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on behalf of himself and all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO**

RAUL IBARRA, an individual, on behalf of
herself and others similarly situated,

Plaintiff,

vs.

STEPHENS INSTITUTE, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. CGC-23-607667

Assigned for All Purposes To:
Hon. Andrew Y.S. Cheng
Dept.: 613

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

Original Complaint filed: July 14, 2023
First Amended Complaint: September 18, 2023
Trial Date: None set

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19 Attorneys for Defendant Stephens Institute
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1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Raul Ibarra (“Plaintiff”) and Stephens Institute (“Defendant”). The Agreement
3 refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

4 1. **DEFINITIONS.**

5 1.1 “Action” means the Plaintiff’s lawsuits alleging wage and hour violations against
6 Defendant captioned *Raul Ibarra v. Stephen’s Institute*, No. CGC-23-607667, filed on July 14,
7 2023, in San Francisco County Superior Court.

8 1.2 “Administrator” means APEX Class Action the neutral entity the Parties have agreed to
9 appoint to administer the Settlement.

10 1.3 “Administration Costs” means the amount the Administrator will be paid from the Gross
11 Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
12 Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary
13 Approval of the Settlement.

14 1.4 “Aggrieved Employee” or “PAGA Representative Action Members” means all current
15 and former non-exempt, hourly employees of Defendant who worked in California at any time
16 during the PAGA Period.

17 1.5 “Class” means all current and former non-exempt, hourly employees of Defendant who
18 worked in California at any time during the Class Period.

19 1.6 “Class Counsel” means D.LAW, INC.

20 1.7 “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class
21 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiff will
22 request approval from the Court of up to One-Third (1/3) of the GSA or \$433,333.33 (Four
23 Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents).

24 1.8 “Class Counsel Litigation Expenses Payment” means the amount allocated to Class
25 Counsel for reimbursement of reasonable expenses and costs incurred to prosecute the Action,
26 not to exceed \$20,000.00 (Twenty Thousand Dollars and Zero Cents), and paid from the Gross
27 Settlement Amount.
28

1 1.9 “Class Data” means Class Member identifying information in Defendant’s possession
2 including the Class Member’s name, last-known mailing address, Social Security number, and
3 number of Class Period Workweeks and PAGA Pay Periods, according to Defendant’s best
4 records reasonably available, including reasonable extrapolation. (The Parties agree that for
5 administrative efficiency in determining individual payment allocation only, PAGA Pay Periods
6 may be determined by using Workweeks within the PAGA Period divided by two and round up
7 to the next whole number.)

8 1.10 “Class Member” or “Settlement Class Member” means a member of the Class, as either
9 a Participating Class Member or Non-Participating Class Member (including a Non-Participating
10 Class Member who qualifies as an Aggrieved Employee).

11 1.11 “Class Member Address Search” means the Administrator’s investigation and search for
12 current Class Member mailing addresses using all reasonably available sources, methods, and
13 means including, but not limited to, the National Change of Address database, skip traces, and
14 direct contact by the Administrator with Class Members.

15 1.12 “Class Notice” means the Court approved Notice of Settlement and hearing date for
16 Final Approval, to be mailed to Class Members in English with a Spanish translation in the form,
17 without material variation, attached as Exhibit A and incorporated by reference into this
18 Agreement.

19 1.13 “Class Period” or “Class Settlement Period” means the period from July 14, 2019,
20 through the day the Court grant’s preliminary approval of the Settlement.

21 1.14 “Class Representative” means the named Plaintiff Raul Ibarra, in the Action seeking
22 Court approval to serve as a Class Representative.

23 1.15 “Class Representative Service Payment” or “Enhancement Award” means the payment
24 to the Class Representative for initiating the Action and providing services in support of the
25 Action.

26 1.16 “Court” means the Superior Court of California, County of San Francisco.

27 1.17 “Defendant” means named Defendant The Stephens Institute d/b/a/ Academy of Art
28 University.

1.18 “Defense Counsel” means Littler Mendelson, P.C.

1.19 “Effective Date” means the date by which both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (1) if no timely appeal is filed, then the date on which the date for filing such appeal has passed; or (2) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.20 “Final Approval” means the Court’s order granting final approval of the Settlement.

1.21 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.22 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.

1.23 “Gross Settlement Amount” or “GSA” means \$1,300,000.00 (One Million Three Hundred Thousand Dollars with Zero Cents), which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 9 below.

1.24 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.25 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

1.26 “Judgment” means the judgment entered by the Court based upon the Final Approval.

1.27 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.28 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.29 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Penalties, Class Representative Service

1 Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the
2 Administration Costs.

3 1.30 “Non-Participating Class Member” means any Class Member who opts out of the
4 Settlement by sending the Administrator a valid and timely Request for Exclusion.

5 1.31 “Operative Complaint” means the operative First Amended Complaint filed in the
6 Action on September 18, 2023.

7 1.32 “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
8 worked for Defendant for at least one day during the PAGA Period.

9 1.33 “PAGA Period” means the period from July 14, 2022 through the day the Court grant’s
10 preliminary approval of the Settlement.

11 1.34 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

12 1.35 “PAGA Notice” means Plaintiff’s July 14, 2023 letter to the LWDA and the Defendant
13 providing notice pursuant to Labor Code section 2699.3, subd.(a).

14 1.36 “PAGA Penalties” means the total amount of One Hundred Thirty Thousand Dollars to
15 be paid in settlement of the claims for PAGA civil penalties in this action, to be paid from the
16 Gross Settlement Amount (\$130,000.00), allocated 25% to the Aggrieved Employees
17 (\$32,500.00) and 75% to LWDA (\$97,500.00) in settlement of PAGA claims.

18 1.37 “Participating Class Member” means a Class Member who does not submit a valid and
19 timely Request for Exclusion from the Settlement.

20 1.38 “Plaintiff” means Raul Ibarra, the named plaintiff in the Action.

21 1.39 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
22 Settlement.

23 1.40 “Release Effective Date” means the date Plaintiff, Class Members, and Class Counsel
24 release all claims against Defendant and the Released Parties, and more specifically upon both
25 the Effective Date of the Settlement and the date upon which the GSA is fully funded (“Fully
26 Funded Date”).

27 1.41 “Released Class Claims” means the claims being released as described in Paragraph 5.2
28 below.

1.42 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.43 “Released Parties” means: Defendant; its present, former, or future parent and/or subsidiary corporations; each of the foregoing’s present, former, or future: owners, officers, members, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, and managing agents; and any and all agents, legal representatives, and/or attorneys of all of the foregoing entities or individuals.

1.44 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.45 “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

1.47 “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. **RECITALS.**

2.1 On July 14, 2023, Plaintiff commenced a Class Action by filing a complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages and for All Hours Worked; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal Period Liability Under Labor Code § 226.7; (4) Rest-Break Liability Under Labor Code § 226.7; (5) Violation of Labor Code § 226(a); (6) Violation of Labor Code § 221; (7) Violation of Labor Code § 204; (8) Violation of Labor Code § 203; (9) Failure to Maintain Records Required under Labor Code §§ 1174, 1174.5; (10) Failure to Produce Requested Records, Labor Code §§ 226 and 1198.5; (11) Failure to Reimburse Necessary Business Expenses Under Labor Code § 2802; (12)

1 Violation of Business & Professions Code § 17200 *et seq.* Simultaneously, on July 14, 2023, and
2 pursuant to Labor Code §2699.3, subd.(a), Plaintiff gave timely notice to the LWDA and
3 Defendant that Plaintiff intended to proceed with a representative action under PAGA (LWDA-
4 CM-968289-23). On September 18, 2023, after the 65-day statutory period passed, Plaintiff filed
5 his First Amended Complaint, which added claims for penalties under PAGA, Labor Code §2698.

6 2.2 Defendant denies the allegations in the Operative Complaint, denies any failure to
7 comply with the laws identified in the Operative Complaint, and denies any and all liability for
8 the causes of action alleged.

9 2.3 On April 29, 2024, the Parties participated in an all-day mediation presided over by
10 Mediator Tripper Ortman and were able to reach an agreement on general settlement terms. The
11 Parties memorialized their agreement in a Memorandum of Understanding on May 1, 2024.

12 2.4 In advance of mediation, Class Counsel conducted a thorough investigation into the facts
13 of, and applicable law to, the Action, including speaking to current and former employees of
14 Defendant regarding Defendant's employment policies and practices. Prior to mediation, Plaintiff
15 also obtained and analyzed a representative sampling of time and payroll data for Class Members
16 and the necessary policy documents through informal discovery to properly evaluate the strengths
17 and weakness of the claims and engage in meaningful settlement discussions. Plaintiff's
18 investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot*
19 *Locker Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168
20 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

21 2.5 The Court has not granted class certification because the Parties engaged in mediation
22 before any class certification.

23 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
24 other pending matter or action asserting claims that will be extinguished or affected by the
25 Settlement.

26 3. **MONETARY TERMS.**

27 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
28 Defendant will pay \$1,300,000.00 (One Million Three Hundred Thousand Dollars with Zero

1 Cents) to fully settle, resolve, and extinguish all claims asserted in the Action, including without
2 limitation all claims asserted in the PAGA Notices. The GSA is non-reversionary and does not
3 include employer payroll taxes owed on the wage portions of the Individual Class Payments,
4 which Defendant will pay separately.

5 3.2 Funding of the GSA: The GSA shall be funded by Defendant to the Settlement
6 Administrator in five (5) equal installments of approximately \$260,000 each, due in March and
7 September of each year following the Effective Date until the completion of five (5) payments,
8 with the first payment due in the March or September following the Effective Date. For example,
9 if the Effective Date is reached in February 2025, the first payment would be due on March 31,
10 2025, followed by payments on or before September 30, 2025, March 31, 2026, September 30,
11 2026, and March 31, 2027. If the settlement Effective Date falls in May 2025, however, payments
12 would commence with the first one due on or before September 30, 2025, and the final payment
13 due on or before September 30, 2027. Distribution of funds will occur following the final payment
14 (“Fully Funded Date”). The Administrator will disburse the entire GSA without asking or
15 requiring Participating Class Members or Aggrieved Employees to submit any claim as a
16 condition of payment. No part of the GSA will revert to Defendant.

17 3.3 Payments from the Gross Settlement Amount. Following the Fully Funded Date, the
18 Administrator will make and deduct the following payments from the GSA, in the amounts
19 specified by the Court in the Final Approval:

20 3.3.1 To Plaintiff: A payment for the Class Representative Service Payment to the Class
21 Representative, Raul Ibarra, of not more than \$10,000 (Ten Thousand Dollars) in addition to any
22 Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled
23 to receive as a Participating Class Member. Defendant will not oppose Plaintiff’s request for a
24 Class Representative Service Payment that does not exceed this amount. As part of the motion
25 for the Class Counsel Fees and Litigation Expenses Payments, Plaintiff will seek Court approval
26 for any Class Representative Service Payment no later than 16 (sixteen) court days prior to the
27 Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class
28 Representative Service Payment less than the amount requested, the Administrator will retain the

1 remainder in the Net Settlement Amount to be distributed to Participating Class Members. The
2 Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff
3 assumes full responsibility and liability for employee taxes owed on the Class Representative
4 Service Payment.

5 3.3.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the
6 GSA, which is currently estimated to be \$433,333.33 (Four Hundred Thirty-Three Thousand
7 Three Hundred Thirty-Three Dollars and Thirty-Three Cents) and a Class Counsel Litigation
8 Expenses Payment for actual costs, not to exceed \$20,000.00 (Twenty Thousand Dollars and Zero
9 Cents). Defendant will not oppose requests for these payments. Plaintiff and/or Class Counsel
10 will file a motion for Class Counsel Fees and Litigation Expenses Payment no later than 16
11 (sixteen) court days prior to the Final Approval Hearing, or as otherwise ordered by the Court. If
12 the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses
13 Payment less than the amounts requested, the Administrator will allocate the remainder to the Net
14 Settlement Amount for distribution to Participating Class Members. Released Parties shall have
15 no liability to Class Counsel or any other Plaintiff's counsel arising from any claim to any portion
16 of Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The
17 Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment
18 using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
19 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
20 Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or
21 controversy regarding any division or sharing of any of these Payments.

22 3.3.3 To the Administrator: An Administrator Costs Payment not to exceed Seventeen
23 Thousand Five Hundred Dollars (\$17,500) except for a showing of good cause and as approved
24 by the Court. To the extent the Administration Costs are less or the Court approves payment of
25 less than \$17,500, the Administrator will retain the remainder in the Net Settlement Amount to
26 be distributed to Participating Class Members.

27 3.3.4 To Each Participating Class Member: An Individual Class Payment is calculated by
28 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all

1 Participating Class Members during the Class Period, and (b) multiplying the result by each
2 individual Participating Class Member's Workweeks.

3 3.3.4.1 Tax Allocation of Individual Class Payments. 34% of each Participating
4 Class Member's Individual Class Payment will be allocated to the Settlement of wage claims (the
5 "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an
6 IRS W-2 Form. The 66% of each Participating Class Member's Individual Class Payment will be
7 allocated to the settlement of claims for interest and penalties (the "Non-Wage Portion"). The
8 Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms.
9 Participating Class Members assume full responsibility and liability for any employee taxes owed
10 on their Individual Class Payment.

11 3.3.4.2 Effect of Non-Participating Class Members on Calculation of Individual
12 Class Payments. Non-Participating Class Members will not receive any Individual Class
13 Payments. The Administrator will retain amounts equal to their Individual Class Payments in the
14 Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

15 3.3.5 To the LWDA and Aggrieved Employees: An amount to settle the claim for PAGA
16 Penalties in the amount of \$130,000 (One Hundred Thirty Thousand Dollars) to be paid from the
17 Gross Settlement Amount, with 75% (\$97,500.00) allocated to the LWDA PAGA Payment and
18 25% (\$32,500.00) allocated to the Individual PAGA Payments.

19 3.3.5.1 The Administrator will calculate each Individual PAGA Payment by (a)
20 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$32,500.00
21 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the
22 PAGA Period, and (b) multiplying the result by each individual Aggrieved Employee's PAGA
23 Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on
24 their Individual PAGA Payment.

25 3.3.5.2 If the Court approves PAGA Penalties of less than the amount requested,
26 the Administrator will allocate the remainder to the Net Settlement Amount to be distributed to
27 Participating Class Members. The Administrator will report the Individual PAGA Payments on
28 IRS 1099 Forms.

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3 **4. SETTLEMENT FUNDING AND PAYMENTS.**

4 4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its
5 records at the time of mediation, Defendant represented there are **2,270** Class Members who
6 collectively worked a total of **141,290** Workweeks from July 14, 2019 through April 29, 2024,
7 and **990** Aggrieved Employees who worked a total of **24,562** PAGA Pay Periods from July 14,
8 2022 through April 29, 2024.

9 4.2 Class Data. Not later than twenty (20) days after Defendant is served with the Court's
10 Order granting Preliminary Approval of the Settlement, Defendant will deliver the Class Data to
11 the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members'
12 privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data
13 only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data
14 to Administrator employees who need access to the Class Data to effect and perform under this
15 Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers
16 that the Class Data omitted class member identifying information and to provide corrected or
17 updated Class Data as soon as reasonably feasible. Without any extension of the deadline by
18 which Defendant must send the Class Data to the Administrator, the Parties and their counsel will
19 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related
20 to missing or omitted Class Data.

21 4.3 Payments from the Gross Settlement Amount. Within 14 (fourteen) days after the Fully
22 Funded Date, the Administrator will mail checks for all Individual Class Payments, all Individual
23 PAGA Payments, the LWDA PAGA Payment, the Administration Costs payment, the Class
24 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class
25 Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class
26 Counsel Litigation Expenses Payment, and the Class Representative Service Payment shall not
27 precede disbursement of Individual Class Payments and Individual PAGA Payments.
28

1 4.3.1 The Administrator will issue checks for the Individual Class Payments and/or
2 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail. The
3 face of each check shall prominently state the date (180 days after the date of mailing) when the
4 check will be voided (“Void Date”). The Administrator will cancel all checks not cashed by the
5 Void Date. The Administrator will send checks for Individual Settlement Payments to all
6 Participating Class Members (including those for whom the Class Notice was returned
7 undelivered). The Administrator will send checks for Individual PAGA Payments to all
8 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
9 Employees (including those for whom Class Notice was returned undelivered). The Administrator
10 may send Participating Class Members a single check combining the Individual Class Payment
11 and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator
12 must update the recipients’ mailing addresses using the National Change of Address Database.

13 4.3.2 The Administrator must conduct a Class Member Address Search for all other Class
14 Members whose checks are returned undelivered without USPS forwarding address. Within seven
15 (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS
16 forwarding address provided or to an address ascertained through the Class Member Address
17 Search. The Administrator need not take further steps to deliver checks to Class Members whose
18 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
19 replacement check to any Class Member whose original check was lost or misplaced, requested
20 by the Class Member prior to the void date.

21 4.3.3 For any Class Member whose Individual Class Payment check or Individual PAGA
22 Payment check is uncashed and canceled after the void date, the Administrator shall transmit the
23 funds represented by such checks to the California Controller's Unclaimed Property Fund in the
24 name of the Class Member thereby leaving no “unpaid residue” subject to the requirements of
25 California Code of Civil Procedure Section 384, subd. (b).

26 4.3.4 The payment of Individual Class Payments and Individual PAGA Payments shall
27 not obligate Defendant to confer any additional benefits or make any additional payments to Class
28 Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

1 5. **RELEASES OF CLAIMS.** On the Release Effective Date, Plaintiff, Class Members, and
2 Class Counsel will release claims against all Released Parties as follows:

3 5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses,
4 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally,
5 releases and discharges Released Parties from all claims, transactions, or occurrences, that
6 occurred during the Class Period, including all claims that were, or reasonably could have been,
7 alleged, based on the facts contained in the Operative Complaint, the PAGA Notice, or ascertained
8 during the Action and released under 5.2, below, and claims under the Fair Employment and
9 Housing Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, the
10 California Labor Code, and all equivalent claims under federal law ("Plaintiff's Release").
11 Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any
12 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,
13 workers' compensation benefits that arose at any time, or based on occurrences outside the Class
14 Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in
15 addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,
16 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different
17 or additional facts or Plaintiff's discovery of them.

18 5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
19 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights,
20 and benefits, if any, of section 1542 of the California Civil Code, which reads:

21 A general release does not extend to claims that the creditor or releasing party does
22 not know or suspect to exist in his or her favor at the time of executing the release,
23 and that if known by him or her would have materially affected his or her settlement
24 with the debtor or Released Party.

25 5.2 Released Class Claims: All Participating Class Members, on behalf of themselves and
26 their respective former and present representatives, agents, attorneys, heirs, administrators,
27 successors, and assigns, release the Released Parties from any and all claims, known or unknown,
28 that were asserted in any and/or all of the complaints in the Action and/or any of Plaintiff's letters

1 to the LWDA (including any subsequently amended complaints or letters); and/or any and all
2 claims, known or unknown, that could have been asserted based on any of the factual allegations
3 in the complaints in the Action and/or any of Plaintiff's letters to the LWDA (including any
4 subsequently amended complaints or letters). This includes but is not limited to claims for or
5 related to: pay for all hours worked/compensation due for services; failure to pay wages; failure
6 to pay minimum wages; failure to pay overtime; off-the-clock work; calculation of the regular
7 rate of pay for meal and rest period premium payments; premium payments, meal periods; rest
8 periods; wage statements; payment of wages during employment; payment of wages at
9 termination; maintain and provide accurate and complete records; failure to reimburse for
10 necessary business expenses; sick pay; COVID-19 sick pay; California sick pay; bonus pay, unfair
11 competition related to any or all of the foregoing; any unpaid wages or compensation related to
12 any or all of the foregoing, which are based on the facts alleged in the Action; restitution related
13 to any or all of the foregoing, which are based on the facts alleged in the Action; and any penalties,
14 including statutory or civil penalties, related to any or all of the foregoing. This release includes
15 any and all claims pursuant to: California Labor Code §§ 90.5, 200 et seq., 201, 202, 203, 204,
16 206.5, 210, 218.5, 221, 226, 226.2, 226.3, 226.7, 246, 248 *et. seq.*, 248.1, 248.2, 248.5, 432.5,
17 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199 and
18 2802; the Fair Labor Standards Act; California Business & Professions Code § 17200 *et seq.*;
19 California Code of Civil Procedure § 1021.5; and the California Industrial Welfare Commission
20 Wage Orders MW-2014 (collectively, the "Released Class Claims"). The release shall run
21 through the date the court grants preliminary approval of the settlement. Except as set forth in
22 Paragraph 5.3 of this Agreement, Participating Class Members do not release any other claims,
23 including claims for vested benefits, wrongful termination, violation of the Fair Employment and
24 Housing Act, unemployment insurance, disability, social security, workers' compensation, or
25 claims based on facts occurring outside the Class Period.

26 5.3 Released PAGA Claims: All Aggrieved Employees, including Non-Participating Class
27 Members who are Aggrieved Employees, are deemed to release, on behalf of themselves and their
28 respective former and present representatives, agents, attorneys, heirs, administrators, successors,

1 and assigns, the Released Parties from any and all claims, known or unknown, for civil penalties
2 under PAGA that: were asserted in any and/or all of the complaints in the Action and/or any of
3 Plaintiff's letters to the LWDA (including any subsequently amended complaints or letters);
4 and/or any and all claims, known or unknown, that could have been asserted based on any of the
5 factual allegations in the complaints in the Action and/or any of Plaintiff's letters to the LWDA
6 (including any subsequently amended complaints or letters). This release includes, but is not
7 limited to, claims for PAGA penalties premised on: California Labor Code §§ 90.5, 200 et seq.,
8 201, 202, 203, 204, 206.5, 210, 218.5, 221, 226, 226.2, 226.3, 226.7, 246, 248 *et. seq.*, 248.1,
9 248.2, 248.5, 432.5, 510, 512, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198,
10 1198.5, 1199, 2802 and 2699; pay for all hours worked/compensation due for services; failure to
11 pay wages; failure to pay minimum wages; failure to pay overtime wages; off the clock work;
12 calculation of the regular rate of pay for meal and rest period premium payments; meal periods;
13 rest periods; wage statements; payment of wages during employment; payment of wages at
14 termination; maintaining and providing accurate and complete records; failure to reimburse for
15 necessary business expenses; sick pay; COVID-19 sick pay; California sick pay; bonus pay;
16 unfair competition related to any or all of the foregoing; any unpaid wages or compensation
17 related to any or all of the foregoing, which are based on the facts alleged in the Action; and any
18 civil penalties, including statutory or civil penalties, related to any or all of the foregoing, which
19 are based on the facts alleged in the Action. ("Released PAGA Claims"). The release shall run
20 through the date the court grants preliminary approval of the settlement. The Parties agree that
21 the doctrines of res judicata, claim preclusion, issue preclusion, primary rights, and collateral
22 estoppel shall fully and broadly apply to Released Claims and the release in this Settlement to the
23 greatest effect and extend permitted by law. As to the release of PAGA claims, it is further agreed
24 that the Released Claims include any claims for civil penalties that could have been investigated
25 by the LWDA within the scope of the PAGA letters submitted by Plaintiffs. To the extend the
26 LWDA has released the PAGA claims in connection with this Settlement, no PAGA
27 Representative Action Member may pursue these same PAGA claims released here in another
28 action. The PAGA Representative Action Members are collaterally estopped from pursuing the

PAGA claims released and compromised by the LWDA. After the Court grants final approval of the Class and Representative Action Settlement, Class Counsel will provide the LWDA with a copy of the Judgement which will include the definition of the PAGA Representative Action Members. Each PAGA Representative Action Member will be issued a check for their share of twenty-five percent (25%) of the PAGA allocation and will not have the opportunity to opt out of, or object to, the release of the PAGA claims. The PAGA Representative Action Members are bound by the release of the PAGA claims regardless of whether they cash or deposit their portion of the PAGA allocation or exclude themselves from the class portion of the settlement.

5.4 Release Effective Date: Upon both the Effective Date of the Settlement and the Fully Funded Date (i.e. the “Release Effective Date”), all Participating Class Members shall be enjoined from filing, joining or becoming a party, member or representative in any actions, claims, complaints, or proceedings in any state or federal court on an individual, representative, collective or class action basis, or from initiating any other proceedings regarding any of the Released Class Claims identified herein. In addition, upon the Release Effective Date, all eligible Aggrieved Employees shall be enjoined from filing, joining, or becoming a party, member or representative in any actions, claims, complaints, or proceedings in any state or federal court on an individual, representative, collective or class action basis, or from initiating any other proceedings to the extent such actions, claims, complaints, or proceedings are based on the Released PAGA Claims released through this Settlement.

6. **MOTION FOR PRELIMINARY APPROVAL**. Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

6.1 Defendant’s Statement of Non-Opposition in Support of Preliminary Approval. Defendant may file a Statement of non-opposition in support of preliminary approval to be filed with or after the motion for preliminary approval documents.

6.2 Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2));

(ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Preliminary Approval.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will obtain a prompt hearing date for the Motion for Preliminary Approval, file the Motion for Preliminary Approval no later than 16 (sixteen) court days before the hearing, unless otherwise ordered by the Court, and deliver the Court’s Preliminary Approval Order to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this

Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

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

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1 for the funding of the GSA. Any interest that accrues on the GSA sums paid into the QSF prior to distribution by the Administrator will become part of the NSA for distribution to Participating Class Members.

7.4 Notice to Class Members.

7.4.1 No later than five (5) calendar days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 (fourteen) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and

the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than five (5) calendar days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen days (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 (fourteen) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 (forty-five) days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion

1 is a letter from a Class Member or his/her representative that reasonably communicates the Class
2 Member's election to be excluded from the Settlement and includes the Class Member's name,
3 address and email address or telephone number. To be valid, a Request for Exclusion must be
4 timely faxed, emailed, or postmarked by the Response Deadline.

5 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails
6 to contain all the information specified in the Class Notice. The Administrator shall accept any
7 Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
8 person as a Class Member and the Class Member's desire to be excluded. The Administrator's
9 determination shall be final and not appealable or otherwise susceptible to challenge. If the
10 Administrator has reason to question the authenticity of a Request for Exclusion, the
11 Administrator may demand additional proof of the Class Member's identity. The Administrator's
12 determination of authenticity shall be final and not appealable or otherwise susceptible to
13 challenge.

14 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion
15 is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and
16 bound by all terms and conditions of the Settlement, including the Participating Class Members'
17 Releases under paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating
18 Class Member actually receives the Class Notice or objects to the Settlement.

19 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a
20 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
21 right to object to the class action components of the Settlement. Because future PAGA claims are
22 subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who
23 are Aggrieved Employees are deemed to release the Released PAGA Claims identified in
24 Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

25 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 (forty-five)
26 days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for
27 Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks
28 and PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member

1 may challenge the allocation by communicating with the Administrator via fax, email or mail.
2 The Administrator must encourage the challenging Class Member to submit supporting
3 documentation. In the absence of any contrary documentation, the Administrator is entitled to
4 presume that the Workweeks contained in the Class Notice are correct so long as they are
5 consistent with the Class Data. The Administrator's determination of each Class Member's
6 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
7 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the
8 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
9 Administrator's determination of the challenges.

10 7.7 Objections to Settlement.

11 7.7.1 Only Participating Class Members may object to the class action components of the
12 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or
13 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses
14 Payment and/or Class Representative Service Payment.

15 7.7.2 Participating Class Members may send written objections to the Administrator, by
16 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
17 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
18 Participating Class Member who elects to send a written objection to the Administrator must do
19 so not later than 45 (forty-five) days after the Administrator's mailing of the Class Notice (plus
20 an additional 14 (fourteen) days for Class Members whose Class Notice was re-mailed).

21 7.7.3 Non-Participating Class Members have no right to object to any of the class action
22 components of the Settlement.

23 7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
24 performed or observed by the Administrator contained in this Agreement or otherwise.

25 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish,
26 maintain and use an internet website to post information of interest to Class Members including
27 the date, time and location for the Final Approval Hearing and copies of the Settlement
28 Agreement; Motion for Preliminary Approval; Preliminary Approval Order; Class Notice;

1 Motion for Final Approval; Motion for Class Counsel Fees Payment, Class Counsel Litigation
2 Expenses Payment and Class Representative Service Payment; the Final Approval Order; and the
3 Judgment. The Administrator will also maintain and monitor an email address and a toll-free
4 telephone number to receive Class Member calls, faxes and emails.

5 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
6 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later
7 than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the
8 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
9 and other identifying information of Class Members who have timely submitted valid Requests
10 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
11 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
12 Exclusion from Settlement submitted (whether valid or invalid).

13 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports
14 to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
15 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether
16 valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods
17 received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA
18 Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment
19 of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and
20 objections received.

21 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to
22 address and make final decisions consistent with the terms of this Agreement on all Class Member
23 challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision
24 shall be final and not appealable or otherwise susceptible to challenge.

25 7.8.5 Administrator’s Declaration. Not later than 14 (fourteen) days before the date by
26 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
27 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
28 for filing in Court attesting to its due diligence and compliance with all of its obligations under

1 this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices
2 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
3 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
4 number of written objections and attach the Exclusion List. The Administrator will supplement
5 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
6 for filing the Administrator's declaration(s) in Court.

7 7.8.6 Final Report by Settlement Administrator. Within 10 (ten) days after the
8 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide
9 Class Counsel and Defense Counsel with a final report detailing its disbursements by employee
10 identification number only of all payments made under this Agreement. At least 15 (fifteen) days
11 before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel
12 and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement
13 of all payments required under this Agreement. Class Counsel is responsible for filing the
14 Administrator's declaration in Court.

15 8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE**. Based on its records,
16 Defendant represented at mediation there are **2,270** Class Members who collectively worked a
17 total of **141,290** Workweeks ("Extrapolated Work Weeks") from July 14, 2019 through April 29,
18 2024. If the actual number of Workweeks during the Class Period exceeds the Extrapolated
19 Workweeks by more than 5% (7,065 workweeks), then the end date for the Class Period and
20 PAGA Period shall be set at the latest date, where the total workweeks do not exceed 148,355
21 workweeks (i.e., 105% of the Extrapolated Workweeks).

22 9. **DEFENDANT'S RIGHT TO WITHDRAW**. If the number of valid Requests for Exclusion
23 identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members,
24 Defendant may, but is not obligated, to elect to withdraw from the Settlement. The Parties agree
25 that, if Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect
26 whatsoever, and that neither Party will have any further obligation to perform under this
27 Agreement; provided, however, Defendant will remain responsible for paying all Settlement
28 Administration Costs incurred to that point. Defendant must notify Class Counsel and the Court

of its election to withdraw not later than 20 (Twenty) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.** Not later than 16 (sixteen) court days before the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiff will file in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l); a Proposed Final Approval Order; and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1 **Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administrator Costs Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

1 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
2 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
3 Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective
4 counsel, and all Participating Class Members who did not object to the Settlement as provided in
5 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-
6 judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new
7 trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the
8 right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties'
9 obligations to perform under this Agreement will be suspended until such time as the appeal is
10 finally resolved and the Judgment becomes final, except as to matters that do not affect the amount
11 of the Net Settlement Amount.

12 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
13 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
14 modification of this Agreement (including, but not limited to, the scope of release to be granted
15 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
16 expeditiously work together in good faith to address the appellate court's concerns and to obtain
17 Final Approval and Entry of Judgment, sharing, on a 50-50 basis, any additional Administration
18 Costs reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the
19 Court's award of the Class Representative Service Payment or any payments to Class Counsel
20 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
21 as long as the Gross Settlement Amount remains unchanged.

22 11. **AMENDED JUDGMENT**. If any amended judgment is required under Code of Civil
23 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended
24 judgment.

25 12. **ADDITIONAL PROVISIONS**.

26 12.1 No Admission of Liability, Class Certification or Representative Manageability for
27 Other Purposes. This Agreement represents a compromise and settlement of highly disputed
28 claims. Nothing in this Agreement is intended or should be construed as an admission by

1 Defendant that any of the allegations in the Operative Complaint has merit or that Defendant has
2 any liability for any claims asserted; nor should it be intended or construed as an admission by
3 Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class
4 certification and representative treatment is for purposes of this Settlement only. If, for any
5 reason, the Court does grant Preliminary Approval, Final Approval, or enter Judgment, Defendant
6 reserves the right to contest certification of any class for any reason, Defendant reserves all
7 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
8 certification on any grounds available and to contest Defendant's defenses. The Settlement, this
9 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
10 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
11 Settlement and this Agreement).

12 12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and
13 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
14 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
15 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
16 or indirectly, specifically or generally, to any person, corporation, association, government
17 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
18 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
19 extent necessary to report income to appropriate taxing authorities; (4) in response to a court order
20 or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government
21 agency. Each Party agrees to immediately notify the other Party of any judicial or agency order,
22 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense
23 Counsel separately agree not to, directly or indirectly, initiate any conversation or other
24 communication, before the filing of the Motion for Preliminary Approval, with any third party
25 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
26 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
27 communications with Class Members in accordance with Class Counsel's ethical obligations
28 owed to Class Members.

1 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and
2 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
3 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability
4 to communicate with Class Members in accordance with Class Counsel's ethical obligations
5 owed to Class Members.

6 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
7 together with its attached exhibits shall constitute the entire agreement between the Parties
8 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
9 inducements made to or by any Party.

10 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
11 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
12 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
13 its terms, and to execute any other documents reasonably required to effectuate the terms of this
14 Agreement including any amendments to this Agreement.

15 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their
16 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
17 Settlement Agreement, submitting supplemental evidence and supplementing points and
18 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
19 or content of any document necessary to implement the Settlement, or on any modification of the
20 Agreement that may become necessary to implement the Settlement, the Parties will seek the
21 assistance of a mediator and/or the Court for resolution.

22 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not
23 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
24 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
25 action, or right released and discharged by the Party in this Settlement.

26 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are
27 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
28

upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

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

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

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

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

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

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

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

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

To Plaintiff:

1 D.LAW, INC.
Emil Davtyan
2 Emil@d.law
David Yeremian
3 d.yeremnian@d.law
Alvin B. Lindsay
4 a.lindsay@d.law
880 E Broadway
5 Glendale, CA 91205
Telephone: (818) 962-6465
6 Fax: (818) 962-6469

7 To Defendant:

8 Angela J. Rafoth, Bar No. 241966
arafoth@littler.com
9 LITTLER MENDELSON, P.C.
2049 Century Park East, Suite 500
10 Los Angeles, California 90067
Telephone: 310.772.7254
11 Fax No.: 310.614.2348
101 Second St., Suite 1000
12 San Francisco, California 94105
Telephone: 415.677.3183
13 Fax No.: 415.723.7581

14 Krystal Saleh, Bar No. 320932
ksaleh@littler.com
15 LITTLER MENDELSON, P.C.
2049 Century Park East, Suite 500
16 Los Angeles, California 90067
Telephone: 310.772.7254
17 Fax No.: 310.614.2348

18 12.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts
19 by facsimile, electronically (i.e. DocuSign), or by email which for purposes of this Agreement
20 shall be accepted as an original. All executed counterparts and each of them will be deemed to be
21 one and the same instrument if counsel for the Parties will exchange between themselves signed
22 counterparts. Any executed counterpart will be admissible in evidence to prove the existence and
23 contents of this Agreement.

24 12.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the
25 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
26 agree that upon the signing of this Agreement pursuant to CCP section 583.330 to extend the date
27 to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

28 IT IS SO AGREED.

1
2 By the Parties:

3
4
5 DATED: _____

6 Plaintiff RAUL IBARRA

7
8 DATED: _____

9 Defendant STEPHENS INSTITUTE

10 By: _____

11 Position: _____

12
13 Approved by counsel:

14 September 30, 2024

15 DATED: ~~May~~ May ~~2024~~ 2024

D.LAW, INC.

16
17 BY:  _____

David Yeremian

Alvin Lindsay

Counsel for Plaintiff Raul Ibarra

18
19
20
21 DATED: August 21, 2024

LITTLER MENDELSON, P.C.

22
23 BY: _____

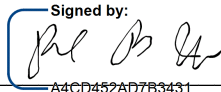
24 Angela Rafoth

Krystal Saleh

25 Attorneys for Defendant Stephens Institute

By the Parties:

DATED: 9/30/2024

Signed by:

A4CD452AD7B3431...

Plaintiff RAUL IBARRA

DATED: _____

Defendant STEPHENS INSTITUTE

By: _____

Position: _____

Approved by counsel:

DATED: May __, 2024

D.LAW, INC.

BY: _____

David Yeremian

Alvin Lindsay

Counsel for Plaintiff Raul Ibarra

DATED: August 21, 2024

LITTLER MENDELSON, P.C.

BY: _____

Angela Rafoth

Krystal Saleh

Attorneys for Defendant Stephens Institute

1
2 By the Parties:

3
4
5 DATED: _____

6 Plaintiff RAUL IBARRA

7
8 DATED: 9/30/2024

9 Defendant STEPHENS INSTITUTE

10 By: Torie Toler

11 Position: VP, Operational Effectiveness

12
13 Approved by counsel:

14 DATED: May __, 2024

D.LAW, INC.

16
17 BY: _____

David Yeremian

Alvin Lindsay

Counsel for Plaintiff Raul Ibarra

19
20 September 30, 2024

21 DATED: ~~August 21, 2024~~

LITTLER MENDELSON, P.C.

22
23 BY: _____

Angela Rafoth

Krystal Saleh

Attorneys for Defendant Stephens Institute