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19 **SUPERIOR COURT OF CALIFORNIA**
20 **FOR THE COUNTY OF SACRAMENTO**

21 RICHARD GOMEZ, individually and on behalf
22 of all other similarly situated employees,

23 Plaintiff,

24 vs.

25 B&M BUILDERS, INC., an unknown business
26 entity; JONATHAN BROWN, an individual;
27 PATRICK MULLEN, an individual; DOES 1 to
28 100, inclusive,

Defendants.

Case No.: 24CV005888

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT**

Filed: March 27, 2024

Trial Date: None Set

1 This Private Attorneys General Act Settlement is made and entered into between the Plaintiff
2 Richard Gomez (“Plaintiff”), on behalf of himself, the Labor and Workforce Development Agency, and
3 Aggrieved Employees, and Defendants B&M Builders, Inc., Jonathan Brown, and Patrick Mullen
4 (“Defendants”). This Agreement is subject to the terms and conditions set forth below and approval of the
5 Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 “Action” means the above stated lawsuit, *Gomez v. B&M Builders, Inc., et al.*, Sacramento
9 County Superior Court, Case No. 24CV005888, filed March 27, 2024.

10 1.2 “Aggrieved Employee(s)” means all non-exempt employees who worked or continue to
11 work for Defendants in California from January 10, 2023, up to either (1) April 8, 2025, or (2) the Final
12 Approval Date, whichever is earlier. The estimated number of Aggrieved Employees is 249.

13 1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Private Attorneys
14 General Act Settlement.

15 1.4 “Complaint” means the operative Complaint on file in the Action with the Court.

16 1.5 “Court” means the Sacramento County Superior Court.

17 1.6 “Defendants” means B&M Builders, Inc., Jonathan Brown, and Patrick Mullen.

18 1.7 “Defendants’ Counsel” means Littler Mendelson, P.C.

19 1.8 “Enhancement Payment” means the amount approved by the Court to be paid to the PAGA
20 Representative in recognition of the time and effort expended on behalf of Aggrieved Employees for the
21 benefit of Aggrieved Employees, which is in addition to any Individual Settlement Amount paid to the
22 PAGA Representative as an Aggrieved Employee. This payment shall also be in exchange for a waiver of
23 individual claims by Plaintiff beyond the Private Attorneys General Act, including a waiver of the
24 protections Civil Code section 1542 for those individual claims.

25 1.9 “Effective Date” means the Final Approval Date unless there is a timely objection lodged
26 that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day
27 after a signed order approving this settlement has been filed provided no appellate proceeding has been
28 filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been

1 finally dismissed with no material change to the terms of this settlement and there is no right to pursue
2 further remedies or relief, whichever is later.

3 1.10 “Final Approval Date” means the date the Court enters a signed order granting approval of
4 the Agreement.

5 1.11 “Gross Settlement Amount” is the sum of Four Hundred Fifteen Thousand (\$415,000).

6 1.12 “Individual Settlement Amount” means an individual Aggrieved Employee’s allocation of
7 the Net Settlement Amount, as defined in Section 1.14 and 5.8.

8 1.13 “LWDA” means the California Labor and Workforce Development Agency.

9 1.14 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for
10 distribution between Aggrieved Employees and the LWDA pursuant to Labor Code section 2699(i), after
11 deduction of Plaintiff’s attorneys’ fees and litigation costs, the Enhancement Payment, and Settlement
12 Administrator Costs.

13 1.15 “Notice of Settlement” means the document substantially in the form attached hereto as
14 Exhibit 1.

15 1.16 “PAGA” means Private Attorneys General Act.

16 1.17 “PAGA Claim Period” means January 10, 2023, up to either (1) April 8, 2025, or (2) the
17 Final Approval Date, whichever is earlier.

18 1.18 “PAGA Payment” means the 75% share of the Net Settlement Amount paid to the LWDA
19 pursuant to Labor Code section 2699(i).

20 1.19 “PAGA Representative’s Released Claims” means any and all Plaintiff’s individual
21 claims arising from or that are related in any way to the Plaintiff’s employment with Defendant, or that
22 could have been asserted under federal, state, or local laws, and/or ordinances, or tort or contract
23 theories, whether known or unknown, and whether anticipated or unanticipated, including without
24 limitation statutory, constitutional, contractual or common law claims for lost wages, unpaid wages,
25 emotional distress, punitive damages, special damages, damages, unpaid costs, penalties, liquidated
26 damages, interest, attorneys’ fees, litigation costs, restitution, equitable relief or other similar relief or
27 claims. In addition, as to the claims of Plaintiff, the PAGA Representative’s Released Claims further
28 include, without limitation, any and all claims whatsoever regarding Plaintiff’s respective employment

1 and/or termination of employment including, but not limited to, any claims for wages, bonuses,
2 severance pay, vacation pay, penalties, employment benefits, stock options, violation of any personnel
3 policy, any claims based on discrimination, harassment, unlawful retaliation, violation of public policy,
4 or damages of any kind whatsoever, arising out of any common law torts, contracts, express or implied,
5 any covenant of good faith and fair dealing, any theory of wrongful discharge, any theory of negligence,
6 any theory of retaliation, any legal restriction on any Defendant's right to terminate the employment
7 relationship, or any federal, state, or other governmental statute, executive order, regulation or
8 ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law.
9 Plaintiff shall be deemed to have, and by operation of the Judgment shall have, expressly waived and
10 relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542 of
11 the California Civil Code, or any other similar provision under federal or state law that purports to limit
12 the scope of a general release. Plaintiff, for himself, has read Section 1542 of the Civil Code of the State
13 of California, which provides as follows:

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
15 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
16 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
17 EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR
18 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
19 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

18 Plaintiff understands that Section 1542 gives him the right not to release existing claims of which
19 he is not now aware unless he voluntarily chooses to waive this right. Having been so apprised, Plaintiff
20 nevertheless voluntarily waives the right described in Section 1542 and elects to assume all risks for claims
21 that now exist in his favor, whether known or unknown. The release of the claims of Plaintiff as set forth
22 in this paragraph is a condition precedent to enforcement of this Agreement. The PAGA Representative's
23 Released Claims exclude claims for workers' compensation, unemployment insurance benefits, or other
24 claims that cannot be released as a matter of law.

25 1.20 "Parties" mean Defendants and Plaintiff.

26 1.21 "Plaintiff" means Richard Gomez.

27 1.22 "Plaintiff's Counsel" means Galen T. Shimoda, Justin P. Rodriguez, and Renald Konini of
28 Shimoda & Rodriguez Law, PC.

1 1.23 “QSF” means a Qualified Settlement Fund set up by the Settlement Administrator for the
2 benefit of the Aggrieved Employees and from which the payments under this Agreement shall be made.
3 Any amounts Defendants have agreed to pay under this Agreement shall remain the property of
4 Defendants until the payments required under the Agreement are made.

5 1.24 “Qualifying Pay Periods” are pay periods worked by Aggrieved Employees during the
6 PAGA Claim Period in California. The calculation of an Aggrieved Employee’s pay periods and a
7 determination as to whether an Aggrieved Employee was actively employed in California in a particular
8 pay period shall be construed from Defendants’ records.

9 1.25 “Released PAGA Claims” means any and all claims for civil penalties that were brought
10 under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, that were asserted in Plaintiff’s
11 notice letter to the LWDA and any additional claims for civil penalties under the PAGA that could have
12 been brought based on the facts alleged therein during the PAGA Claim Period. Aggrieved Employees
13 cannot opt out of this waiver of claims.

14 1.26 “Released Parties” means Defendants, as well as Defendants’ officers, shareholders,
15 directors, agents, employees, attorneys, and insurers.

16 1.27 “Settlement Administrator” means and refers to ILYM Group, Inc., the third-party entity
17 that will administer the Agreement as outlined in Section 7, or any other third-party administrator agreed
18 to by the Parties and approved by the Court for the purposes of administering this Agreement. The Parties
19 each represent that they do not have any financial interest in the Settlement Administrator.

20 1.28 “Settlement Administrator Costs” means the fees and expenses reasonably incurred by the
21 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
22 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
23 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and
24 fees associated with preparing, issuing and mailing any and all notices and other correspondence to
25 Aggrieved Employees; all costs and fees associated with communicating with Aggrieved Employees,
26 Plaintiff’s Counsel, and Defendants’ Counsel; all costs and fees associated with computing, processing,
27 reviewing, and paying the Individual Settlement Amounts, and resolving disputes; all costs and fees
28 associated with calculating tax withholdings and payroll taxes, if any, making related payment to federal

1 and state tax authorities, if any, and issuing tax forms relating to payments made under the Agreement; all
2 costs and fees associated with preparing any tax returns and any other filings required by any governmental
3 taxing authority or agency; all costs and fees associated with preparing any other notices, reports, or filings
4 to be prepared in the course of administering Individual Settlement Amounts; and any other costs and fees
5 incurred and/or charged by the Settlement Administrator in connection with the execution of its duties
6 under this Agreement.

7 **2. DESCRIPTION OF THE LITIGATION**

8 2.1 On or about January 10, 2024, Plaintiff sent notice to the LWDA to exhaust administrative
9 remedies under the PAGA for 1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3)
10 Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or
11 Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage statements, (6) Failure to Pay Final
12 Wages, (7) Failure to Pay Reimbursement for Expenses, (8) Violation of Labor Code §§ 558, 558.1
13 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order), (9)
14 Failure to Maintain Accurate Records, and (10) Failure to Provide Paid Sick Leave. The LWDA did not
15 respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized
16 to act as a Private Attorney General on all alleged PAGA claims.

17 2.2 After exhausting administrative remedies, Plaintiff filed a Complaint on March 27, 2024,
18 in Sacramento County Superior Court on behalf of himself and Aggrieved Employees for claims alleged
19 in the January 10, 2024, notice to the LWDA.

20 2.3 Through informal discovery, Defendants and Defendants' Counsel provided Plaintiff's
21 Counsel with copies of all applicable versions of its policies and procedures, employee handbooks,
22 information on the number of Aggrieved Employees, including, but not limited to, Aggrieved Employees'
23 workweeks, dates of employment, total number of Aggrieved Employees, their rates of pay, and pay
24 periods as well as timecard data and payroll reports for a randomly selected sample of Aggrieved
25 Employees.

26 2.4 After Plaintiff's Counsel received the data, the Parties engaged in informal settlement
27 negotiations but were not able to come to a resolution. On February 5, 2025, the Parties participated in a
28 lengthy mediation with private mediator Russ J. Wunderli, Esq. At the conclusion of the mediation, the

1 Parties were able to come to a resolution. At all times, the Parties' settlement negotiations have been non-
2 collusive, adversarial, and at arm's length.

3 2.5 Discussions between Plaintiff and Plaintiff's Counsel, between counsel for the Parties, the
4 mediator, document productions, extensive legal analysis, the provision of information by Defendants to
5 Plaintiff and the detailed analysis of the sampled records have permitted each side to assess the relative
6 merits of the PAGA claims and the defenses to those claims.

7 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) requiring
8 employees to work off-the-clock before their shift, after their shift, and during times they were clocked
9 out for meal periods, 2) not accurately recording employees' hours worked or meal periods taken, 3)
10 failing to properly calculate the regular rate of pay for overtime on non-prevailing wage jobs or for sick
11 leave wage premiums, 4) not authorizing and permitting employees to take all meal periods owed due to
12 invalid and/or voided on-duty meal period agreements and due to required travel to additional job sites
13 during meal periods, 5) failing to authorize and permit employees to take all rest periods owed due to a
14 facially invalid rest period policy and due to requiring employees to travel to additional job sites during
15 rest periods, and 6) failing to reimburse employees or the use of their personal cell phones for work
16 purposes. Defendants have denied each of Plaintiff's claims. The agreed upon Gross Settlement Amount
17 was reached after evaluating the Parties' theories of potential exposure for the PAGA claims. The Parties,
18 with the assistance of the mediator, also assessed appropriate discounts to the potential liability based on
19 Defendants' factual and legal contentions and defenses.

20 2.7 The Parties agree that the above-described investigation and evaluation, as well as
21 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
22 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff,
23 Plaintiff's Counsel, Defendants, and Defendants' Counsel have concluded that it is desirable that the
24 PAGA claims asserted in the Action be settled in a manner and upon such terms and conditions set forth
25 herein in order to avoid further expense, inconvenience and distraction of further legal proceedings, and
26 the risk of an adverse outcome each of the Parties potentially face. Plaintiff, Plaintiff's Counsel,
27 Defendants, and Defendants' Counsel are of the opinion that the Agreement for the consideration and
28 terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.

1 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

2 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose
3 of settling the PAGA claims asserted in the Action. This Agreement and the settlement it evidences are
4 made in compromise of disputed claims. The Parties enter into this Agreement and associated settlement
5 on a conditional basis in order for the Court to evaluate and approve the settlement. If the Effective Date
6 does not occur, or if the Court's approval of the settlement is reversed or materially modified on appellate
7 review, this Agreement shall be deemed null and void; it shall be of no force or effect whatsoever; it shall
8 not be referred to or utilized for any purpose whatsoever; and the negotiation, terms and entry of the
9 Agreement shall remain subject to the provisions of California Evidence Code Sections 1119 and 1152,
10 Federal Rule of Evidence 408, and any other analogous rules of evidence that may be applicable.

11 3.2 Defendants have denied all claims as to liability, damages, penalties, interest, fees,
12 injunctive relief and all other forms of relief asserted in the Action. Defendants have agreed to resolve
13 the asserted PAGA claims in the Action via this Agreement, but, to the extent this Agreement is deemed
14 void or the Effective Date does not occur, Defendants do not waive, and are expressly reserving, all rights
15 to challenge all such claims and allegations in the Action upon all procedural and factual grounds,
16 including, without limitation, the ability to challenge representative or collective treatment on any
17 grounds, as well as to assert any and all other potential defenses or privileges.

18 **4. SCOPE OF THE AGGRIEVED EMPLOYEES**

19 4.1 The scope of individuals encompassed under the Agreement, who are entitled to all benefits
20 as authorized under the Agreement and subject to all obligations and duties required under the Agreement,
21 shall include all Aggrieved Employees as defined in Section 1.2.

22 4.2 Aggrieved Employees entitled to recover under this Agreement will include only those
23 individuals who are identified in Defendants' records as having worked as an Aggrieved Employee.

24 **5. TERMS OF THE SETTLEMENT**

25 The Parties agree as follows:

26 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in
27 Section 6, Defendants shall pay the Gross Settlement Amount (\$415,000). Funding of the Gross
28 Settlement Amount shall occur within twenty-eight (28) calendar days after the Effective Date to be held

1 in trust in a QSF by the Settlement Administrator. The Gross Settlement Amount represents the maximum
2 amount payable under this Agreement by Defendants, and includes without limitation, the PAGA
3 Payment, all payments to the Aggrieved Employees, any Enhancement Payment to Plaintiff, all attorneys'
4 fees, costs and litigation expenses directly related to the Action incurred to date, as well as all such fees
5 and costs incurred in documenting the Agreement, administering the Agreement (including Settlement
6 Administrator Costs), and obtaining approval of the Agreement.

7 5.2 Attorneys' Fees and Costs: Plaintiff's Counsel will apply to the Court for attorney's fees
8 of 35% of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount.
9 Defendants have agreed to not oppose Plaintiff's Counsel's application for attorneys' fees so long as it
10 does not exceed the 35% threshold. Plaintiff's Counsel will also be entitled to reimbursement for
11 advanced litigation expenses not to exceed \$12,500, which shall be paid from the Gross Settlement
12 Amount. Defendants have agreed to not oppose Plaintiff's Counsel's request for reimbursement for
13 advanced litigation expenses so long as they do not exceed the \$12,500 threshold. The Settlement
14 Administrator will issue Class Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this
15 Agreement. In the event that the Court awards less than the requested attorney's fees and/or costs, the
16 portion of the requested amounts not awarded to Plaintiff's Counsel shall be added to the Net Settlement
17 Amount as defined in section 1.14.

18 5.3 Plaintiff's Counsel, on behalf of Plaintiff, shall apply to the Court for an Enhancement
19 Payment to Plaintiff in an amount not to exceed Ten Thousand Dollars (\$10,000) to compensate for the
20 risks, time, and expense of his involvement in the Action and securing the benefits of this Agreement for
21 Aggrieved Employees. The Enhancement Payment is in addition to the Individual Settlement Amount
22 Plaintiff would otherwise be due under the Agreement as an Aggrieved Employee. This payment is also
23 in exchange for a waiver of individual claims by Plaintiff beyond the Private Attorneys General Act,
24 including a waiver of Civil Code section 1542. Defendants have agreed to not oppose Plaintiff's Counsel's
25 request for an Enhancement Payment to Plaintiff so long as it does not exceed the amount stated herein.
26 The Enhancement Payment will be designated as a non-wage payment and reported on an IRS Form 1099-
27 MISC. In the event that the Court awards less than the Enhancement Payment amount requested, then
28

any portion of the requested amount not awarded to the PAGA Representative shall be added to the Net Settlement Amount to be distributed to the Aggrieved Employees on a pro rata basis.

5.4 Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the Gross Settlement Amount and shall not exceed \$10,000. The difference between any actual costs and the allocated \$10,000 shall be added to the Net Settlement Amount as defined in section 1.14.

5.5 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount allocated to Aggrieved Employees that was not claimed by Aggrieved Employees by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be donated equally, *i.e.* 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

5.6 No Additional Benefits Contributions: All Individual Settlement Amounts paid to Aggrieved Employees shall be deemed to be income solely in the year in which such amounts were actually received by Aggrieved Employees. It is expressly understood and agreed that the receipt of such Individual Settlement Amounts will not entitle any Aggrieved Employee to any new or additional compensation or benefits under any company bonus or other compensation or benefit plan or agreement in place during the period covered by the Agreement, nor will it entitle any Aggrieved Employee to any increased retirement, 401(k) benefits or matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Individual Settlement Amounts provided for in this Agreement are the sole payments to be made by Defendants to the Aggrieved Employees in connection with this Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Agreement).

5.7 Tax Allocation: The Parties recognize that the Individual Settlement Amounts to be paid to Aggrieved Employees reflect settlement of a dispute over claimed penalties. The characterization of Individual Settlement Amounts to Aggrieved Employees are as follows:

5.7.1 One Hundred percent (100%) of each Aggrieved Employees' Individual Settlement Amount shall be allocated for payment of disputed civil penalties. This portion of the Individual Settlement Amount consists of other income, not wages, for which the Aggrieved Employees shall receive an IRS form 1099-MISC.

1 5.7.2 Aggrieved Employees shall be solely responsible for the reporting and payment of
2 their share of any federal, state and/or municipal income or other taxes on payments made pursuant to this
3 Agreement. No party has made any representation to any of the other Parties as to the taxability of any
4 payments pursuant to this Agreement, including the payments to Aggrieved Employees, the payments to
5 Plaintiff's Counsel, or otherwise as to tax implications of any provision of this Agreement.

6 5.8 Pro Rata Distribution Formula: After Court approved attorneys' fees and costs, and
7 Settlement Administrator Costs and Enhancement Payment are determined and a Net Settlement Amount
8 has been established, that Net Settlement Amount shall be divided between the PAGA Payment and
9 payment to Aggrieved Employees. The PAGA Payment to the LWDA will be 75% of the Net Settlement
10 Amount. 25% of the Net Settlement Amount will be paid to Aggrieved Employees. Each individual
11 Aggrieved Employee's Individual Settlement Amount shall be determined by taking the Qualifying Pay
12 Periods for the individual Aggrieved Employee and dividing that by the Qualifying Pay Periods for all
13 Aggrieved Employees and multiplying that fraction by the 25% share of the Net Settlement Amount.
14 Payment to Aggrieved Employees of their Individual Settlement Amount will not require the submission
15 of any claim form.

16 5.9 No Additional Contribution by Defendants: Defendants' monetary obligation under this
17 Agreement is limited to the Gross Settlement Amount as described above. All other costs and expenses
18 arising out of or in connection with the performance of this Agreement shall be paid from the Gross
19 Settlement Amount, unless expressly provided otherwise herein. However, in the event this agreement is
20 deemed null and void as described in Section 3, then Defendants and Plaintiff shall be equally responsible
21 for the Settlement Administrator Costs incurred between the date the Agreement was executed and the
22 date of such event.

23 **6. RELEASE**

24 6.1 Release by Aggrieved Employees: Upon the Effective Date, Aggrieved Employees shall
25 be deemed to fully, finally, and forever release the Released Parties from all Released PAGA Claims.

26 6.2 Release by Plaintiff: Upon the Effective Date, Plaintiff will be deemed to fully, finally and
27 forever release the Released PAGA Claims and the PAGA Representative's Released Claims as to all
28 Released Parties. In addition, on the Effective Date, Plaintiff and any successors in interest will be

1 permanently enjoined and forever barred from prosecuting any of the Released PAGA Claims, and the
2 PAGA Representative's Released Claims against any of the Released Parties.

3 **7. SETTLEMENT ADMINISTRATION**

4 7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible
5 for: 1) receiving and reviewing for accuracy Aggrieved Employee contact information; 2) calculating
6 estimated Individual Settlement Amounts and any and all taxes associated with the Individual Settlement
7 Amount, including employer taxes, if any; 3) taking appropriate steps to trace and locate any individual
8 Aggrieved Employees whose address or contact information as provided to the Settlement Administrator
9 is inaccurate or outdated and mailing the Notice of Settlement to Aggrieved Employees; 4) providing
10 notification to the appropriate state officials of this Agreement as required; 5) maintaining the Gross
11 Settlement Amount in a QSF; 6) determining and paying the final amounts due to be paid under the
12 Agreement after resolution of awarded attorneys' fees and costs and Settlement Administrator Costs; 7)
13 paying any residual funds from uncashed checks to the *cy pres* beneficiaries; 8) reporting to Plaintiff's
14 Counsel and Defendants' Counsel regarding the statistics of the administration, including (a) the number
15 of initial Notice of Settlements mailed; (b) the number of forwarded Notice of Settlements; (c) the number
16 of re-mailed Notice of Settlements; (d) the number of total undeliverable Notice of Settlements; (e) the
17 number of address traces performed for undeliverable Notice of Settlements; (g) the number of Notice of
18 Settlements undeliverable from traced addresses; 9) providing a declaration to the Court regarding the
19 final statistics of the administration and compliance with all payment obligations under the Agreement;
20 10) completing all necessary tax reporting on the QSF and payment of the Individual Settlement Amounts
21 to Aggrieved Employees; and 11) carrying out other related tasks as necessary to effectuate the terms of
22 this Agreement and any Order of the Court. All disputes relating to the Settlement Administrator's ability
23 and need to perform its duties shall be referred to the Court, if necessary, which will have continuing
24 jurisdiction over the terms and conditions of this Agreement, until all payments and obligations
25 contemplated by the Agreement have been fully executed.

26 7.2 Aggrieved Employee Data: Within fourteen (14) calendar days after the Effective Date,
27 Defendants shall provide the Settlement Administrator with the name, last known mailing address, last
28 known telephone number, Social Security Number, and Qualifying Pay Periods of each Aggrieved

Employee. The Settlement Administrator shall review the data to determine the number of Qualifying Pay Periods for each Aggrieved Employee. Defendants shall not provide any information for pay periods during which an Aggrieved Employee may have worked as an exempt employee, worked outside California, or worked outside the PAGA Claim Period. The Settlement Administrator shall maintain all information received from Defendants confidential to itself, and Defendants' Counsel. However, Plaintiff's Counsel shall be able to review the breakdown of Qualified Pay Periods and estimated Individual Settlement Amounts for Aggrieved Employees prior to mailing for quality assurance.

7.3 Determination of Payments to Aggrieved Employees, Plaintiff's Counsel, and the LWDA:

Within seven (7) calendar days after Defendants have provided the Settlement Administrator with information regarding Aggrieved Employees, the Settlement Administrator shall calculate the final Net Settlement Amount, PAGA Payment, and the final Individual Settlement Amounts for Aggrieved Employees, and report the results of these calculations to Plaintiff's Counsel and Defendants' Counsel.

7.4 Settlement Administrator Payments to Aggrieved Employees, Plaintiff's Counsel, and the LWDA: Defendants shall wire the Gross Settlement Amount as described in Section 5.1 to the Settlement Administrator within twenty-eight (28) calendar days after the Effective Date to be held in trust in a QSF. Within seven (7) calendar days after the Settlement Administrator receives the Gross Settlement Amount, the Settlement Administrator shall deliver payment of Plaintiff's Counsels' attorney's fees and costs, any Enhancement Payment, the PAGA Payment payable to the LWDA, Settlement Administrator Costs, and payment for Individual Settlement Amounts to Aggrieved Employees as required under this Agreement and approved by the Court. Plaintiff's Counsel shall provide the Settlement Administrator with the pertinent taxpayer identification number and payment instructions for the attorney's fees and costs after the Effective Date.

7.5 Notice to Aggrieved Employees: The Notice of Settlement will be sent to Aggrieved Employees in English and Spanish. The Settlement Administrator will provide a Notice of Settlement, substantially in the form attached as Exhibit 1, to each Aggrieved Employee concurrently with providing payment for Individual Settlement Amounts as described in Sections 5.8 and 7.4. The Notice of Settlement will inform Aggrieved Employees of a summary of the terms and conditions of the Agreement. The Notice of Settlement will also inform Aggrieved Employees of the Gross Settlement Amount, Net

Settlement Amount, attorneys' fees and costs allocations, Enhancement Payment, Settlement Administrator Cost allocations, PAGA Payment allocations, the scope of individuals covered by this Agreement, and the nature and extent of the Released PAGA Claims.

7.6 Aggrieved Employee Mailing: Within seven (7) calendar days after the Settlement Administrator receives the Gross Settlement Amount, the Settlement Administrator will perform a national change of address ("NCOA") search, update the addresses per the results of the NCOA search and will mail the respective Individual Settlement Amount, as determined in Sections 5.8 and 7.4, and Notice of Settlement, to each Aggrieved Employee by first-class mail, postage prepaid.

7.7 Returned and/or Re-mailed Notice Packets: In the event that a Notice of Settlement and Individual Settlement Amount payment is returned to the Settlement Administrator as undeliverable, the Notice of Settlement and Individual Settlement Amount payment shall be sent to the forwarding address affixed thereto within seven (7) calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly attempt to determine a correct address using a single skip-trace, computer or other search using the name, address and/or Social Security number of the individual involved, and shall then perform a single re-mailing within seven (7) calendar days. Following each search that does not result in a corrected address, for those Aggrieved Employees who appear to be current employees of Defendants at the time of the Effective Date, the Settlement Administrator shall contact Defendants' Counsel for assistance and Defendants shall cooperate in good faith with the Settlement Administrator's reasonable efforts to obtain valid mailing addresses for Aggrieved Employees to the extent they were active employees of Defendants at the time of the Effective Date. In the event the procedures in this paragraph are followed and the intended recipient of a Notice of Settlement and Individual Settlement Amount payment still does not receive the Notice of Settlement and/or Individual Settlement Amount payment, the Aggrieved Employee shall still be bound by all terms of the Agreement, including the releases contained in Sections 1.25 and 6.1, and any final judgment entered by the Court.

7.8 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.2 to 7.7 shall constitute due and sufficient notice to Aggrieved Employees of the Action and the Agreement and shall satisfy Aggrieved Employees' due process rights. Nothing else shall be required of the Parties,

Plaintiff's Counsel, or Defendants' Counsel to provide notice of the Agreement except as expressly required by the Court.

7.9 Settlement Check Expiration and Cy Pres: The Settlement Administrator shall issue Individual Settlement Amounts to Aggrieved Employees in the form of a check, which shall become null and void if not deposited within one hundred eighty (180) calendar days of issuance. After one hundred eighty (180) calendar days of issuance, the checks shall be voided and funds from all undeposited checks shall be transmitted to the *cy pres* beneficiaries identified in Section 5.4. The Settlement Administrator shall deliver the *cy pres* funds within fourteen (14) calendar days after the check cashing deadline.

7.10 Settlement Administrator Declaration Regarding Settlement Administration: Within twenty-one (21) calendar days after the last day for Aggrieved Employees to cash their settlement checks, the Settlement Administrator shall provide Plaintiff's Counsel and Defendants' Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the settlement administration and that all the obligations of the Settlement Administrator have been completed.

8. SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Aggrieved Employees, and sets further hearings, if any. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The schedule for notice and payment procedures carrying out the Agreement is as follows.

Last day for Defendants to provide Settlement Administrator with Aggrieved Employee information	Within 14 calendar days after the Effective Date
Last day for Settlement Administrator to calculate and report to the Parties the Net Settlement Amount, PAGA Payment, and Individual Settlement Amounts for Aggrieved Employees	Within 7 calendar days after receiving Aggrieved Employee information

Last day for Defendants to fund Gross Settlement Amount	Within 28 calendar days after the Effective Date
Last day for Settlement Administrator to complete NCOA search, update Aggrieved Employee mailing information, and complete mailing	Within 7 calendar days after Defendants have funded the settlement
Last day for Settlement Administrator to deliver payment of Plaintiff's Counsel's attorney's fees and costs, Enhancement Payment, PAGA Payment, Settlement Administrator Costs, and payment to Aggrieved Employees	Within 7 calendar days after Defendants have funded the settlement
Last day for Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. MISCELLANEOUS TERMS

9.1 Dismissal and Retention of Jurisdiction to Enforce: Upon the Effective Date, the Released PAGA Claims will be dismissed with prejudice, with the Court to retain jurisdiction over the Parties to enforce the terms of the Agreement pursuant to Civil Procedure Code section 664.6. The prevailing party in any action to enforce the terms of the Agreement shall be entitled to reasonable attorneys' fees and costs. The Parties agree to meet and confer in good faith to resolve any issue before any such motion for attorney's fees and costs is filed.

9.2 Additional Pay Period Contingency: Defendants have represented that there are no more than 8,483 pay periods during the PAGA Claim Period. In the event the number of pay periods during the PAGA Claim Period is more than 9,331.3 (*i.e.*, greater than 10% more than 8,483), then the Gross Settlement Amount shall be increased proportionally by the pay periods in excess of 9,331.3. For example, if there were 11,000 pay periods represented to exist during the PAGA Claim Period, but there

are actually 12,500 pay periods in the PAGA Claim Period, then Defendants would have to increase the Gross Settlement Amount by 3.6% (12,500 - 11,000 pay periods = 1,500 excess pay periods. 1,500 divided by 11,000 = 13.6%. 13.6% - 10% = 3.6%).

9.3 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other action as may reasonably be necessary to fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts contemplated by this Agreement and any other efforts that may become necessary by Court order, or otherwise, to effectuate this Agreement and the terms set forth herein. This may include modifying and/or resubmitting the Agreement for approval. Plaintiff's Counsel shall be responsible for drafting the court approval paperwork. All parties agree to act immediately and diligently to perform their obligations under this Agreement, including the review and approval of settlement documents, such that there are no substantial delays in seeking court approval or administration of this settlement. Plaintiff's Counsel shall endeavor to file a motion for approval of this settlement within sixty (60) calendar days of the date this Agreement is signed. Plaintiff's Counsel shall provide Defendants' Counsel with a draft approval motion within 1 week after this Agreement is fully executed. Defendants' Counsel will provide comments and/or proposed revisions within 1 week after receipt of the draft motion.

9.4 No Admission of Liability: Neither the acceptance nor the performance by Defendants of the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the Complaint, the representative character of the Action, the validity of any of the claims that were or could have been asserted by Plaintiff and/or Aggrieved Employees in the Action, or of any liability or guilt of Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Aggrieved Employees, or any other person, and Defendants have specifically disclaimed any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Aggrieved Employees, or any other person. Each of the Parties has entered into this Agreement with the intention to avoid further disputes and litigation.

1 9.5 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
2 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
3 the third business day after mailing by United States certified mail, return receipt requested, addressed as
4 follows:

5 To the Plaintiff:

6 Galen T. Shimoda
7 Justin P. Rodriguez
8 Renald Konini
9 Shimoda & Rodriguez Law, PC
10 9401 East Stockton Blvd., Suite 120
11 Elk Grove, CA 95624

12 To Defendants:

13 John H. Adams, Jr.
14 Littler Mendelson, P.C.
15 500 Capitol Mall, Suite 2000
16 Sacramento, CA 95814

17 9.6 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
18 this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that
19 this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
20 party or its counsel participated in the drafting of this Agreement.

21 9.7 Binding Effect of Agreement: The Parties, by signing this Agreement, are bound by the
22 terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the
23 terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties
24 hereto and their respective heirs, trustees, executors, Settlement Administrators, successors, and assigns.

25 9.8 Attorneys' Fees and Costs Limitations: Neither Plaintiff's Counsel nor any other attorneys
26 acting for, or purporting to act for, Aggrieved Employees, or Plaintiff, may recover or seek to recover any
27 amounts for fees, costs, or disbursements from the Released Parties or the Gross Settlement Amount
28 except as expressly provided herein.

 9.9 No Modifications: This Agreement may not be changed, altered, or modified, except in
writing signed by the Parties hereto and approved by the Court. This Agreement may not be discharged
except by performance in accordance with its terms.

1 9.10 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
2 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement
3 and to take all appropriate action required or permitted to be taken by such Parties pursuant to this
4 Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of
5 this Agreement

6 9.11 Counterparts: This Agreement shall become effective upon its execution by all of the
7 undersigned. Plaintiff, Plaintiff's Counsel, Defendants and Defendants' Counsel may execute this
8 Agreement in counterparts, and execution of counterparts shall have the same force and effect as if each
9 had signed the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the
10 same force and effect of originals.

11 9.12 Choice of Law: The Agreement and the exhibits hereto shall be considered to have been
12 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
13 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance
14 with, and governed by, the substantive laws of the State of California without giving effect to that State's
15 choice of law principles.

16 9.13 Headings and Captions: Paragraph titles or captions contained in the Agreement are
17 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the
18 scope of this Agreement, or any provision thereof.

19 9.14 No Retaliation or Discouragement: The Parties agree they will take no action that could be
20 construed as retaliation against any Aggrieved Employees for participating in this settlement.

21 9.15 Integrated Agreement: This Agreement sets forth the entire understanding between the
22 Parties with regard to any and all material terms or otherwise and supersedes any and all prior agreements,
23 oral or written, pertaining to the subject matter hereof. Each party acknowledges that there is no
24 representation, inducement, promise or agreement which has been made, orally or otherwise, by the other
25 party, concerning the terms or conditions of this Agreement, which is not expressly embodied in this
26 Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are
27 fully understood and voluntarily accepted by the Parties.
28

1 9.16 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
2 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
3 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

4 9.17 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
5 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
6 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

7 9.18 Waiver of Compliance: No waiver of any condition or covenant contained in this
8 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
9 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy

10 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
11 attorneys, as of the day and year herein set forth.

12 **For Plaintiff:**

13 Date: 03/19/2025



Richard Gomez (Mar 19, 2025 09:24 PDT)

Richard Gomez

14 **For Defendants:**

15 Date: _____

Patrick Mullen

For B&M Builders, Inc.

16 Date: _____

Patrick Mullen

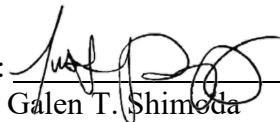
17 Date: _____

Jonathan Brown

18 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

19 Dated: 3/19/25

By: 

Galen T. Shimoda

Justin P. Rodriguez

Renald Konini

Attorneys for Plaintiff and Aggrieved
Employees

9.16 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

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

9.18 Waiver of Compliance: No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: _____

Richard Gomez

For Defendants:

Date: 4/5/25

Patrick Mullen
For B&M Builders, Inc.

Date: 4/5/25

Patrick Mullen

Date: 9/3/25

Jonathan Brown

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

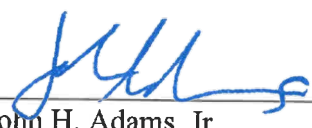
Dated: _____

By: _____
 Galen T. Shimoda
 Justin P. Rodriguez
 Renald Konini
 Attorneys for Plaintiff and Aggrieved
 Employees

1 APPROVED AS TO FORM

LITTLER MENDELSON, P.C.

2
3 Dated: April 4, 2025

By: 

John H. Adams, Jr.
Attorneys for Defendants

Exhibit 1

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

Case No. 24CV005888

RICHARD GOMEZ, individually and on behalf of all
other similarly situated employees,

Plaintiff,

vs.

B&M BUILDERS, INC., an unknown business
entity; JONATHAN BROWN, an individual;
PATRICK MULLEN, an individual; DOES 1 to 100,
inclusive,

Defendants.

**NOTICE OF PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT PAYMENT**

TO: All non-exempt employees who worked or continue to work for Defendants in California from January 10, 2023, up to [REDACTED] (the "Aggrieved Employees")

This Notice is being provided to you to inform you of a Private Attorneys General Act ("PAGA") Settlement and your proportional share of this settlement payment. The payment is a result of a Court approved PAGA Settlement in the case of *Gomez v. B&M Builders, Inc., et al.*, Sacramento County Superior Court of California, Case No. 24CV005888, filed March 27, 2024 (the "Action"). You are receiving this letter because you fall within the definition of Aggrieved Employees identified above.

In the Action, Plaintiff Richard Gomez ("Plaintiff") sought to obtain civil penalties, fees, and costs on behalf of himself and Aggrieved Employees. Plaintiff alleged claims under the PAGA against B&M Builders, Inc., Jonathan Brown, and Patrick Mullen ("Defendants") for (1) Failure to Pay Overtime Wages, (2) Failure to Pay Minimum Wages, (3) Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, (4) Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof, (5) Failure to Provide Accurate Wage statements, (6) Failure to Pay Final Wages, (7) Failure to Pay Reimbursement for Expenses, (8) Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order), (9) Failure to Maintain Accurate Records, and (10) Failure to Provide Paid Sick Leave. Defendants have denied all of Plaintiff's allegations.

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Action or the merits of the claims or defenses asserted. Defendants have denied engaging in any unlawful conduct in any respect and further dispute all of Plaintiff's allegations in the Action. By entering into the PAGA Settlement, Defendants do not admit any liability to Plaintiff or to any other current or former employees, and Defendants do not admit that any violations of Plaintiff's rights, or the rights of any other current or former employees has occurred.

Plaintiff filed a notice with the California Labor and Workforce Development Agency (LWDA") to exhaust administrative remedies and pursue claims under the PAGA, California Labor Code §§ 2698 *et seq.*, predicated on the Failure to Pay Overtime Wages, Failure to Pay Minimum Wages, Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof, Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof, Failure to Provide Accurate Wage statements, Failure to Pay Final Wages, Failure to Pay Reimbursement for Expenses, Violation of Labor Code §§ 558, 558.1, Failure to Maintain Accurate Records, and Failure to Provide Paid Sick Leave Labor Code and/or California Labor Code sections 201-203, 226, 226.3, 226.7, 246, 246.5, 248.5, 256, 510, 512, 558, 558.1, 1174, 1194, 1197.1, and 2802. The scope of the PAGA Settlement includes all of the Aggrieved Employees for the time period identified above. In exchange for payment under the Settlement, Plaintiff has agreed to waive any and all claims for civil penalties that were brought under the PAGA that were asserted in Plaintiff's notice letter to the LWDA and any additional claims for civil penalties under the PAGA that could have been brought based on the facts alleged therein between January 10, 2023, and [REDACTED]. Aggrieved Employees cannot opt out of this waiver of claims. However, the waiver does not extend to any non-PAGA claims you may have.

Under the terms of the Settlement, Defendants have agreed to pay a Gross Settlement Amount of \$415,000 ("Gross Settlement Amount") to resolve the PAGA claims as described above. Deducted from this Gross Settlement Amount were sums approved by the Court for attorneys' fees \$ [REDACTED], attorneys' costs in the amount of \$ [REDACTED], an Enhancement Payment to Plaintiff in the amount of \$ [REDACTED], and the fees and expenses of the Settlement Administrator in the amount of \$ [REDACTED], which will resulted in a "Net Settlement Amount" of \$ [REDACTED] for distribution to between Aggrieved Employees and the Labor and Workforce Development Agency

("LWDA") as required by the California Labor Code. 75% of the Net Settlement Amount (\$ [REDACTED]) is being paid to the LWDA and 25% of the Net Settlement Amount (\$ [REDACTED]) is being paid to Aggrieved Employees pursuant to Labor Code section 2699(i). Each individual Aggrieved Employee's share of the Net Settlement Amount was determined by taking their individual number of pay periods worked between January 10, 2023, and [REDACTED], dividing that number by the number of pay periods worked for all Aggrieved Employees between January 10, 2023, and [REDACTED], and then multiplying that fraction by the 25% share of the Net Settlement Amount.

Enclosed in this mailing, you will find a check containing your share of the PAGA Settlement based on this allocation. Should you have any questions or concerns, you may contact counsel for Plaintiff and/or Defendants.

Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
On behalf of Plaintiff

John H. Adams, Jr.
Littler Mendelson, P.C.
500 Capitol Mall, Suite 2000
Sacramento, CA 95814
Telephone: 916-830-7200
On behalf of Defendants