

1 **D.LAW, INC.**  
2 Emil Davtyan (SBN 299363)  
3 [Emil@d.law](mailto:Emil@d.law)  
4 David Yeremian (SBN 226337)  
5 [d.yeremian@d.law](mailto:d.yeremian@d.law)  
6 Alvin B. Lindsay (SBN 220236)  
7 [a.lindsay@d.law](mailto:a.lindsay@d.law)  
8 450 N Brand Blvd., Suite 840  
9 Glendale, CA 91203  
10 Telephone: (818) 962-6465  
11 Facsimile: (818) 962-6469

12 Attorneys for Plaintiff Thomas Gene Nappo,  
13 on behalf of himself and all others similarly situated

14 **FISHER PHILLIPS LLP**  
15 Lonnie D. Giamela (SBN 228435)  
16 [lgiamela@fisherphillips.com](mailto:lgiamela@fisherphillips.com)  
17 444 S. Flower Street, Suite 1500  
18 Los Angeles, California 90071  
19 Telephone: (213) 330-4454

20 Attorneys for Defendants FinishMaster, Inc.  
21 and LKQ Auto Parts of Central California, Inc.

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
23 **FOR THE COUNTY OF LOS ANGELES**

24 THOMAS GENE NAPPO, an individual,  
25 on behalf of himself and others similarly  
26 situated,

27 Plaintiff,

28 v.

29 FINISHMASTER, INC., an Indiana  
30 corporation; LKQ AUTO PARTS OF  
31 CENTRAL CALIFORNIA, INC., a  
32 California Corporation; and DOES 1  
33 through 50, inclusive,

34 Defendants

Case No. 24STCV14107

CLASS ACTION

Assigned for all purposes to  
Hon. Stuart M. Rice,  
Dept. 1

**AMENDED CLASS AND PAGA ACTION  
SETTLEMENT AGREEMENT**

Class Complaint filed: June 06, 2024  
First Amended Complaint: August 12, 2024  
Trial Date: Not set

1 This “Amended Class Action and PAGA Settlement Agreement” (“Agreement”) is made by  
2 and between plaintiff Thomas Gene Nappo (“Plaintiff”), on the one hand, and Defendants  
3 FinishMaster, Inc. (“Finishmaster”) and LKQ Auto Parts of Central California, Inc. (collectively  
4 “Defendants”) on the other hand.<sup>1</sup> The Agreement refers to Plaintiff and Defendant collectively as  
5 “the Parties,” or individually as “Party.”

6 **A. DEFINITIONS.**

7 1. “Action” means Plaintiff’s lawsuits alleging wage and hour violations against Defendant  
8 captioned *Thomas Gene Nappo v. FinishMaster, Inc., et al.*, filed on June 06, 2024; and First  
9 Amended Complaint adding PAGA Cause of Action filed on August 12, 2024, in Los Angeles  
10 County Superior Court.

11 2. “Administrator” means Apex Class Action administrators (“Apex”), and Apex is the  
12 neutral entity the Parties have agreed to appoint to administer the Settlement.

13 3. “Administration Costs” means the amount the Administrator will be paid from the  
14 Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the  
15 Administrator’s “not to exceed” bid the parties have received from Apex for \$7,750.00.

16 4. “Aggrieved Employee” means all Class Members who worked during the PAGA  
17 Period (i.e. the period from June 6, 2023 through December 31, 2024).

18 5. “Class” means all non-exempt, hourly individuals that worked for Finishmaster in  
19 California during the Settlement Class Period (i.e. the period from February 19, 2021, through  
20 December 31, 2024).

21 6. “Class Counsel” means Emil Davtyan, David Yeremian and Alvin B. Lindsay and the  
22 other attorneys of D.Law, Inc.

23 7. “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class  
24 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiff will request  
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26 <sup>1</sup> The Parties agreed to a prior version of this Settlement Agreement that was fully executed as of May 27,  
27 2025. The Parties have made mutually agreeable revisions to the original Settlement Agreement resulting in  
28 this Amended Settlement Agreement. Pursuant to Paragraph 94 of this Agreement, the Parties acknowledge  
and agree that, once this Amended Settlement Agreement has been fully executed, the prior version of the  
Settlement Agreement will be revoked and will have no further force and effect. Upon its full execution, this  
Amended Settlement Agreement will be the operative Settlement Agreement. In the event this Agreement is  
not fully executed, the prior Settlement Agreement will remain in effect.

1 approval from the Court of up to one-third of the Gross Settlement Amount, i.e. up to \$105,000.00.

2 8. "Class Counsel Litigation Expenses Payment" means the amount allocated from the  
3 Gross Settlement Amount to Class Counsel for reimbursement of reasonable expenses and costs  
4 incurred in the Action, not to exceed \$20,000.00. If Class Counsel Litigation Expenses Payment is  
5 less than \$20,000.00, the difference will remain in the Net Settlement Amount to be distributed to  
6 the Class Members.

7 9. "Class Data" means Class Member identifying information in Defendant's possession  
8 including the Class Member's name, last-known mailing address, email address, telephone number,  
9 Social Security number, hire dates, and termination dates.

10 10. "Class Member" means a member of the Class, as either a Participating Class Member  
11 or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as  
12 an Aggrieved Employee).

13 11. "Class Member Address Search" means the Administrator's investigation and search  
14 for current Class Member mailing addresses using all reasonably available sources, methods, and  
15 means including, but not limited to, the "National Change of Address Database", skip traces, and  
16 direct contact by the Administrator with Class Members.

17 12. "Class Notice" means the Court approved notice of settlement and hearing date for  
18 Final Approval, with a Spanish translation if the parties deem necessary, to be mailed to Class  
19 Members and incorporated by reference into this Agreement.

20 13. "Class Period" means the period from February 19, 2021 through December 31, 2024.

21 14. "Class Representative" means the named Plaintiff Thomas Gene Nappo, in the Action  
22 seeking Court approval to serve as a Class Representative.

23 15. "Class Representative Enhancement Award" means the payment to the Class  
24 Representative for initiating the Action and providing services in support of the Action, and  
25 Defendant agreed not to object to a requested Enhancement Award of up to \$10,000.00 subject to  
26 Court approval.

27 16. "Court" means the Superior Court of California, County of Los Angeles.

28 17. "Defendants" means named Defendants FinishMaster, Inc. and LKQ Auto Parts of

1 Central California, Inc.

2 18. “Defense Counsel” means Lonnie D. Giamela of Fisher Phillips LLP.

3 19. “Effective Date” means the date by which all of the following have occurred: (a) the  
4 Court enters Judgment upon Final Approval and the Judgment is final. The judgment is final when  
5 the Court’s final Judgment is entered in addition to the Court’s Order granting final approval to the  
6 Settlement. The Effective Date of Release for the Class and PAGA Releases will be after the  
7 Effective Date has occurred and when the Gross Settlement Amount has been fully funded to the  
8 Qualified Settlement Fund by Defendant.

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

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

12 22. “Gross Settlement Amount” means \$315,000.00 (Three Hundred Fifteen Thousand  
13 Dollars with Zero Cents), which is the total amount Defendant agrees to pay under the Settlement,  
14 except as provided below.

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

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

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

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

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

26 28. “Net Settlement Amount” means the Gross Settlement Amount, less the following  
27 payments in the amounts approved by the Court: PAGA Penalties, Class Representative  
28 Enhancement Award, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment,

1 and the Administration Costs. The remainder is to be paid to Participating Class Members as  
2 Individual Class Payments.

3 29. “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 30. “Operative Complaint” means the operative “First Amended Complaint” filed in the  
6 Action on August 12, 2024.

7 31. “PAGA Pay Period” means any pay period during which an Aggrieved Employee  
8 worked for Defendant for at least a portion of one day during the PAGA Period.

9 32. “PAGA Period” means the period from June 6, 2023 through December 31, 2024.

10 33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

11 34. “PAGA Notice” means Plaintiff’s June 6, 2024 letter to LWDA (LWDA Case No.  
12 LWDA-CM-1032505-24) and the Defendant providing notice pursuant to Labor Code section  
13 2699.3, subd.(a).

14 35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the  
15 Gross Settlement Amount (\$30,000.00), allocated 25% to the Aggrieved Employees (\$7,500.00) and  
16 75% to LWDA (\$22,500.00) in settlement of PAGA claims.

17 36. “Participating Class Member” means a Class Member who does not submit a valid and  
18 timely Request for Exclusion from the Class portion of the Settlement.

19 37. “Plaintiff” means Thomas Gene Nappo, the named plaintiff in the Action.

20 38. “Preliminary Approval” means the Court’s order granting preliminary approval of the  
21 Settlement.

22 39. “Release Effective Date” means the date Plaintiff, Class Members, and Aggrieved  
23 Employees effectively release all claims against the Released Parties. For the Participating Class  
24 Members and Aggrieved Employees, the Release Effective Date occurs on the date Defendant fully  
25 funds the Gross Settlement Amount.

26 40. “Released Class Claims” means the class claims being released on the Release  
27 Effective Date and as described in Paragraph 66 below.

28 41. “Released PAGA Claims” means the PAGA claims being released on the Release

1 Effective Date as described below.

2 42. “Released Parties” means: Defendant and all of Defendant’s former and present  
3 officers, directors, subsidiaries, affiliates, shareholders, members, agents, attorneys, insurers,  
4 predecessors, successors, owners, and assigns.

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

7 44. “Response Deadline” means forty-five (45) days after the Administrator mails Class  
8 Notice to Class Members and Aggrieved Employees and shall be the last date on which Class  
9 Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the  
10 Settlement, or (b) fax, email, or mail his or her objection to the Settlement. Class Members to whom  
11 Class Notice is resent after having been returned undeliverable to the Administrator shall have an  
12 additional 14 calendar days beyond when the Response Deadline has expired to provide an  
13 appropriate response.

14 45. “Settlement” means the disposition of the Action effected by this Agreement and the  
15 Judgment.

16 46. “Workweek” means any week during which a Class Member worked for Defendant  
17 for at least a portion of one day, during the Class Period.

18 **B. RECITALS.**

19 47. On June 06, 2024, Plaintiff commenced the Action by filing a complaint alleging  
20 causes of action against Defendant for (1) Failure to Pay Minimum Wages; (2) Failure to Pay  
21 Overtime Wages; (3) Meal Period Liability; (4) Rest Break Liability; (5) Violation of Labor Code  
22 Sections 226(a) and 226.2; (6) Violation of Labor Code Section 221; (7) Violation of Labor Code  
23 Section 204; (8) Violation of Labor Code 203; (9) Failure to Maintain Records Required Under  
24 Labor Code Sections 1174 and 1174.5; (10) Failure to Produce Requested Employment records  
25 under Labor Code sections 226 and 1198.5; (11) Failure to Reimburse Necessary business expenses;  
26 (12) Violation of Business & Professions Code Sections 17200, *et seq.* On June 06, 2024, and  
27 pursuant to Labor Code §2699.3, subd.(a), Plaintiff gave timely notice to the LWDA and Defendant  
28 that Plaintiff intended to proceed with a representative action under PAGA (LWDA-CM-1032505-

1 24). On August 12, 2024, after the 65-day statutory period passed, Plaintiff filed his First Amended  
2 Complaint (Operative Complaint), which added claims for penalties under PAGA, Labor Code  
3 §2698.

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

7 49. On December 10, 2024, the Parties participated in a mediation presided over by  
8 respected wage and hour mediator Darren Cohen and were able to reach an agreement on general  
9 settlement terms.

10 50. In advance of mediation, Class Counsel conducted a thorough investigation into the  
11 facts of, and applicable law to, the Action. Plaintiff's counsel provided Defendant's counsel with a  
12 comprehensive listing of informal discovery items required to constructively mediate. Defendant  
13 responded by producing 100% sampling of 2020 and 2021 time and payroll records; 50 percent of  
14 2022 time and payroll records, and 100 percent of time and 33 percent of payroll of 2024; and 2022  
15 Handbook acknowledgment and the 2022 Team Member Handbook, the California Meal and Rest  
16 Break Policy from 2019, and the Defendant's Fleet Handbook. Defendant's counsel also provided  
17 summary numbers drawn from the data for employees and workweeks and the like. Prior to  
18 mediation, Plaintiff therefore obtained and analyzed the production of payroll data for Class  
19 Members and the necessary policy documents through informal discovery to properly evaluate the  
20 strengths and weaknesses of the claims and engage in meaningful settlement discussions. Plaintiff's  
21 investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker*  
22 *Retail, Inc.*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168  
23 Cal.App.4th 116, 129-130 (2008) ("*Dunk/Kullar*").

24 51. The Court has not granted class certification and the parties are stipulating to  
25 conditional class certification for Settlement purposes only.

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

1                   **C.     MONETARY TERMS.**

2                   53.   Gross Settlement Amount. Defendant will pay \$315,000.00 (Three Hundred Fifteen  
3 Thousand Dollars with Zero Cents) to fully settle, resolve, and extinguish all claims asserted in the  
4 Action, including without limitation all claims asserted in the PAGA Notice. The Gross Settlement  
5 Amount is non-reversionary and does not include employer payroll taxes owed on the Wage Portion  
6 of the Individual Class Payments, which Defendant will pay separately.

7                   54.   Schedule for Payment of the Gross Settlement Amount: Defendants shall fully fund  
8 the Gross Settlement Amount and also fund the amounts necessary to fully pay Defendants' share  
9 of payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) calendar  
10 days after the Effective Date. This is a non-reversionary Settlement in which Defendants are required  
11 to pay the entire Gross Settlement Amount. No portion of the Gross Settlement Amount will revert  
12 to Defendants. Defendants are separately and solely responsible for any employer payroll taxes owed  
13 as a result of this Settlement Agreement. Within fourteen (14) calendar days of the Effective Date,  
14 Defendants will deposit money, in an amount equal to the Gross Settlement Amount, to pay (1) the  
15 Settlement Class per the terms of the final settlement agreement, and (2) court-approved Class  
16 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Costs, and  
17 Class Representative Enhancement Award, and (3) PAGA penalties to be paid to the LWDA and to  
18 the Aggrieved Employees into a Qualified Settlement Fund established by the Settlement  
19 Administrator.

20                  55.   Cure Period, Interest Clause: If Defendant fails to make any payment of the Gross  
21 Settlement Amount by the deadlines set forth in Paragraph 54 and pursuant to the Administrator's  
22 payment timeline, and such failure continues for more than thirty (30) days after written notice from  
23 the Administrator of such failure, then the unpaid portion of the Gross Settlement Amount due will  
24 incur interest at the statutory rate for a judgment for wage under California law. Any such interest  
25 accrued will be distributed pro rata to the Participating Class Members or otherwise as the Court  
26 directs. Defendants shall have no power over transferred funds, or to alter the schedule set forth in  
27 Paragraph 54 of this Agreement, absent court order. Any dispute between the Parties as to the  
28 meaning and/or application of Paragraph 54 will be submitted to the Court. No interest will accrue

1 during the time that any Paragraph 54 issue is submitted to and is before the Court.  
2

3         56. Payments from the Gross Settlement Amount. Subject to the terms and conditions of  
4 this Agreement, the Administrator will make and deduct the following payments from the Gross  
5 Settlement Amount in the amounts specified by the Court in the Final Approval:

6         56.1 To Plaintiff: A payment for the Class Representative Enhancement Award to the Class  
7 Representative, Thomas G. Nappo, of not more than \$10,000.00 (Ten Thousand Dollars) in addition  
8 to any Individual Class Payment and any Individual PAGA Payment the Class Representative is  
9 entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiff's request for  
10 a Class Representative Enhancement Award that does not exceed this amount. As part of the motion  
11 for the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will  
12 seek Court approval for any Class Representative Enhancement Award. If the Court approves a Class  
13 Representative Enhancement Award less than the amount requested, the Administrator will retain  
14 the remainder in the Net Settlement Amount to be distributed to Participating Class Members. The  
15 Administrator will pay the Class Representative Enhancement Award using IRS Form 1099.  
16 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class  
17 Representative Enhancement Award.

18         56.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the  
19 Gross Settlement Amount, that is up to \$105,000.00, and a Class Counsel Litigation Expenses  
20 Payment for actual costs, not to exceed \$20,000.00. Defendant will not oppose requests for these  
21 payments. Plaintiff and/or Class Counsel will file a motion requesting Class Counsel Fees Payment  
22 and Class Counsel Litigation Expenses Payment no later than 16 (sixteen) court days prior to the  
23 Final Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class Counsel  
24 Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested,  
25 the Administrator will allocate the remainder to the Net Settlement Amount for distribution to  
26 Participating Class Members. Released Parties shall have no liability to Class Counsel or any other  
27 Plaintiff's counsel arising from any claim to any portion of Class Counsel Fees Payment and/or Class  
28 Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment

1 and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel  
2 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the  
3 Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies  
4 Defendant, from any dispute or controversy regarding any division or sharing of any of these  
5 payments.

6       56.3 To the Administrator: An Administration Costs payment not to exceed \$7,750.00  
7 except for a showing of good cause and as approved by the Court. To the extent the Administration  
8 Costs are less or the Court approves payment of less than \$7,750.00, the Administrator will retain  
9 the remainder in the Net Settlement Amount to be distributed to Participating Class Members.

10       56.4 To Each Participating Class Member: An Individual Class Payment is calculated by  
11 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all  
12 Participating Class Members during the Class Period, and (b) multiplying the result by each  
13 individual Participating Class Member's Workweeks.

14       56.4(a) Tax Allocation of Individual Class Payments. 20% of each Participating Class  
15 Member's Individual Class Payment will be allocated to wage claims (the "Wage Portion"). The  
16 Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each  
17 Participating Class Member's Individual Class Payment will be allocated to interest and penalties  
18 (the "Non-Wage Portion"). The Non-Wage Portion is not subject to wage withholdings and will be  
19 reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability  
20 for any employee taxes owed on their Individual Class Payment.

21       56.4(b) Effect of Non-Participating Class Members on Calculation of Individual Class  
22 Payments. Non-Participating Class Members will not receive any Individual Class Payments. The  
23 Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement  
24 Amount for distribution to Participating Class Members on a pro-rata basis.

25       56.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of  
26 \$30,000.00 (Thirty Thousand Dollars) will be paid from the Gross Settlement Amount, with 75%  
27 (\$22,500.00) allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the  
28 Individual PAGA Payments. Aggrieved Employees cannot request exclusion.

1           56.5(a) The Administrator will calculate each Individual PAGA Payment by (a) dividing  
2 the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$7,500.00 by the total  
3 number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period, and  
4 (b) multiplying the result by each individual Aggrieved Employee's PAGA Pay Periods. Aggrieved  
5 Employees assume full responsibility and liability for any taxes owed on their Individual PAGA  
6 Payment.

7           56.5(b) If the Court approves PAGA Penalties of less than the amount requested, the  
8 Administrator will allocate the remainder to the Net Settlement Amount to be distributed to  
9 Participating Class Members. The Administrator will report the Individual PAGA Payments on IRS  
10 1099 Forms.

11           **D. SETTLEMENT FUNDING AND PAYMENTS.**

12           57. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on data  
13 gathered through mediation, it is estimated that 327 Class Members collectively worked a total of  
14 **15,000** Workweeks from February 19, 2021 through December 31, 2024, and 97 Aggrieved  
15 Employees who worked a total of 3,000 PAGA Pay Periods from June 6, 2023 through December  
16 31, 2024.

17           58. Class Data. Not later than fourteen (14) calendar days after the date on which the Court  
18 enters an order granting preliminary approval of the Settlement, Defendant will deliver the Class  
19 Data to the Administrator, in the form of a Microsoft Excel spreadsheet containing the following  
20 information for each Class Member: (1) full name; (2) last known mailing address; (3) last known  
21 telephone number; (4) social security number; (5) start and end dates of active employment as a non-  
22 exempt employee of Defendants in the State of California; (6) total Class Workweeks during the  
23 Class Period; (7) total Pay Periods during the PAGA Period; and (8) any other information required  
24 by the Settlement Administrator in order to effectuate the terms of the Settlement ("Class Data"). To  
25 protect Class Members' privacy rights, the Administrator must maintain the Class Data in  
26 confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and  
27 restrict access to the Class Data to Administrator employees who need access to the Class Data to  
28 effect and perform under this Agreement. Defendant has a continuing duty to immediately notify

1 Class Counsel if it discovers that the Class Data omitted Class Member identifying information and  
2 to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of  
3 the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their  
4 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any  
5 issues related to missing or omitted Class Data.

6 59. Payments from the Gross Settlement Amount. The monies to be distributed to  
7 Participating Class Members (i.e. the Net Settlement Amount) and Aggrieved Employees shall be  
8 paid to them by the Administrator within 10 (ten) days following the receipt of the Gross Settlement  
9 Amount by the Settlement Administrator from Defendants.

10 60. The Administrator will issue checks for the Individual Class Payments and/or  
11 Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail. The face  
12 of each check shall prominently state the date (180 days after the date of mailing) when the check  
13 will be voided (“Void Date”). The Administrator will cancel all checks not cashed by the Void Date.  
14 The Administrator will send checks for Individual Settlement Payments to all Participating Class  
15 Members (including those for whom the Class Notice was returned undelivered). The Administrator  
16 will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-  
17 Participating Class Members who qualify as Aggrieved Employees (including those for whom Class  
18 Notice was returned undelivered). Before mailing any checks, the Administrator must update the  
19 recipients’ mailing addresses using the National Change of Address Database.

20 61. The Administrator must conduct a Class Member Address Search for all Class  
21 Members whose checks are returned undelivered without a USPS forwarding address. Within seven  
22 (7) days of receiving a returned check, the Administrator must re-mail checks to the USPS  
23 forwarding address provided or to an address ascertained through the Class Member Address Search.  
24 The Administrator need not take further steps to deliver checks to Class Members whose re-mailed  
25 checks are returned as undelivered. The Administrator shall promptly send a replacement check to  
26 any Class Member whose original check was lost or misplaced, requested by the Class Member prior  
27 to the void date.

28 62. For any Class Member whose Individual Class Payment check or Individual PAGA

1 Payment check is uncashed and canceled after the Void Date, the Administrator shall transmit the  
2 funds represented by such checks to the California Controller's Unclaimed Property Fund in the  
3 name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of  
4 California Code of Civil Procedure Section 384, subd. (b).

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

8 **E. RELEASES OF CLAIMS.** On the Release Effective Date, Plaintiff, Class Members,  
9 Aggrieved Employees, and Class Counsel will release claims against all Released Parties as follows:

10 64. Plaintiff's Release. Plaintiff and his respective former and present spouses,  
11 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, releases  
12 and discharges Released Parties from all claims, transactions, or occurrences, that occurred during  
13 the Class Period, including all claims that were, or reasonably could have been, alleged, based on  
14 the facts contained in the Operative Complaint and Plaintiff's PAGA Notice ("Plaintiff's Release").  
15 Plaintiff's Release does not extend to any claims under the Fair Employment and Housing Act,  
16 California Family Rights Act, wrongful termination in violation of public policy, or related claims.  
17 Plaintiff's Release also does not extend to any claims or actions to enforce this Agreement, or to any  
18 claims for vested benefits, unemployment benefits, disability benefits, social security benefits,  
19 workers' compensation benefits that arose at any time, or based on occurrences outside the Class  
20 Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition  
21 to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that  
22 Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or  
23 additional facts or Plaintiff's discovery of them.

24 65. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes  
25 of Plaintiff's Release and excluding Plaintiff's Individual Matter, Plaintiff expressly waives and  
26 relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,  
27 which reads:

28 *A general release does not extend to claims that the creditor or releasing party does*

1            *not know or suspect to exist in his or her favor at the time of executing the release, and that*  
2            *if known by him or her would have materially affected his or her settlement with the debtor*  
3            *or Released Party.*

4            66. Release by Participating Class Members: All Participating Class Members, on behalf  
5 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
6 administrators, successors, and assigns, release the Released Parties from those claims arising out of  
7 or related to the allegations set forth in the Operative Complaint that arose during the Class Period,  
8 including all statutes on which those claims are based in the Operative Complaint, including claims  
9 for: failure to pay for all hours worked/compensation due for services, wages, minimum wages,  
10 overtime, premium payments, meal periods, rest periods, pay reporting time pay; failure to provide  
11 payment of wages during employment and payment of wages at termination; failure to maintain and  
12 provide accurate and complete records; failure to reimburse for necessary business expenses; bonus  
13 pay, and any unpaid wages or compensation related to any or all of the foregoing, which are based  
14 on the facts alleged in the Action; restitution related to any or all of the foregoing, which are based  
15 on the facts alleged in the Action; and any penalties, including statutory or civil penalties, related to  
16 any or all of the foregoing. This release includes any and all claims pursuant to: California Labor  
17 Code §§ 90.5, 201, 202, 203, 204, 206.5, 210, 218.5, 221, 226, 226.2, 226.3, 226.7, 246, 248 *et. seq.*,  
18 248.1, 248.2, 248.5, 432.5, 510, 512, 551, 552, 558, 1174, 1174.5, 1185, 1194, 1194.1, 1194.2, 1197,  
19 1197.1, 1198, 1198.5, 1199, 1198.5, 1199 and 2802; the Fair Labor Standards Act; California  
20 Business & Professions Code § 17200 *et seq.*; California Code of Civil Procedure § 1021.5; and the  
21 California Industrial Welfare Commission Wage Orders MW-2014 (collectively, the “Released  
22 Class Claims”). The Released Class Claims apply to claims arising during the Class Period. Except  
23 as set forth in Paragraph 67 of this Agreement, Participating Class Members do not release any other  
24 claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment  
25 and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or  
26 claims based on facts occurring outside the Class Period.

27            67. Release by Aggrieved Employees: All Aggrieved Employees, including Non-  
28 Participating Class Members who are Aggrieved Employees, are deemed to release, on behalf of

1 themselves and their respective former and present representatives, agents, attorneys, heirs,  
2 administrators, successors, and assigns, the Released Parties from all claims for PAGA Penalties  
3 that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative  
4 Complaint, the PAGA Notice, including PAGA Penalties claims premised on: California Labor  
5 Code §§ § 201, 202, 203, 204, 210, 221, 226, 226.7, 227.3, 246, 248.1, 248.2, 248.5, 351, 354, 510,  
6 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2802, 2810.5, 2698,  
7 and 2699, *et seq.*; failure to pay for all hours worked/compensation due for services, wages,  
8 minimum wages, overtime, premium payments, meal periods, rest periods, pay reporting time pay;  
9 failure to provide payment of wages during employment and payment of wages at termination;  
10 failure to maintain and provide accurate and complete records; failure to reimburse for necessary  
11 business expenses; bonus pay, and any unpaid wages or compensation related to any or all of the  
12 foregoing, which are based on the facts alleged in the Action (“Released PAGA Claims”). The  
13 Released PAGA Claims apply to claims arising during the PAGA Period.

14 68. Release Effective Date: As of the Release Effective Date, as defined above, all  
15 Participating Class Members shall release all Released Class Claims as defined above in paragraph  
16 66. In addition, upon the Release Effective Date, all eligible Aggrieved Employees shall release all  
17 Released PAGA Claims as defined above in paragraph 67.

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

20 69. Defendant’s Statement of Non-Opposition in Support of Preliminary Approval.  
21 Defendant may file a statement of non-opposition in support of preliminary approval to be filed with  
22 or after the Motion for Preliminary Approval documents.

23  
24 70. Plaintiff’s Responsibilities. Plaintiff will prepare all documents necessary for obtaining  
25 Preliminary Approval, including: (i) a draft of the notice, memorandum in support, Motion for  
26 Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request  
27 for approval of the PAGA portion of the Settlement under Labor Code Section 2699, subd. (f)(2));  
28 (ii) a draft proposed Preliminary Approval order; (iii) a draft proposed Class Notice, (iv) a signed

1 declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement  
2 and attesting to its willingness to serve; competency; operative procedures for protecting the security  
3 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other  
4 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;  
5 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense  
6 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and  
7 disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or  
8 the Administrator; (vi) a signed declaration from Class Counsel firm attesting to its competency to  
9 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA  
10 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint  
11 (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2));  
12 and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or  
13 the Administrator. In their declarations, Plaintiff and Class Counsel shall aver that they are not aware  
14 of any other pending matter or action asserting claims that will be extinguished or adversely affected  
15 by the Settlement.

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

21 72. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for  
22 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense  
23 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by  
24 telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary  
25 Approval or conditions Preliminary Approval on any material change to this Agreement, Class  
26 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting  
27 in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the  
28 Court’s concerns.

1                    **G.     SETTLEMENT ADMINISTRATION.**

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

8                    74.     Employer Identification Number. The Administrator shall have and use its own  
9 employer identification number for purposes of calculating payroll tax withholdings and providing  
10 reports to state and federal tax authorities.

11                   75.     Qualified Settlement Fund. The Administrator shall establish a settlement fund that  
12 meets the requirements of a “Qualified Settlement Fund” (“QSF”) under US Treasury Regulation  
13 section 468B-1 for the funding of the Gross Settlement Amount. Any interest that accrues on the  
14 Gross Settlement Amount sums paid into the QSF prior to distribution by the Administrator will  
15 become part of the Net Settlement Amount for distribution to Participating Class Members. The QSF  
16 will be fully funded in one payment as addressed above.

17                   76.     Notice to Class Members.

18                   76.1 No later than five (5) calendar days after receipt of the Class Data, the Administrator  
19 shall notify Class Counsel that the list has been received and state the number of Class Members,  
20 Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.

21                   76.2 Using best efforts to perform as soon as possible, and in no event later than 14  
22 (fourteen) days after receiving the Class Data, the Administrator will send to all Class Members  
23 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class  
24 Notice with Spanish translation in the form attached to this Agreement as **Exhibit A**. The first page  
25 of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment  
26 and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and  
27 PAGA Pay Periods used to calculate these amounts. Before mailing Class Notice, the Administrator  
28 shall update Class Member addresses using the National Change of Address Database.

1           76.3 Not later than ten (10) calendar days after the Administrator’s receipt of any Class  
2 Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using  
3 any forwarding address provided by the USPS. If the USPS does not provide a forwarding address,  
4 the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to  
5 the most current address obtained. The Administrator has no obligation to make further attempts to  
6 locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second  
7 time.

8           76.4 The deadlines for Class Members’ written objections, challenges to Workweeks and/or  
9 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen days (14)  
10 days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members  
11 whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline  
12 with the re-mailed Class Notice.

13           76.5 If the Administrator, Defendant, or Class Counsel is contacted by or otherwise  
14 discovers any persons who believe they should have been included in the Class Data and should  
15 have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone,  
16 and in good faith in an effort to agree on whether to include them as Class Members. If the Parties  
17 agree, such persons will be Class Members entitled to the same rights as other Class Members, and  
18 the Administrator will send, via email or overnight delivery, a Class Notice requiring them to  
19 exercise options under this Agreement not later than 14 (fourteen) days after receipt of Class Notice,  
20 or the deadline dates in the Class Notice, whichever are later.

21           77. Requests for Exclusion (Opt-Outs).

22           77.1 Class Members who wish to exclude themselves (opt-out of) the Class portion of the  
23 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for  
24 Exclusion not later than 45 (forty-five) days after the Administrator mails the Class Notice (plus an  
25 additional 14 (fourteen) days for Class Members whose Class Notice is re-mailed). A Request for  
26 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates  
27 the Class Member’s election to be excluded from the Class portion of the Settlement and includes  
28 the Class Member’s name, address and email address or telephone number. To be valid, a Request

1 for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

2         77.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to  
3 contain all the information specified in the Class Notice. The Administrator shall accept any Request  
4 for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a  
5 Class Member and the Class Member's desire to be excluded. The Administrator's determination  
6 shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has  
7 reason to question the authenticity of a Request for Exclusion, the Administrator may demand  
8 additional proof of the Class Member's identity. The Administrator's determination of authenticity  
9 shall be final and not appealable or otherwise susceptible to challenge.

10         77.3 Every Class Member who does not submit a timely and valid Request for Exclusion is  
11 deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound  
12 by all terms and conditions of the Settlement, including the Participating Class Members' releases  
13 under Paragraphs 66 and 67 of this Agreement, regardless of whether the Participating Class  
14 Member actually receives the Class Notice or objects to the Settlement.

15         77.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-  
16 Participating Class Member and shall not receive an Individual Class Payment or have the right to  
17 object to the class action components of the Settlement. Because future PAGA claims are subject to  
18 claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved  
19 Employees are deemed to release the Released PAGA Claims identified in Paragraph 67 of this  
20 Agreement and are eligible for an Individual PAGA Payment.

21         78. Challenges to Calculation of Workweeks. Each Class Member shall have 45 (forty-  
22 five) days after the Administrator mails the Class Notice (plus an additional 14 (fourteen) days for  
23 Class Members whose Class Notice is re-mailed) to challenge the number of Workweeks and PAGA  
24 Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge  
25 the allocation by communicating with the Administrator via fax, email or mail. The Administrator  
26 must encourage the challenging Class Member to submit supporting documentation. In the absence  
27 of any contrary documentation, the Administrator is entitled to presume that the Workweeks and  
28 PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the

1 Class Data. The Administrator's determination of each Class Member's allocation of Workweeks  
2 and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge.  
3 The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks  
4 and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's  
5 determination of the challenges.

6 79. Objections to Settlement.

7 79.1 Only Participating Class Members may object to the class action components of the  
8 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or  
9 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment  
10 and/or Class Representative Enhancement Award.

11 79.2 Participating Class Members may send written objections to the Administrator, by fax,  
12 email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an  
13 attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A  
14 Participating Class Member who elects to send a written objection to the Administrator must do so  
15 not later than 45 (forty-five) days after the Administrator's mailing of the Class Notice (plus an  
16 additional 14 (fourteen) days for Class Members whose Class Notice was re-mailed).

17 79.3 Non-Participating Class Members have no right to object to any of the class action  
18 components of the Settlement.

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

21 80.1 Website, Email Address and Toll-Free Number. The Administrator will establish,  
22 maintain and use an internet website to post information of interest to Class Members including the  
23 date, time, and location for the Final Approval Hearing and copies of the Agreement, Motion for  
24 Preliminary Approval, Preliminary Approval, Class Notice, Motion for Final Approval, motion for  
25 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative  
26 Enhancement Award, the Final Approval, and the Judgment. The Administrator will also maintain  
27 and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes  
28 and emails.

1           80.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will  
2 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than  
3 five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the  
4 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and  
5 other identifying information of Class Members who have timely submitted valid Requests for  
6 Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members  
7 who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion  
8 submitted (whether valid or invalid).

9           80.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports  
10 to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices  
11 mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or  
12 invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received  
13 and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments  
14 (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity  
15 of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

16           80.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority  
17 to address and make final decisions consistent with the terms of this Agreement on all Class Member  
18 challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s  
19 decision shall be final and not appealable or otherwise susceptible to challenge.

20           80.5 Administrator’s Declaration. Not later than 14 (fourteen) days before the date by which  
21 Plaintiff is required to file the Motion for Final Approval, the Administrator will provide to Class  
22 Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due  
23 diligence and compliance with all of its obligations under this Agreement, including, but not limited  
24 to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class  
25 Notices, attempts to locate Class Members, the total number of Requests for Exclusion it received  
26 (both valid or invalid), the number of written objections and attach the Exclusion List. The  
27 Administrator will supplement its declaration as needed or requested by the Parties and/or the Court.  
28 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

1           80.6 Final Report by Settlement Administrator. Within 10 (ten) days after the Administrator  
2 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel  
3 and Defense Counsel with a final report detailing its disbursements by employee identification  
4 number only of all payments made under this Agreement. At least 15 (fifteen) days before any  
5 deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense  
6 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments  
7 required under this Agreement. Class Counsel is responsible for filing the Administrator's  
8 declaration in Court.

9           **F. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE**. Based on data gathered  
10 through the December 10, 2024, mediation, it is estimated that there are 327 Class Members who  
11 collectively worked a total of **15,000** Workweeks from February 19, 2021 through December 31,  
12 2024. If it is determined that the total number of Workweeks is greater than **16,500** as of Preliminary  
13 Approval (i.e. a 10% increase or more than 15,000 workweeks), the Gross Settlement Amount will  
14 be increased by the same number of percentage points above 10% by which the actual number of  
15 Workweeks exceeds **16,500**. Alternatively, Defendant may elect to shorten the Class Period to stay  
16 within the ten percent cushion, i.e., **16,500** Workweeks. If this provision is triggered so as to increase  
17 the Gross Settlement Amount, the Parties agree that the portion of the Gross Settlement Amount  
18 allocated to attorneys' fees will increase proportionally such that the total amount of attorneys' fees  
19 remains one third of the Gross Settlement Amount after the upward adjustment required by this  
20 provision is implemented.

21           **G. DEFENDANT'S RIGHT TO WITHDRAW**. If the number of valid Requests for  
22 Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class  
23 Members, Defendant may, but is not obligated, to elect to withdraw from the Settlement. The Parties  
24 agree that, if Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect  
25 whatsoever, and that neither Party will have any further obligation to perform under this Agreement;  
26 provided, however, Defendant will remain responsible for paying all Administration Costs incurred  
27 to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later  
28 than twenty (20) days after the Administrator sends the final Exclusion List to Defense Counsel; late

1 elections will have no effect.

2 **H. MOTION FOR FINAL APPROVAL.** Not later than 16 (sixteen) court days before  
3 the calendared Final Approval Hearing, unless otherwise scheduled by the Court, Plaintiff will file  
4 in Court, a Motion for Final Approval of the Settlement that includes a request for approval of the  
5 PAGA portion of the settlement under Labor Code section 2699, subd. (l); a proposed Final  
6 Approval; and a proposed Judgment (collectively “Motion for Final Approval”).

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

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

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

23  
24 84. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and  
25 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class  
26 Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective  
27 counsel, and all Participating Class Members who did not object to the Settlement as provided in  
28 this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment

1 and appellate proceedings, the right to file motions to vacate judgment, motions for new trial,  
2 extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to  
3 oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations  
4 to perform under this Agreement will be suspended until such time as the appeal is finally resolved  
5 and the Judgment becomes final.

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

16 **I. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil  
17 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended  
18 judgment.

19 **J. ADDITIONAL PROVISIONS.**

20 86. No Admission of Liability, Class Certification or Representative Manageability for  
21 Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.  
22 Nothing in this Agreement is intended or should be construed as an admission by Defendant that any  
23 of the allegations in the Operative Complaint has merit or that Defendant has any liability for any  
24 claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's  
25 defenses in the Action have merit. The Parties agree that class certification and representative  
26 treatment is for purposes of this Settlement only. If, for any reason, the Court does not grant  
27 Preliminary Approval, Final Approval, or enter Judgment, Defendant reserves the right to contest  
28 certification of any class for any reason, Defendant reserves all available defenses to the claims in

1 the Action, and Plaintiff reserves the right to move for class certification on any grounds available  
2 and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to  
3 settle the Action will have no bearing on, and will not be admissible in connection with, any litigation  
4 (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

1 inducements made to or by any Party.

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

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

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

18 93. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are  
19 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied  
20 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part  
21 10, as amended) or otherwise.

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

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

27 96. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
28 governed by and interpreted according to the internal laws of the State of California, without regard

1 to conflict of law principles.

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

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

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

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

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

17 To Plaintiff:

18 **D.LAW, INC.**  
19 David Yeremian  
20 [d.yeremian@d.law](mailto:d.yeremian@d.law)  
21 Alvin B. Lindsay  
22 [a.lindsay@d.law](mailto:a.lindsay@d.law)  
23 450 N. Brand Blvd., Suite 840  
24 Glendale, CA 91203  
25 Telephone: (818) 962-6465  
26 Facsimile: (818) 962-6469

27 To Defendant:

28 **FISHER PHILLIPS LLP**  
Lonnie D. Giamela (SBN 228435)  
[lgiamela@fisherphillips.com](mailto:lgiamela@fisherphillips.com)  
444 S. Flower Street, Suite 1500  
Los Angeles, California 90071  
Telephone: (213) 330-4454

102. Execution in Counterparts. This Agreement may be executed in one or more

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

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

10 104. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.  
11 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by  
12 Defendant in connection with the mediation, other settlement negotiations, or in connection with the  
13 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be  
14 used in any way that violates any existing contractual agreement, statute, or rule of court. Not later  
15 than 90 days after the date when the Court discharges the Administrator's obligation to provide a  
16 declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and  
17 electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of  
18 the Administrator's obligation, Defendant makes a written request to Class Counsel for the return,  
19 rather than the destructions, of Class Data.

20 105. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,  
21 the Parties request that the Court first attempt to construe the provisions valid to the fullest extent  
22 possible consistent with applicable precedents, so as to define all provisions of this Agreement valid  
23 and enforceable.

24 106. Severability. In the event that one or more of the provisions contained in this  
25 Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such  
26 invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense  
27 Counsel and Class Counsel, on behalf of the Parties, the Class Members, and the Aggrieved  
28

1 Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision  
2 had never been included in this Agreement.

3 **IT IS SO AGREED.**

4 By the Parties:

5  
6 DATED: 1/29/2026

Signed by:  
Thomas Nappo  
FE21C85FDF01418...  
Plaintiff Thomas G. Nappo

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10 DATED: \_\_\_\_\_

\_\_\_\_\_

Defendants FinishMaster, Inc

By: \_\_\_\_\_

Position: \_\_\_\_\_

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14 DATED: \_\_\_\_\_

\_\_\_\_\_

Defendants LKQ Auto Parts of Central California, Inc.

By: \_\_\_\_\_

Position: \_\_\_\_\_

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1 Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision  
2 had never been included in this Agreement.

3 **IT IS SO AGREED.**

4 By the Parties:

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6 DATED: \_\_\_\_\_


\_\_\_\_\_   
7 Plaintiff Thomas G. Nappo

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10 DATED: 1/28/2026

  
\_\_\_\_\_   
11 Defendants FinishMaster, Inc

12 By: Patrick Ferrell  
13 Position: VP Deputy General Counsel

14 DATED: 1/28/2026

  
\_\_\_\_\_   
15 Defendants LKQ Auto Parts of Central California, Inc.

16 By: Patrick Ferrell  
17 Position: VP Deputy General Counsel

1 Approved by counsel:

2 DATED: 1/29/2026

**D.LAW, INC.**

3  
4 By: 

David Yeremian

Alvin Lindsay

Enoch Kim

Marta Manus

Counsel for Plaintiff Thomas G. Nappo

7  
8 DATED: 1/28/2026

**FISHER PHILLIPS, LLP**

9  
10 By: 

Lonnie Giamela

Attorneys for Defendants, FinishMaster, Inc. and

LKQ Auto Parts of Central California, Inc.