced policy documents and Plaintiff's personnel file, time records, and pay records through formal discovery.

11. Plaintiff's counsel engaged a forensic economist, Lindsay Petitte of Stout, to analyze Plaintiff's damage claims and PAGA Penalties. Ms. Stout calculated the potential exposure using the time and payroll records, and then assessed the risks associated with each of the claims.

12. On October 28, 2025, the Parties attended a Court-assigned mediation session with the Honorable Judith Haller (Ret.) to resolve Plaintiff's individual claims and PAGA claims.

13. After extensive arms' length negotiations in mediation, and following a proposal made by Justice Haller, the Parties reached a full and final settlement of all claims in the Action, including Plaintiff's PAGA claim and individual claims, subject to the execution and full performance of an individual settlement agreement.

14. At the conclusion of mediation, the parties memorialized their agreement in principle on a one-page handwritten document entitled "Stipulation Following Mediator's Proposal." Justice Haller hand-wrote the terms in black ink, and I added some additional terms in blue ink before the parties signed. A true and correct copy of the Stipulation Following Mediator's Proposal is attached hereto as **Exhibit 2**.

15. One of the of the primary arguments advanced by Defendants throughout discovery and at mediation was an inability to pay a robust civil judgment due to cash flow and liquidity problems.

16. In general, I do not advise my clients to accept settlements on "payment plans." However, Plaintiff agreed to accept settlement payments in installments because of Defendant's demonstrable cash flow and liquidity problems and inability to pay.

17. Plaintiff will provide notice of the proposed PAGA Settlement Agreement to the LWDA is by submitting the proposed settlement agreement to the LWDA simultaneously herewith.

18. The PAGA Settlement releases all potential PAGA claims on behalf of all potentially Aggrieved Employees. Defense counsel represented via email on January 9, 2025 that there were 175 Aggrieved Employees and 14,650 pay periods during the PAGA Period (December 28, 2023 through October 28, 2025).

19. My office sent the individual and PAGA settlement agreement drafts to Defendants for execution on February 24, 2026. However, Defendants have refused to discuss or execute the agreements. A true and correct copy of the PAGA Settlement that Plaintiff provided to Defendants for execution is attached hereto as **Exhibit 3**.

20. To expedite resolution of this matter and simply this motion, Plaintiff's counsel waives any claim to attorneys' fees for the PAGA settlement.

21. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed in San Diego, California on the date indicated immediately below.

Date: March 18, 2026

David D. Cardone

EXHIBIT 1

DUNN DESANTIS WALT & KENDRICK LLP
ATTORNEYS

DAVID D. CARDONE
dcardone@ddwklaw.com

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December 28, 2023

VIA U.S. MAIL, CERTIFIED MAIL,
AND ONLINE ELECTRONIC FILING

Labor & Workforce Development Agency
800 Capital Mall, Suite 5000
Sacramento, CA 95814

Re**:** **PAGA Claim Notice**
Shauna Stalnaker / Blue Pacific Engineering and Construction, Inc.

To Whom It May Concern:

This office represents Ms. Shauna Stalnaker ("Claimant") in the above referenced matter. This letter shall serve as Claimant's notice, made pursuant to the California Private Attorney General Act ("PAGA"), California Labor Code Section 2698, *et seq*., of Claimant's wage and hour claims and related violations of the California Labor Code against her former employer Blue Pacific Engineering and Construction, Inc. and its ownership (collectively "Blue Pacific"). Claimant seeks to represent all other current and former aggrieved employees of Blue Pacific who suffered one or more violations of the California Labor Code, including those described herein.

I. INTRODUCTION

Blue Pacific provides engineering and construction services generally in and around the greater San Diego area. Claimant was hired by Blue Pacific in July of 2020. Claimant's job duties included managing all bank accounts, collecting monthly billing, overseeing accounts payable, preparing work-in-progress reports, managing payroll, taxes, and workers compensation, as well as reporting and distributing employee benefits and processing employee deferred compensation withholdings.

Claimant has personal, first-hand knowledge that, during her tenure, Blue Pacific unlawfully engaged in an intentional practice of improperly diverting employee 401(k) withholdings and other deferred compensation thereby depriving employees of a portion of their wages. In addition to employing unlawful payroll practices, Blue Pacific also routinely and intentionally failed to timely pay Claimant and other aggrieved employees their regular wages as required by statute. In fact, Claimant was specifically instructed by Blue Pacific to implement and

Re: **PAGA Claim Notice**
Shauna Stalnaker / Blue Pacific Engineering and Construction, Inc.

maintain these unlawful practices. As a result of these unlawful practices, Claimant's and her co-workers' wage statements were necessarily incorrect. Claimant's protests about the unlawful decisions and practices were ignored until, ultimately, she was illegally fired by Blue Pacific's owner in retaliation for persisting with her protests about them.

Blue Pacific's intentional misconduct and unlawful practices with respect to diverting employee contributions, including those intended for tax-deferred compensation plans, violate numerous sections of the California Labor Code as set forth below.

II. THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

Claimant, on behalf of herself and all aggrieved current and former Blue Pacific employees, alleges the following violations:

Failure to Pay Timely Pay Wages § 204

Section 204 of the California Labor Code states in relevant part that all wages earned by any employee are due and payable twice during each calendar month on days designated in advance by the employer as the regular paydays. If an employee does not receive full payment of all wages due on the designated payday the payment is considered late. On numerous occasions, Blue Pacific failed to furnish all wages due and owing to employees on their designated payday. Specifically, employees of Blue Pacific frequently experienced delays in receiving their wages. Over the last year, aggrieved employees' paychecks were unable to be processed, "bounced," due to Blue Pacific's bank account not having sufficient funds. Blue Pacific also developed a practice of delaying employee paydays altogether, forcing employees to wait many days before receiving their pay.

Labor Code § 210 imposes civil penalties upon an employer who fails to pay its employees' wages on time. An initial violation subjects the employer to a penalty of $100 per employee. Willful or intentional and subsequent violations both subject the employer to the assessment of penalties at the rate of $200 per employee and an additional 25% of the amount unlawfully withheld. In light of the foregoing, Claimant, for herself and the aggrieved employees, seeks to recover these penalties.

Improper Withholding of Wages § 221

An employer may only withhold, deduct, or divert amounts from an employee's wages in select circumstances, such as: (1) when required or empowered to do so by state or federal law, or (2) when a deduction is expressly authorized in writing by the employee to cover insurance premiums, benefit plan contributions or other deductions not amounting to a rebate on the employee's wages, or (3) when a deduction to cover health, welfare, or pension contributions is expressly authorized by a collective bargaining agreement.

Re: **PAGA Claim Notice**
Shauna Stalnaker / Blue Pacific Engineering and Construction, Inc.

Here, although Blue Pacific repeatedly represented that it was withholding employee wages for the purpose of making contributions to deferred compensation plans, beginning in March of 2023, such funds were either delayed unlawfully or were never deposited into employee accounts. Accordingly, Claimant, for herself and the aggrieved employees, seeks to recover all unpaid improperly withheld wages in addition to applicable waiting time penalties.

Failure to Provide Timely and Accurate Wage Statements § 226

California employers are required to furnish every employee with an itemized, written, detachable or separate statement, or paystub, at the time of payment of wages. The wage statement must be accurate and contain the gross wages earned, total hours worked by the employee, all deductions, net wages earned, inclusive dates of the pay period, the employee's name and social security number, and the name and address of the legal entity that is the employer, pursuant to California Labor Code § 226(a) and § 226.2(a).

A missing, incomplete or inaccurate wage statement subjects an employer to a \$100.00 penalty for each occurrence, which pursuant to Labor Code § 226(c) has been interpreted to mean each and every payday in which a compliant wage statement is not provided.

As noted above, Blue Pacific developed a practice of representing to employees that a portion of their wages were being diverted to deferred compensation plans without ever depositing the withheld funds. Accordingly, the wage statements provided to Claimant and the other aggrieved employees from March of 2023 through December of 2023 are inaccurate and fraudulent. In light of the foregoing, Claimant for herself and the and aggrieved employees, seeks to recover applicable penalties or damages contemplated under § 226(e).

Failure to Pay Prevailing Wages Pursuant to Labor Code § 1774:

Blue Pacific willfully failed to properly defer employee wages into fringe benefit accounts created pursuant to applicable prevailing wage laws. Accordingly, Claimant, for herself and the aggrieved employees, seeks to recover unpaid improperly withheld wages in addition to all applicable penalties.

Waiting Time Penalties Pursuant to Labor Code § 203:

Some aggrieved employees no longer work for Blue Pacific. They either resigned or were terminated. Based on the foregoing, Blue Pacific has a consistent policy of failing to timely pay all wages due and owing to aggrieved employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the foregoing, Claimant, for herself and the aggrieved employees, seeks to recover wages and all applicable penalties.

Re: **PAGA Claim Notice**
Shauna Stalnaker / Blue Pacific Engineering and Construction, Inc.

Unfair Competition Under Business and Professions Code § 17200, *et seq*.:

Blue Pacific's unlawful conduct has been and, on information and belief, continues to be unfair, unlawful, and harmful to aggrieved employees and the general public in violation of Business & Professions Code § 17200 *et seq*. These acts by Blue Pacific violate, *inter alia*, California Labor Code §§ 204, 221, 226, 1774, 203. Claimant intends to pursue these claims in litigation against Blue Pacific and its ownership.

III. CONCLUSION

As a result of Blue Pacific's Labor Code violations, as well as its violations of other California laws, Blue Pacific is liable for back wages, premiums, and penalties, attorneys' fees and costs, unreimbursed expenses incurred, and other damages and remedies.

Accordingly, I respectfully request that you advise me, via certified U.S. Mail within sixty (60) days of the postmark on this letter, that the State of California does not intend to investigate the above-described Labor Code violations and that Claimant, for herself and the other aggrieved employees, may pursue a representative PAGA claim against, and recovery penalties from, Blue Pacific pursuant to Labor Code § 2699.

Sincerely,

David D. Cardone

DDC/mr

cc:

VIA CERTIFIED MAIL

Shahram Elihu
Chief Executive Officer
Blue Pacific Engineering and Construction, Inc.
8825 Aero Drive, Suite 320
San Diego, CA 92123

James Danaher
Agent for Service of Process
Blue Pacific Engineering and Construction, Inc.
8825 Aero Drive, Suite 320
San Diego, CA 92123

EXHIBIT 2

Stipulation Following Mediator's Proposal

400K (K = thousand dollar increments)

- 100K by 1/15/26 to Phenix
- 60K W2 (out of $100K)
- 300K over 2 yrs - equal monthly payments
- stip judgment by all Δ's for 400K, less offset
- contingent PAGA approval of $10K PAGA settlement (motion to reference MP terms)
- Standard terms
  - * mutual release + 1542 waiver
  - * confidentiality
  - * non disparagement
  - * prevailing party atty's fees
  - * Enforceable under CCP 664.6
  - * other standard terms and conditions
  - * waiver of 21 day period under ADEA
  - * subject to 7 day revocation under ADEA
  - * Justice Haller to resolve disputes about MP terms

Plaintiff

Defendants

Shauna Stalnaker

Shahram Eliku, individually and as CEO of Blue Pacific

APPROVED AS TO FORM:

Plaintiff's Attorney

Defendants' Attorney

David Cardone

Joel Glaser

EXHIBIT 3

PAGA SETTLEMENT AGREEMENT WITH RELEASE

This PAGA Settlement Agreement with Release is made by and between Plaintiff, Shauna Stalnaker ("Plaintiff"), and Defendants, Blue Pacific Engineering and Construction, Inc., a California Corporation, and Shahram Elihu, an individual (collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as a "Party."

1. DEFINITIONS.

1.1. "Action" means Plaintiff's PAGA lawsuit alleging whistleblower retaliation, wrongful termination, and wage and hour violations against Defendants captioned *Shauna Stalnaker v. Blue Pacific Engineering and Construction, Inc., et al.*, initiated on May 13, 2024 and pending in the Superior Court of California, County of San Diego, Case No. 37-2024-00022124-CU-WT-CTL

1.2. "Administrator" means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses.

1.4. "Aggrieved Employee" means a person employed by Blue Pacific Engineering and Construction, Inc. and classified as an exempt or nonexempt employee during the PAGA period.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendants' possession including name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

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

1.7. "Approval Order" means the Court's order approving this settlement.

1.8. "Court" means the Superior Court of California, County of San Diego.

1.9. "Defense Counsel" means Joel Glaser, Esq., of Joel Glaser APC, the attorney representing the Defendants in the Action.

1.10. "Effective Date" means the date on which the Approval Order becomes final.

1.11. "Gross PAGA Settlement Amount" means TEN THOUSAND DOLLARS AND ZERO CENTS ($10,000.00) which is the total amount Defendants agree to pay under the Settlement. The Gross Settlement Amount will be used to pay the Individual PAGA payment, the LWDA, and the Administration Expenses Payment.

1.12. "Individual PAGA Payment" means the Aggrieved Employees' pro rata share of 25% of the Net Settlement Amount calculated according to the number of Pay Periods worked during the PAGA Period.

1.13. "LWDA" means the California Labor & Workforce Development Agency.

1.14. "LWDA PAGA Payment" refers to the 75% of the Net Settlement Amount paid to the LWDA under Labor Code section 2699, subd. (i) (pre-2024 statutory amendment).

1.15. "Net Settlement Amount" means the Gross PAGA Settlement Amount, less the Administration Expenses Payment.

1.16. "PAGA Counsel" means Dunn DeSantis Walt & Kendrick LLP, the attorneys representing the Plaintiff in the Action.

1.17. "PAGA Pay Period(s)" means any Pay Period during which an Aggrieved Employee worked for Defendant Blue Pacific Engineering and Construction, Inc. for at least one day during the PAGA Period.

1.18. "PAGA Period" means the period from December 28, 2023 through October 28, 2025.

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

1.20. "PAGA Notice" means Plaintiff's December 28, 2023 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3(a).

1.21. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employee and the 75% to LWDA in settlement of Released PAGA Claims.

1.22. "Released PAGA Claims" means the claims being released as described in Paragraph 5 below.

1.23. "Released Parties" means: Defendants, and each of their respective past and present officers, directors, shareholders, managers, agents, principals, heirs, representatives, accountants, auditors, consultants, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys.

1.24. "Settlement" means the disposition of the PAGA portion of the Action effected by this Agreement and the Judgment.

2. RECITALS.

2.1. On May 13, 2024, Plaintiff filed this action against her former employers. Plaintiff pleaded the following causes of action against Defendants: (1) Retaliation Against Whistleblower (Labor Code § 1102.5); (2) Wrongful Termination In Violation Of Public

Policy; (3) Violation Of Labor Code § 98.6; (4) Failure To Pay Overtime Wages (Labor Code §§ 510, 1194, And Applicable Wage Order); (5) Failure To Pay Minimum Wages (Labor Code § 1197 And Applicable Wage Order); (6) Unpaid Meal Period Wages (Labor Code §§ 226.7, 512, And Applicable Wage Order); (7) Unpaid Rest Period Wages (Labor Code §§ 226.7, And Applicable Wage Order); (8) Failure To Pay Timely Wages (Labor Code § 204, 1194 And 1198, And Applicable Wage Order); (9) Improper Withholding Of Wages (Labor Code §§ 221, 223, And 224); (10) Failure To Pay All Wages Due At Time Of Discharge (Labor Code §§ 201- 203); (11) Failure To Provide Accurate, Itemized Wage Statements (Labor Code §§ 226 And 1174); (12) Unfair Competition (Bus. & Prof. Code § 17200 Et Seq.); and **(13) Private Attorneys General Act Penalties (Labor Code § 2698 et seq.) (the "PAGA claim")**.

2.2. This Settlement Agreement pertains only to the PAGA claim.

2.3. Pursuant to Labor Code section 2699.3(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.4. On October 28, 2025, the Parties participated in an all-day mediation with experienced class and PAGA mediator, Hon. Judith Haller (Ret.), which led to this Agreement to settle the Plaintiff's individual PAGA claims, as well as the Action more broadly.

2.5. Prior to mediation, Plaintiff obtained, through informal discovery, written policy documents applicable to the claims, a representative sampling of Aggrieved Employee's time and pay records, and other relevant data points.

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

2.7. In addition to the Gross Settlement Amount, Defendants have agreed to separately settle Plaintiff's individual claims pursuant to a separate confidential Individual Settlement Agreement (the "Individual Non-PAGA Settlement Agreement with Release").

3. MONETARY TERMS.

3.1. <u>PAGA Settlement Amount</u>. Defendants promise to pay $10,000.00 as the Gross PAGA Settlement Amount. The Administrator will disburse the entire Gross Settlement Amount as described herein without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants in any event.

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

3.2.1. <u>To PAGA Counsel</u>: **No part of the Gross PAGA Settlement Amount will be paid to PAGA Counsel.**

3.2.2. To the Administrator: An Administration Expenses Payment not to exceed $2,700.00. To the extent the administration expenses are less than or the Court approves payment less than $2,700.00, the Administrator will retain the remainder in the Net Settlement Amount to be disbursed as described herein.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $7,300.00 to be paid from the Net Settlement Amount, with 75% ($5,475.00) allocated to the LWDA PAGA Payment and 25% ($1,825.00) allocated to the Aggrieved Employees.

3.2.3.1. The Administrator will calculate each Aggrieved Employee's PAGA payment by (a) dividing the total amount allocated to the Aggrieved Employees ($1,825.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period (14,650) and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. PAGA Pay Periods. Based on a review of its records to date, Defendants estimate there are a total of 14,650 PAGA Pay Periods for 175 Aggrieved Employees.

4.2. Aggrieved Employee Data. Within 5 business days of the Effective Date, Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee's privacy rights, the Administrator must maintain the Aggrieved Employee in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator Employee who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross PAGA Settlement Amount. Defendants shall fund the Gross PAGA Settlement Amount by transmitting the funds to the Administrator within 10 business days of the Effective Date.

4.4. Payments from the Gross PAGA Settlement Amount. Within 10 business days after Defendants transmit the Gross PAGA Settlement Amount funds to the Administrator, the Administrator will mail checks for the Individual PAGA Payment, the LWDA PAGA Payment, and the Administration Expenses Payment.

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

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employee whose remailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

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

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

5.1 Release by Aggrieved Employees: All Aggrieved Employee are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

5.2 Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors, and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

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

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel at least five business days before any filing deadline all documents necessary for obtaining approval of this Settlement under Labor Code section 2699, subdivision (f)(2) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; and (iii) a signed declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all necessary PAGA documents. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 15 business days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators to serve as the Administrator and verified that, as a condition of appointment, Phoenix Settlement Administrators agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

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

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

8.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Fees and Costs Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9. ADDITIONAL PROVISIONS.

9.1 Unexpected Pay Periods Escalator Clause. Plaintiff expressly relies on Defendants' representation of 14,650 PAGA Pay Periods for 175 Aggrieved Employees. If the number of PAGA Pay Periods exceeds 14,650 by more than 10 percent (*i.e.*, if there are 16,116 or more PAGA Pay Periods worked by the Aggrieved Employees during the PAGA period), Plaintiff, at her sole discretion, may elect to (a) increase the PAGA Settlement Amount on a proportional basis or (b) void this agreement and the "Individual Non-PAGA Settlement Agreement With Release" executed concurrently with this agreement.

9.2 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserve the right to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement.

9.3 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

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

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

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

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

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

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

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

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

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

9.13 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by SEBMG in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendants unless, prior to the Administrator's payment of all Settlement Funds, Defendants make a written request to PAGA Counsel for the return, rather than the destruction, of Aggrieved Employee Data.

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

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

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

To Plaintiff:
Bradley Lebow
David Cardone
Adam Yarborough
Dunn DeSantis Walt & Kendrick, LLP
750 B. St., Suite 2620
San Diego, CA 92101

To Defendants:
Joel Glaser
joel@glaserlaw.org
Joel Glaser APC
611500 West Olympic Boulevard, Suite 400
Los Angeles, California 90064

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

9.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement.

The Parties hereby execute this Settlement Agreement.

SHAUNA STALNAKER

Dated: ____________________ By: ______________________________
(Signature)

BLUE PACIFIC ENGINEERING AND CONSTRUCTION, INC.

Dated: ____________________ By: ______________________________
(Signature)

____
(Printed Name)

____
(Title)

SHAHRAM ELIHU

Dated: ____________________ By: ______________________________
(Signature)

Approved as to form:

DUNN DESANTIS WALT & KENDRICK, LLP

Dated: ____________________ By: ______________________________
David D. Cardone, Esq.
Attorneys for Plaintiff

GLASER LAW

Dated: ____________________ By: ______________________________
Joel Glaser, Esq.
Attorneys for Defendants

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Address>>
<<City>> <<State>> <<Zip>>

Re: Individual PAGA Payment from *Stalnaker v. Blue Pacific Engineering and Construction, Inc., et al*. San Diego County Superior Court, Case No. 37-2024-00022124-CU-WT-CTL

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of **<<amount of payment>>** ("Individual PAGA Payment"). This check is your payment from the settlement of a lawsuit entitled *Shauna Stalnaker v. Blue Pacific Engineering and Construction, Inc., et al.*, Case No. 37-2024-00022124-CU-WT-CTL ("Action").

The lawsuit was filed by Plaintiff Shauna Stalnaker ("Plaintiff"), current and former Employee of Defendants, Blue Pacific Engineering and Construction, Inc., a California Corporation, and Shahram Elihu, an individual (collectively "Defendants"), on behalf of the State of California with respect to themselves and other alleged aggrieved Employee, to seek recovery of civil penalties pursuant to the California Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* ("PAGA"). Plaintiff alleged that Defendant violated the California Labor Code by failing to pay minimum wages and overtime wages; failing to provide meal periods and permit rest breaks; failing to reimburse business expenses; failing to provide accurate itemized wage statements; failing to pay wages timely during employment; and failing to pay all wages due upon separation of employment.

Defendants deny these allegations and denies any wrongdoing of any kind associated with these allegations.

A settlement was reached between Plaintiff and Defendants, on behalf of Plaintiff, the State of California, and the following Aggrieved Employee: Plaintiff Shauna Stalnaker. You are receiving a portion of the settlement (the enclosed Individual PAGA Payment check) because you have been identified as an Aggrieved Employee. You will not be retaliated against by Defendant for cashing your check.

<u>This is not a class action settlement.</u>

On <<Approval Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California and a portion to be paid to the Aggrieved Employee. Your Individual PAGA Payment is based on the total number of pay periods that you worked as an Aggrieved Employee during the period between December 28, 2023 through October 28, 2025 (the "PAGA Period"). The Individual PAGA Payment is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

By way of the settlement, you will be deemed to release Defendant and its former and present directors, officers, shareholders, members, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates (the "Released Parties") from any and all claims for PAGA penalties arising during the PAGA Period that were alleged or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice.

Your Individual PAGA Payment check is valid for 180 calendar days from the date of issuance, and if you do not cash, deposit, or otherwise negotiate the check within the 180-day timeframe, your Individual PAGA Payment will be cancelled and the funds will be transmitted to the State Controller's Office Unclaimed Property Fund in your name.

Do not call or write the Court or Office of the Clerk of the Court to ask questions about the settlement. If you have any questions concerning the settlement, you may contact the Settlement Administrator at <<INSERT CONTACT INFORMATION>>.