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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

DEVANTE XAVIER NEWMAN, individually, and on behalf of all others similarly situated, *Plaintiff*, vs. STRAUCH MANAGEMENT, LLC, a limited liability company; CAMERON PARK PETROLEUM, INC., a California corporation; M & M FUELS, INC., a California corporation; WOODCREEK OAKS PETROLEUM, INC., a California corporation; STRAUCH & COMPANY, a California corporation; and DOES 1 through 10, inclusive, *Defendants*.	Case No.: 24CV008370 <u>CLASS AND REPRESENTATIVE ACTION</u> [Honorable Lauri A Damrell, Department 22] **JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT** Complaint Filed: April 29, 2024 Trial Date: Not Set

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

This Joint Stipulation of Class and PAGA Action Settlement ("Joint Stipulation," "Settlement," or "Agreement") is made and entered into by and between Plaintiff DEVANTE XAVIER NEWMAN ("Plaintiff' or "Class Representative"), individually, and on behalf of all others similarly situated, and Defendants STRAUCH MANAGEMENT, LLC; CAMERON PARK PETROLEUM, INC; M & M FUELS, INC.; WOODCREEK OAKS PETROLEUM, INC .and STRAUCH & COMPANY ("Defendants"). Plaintiff and Defendants will be referred to herein individually as "Party" and/or collectively as the "Parties." THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

For purposes of this Settlement and Release:

1. "Action" means the above-captioned action *Devante Xavier Newman v. Strauch Management, LLC et. al.*, Superior Court of the State of California, County of Sacramento, Case Number 24CV008370 "Class Counsel" means MOON LAW GROUP, PC.

2. "Defendants' Counsel" means FISHER & PHILLIPS LLP.

3. "Complaint" means the operative First Amended Class and Representative Action Complaint filed in the Action.

4. "Settlement Class Period" or "Class Period" means the period from February 5, 2022, through January 13, 2025.

5. "Settlement Class" or "Class" or "Class Members" means all persons currently or formerly employed by Defendants, as non-exempt, hourly-paid employees from February 5, 2022 January 13, 2025, ("Class Period"). The Parties estimate that the Class included approximately 2,249 Class Members as of January 13, 2025.

6. "Settlement Class Members" means all Class Members who do not submit timely, proper, and/or code-compliant exclusion requests to the Settlement Administrator.

7. "Covered Workweeks" means the number of weeks during which a Class Member performed work for Defendants in California during the Settlement Class Period. The Parties estimate that the number of weeks worked by all Class Members from February 2, 2022, through January 13, 2025, is 75,000.

8. "Final Approval" or the "Final Approval Order" means the Court's order granting its final approval to this class action and PAGA settlement.

9. "Final Approval Hearing" means the hearing on Plaintiff's motion for final approval of this class action and PAGA settlement.

10. "PAGA Notice" means the July 4, 2024, letter submitted to the LWDA and served on the Defendants as a prerequisite to filing a claim for Civil Penalties under PAGA.

11. "PAGA" means the California *Labor Code* Private Attorneys General Act of 2004 (*Labor Code* §§ 2698, *et seq.*).

12. "PAGA Claim" or "PAGA Claims" means claims brought by Plaintiff under and pursuant to PAGA.

13. "Paga Representative" means Plaintiff Devante Xavier Newman.

14. "PAGA Period" means the period from April 29, 2023, through January 13, 2025.

15. "PAGA Group" or "PAGA Employees" or "Aggrieved Employees" means all persons currently or formerly employed by Defendants, as non-exempt, hourly-paid employees from April 29, 2023 through January 13, 2025 ("PAGA Period"). The Parties estimate that there are approximately 1,326 PAGA Employees as of January 13, 2025.

16. "PAGA Pay Periods" means the number of pay periods during which a PAGA Employee performed work for Defendants in California during the PAGA Period.

17. "Preliminary Approval" or the "Preliminary Approval Order" means the Court's order granting its preliminary approval to this class action and PAGA settlement and to the issuance of the Notice to Class Members (the "Notice" or "Notice Packet").

18. "Settlement Payments" means all of the payments to the Settlement Class Members ("Settlement Class Payments") and all of the payments to the PAGA Employees ("PAGA Settlement Payments").

19. "Response Deadline" means the date forty-five (45) days after the Settlement Administrator initially mails the Notice, which is the last date on which Class Members may submit a Request for Exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be fifteen (15) calendar days from re-mailing. The Response Deadline may be

extended only as expressly described herein.

STIPULATED BACKGROUND

20. On April 29, 2024, Plaintiff filed a Class Action Complaint in the Sacramento County Superior Court, which alleged the following claims: (1) Failure to Pay Minimum Wage [*Labor Code* §§ 204, 1194, 1194.2 and 1197]; (2) Failure to Pay Overtime Compensation [*Labor Code* §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [*Labor Code* §§ 226.7 and 512]; (4) Failure to Authorize and Permit Rest Breaks [*Labor Code* § 226.7]; (5) Failure to Indemnify Necessary Business Expenses [*Labor Code* § 2802]; (6) Failure to Timely Pay Final Wages at Termination [*Labor Code* §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [*Labor Code* § 226]; and (8) Unfair Business Practices [*Business & Professions Code* §§ 17200, *et seq*.]. In the initial complaint, Plaintiff sought to represent all persons that worked for Defendants in California as an hourly paid non-exempt employee at any time during the period beginning four years before the filing of the complaint and ending when Notice to the Class is sent.

21. On July 4, 2024, Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under PAGA.

22. On December 30, 2024, Plaintiff filed the operative First Amended Class and Representative Action Complaint, adding a single cause of action for Civil Penalties under PAGA.

23. On January 13, 2025, the Parties engaged in a successful mediation with an experienced professional mediator, Steven Rottman, Esq.

24. On February 18, 2025, the Parties executed a binding Memorandum of Understanding, which reflects their good faith compromise of the claims raised in the Action, which was reached through an assessment of the mutual risks and costs of further litigation and an arms-length negotiation and mediation with an experienced professional mediator, Steven Rottman, Esq.

25. Now, therefore, the Parties enter into the instant Joint Stipulation and, solely for purposes of settling the Action and addressing any discrepancies identified herein, the Parties and their respective Counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members have been met and are met. More specifically, for settlement purposes only, the Parties stipulate

and agree that:

(a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.

(b) There are common questions of law and fact including, but not limited to, the following:

1) Whether or not Defendants paid proper wages to the Class;

2) Whether or not Defendants provided meal periods to the Class;

3) Whether or not Defendants provided rest periods to the Class;

4) Whether or not Defendants paid proper meal or rest period pay to the Class;

5) Whether or not Defendants reimbursed any and all business expenses incurred by the Class;

6) Whether or not Defendants paid proper compensation timely upon separation of employment to Class Members;

7) Whether or not Defendants timely paid proper compensation throughout Class Members' employment;

8) Whether or not Defendants provided accurate and complete itemized wage statements to the Class;

9) Whether or not waiting-time penalties are available to Class Members who are no longer employed by Defendants for violation of *Labor Code* § 203;

10) Whether or not Defendants maintained adequate and requisite records; and

11) Whether or not Defendants engaged in unlawful or unfair business practices affecting the Class in violation of *Business and Professions Code* §§ 17200-17208.

(c) Plaintiff's claims are typical of the claims of the Class Members.

(d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.

(e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.

(f) Questions of law and fact common to the members of the Class predominate over any question(s) affecting any individual member in the Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

26. Should, for whatever reason, the Settlement not become final and/or effective, the fact that the Parties were willing to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or any other lawsuit. Defendants expressly reserve their right to oppose claims or class certification in this or any other action should this Settlement not become effective.

27. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the claims alleged or which could have been alleged in the Complaint, and Defendants further deny that, for any purpose other than settling this lawsuit, the Action is appropriate for class or representative treatment. With respect to Plaintiff's claims, Defendants contend, among other things, that Plaintiff and the Class Members have been paid proper wages, have been provided meal periods or they have been made available as required, have been provided rest periods or they have been authorized and permitted as required, have been reimbursed for any and all necessary business expenses incurred, have been paid timely and proper wages upon separation of employment, and have been provided with accurate and complete itemized wage statements. Defendants contend, among other things, that they have complied at all times with the California Labor Codes and the applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendants contend that they have complied at all times with the California Business and Professions Codes.

28. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Complaint and the Action.

29. Class Counsel has conducted a thorough investigation into the facts of the Action,

including an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the Class against Defendants. Based on its own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendants, for the consideration and on the terms set forth in the Settlement, is fair, reasonable, and adequate, and is in the best interest of the Class in light of all known facts and circumstances, including the risk of a significant delay, the risk the Class will not be certified by the Court, the defenses asserted by Defendants, and the potential appellate issues. Defendants and Defendants' Counsel also agree that the Settlement is fair, adequate, reasonable, and in the best interest of the Class.

30. The Parties agree to cooperate and take all steps necessary and appropriate to obtain Preliminary Approval and Final Approval of this Settlement.

31. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval Hearing to be conducted by the Court.

PRIMARY TERMS OF SETTLEMENT

32. NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

(a) It is agreed by and among Plaintiff (on behalf of himself and the Class and PAGA Members) and Defendants that the Action and any claims, damages, or causes of action arising out of the disputes which are the subject of this Action, be settled and compromised as between Plaintiff, the Class, PAGA Members, and Defendants, subject to the terms and conditions set forth in this Settlement and the approval of the Court.

(b) Effective Date: The Effective Date of the Settlement will be the last date to occur of the following: (a) if there are no objections to the Settlement, then the date of Final Approval by the Court; (b) if there are objections to the Settlement, and if an appeal, review, or writ is not sought from the Order granting Final Approval of the settlement, the thirty-first (31st) day after service of notice of entry of the Court's order granting its final approval to this class action and PAGA settlement; or (c) if an appeal, review, or writ is sought from the Final Approval Order, the day after the Final Approval Order is affirmed or the appeal, review, or writ is dismissed or denied, and the order is no longer subject to judicial review. Prior to the Effective Date, Defendants will not be required to fund this Settlement, in whole or in part, through the Settlement Administrator or any third party. Defendants will fund this Settlement within thirty (30) days of the Effective Date, and the Settlement Administrator will distribute the fund installments within twenty-one (21) days of receipt.

(c) Gross Settlement Amount: "Gross Settlement Amount" means Defendants' maximum total payment under the Settlement. The Gross Settlement Amount is One Million Five Hundred Thousand Dollars and Zero Cents ($1,500,000.00) and includes Attorney's Fees and Litigation Costs, Settlement Administration Costs, the Enhancement Award to Plaintiff, and the PAGA Allocation. To the extent any portion of the Settlement Class Payments constitutes wages, Defendants will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. Further, Defendants will be responsible for any additional payment required under the Escalator Clause. Defendants will otherwise, at no time and for no reason whatsoever, be required to contribute additional funds to the Gross Settlement Amount.

(d) Escalator Clause: As of January 13, 2025, the Parties estimate that Class Members worked 75,000 workweeks. In the event the total number of Covered Workweeks worked by all Class Members during the Class Period increases by more than ten percent (10%), Defendants, at their sole discretion, shall have the option of ending the Class Period and PAGA Period on the date that the number of Covered Workweeks reaches 75,750 (75,000 + 10% of 75,000), or Defendants may elect to increase the Gross Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of Covered Workweeks worked by the Class Members above ten percent (10%). For example, if the number of Covered Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%.

(e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will revert to Defendants.

(f) No Claims Required: Class Members will not be required to submit a claim to receive their Settlement Class Payment.

(g) Net Settlement Amount: The Net Settlement Amount means the amount to be allocated to Settlement Class Payments. The Net Settlement Amount is the Gross Settlement Amount ($1,500,000.00) minus the following sums, subject to approval by the Court: (1) Attorney's Fees (not to exceed one-third of the Gross Settlement Amount, or $500,000.00); (2) Litigation Costs (not to exceed $25,000.00); (3) the Enhancement Award to Plaintiff (not to exceed $7,500.00); (4) the PAGA Penalty Payment ($50,000.00); and (5) Settlement Administration Costs (estimated not to exceed $19,185.00).

(h) Payroll Taxes and Required Withholdings: To the extent any portions of the Settlement Class Payments constitute wages, Defendants will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. The Settlement Administrator will calculate and submit Defendants' employer share of payroll taxes after advising Defendants of the total amount owed, in the aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendants in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

(i) Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, ANY "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR

DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

(j) <u>Settlement Class Payments (Excludes PAGA Settlement Payments)</u>: Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a *pro-rata* share of the Net Settlement Amount calculated by the Settlement Administrator. The *pro-rata* share will be determined by comparing the total number of Covered Workweeks worked by a Class Member during the Class Period to the total number of Covered Workweeks worked by all Settlement Class Members during the Class Period as follows: [Covered Workweeks worked by Settlement Class Member] ÷ [Sum of all Covered Workweeks worked by all Settlement Class Members] × [Net Settlement Amount] = individual Settlement Payment for Settlement Class Member. Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. Uncashed, unclaimed, or abandoned checks shall be transmitted by the Settlement Administrator to the California State Controller's Office's Unclaimed Property Division.

(k) PAGA Settlement Payments: PAGA Settlement Payments will be paid out of the PAGA Allocation after the PAGA Penalty Amount is deducted therefrom. Each PAGA Employee will be paid a *pro-rata* share of the PAGA Settlement Payment calculated by the Settlement Administrator. PAGA Employees will not be permitted to exclude themselves from this portion of the Settlement. The *pro-rata* share will be determined by comparing the total number of PAGA Pay Periods worked by the PAGA Employee during the PAGA Period to the total number of PAGA Pay Periods worked by all PAGA Employees during the PAGA Period as follows: [PAGA Pay Periods worked by PAGA Employee] ÷ [Sum of all PAGA Pay Periods worked by all PAGA Employees] × [PAGA Settlement Payment] = individual PAGA Settlement Payment for PAGA Employee. PAGA Settlement Payments to PAGA Employees in the appropriate amounts will be distributed by the Settlement Administrator by mail to the PAGA Employees at the same time Settlement Class Payments are issued to the Settlement Class Members and at the same time, the PAGA Penalty Payment is sent to the LWDA. Uncashed, unclaimed, or abandoned checks shall be transmitted by the Settlement Administrator to the California State Controller's Office's Unclaimed Property

Division.

(l) Allocation of Settlement Payments: The Parties have agreed that Settlement Class Payments will be allocated as follows: 20% to taxable wages, 80% to non-taxable penalties and interest. The PAGA Settlement Payment will be entirely allocated to penalties. Appropriate federal, state, and local withholding taxes will be taken out of the wage allocations, and each Settlement Class Member will receive an IRS Form W-2 with respect to this portion of the Net Settlement Amount. Settlement Class Member's share of payroll taxes and other required withholdings will be remitted by the Settlement Administrator to the appropriate taxing authorities as set forth above, along with Defendants' employer portion of FICA and FUTA contributions, based on the payment of claims to the Settlement Class Members. IRS Forms 1099 will be issued by the Settlement Administrator to each Settlement Class Member and/or PAGA Employee reflecting the payments for penalties and interest. Settlement Class Members and PAGA Employees are responsible to pay appropriate taxes due on the Settlement Class Payments and PAGA Settlement Payments they receive. To the extent required by law, IRS Forms 1099 and W-2 will be issued to each Settlement Class Member and PAGA Employee with respect to such payments.

(m) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement Payments to Settlement Class Members and PAGA Employees shall be deemed to be paid to such Settlement Class Member or PAGA Employee solely in the year in which such payments actually are received by the Settlement Class Member or PAGA Employee. It is expressly understood and agreed that the receipt of such Settlement Payments will not entitle any Settlement Class Member or PAGA Employee to additional wages, compensation, or benefits under any company bonus, contest, or other compensation or benefit plan or agreement in place during the period covered by the Settlement up to and including the date the Settlement becomes effective, nor will it entitle any Settlement Class Member or PAGA

Employee to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. It is the intent of all Parties that the Settlement Payments provided for in this Settlement are the sole payments to be made by Defendants to the Settlement Class Members and PAGA Employees, and that the Settlement Class Members and PAGA Employees are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (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 Settlement).

(n) Attorney's Fees and Costs: Attorney's fees and costs are the reasonable fees and expenses incurred by Class Counsel as a result of litigating the Action, which is subject to approval by the Court. Defendants will not object to Class Counsel's application for attorney's fees not to exceed one-third of the Gross Settlement Amount, or $500,000.00, and reimbursement of litigation costs not to exceed $25,000.00.

(o) Enhancement Award: The Enhancement Award is the payment to Plaintiff for his service as Class Representative and in exchange for a general release, which is subject to approval by the Court. Defendants will not object to Class Counsel's application for an Enhancement Award of up to $7,500.00. It is understood that the Enhancement Award is in addition to the individual Settlement Payment to which Plaintiff and Class Representative are entitled along with the other Settlement Class Members. The Settlement Administrator will issue an IRS Form 1099 for the Enhancement Award to Plaintiff. The Plaintiff will be individually responsible for correctly characterizing this compensation on personal income tax returns for tax purposes and for paying any taxes on the amounts received. Should the Court approve an Enhancement Award in an amount less than that set forth above, the difference between the lesser amount(s) approved by the Court and the Enhancement Award amount(s) set forth above shall instead be allocated to the Net

Settlement Amount. Plaintiff agrees not to opt-out or object to the Enhancement Award as the Class Representative.

(p) Settlement Administrator: The Settlement Administrator will be Simpluris, or such Settlement Administrator as may be mutually agreeable to the Parties and approved by the Court.

(q) Settlement Administration Costs: Settlement Administration Costs are those costs incurred by the Settlement Administrator, which result from the fulfillment of the Settlement terms. Settlement Administration Costs are estimated not to exceed $19,185.00 and shall be paid regardless of the outcome of this Settlement. If the Settlement does not become final and effective, the cost of the Settlement Administration will be shared equally by Plaintiff and Defendants.

(r) PAGA Allocation: The PAGA Allocation is the portion of the Gross Settlement Amount that the Parties have agreed to allocate to the resolution of the Released PAGA Claims. The Parties have agreed that the PAGA Allocation will be $50,000.00. Pursuant to PAGA, Seventy-Five Percent (75%), or $37,500.00, of the PAGA Allocation will be paid to the Labor and Workforce Development Agency ("LWDA") ("PAGA Penalty Payment") and Twenty-Five Percent (25%), or $12,500.00, of the PAGA Allocation, will be paid to the PAGA Employees ("PAGA Settlement Payment").

(s) Funding of Settlement Account: Defendants will fund the settlement account within fourteen (14) calendar days of the Effective Date.

(t) Mailing of Settlement Payments: The Settlement Administrator shall cause the Settlement Payments to be mailed to the Class Members within fourteen (14) calendar days of the receipt of funding.

(u) Notice of Settlement: Each Class Member will be mailed a Notice setting forth the material terms of the Settlement, along with instructions about how to object or request exclusion from the Settlement. For each Class Member, there will be pre-printed information on the mailed Notice, based on Defendants' records, stating the

Class Member's Covered Workweeks during the Class Period, PAGA Pay Periods during the PAGA Period, and estimated individual payment under the Settlement, including the Settlement Class Payment and PAGA Settlement Payment. As discussed below, the PAGA Settlement Payment will be distributed irrespective of any exclusion request. The pre-printed information based on Defendants' records shall be presumed to be correct. A Class Member may dispute the pre-printed information on the Notice as to his or her Covered Workweeks during the Class Period or PAGA Pay Periods during the PAGA Period. Class Members must submit any dispute regarding the information on the Notice as to his or her Covered Workweeks or PAGA Pay Periods prior to the expiration of the Response Deadline. Unless a disputing Class Member submits documentary evidence in support of his or her dispute, the records of the Defendants will be determinative.

(v) Settlement Notice Language: The Notice will be issued in English and Spanish.

(w) Class Members Cannot Exclude Themselves from the Released PAGA Claims: Class Members submitting a Request for Exclusion will nevertheless receive their *pro-rata* share of the PAGA Settlement Payment. If the Court approves the compromise of the PAGA Claims, all Class Members are bound by the Court's resolution of that Claim. Plaintiff shall serve a notice of settlement on the California Labor and Workforce Development Agency at or before the time Plaintiff files the motion for preliminary approval.

(x) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of Defendants' records used to calculate Covered Workweeks or PAGA Pay Periods, and the Parties' counsel cannot resolve the dispute informally, the matter will be referred to the Settlement Administrator. The Settlement Administrator will review Defendants' records and any information or documents submitted by the Class Member and issue a non-appealable decision regarding the dispute. The Class Member must submit information or documents supporting his or her position to the Settlement Administrator prior to the expiration of the Response Deadline.

Information or documents submitted after the expiration of the Response Deadline will not be considered by the Settlement Administrator unless otherwise agreed to by the Parties.

Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Settlement Class by mailing a "Request for Exclusion" from the Settlement prior to the expiration of the Response Deadline. Any Request for Exclusion must include the name, address, telephone number, last four digits of the Class Member's Social Security Number, and the signature of the Class Member requesting exclusion. Any such request must be made in accordance with the terms of the Notice, and the Notice will advise Class Members of these requirements. Any Class Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights under this Settlement other than a right to receive a *pro-rata* share of the PAGA Settlement Payment if the Class Member is also a PAGA Employee; (ii) shall not be entitled to receive any Settlement Payments under this Settlement other than as stated herein; and (iii) shall not be bound by this Settlement or the Court's Final Approval Order and Judgment other than as it applies to the PAGA Claims.

(y) Right of Settlement Class Member to Object to The Settlement: Any Settlement Class Member may object to the Settlement. To object, the Settlement Class Member may (1) appear at the Final Approval Hearing, remotely or in person, to explain any objection, (2) have an attorney object for the Settlement Class Member, or (3) submit a written brief or statement setting forth the basis of the objection to the Settlement Administrator. If any Settlement Class Member chooses to submit a written objection, the written objection should contain sufficient information to confirm the identity of the objector and the basis of the objection, including (1) the full name of the Settlement Class Member; (2) the signature of the Settlement Class Member; and (3) the grounds for the objection; and be postmarked within the Response Deadline to permit adequate time for processing and review by the Parties of the written statement or objection. Class Counsel shall ensure that any written objections are transmitted to the Court for the Court's review (either by Class Counsel or as an attachment to a declaration from the Settlement Administrator). Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must either make a timely complaint in intervention before the Court's Final Approval Order and Judgment or by filing a motion to set aside and vacate the Judgment under California *Code of Civil Procedure* § 663, to have standing to appeal the entry of judgment approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware* (2018) 4 Cal. 5th 260. A Settlement Class Member who does not object prior to or at the Final Approval Hearing will be deemed to have waived any objections and will be foreclosed from making any objections (whether at the Final Approval Hearing, by appeal, or otherwise) to the Settlement. If the objecting Settlement Class Member does not formally intervene in the action or move to set aside any judgment and/or the Court rejects the Settlement Class Member's objection, the Settlement Class Member will still be bound by the terms of this Agreement and the Settlement. If a Class Member timely submits both an objection and a Request for Exclusion, the Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not participate in or be bound by the Settlement. Class Counsel and Defendants' Counsel may, at least five (5) calendar days (or some other number of days as the Court shall specify) before the Final Approval Hearing, file responses to any written objections submitted to the Court. Class Counsel will not represent any Class Members with respect to any objections to the Settlement.

<u>THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES</u>

33. Subject to the Court's approval, and subject to reconsideration by the Parties after a competitive bidding process, the Parties have agreed to the appointment of Simpluris to perform the

customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, both in English and Spanish, to the Class Members. The Settlement Administrator will independently review the Covered Workweeks and PAGA Pay Periods attributed to each Settlement Class Member and PAGA Employee and will calculate the estimated amounts due to each Settlement Class Member and PAGA Employee in accordance with this Settlement. The Settlement Administrator shall report, in summary, or narrative form, the substance of its findings. The Settlement Administrator shall be granted reasonable access to Defendants' records in order to perform its duties. The Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly report which certifies: (i) the number of Class Members who have submitted valid Requests for Exclusion; (ii) the number of any deficient Requests for Exclusion; and (iii) whether a Class Member has submitted a challenge to the information contained in his or her Notice Packet. Additionally, the Settlement Administrator will provide counsel for both Parties with any updated reports and declarations regarding the administration of the Settlement Agreement as needed or requested.

34. In accordance with the terms of this Settlement, and upon receipt of the Gross Settlement Amount from Defendants, the Settlement Administrator will issue and send out the Settlement Class Payment checks to the Settlement Class Members and PAGA Settlement Payment checks to the PAGA Employees. Tax treatment of the Settlement Class Payments and PAGA Settlement Payments will be as set forth herein and in accordance with state and federal tax laws. The Settlement Administrator will also issue a payment to Class Counsel and itself for Court-approved amounts for services performed in connection with the Settlement.

35. All disputes relating to the Settlement Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of the Settlement until all payments and obligations contemplated by the Settlement have been fully carried out.

ATTORNEY'S FEES AND COSTS

36. In consideration for resolving this matter and in exchange for the release of all claims by the Settlement Class Members, including Plaintiff, and subject to approval by the Court, Defendants will not object to Class Counsel's application for attorney's fees not to exceed one-third of the Gross

Settlement Amount, or $500,000.00, and litigation costs not to exceed $25,000.00. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees and/or litigation costs, the difference between the lesser amount(s) and the maximum amount set forth above shall instead be allocated to the Net Settlement Amount. The Parties agree that there is no prevailing party, and the Class and Class Counsel shall not be entitled to any fees or costs other than those awarded out of and deducted from the Gross Settlement Amount. As with the Class Settlement Payments to the Settlement Class, the attorney's fees and costs approved by the Court shall be distributed by the Settlement Administrator to Class Counsel within twenty-one (21) calendar days of the receipt of settlement funds by the Settlement Administrator. In the event that the Court awards less than twenty-five percent (25%) of the Gross Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any Final Approval Order and Judgment.

<u>THE NOTICE PROCESS</u>

37. A Notice in approximately the form attached hereto as "Exhibit A," and as approved by the Court, shall be sent by the Settlement Administrator to the Class Members by First Class United States mail. The Notice shall be issued in English and Spanish.

(a) Within fourteen (14) calendar days from the date of preliminary approval of this Settlement by the Court, Defendants shall provide to the Settlement Administrator a class database containing the following information for each Class Member: (1) name; (2) last known address; (3) social security number; and (4) dates of employment at Defendants' locations in California. This database shall be based on Defendants' payroll and other business records and shall be provided in a reasonable format to the Settlement Administrator. Defendants agree to consult with the Settlement Administrator prior to the production date to ensure that the format will be acceptable to the Settlement Administrator. The Settlement Administrator will run a check of the Class Members' addresses against those on file with the U.S. Postal Service's National Change of Address List. This check will be performed only once per Class Member by the Settlement Administrator. Absent mutual written agreement of counsel for the Parties or Court order, the Settlement Administrator will keep this database confidential and secure and use it only for the purposes described herein and will return this database to Defendants upon final approval of the Settlement or destroy electronic records containing the database after the Settlement is final and all payments are distributed as required under this Agreement.

(b) Within fourteen (14) calendar days after the Class database is provided to the Settlement Administrator, the Settlement Administrator will mail the Notices to the Class Members by First Class United States mail.

(c) Notices returned to the Settlement Administrator as non-deliverable on or before the initial Response Deadline shall be resent to the forwarding address, if any, on the returned envelope. A returned Notice will be forwarded by the Settlement Administrator any time that a forwarding address is provided with the returned mail. If there is no forwarding address, the Settlement Administrator will do a computer search for a new address using the Class Member's social security number or other information. In any instance where a Notice is re-mailed, that Class Member will have until the extended Response Deadline as described herein to submit objections or request exclusion. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice in that instance, stating the extended Response Deadline. Upon completion of these steps by the Settlement Administrator, Defendants and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the affected Class Member. The affected Class Member shall remain a member of the Settlement Class and shall be bound by all the terms of the Settlement and the Court's Final Approval Order and Judgment. The Settlement Administrator shall make all efforts to re-mail a non-deliverable notice within 5 business days of receipt of the same.

(d) Class Counsel shall provide to the Court, at least five (5) calendar days prior to the

Final Approval Hearing, or such other date as set by the Court, a declaration by the Settlement Administrator of due diligence and confirming mailing of the Notices.

(e) The Settlement Administrator shall post the final judgment approving the Settlement with seven (7) calendar days on a website maintained by the Settlement Administrator for a period of not less than ninety (90) calendar days after the final judgment is entered. The address of that website will be included in the Notice.

DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS

38. As set forth above, each Settlement Class Member will have until the expiration of his or her applicable Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Settlement Class Member's Covered Workweek information on the Notice. No disputes will be honored if they are submitted after the applicable Response Deadline unless the Parties mutually agree to accept the untimely dispute. Each Settlement Class Member is responsible to maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

39. The Settlement Administrator shall cause the Settlement Payments to be mailed to the Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and PAGA Settlement Payments may be combined into one check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will automatically be voided by the Settlement Administrator if they are not cashed by the Settlement Class Member within that time, and the Settlement Class Member's relevant claims will remain released by the Settlement. Settlement Payment checks which have expired will not be reissued.

40. Funds from uncashed or abandoned Settlement Class Payment checks or PAGA Settlement Payment checks, based on a 180-day void date, shall be transmitted by the Settlement Administrator to the State of California's Unclaimed Property Fund in the name of the Settlement Class Member who failed to cash his or her check.

41. Upon completion of its calculation of Settlement Class Payments and PAGA Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by

employee number or other identifier). A Declaration attesting to the completion of all payment obligations will be provided to Class Counsel and Defendants' Counsel and filed with the Court by Class Counsel.

RELEASE BY THE CLASS MEMBERS AND PAGA EMPLOYEES AND PLAINTIFF

42. Release by Class and PAGA Employees. Upon final approval by the Court of this Settlement and Defendants' payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, each Settlement Class Member, and each PAGA Employee (regardless of whether they have requested exclusion from the Settlement of Class claims), will release claims as follows:

(a) **Released Parties**. Strauch Management, LLC; Strauch Brother Incorporation; Rancho Convenience Center, Inc.; Linda Petroleum, Inc.; Cameron Park Petroleum, Inc.; M & M Fuels, Inc.; Woodcreek Oaks Petroleum, Inc.; and Strauch & Company; all entities affiliated with it, and all officers, directors, representatives, owners, partners, subsidiaries, parent and affiliated companies, all persons or entities acting in concert with or affiliated with any of them (collectively "Releasees").

(b) **Date Release Becomes Active**. The Released Claims and Released PAGA Claims will be released upon the later of (1) the Effective Date, or (2) the satisfaction of Defendants' obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Settlement Class Members will not release the Released Claims and PAGA Employees will not release the Released PAGA Claims until both the Effective Date of the Settlement has occurred **and** Defendants have paid all amounts owing under the Settlement.

(c) **Claims Released by Settlement Class Members**. Plaintiff and the members of the Settlement Class who do not opt out of the settlement will release Releasees from all claims as pled in the Complaint including claims for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Compensation; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Breaks; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Final Wages at Termination; (7) Failure to Provide Accurate Itemized Wage Statements; and (8) Unfair Business Practices; based on the allegations in the Complaint. This also includes any and all claims alleged or that could have been alleged based on the facts of the Complaint for unpaid wages, and all other associated damages and/or penalties, including but not limited to claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 2800, 2802, 2699 et seq. all applicable IWC Wage Orders, and Business and Professions Code section 17200 et seq. For Plaintiff and the members of the Settlement Class who do not opt out of the settlement, the Settlement Class Release shall include all released claims which arose during the Class Period.

(d) **Claims Released by the PAGA Group**. Plaintiff and the members of the PAGA Group will release Releasees from all claims as pled in the Complaint and the PAGA Notice for violation of California Labor Code section 2698, et seq. (“PAGA”) based on the allegations in the Complaint as well as any and all PAGA claims that were asserted or could have been asserted in the Complaint and the PAGA Notice. . This also includes any and all PAGA claims alleged or that could have been alleged based on the facts of Plaintiff’s Complaint and the PAGA Notice including but not limited to claims for civil penalties under Labor Code section 2698, et seq., for alleged violations of Labor Code sections 201, 202, 203, 204, 210, 226, 226.7, 227.3, 510, 512, 558, 1174, 1174.5, 1194, 1194.2 1197, 1197.1, 1198, 2800, 2802, and all applicable IWC Wage Orders. There shall be no right to opt-out of the PAGA Release for members of the PAGA Group and the Judgment on this Settlement will have res judicata effect as to the PAGA claim for all members of the PAGA Group. Moreover, this Agreement shall be effective to adjudicate and release the claims and/or rights of the LWDA to recover civil penalties against Defendants for Labor Code or Wage Order violations suffered by any of the PAGA Group members which are premised upon the facts and allegations in the Complaint and the PAGA Notice as well as any and all claims for civil penalties that were asserted or could have been asserted based on the factual allegations contained in the Complaint and in the PAGA Notice, i.e., the Judgment on this Settlement will have res judicata effect as to those claims of the LWDA, whether pursued directly by the LWDA or by a representative pursuant to PAGA). For Plaintiff, the members of the PAGA Group, and the LWDA, the PAGA Release shall include all released claims from through the PAGA Period.

43. Release by Plaintiff and the Class Representative. Upon Final Approval by the Court of this Settlement and Defendants' payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be otherwise created by this Settlement, Plaintiff and Class Representative, will release claims as follows:

(a) Plaintiff releases Releasees from any and all claims, known and unknown, relating to his employment with Defendants, of any nature whatsoever, from the beginning of time through the date on which this Settlement is executed. This includes but is not limited to all claims pled in the Complaint, and any further amended pleading as necessary, with a corresponding California Civil Code section 1542 waiver, including but not limited to claims for (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Compensation; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Breaks; (5) Failure to Indemnify Necessary Business Expenses; (6) Failure to Timely Pay Final Wages at Termination; (7) Failure to Provide Accurate Itemized Wage Statements; (8) Unfair Business Practices; (9) Civil Penalties Under PAGA. Based on the allegations in the operative Complaint, as well as any and all employment claims and any and all wage and hour claims that were asserted or could have been asserted based on the factual allegations contained in the Complaint, or any amended complaints. This also includes, but is not limited to, any and all claims alleged or that could have been alleged based on the facts of the Complaint or any amended complaint for unpaid wages, economic damages, non-economic damages, any other damages, civil or statutory penalties, waiting time penalties, liquidated damages, and all other associated damages and/or penalties, including but not limited to claims under Labor Code section 2698, *et seq*., Labor Code sections 200-204, 210, 226, 226.7, 510, 512, 558, 1174, 1174.5 1182.12, 1194, 1194.2 1197, 1197.1, 1198, 2800, 2802, 2699 *et. seq*. all applicable IWC Wage Orders, Business and Professions Code section 17200 *et seq*., and any and all claims or potential claims for lost wages and/or benefits, consequential economic damages, other economic damages, punitive damages, emotional distress damages, reputation damages, any other damages, attorneys' fees and costs and interest.

(b) Plaintiff and Class Representative also acknowledges that he has read Section 1542 of the *Civil Code* of the State of California, which provides as follows:

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

(c) Notwithstanding the provisions of Section 1542, and for the purpose of implementing a complete release and discharge of the claims in Plaintiff's Release, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect all claims he does not know of or suspect to exist in his favor at the time of execution hereof and that this Agreement contemplates the extinguishment of all such claims.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

44. The Parties shall submit this Joint Stipulation to the Court in support of Plaintiff's motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation, the Parties shall apply to the Court for the entry of an order:

(a) Scheduling a hearing on Plaintiff's motion for preliminary approval, and later scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of Attorney's Fees and Costs, and the

Class Representative's Enhancement Award, should be finally approved as fair, reasonable, and adequate as to the members of the Class;

(b) Conditionally certifying a Class for settlement purposes only;

(c) Approving as to form and content of the Notice;

(d) Directing the mailing of the Notice by the Settlement Administrator;

(e) Preliminarily approving the Settlement, subject only to the objections of Class Members and final review by the Court;

(f) Conditionally appointing Plaintiff and Class Counsel as representatives of the putative Class Members; and,

(g) Appointing Simpluris as the Settlement Administrator.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

45. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation, Class Counsel will submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

(a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

(b) Approving Class Counsel's application for an award of attorney's fees and costs;

(c) Approving the Enhancement Award to Plaintiff;

(d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement;

(e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;

(f) Entering a final judgment in the action; and,

(g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the Settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirming that the State's claims for civil penalties pursuant to PAGA are also extinguished.

NULLIFICATION AND TERMINATION

46. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify the Class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of the Enhancement Award; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any other reason.

47. If more than 10% of the Class Members, or Class Members representing more than 10% of the total workweeks in the Settlement Class Period, have submitted proper and timely requests to op-out of the settlement, Defendants may, at their election, rescind the agreement to settle this matter and all actions taken in furtherance will be thereby null and void. Defendants must exercise this right of rescission in writing to Class Counsel within thirty (30) days of the deadline to opt out. If the option to rescind is exercised, then Defendants must pay any Settlement Administrator Costs that have been incurred up until that time.

48. In the event this Settlement is nullified or terminated as provided above (i) this Settlement shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court.

PARTIES' AUTHORITY

49. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions thereof.

MUTUAL FULL COOPERATION

50. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement including, but not limited to, execution of such documents and take such other action as reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may

become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the Court's preliminary and final approval of this Settlement. Plaintiff agrees to participate in, and Class Counsel agrees to join Defendants in, defending the Settlement and its approval from any collateral attack in the three-year period after final approval by providing a declaration or declarations in support of the Settlement. The Parties and their counsel shall enter into a common interest agreement for the purpose of sharing information necessary to the defense of the Settlement.

NO PRIOR ASSIGNMENTS

51. The Parties and their respective counsel represent covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein, and that they are not on notice of any liens as to the Gross Settlement Amount or any right to attorneys' fees or costs.

NO ADMISSION OF LIABILITY

52. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Defendants deny all of the claims and contentions alleged by Plaintiff in this case. Defendants do not admit, and specifically denies, that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception, or engaged in any other unlawful conduct with respect to its current or former employees and/or applicants. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendants of any violations or failures to comply with any applicable law. Defendants have entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions will not be offered or received as evidence in any

action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

ENFORCEMENT ACTIONS

53. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

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

Class Counsel:

Kane Moon
Lilit Ter-Astvatsatryan
Michael Citrin
MOON LAW GROUP, PC
725 South Figueroa Street, Suite 3100
Los Angeles, California 90017
Telephone: (213) 232-3128

Defendants' Counsel:

Colin P. Calvert
Cinnamon Carr
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 798-2195

CONSTRUCTION

55. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all-day mediation with Steven Rottman, Esq., and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

56. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision

hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

57. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

58. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties expressly recognize California *Civil Code* § 1625 and California *Code of Civil Procedure* § 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Agreement.

AMENDMENT

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

WAIVER OF APPEALS

60. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent (25%) of the Gross Settlement Amount as attorney's fees.

BINDING ON ASSIGNS

61. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

CLASS COUNSEL SIGNATORIES

62. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement. The Notice will advise all Class

Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall have the same force and effect as if this Settlement were executed by each member of the Class.

COUNTERPARTS

63. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties.

FINAL JUDGMENT

64. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety at or following the s. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class and PAGA Action Settlement between Plaintiff and Defendants as set forth below:

IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: 3/11/2025

By: Signed by: [signature] 97A4B23318784FF...
DEVANTE XAVIER NEWMAN

Plaintiff's Counsel:

Dated: 3/11/2025

MOON LAW GROUP, PC

By: [signature]
Kane Moon, Esq.
Lilit Ter-Astvatsatryan, Esq.
Michael Citrin, Esq.
Attorneys for Plaintiff,

Defendants:

Dated: March 12, 2025

By: Marc Strauch
Print Name

Marc Strauch
Signature

Managing Member / President
Title

Defendants' Counsel:

Dated: March 12, 2025

FISHER & PHILLIPS LLP

By: Cinnamon J. Carr
Colin P. Calvert
Cinnamon Carr
Attorneys for Defendants