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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF KERN**

12
13 GUSTAVO ESPINOZA SAUCEDO,
14 individually, and on behalf of all others similarly
15 situated, and on behalf of other aggrieved
16 employees pursuant to the California Private
17 Attorney General Act;

18 Plaintiff,

19 vs.

20 FRUGATTI'S, INC., a California corporation; and
21 DOES 1 through 10, inclusive,

22 Defendants

Case No.: BCV-24-102593

Assigned for All Purposes to:
Hon. Bernard C. Barmann, Jr.

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Complaint Filed: August 2, 2024
Trial Date: None Set

1 including the Class Member's name, last-known mailing address, Social Security number,
2 and number of Class Period Workweeks and PAGA Pay Periods.

3 1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a
4 Participating Class Member or Non-Participating Class Member (including a Non-
5 Participating Class Member who qualifies as an Aggrieved Employee).

6 1.10. "Class Member Address Search" means the Administrator's investigation and search for
7 current Class Member mailing addresses using all reasonably available sources, methods
8 and means including, but not limited to, the National Change of Address database, skip
9 traces, and direct contact by the Administrator with Class Members.

10 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
11 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed
12 to Class Members in English and Spanish in the form, without material variation, attached
13 as **Exhibit A** and incorporated by reference into this Agreement.

14 1.12. "Class Period" means period of August 2, 2020 through December 15, 2025 or as modified
15 pursuant to Paragraph 8 of the Agreement, whichever is earliest.

16 1.13. "Class Representative" means the named Plaintiff Gustavo Espinoza Saucedo in the
17 operative complaint in the Action seeking Court approval to serve as a Class Representative
18 for settlement purposes only.

19 1.14. "Class Representative Service Payment" means the payment to the Class Representative for
20 initiating the Action and providing services in support of the Action.

21 1.15. "Court" means the Superior Court of California, County of Kern.

22 1.16. "Defendant" means Frugatti's, Inc.

23 1.17. "Defense Counsel" means LEBEAU THELEN LLP.

24 1.18. "Effective Date" means the date by when both of the following have occurred: (a) the Court
25 enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
26 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if
27 no Participating Class Member objects to the Settlement, the day the Court enters Judgment;
28 (b) if one or more Participating Class Members objects to the Settlement, the day after the

1 deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the
2 Judgment is filed, the day after the appellate court affirms the Judgment and issues a
3 remittitur.

4 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

5 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of
6 the Settlement.

7 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval
8 of the Settlement.

9 1.22. “Gross Settlement Amount” means **Six Hundred Thousand Dollars and Zero Cents**
10 **(\$600,000.00)** which is the total amount Defendant agrees to pay under the Settlement except
11 as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay
12 Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
13 Counsel Fees, Class Counsel Expenses, the Class Representative Service Payment and the
14 Administrator’s Expenses.

15 1.23. “Individual Class Payment” means a Participating Class Member’s pro rata share of the Net
16 Settlement Amount calculated according to the number of Workweeks worked during the
17 Class Period.

18 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 35% of the
19 PAGA Penalties calculated according to the number of PAGA Pay Periods worked during
20 the PAGA Period.

21 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

22 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
23 entitled to receive penalty payments, under Labor Code § 2699(i).

24 1.27. “LWDA PAGA Payment” means the 65% of the PAGA Penalties paid to the LWDA under
25 Labor Code § 2699(m).

26 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments
27 in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
28 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class

1 Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The
2 remainder is to be paid to Participating Class Members as Individual Class Payments.

3 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement
4 by sending the Administrator a valid and timely Request for Exclusion.

5 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
6 for Defendant for at least one day during the PAGA Period.

7 1.31. “PAGA Period” means the period from August 2, 2023 to December 15, 2025 or as modified
8 pursuant to Paragraph 8 of the Agreement, whichever is earliest.

9 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

10 1.33. “PAGA Notice” means Plaintiff’s August 2, 2024 letter to Defendant and the LWDA
11 providing notice pursuant to Labor Code § 2699.3(a).

12 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross
13 Settlement Amount, which will be \$50,000.00, allocated 35% to the Aggrieved Employees
14 (\$17,500.00) and the 65% to LWDA (\$32,500.00) in settlement of PAGA claims.

15 1.35. “Participating Class Member” means a Class Member who does not submit a valid and
16 timely Request for Exclusion from the Settlement.

17 1.36. “Plaintiff” means Gustavo Espinoza Saucedo, the named plaintiff in the Action.

18 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
19 Settlement.

20 1.38. “Released Class Claims” means the claims being released by all Participating Class
21 Members as described in Paragraph 5.2 below.

22 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3
23 below.

24 1.40. “Released Parties” means: Defendant Frugatti’s Inc., and Defendant’s respective agents,
25 officers, employees, directors, owners, subsidiaries, DBA’s, affiliates and parent companies.

26 1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be
27 excluded from the Class Settlement signed by the Class Member.

28 1.42. “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class

1 Members and Aggrieved Employees and shall be the last date on which Class Members
2 may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email,
3 or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are
4 resent after having been returned undeliverable to the Administrator shall have an additional
5 14 calendar days beyond the Response Deadline has expired to submit Requests for
6 Exclusion from the Settlement, Objections to the Settlement, or to dispute the Workweeks
7 allocated to them as a part of the Settlement.

8 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the
9 Judgment.

10 1.44. “Workweek” means any week during which a Class Member worked for Defendant for at
11 least one day, during the Class Period.

12 **2. RECITALS.**

13 2.1. On August 2, 2024, Plaintiff commenced this Action by filing a Complaint in Kern County
14 Superior Court alleging causes of action against Defendant for: (1) Violation of Labor Code §§ 204, 1194,
15 1194.2, 1197 (Failure to Pay Minimum Wages); (2) Violation of Labor Code §§ 1194, 1198 (Failure to Pay
16 Overtime Compensation); (3) Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods); (4)
17 Violation of Labor Code § 226.7, (Failure to Authorize and Permit Rest Breaks); (5) Violation of Labor
18 Code § 2802 (Failure to Indemnify Necessary Business Expenses); (6) Violation of Labor Code §§ 201-203
19 (Failure to Timely Pay Final Wages at Termination); and (7) Violation of Labor Code § 226 (Failure to
20 Provide Accurate Itemized Wage Statements; (8) Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair
21 Business Practices). On October 15, 2024, Plaintiff filed a First Amended Complaint adding a cause of action
22 for Civil Penalties Under PAGA [Cal. Lab. Code §§ 2699, et seq.]. The First Amended Complaint is the
23 operative complaint in the Action (the “Operative Complaint”). Defendant denies the allegations in the
24 Operative Complaint and in the PAGA Notice, denies any failure to comply with the laws identified in in
25 the Operative Complaint and/or the PAGA Notice, and denies any and all liability for the causes of action
26 alleged.

27 2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and
28 the LWDA by sending the PAGA Notice on August 2, 2024.

1 2.3. On October 15, 2025, the Parties participated in an all-day mediation presided over by Hon.
2 Howard R. Broadman (Ret.). At the mediation, the Parties were eventually able to subsequently reach an
3 agreement to settle the Action.

4 2.4. Prior to and following the mediation, Plaintiff obtained, through informal discovery,
5 documents, data, and information necessary to evaluate the claims in the Action, including an appropriate
6 sampling of pay and time records for the Class. Plaintiff's investigation was sufficient to satisfy the criteria
7 for Court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal. App. 4th 1794, 1801 (1996) and
8 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

9 2.5. The Court has not granted class certification.

10 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
11 other pending class action asserting claims that will be extinguished or affected by the Settlement.

12 **3. MONETARY TERMS.**

13 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant
14 promises to pay a maximum of **\$600,000.00** as the Gross Settlement Amount, and to separately pay any and
15 all employer-side payroll taxes owed on the Wage Portion of each Individual Class Payment. Defendant has
16 no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in
17 Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount
18 without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a
19 condition of payment. None of the Gross Settlement Amount will revert to Defendant.

20 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
21 following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final
22 Approval:

23 3.2.1. To Plaintiff: Class Representative Service Payments to the Class Representative of not more
24 than \$7,500.00, in addition to any Individual Class Payment and any Individual PAGA Payment the
25 Class Representative is entitled to receive as a Participating Class Member. Defendant will not
26 oppose Plaintiff's request for a Class Representative Service Payments that do not exceed this
27 amount. Plaintiff will seek Court approval for any Class Representative Service Payments in the
28 Final Approval Motion. If the Court approves Class Representative Service Payments less than the

1 amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The
2 Administrator will pay the Class Representative Service Payment using the appropriate IRS Form
3 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
4 Representative Service Payments and agrees to indemnify Defendant and hold it harmless for any
5 responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential
6 damages arising from Plaintiff's obligations to pay taxes owed on the Class Representative Service
7 Payment.

8 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross
9 Settlement Amount and Class Counsel Litigation Expenses Payment of not more than \$26,000.00.
10 Defendant will not oppose requests for these payments. Plaintiff will seek Court approval for the
11 Class Counsel Fees Payment and the Class Litigation Expenses Payment in the Final Approval
12 Motion. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
13 Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to
14 the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other
15 Plaintiff's Counsel arising from any claim as to any portion of the Class Counsel Fee Payment and/or
16 Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees
17 Payment and Class Counsel Expenses Payment using one or more appropriate IRS-1099 Forms.
18 Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees
19 Payment and the Class Counsel Litigation Expenses Payment and agrees to indemnify Defendant
20 and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest
21 or any other actual or potential damages arising from Plaintiff's obligations to pay taxes owed on
22 these Payments or from any dispute or controversy regarding any division or sharing of any of these
23 Payments.

24 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,950.00 except
25 upon a showing of good cause and as approved by the Court. To the extent the Administration
26 Expenses are less than, or the Court approves payment less than this amount, the Administrator will
27 retain the remainder in the Net Settlement Amount. Apex Class Action Administration has been
28 selected as the Administrator, based upon its "not to exceed" bid of \$8,950.00.

1 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a)
2 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
3 Class Members during the Class Period and (b) multiplying the result by each Participating Class
4 Member's Workweeks.

5 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
6 Class Member's Individual Class Payment will be allocated to settlement of
7 wage claims (the "Wage Portion"). The Wage Portion of each Individual
8 Class Payment is subject to tax withholding and will be reported on an IRS
9 W-2 Form. The remaining 80% of each Participating Class Member's
10 Individual Class Payment will be allocated to settlement of claims for
11 interest and penalties (the "Non-Wage Portion"). The Non-Wage Portion of
12 each Individual Class Payment is not subject to wage withholdings and will
13 be reported on IRS 1099 Forms. Participating Class Members assume full
14 responsibility and liability for any taxes owed on their Individual Class
15 Payments and agree to indemnify Defendant and hold it harmless for any
16 responsibility, liability, claim, complaint, damages, penalties, interest or any
17 other actual or potential damages arising from Participating Class Members'
18 obligations to pay taxes owed on these Payments.

19 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
20 Class Payments. Non-Participating Class Members will not receive any
21 Individual Class Payments. The Administrator will retain amounts equal to
22 their Individual Class Payments in the Net Settlement Amount for
23 distribution to Participating Class Members on a pro rata basis.

24 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000.00 to
25 be paid from the Gross Settlement Amount, with 65% (\$32,500.00) allocated to the LWDA PAGA
26 Payment and 35% (\$17,500.00) allocated to Individual PAGA Payments.

27 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
28 dividing the amount of the Aggrieved Employees' 25% share of PAGA

1 Penalties (\$17,500.00) by the total number of PAGA Period Pay Periods
2 worked by all Aggrieved Employees during the PAGA Period and (b)
3 multiplying the result by each Aggrieved Employee's PAGA Period Pay
4 Periods. Aggrieved Employees assume full responsibility and liability for
5 any taxes owed on their Individual PAGA Payments and agree to indemnify
6 Defendant and hold it harmless for any responsibility, liability, claim,
7 complaint, damages, penalties, interest or any other actual or potential
8 damages arising from Participating Class Members' obligations to pay taxes
9 owed on these Payments.

10 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the
11 Administrator will allocate the remainder to the Net Settlement Amount. The
12 Administrator will report the Individual PAGA Payments on the appropriate
13 IRS 1099 Forms.

14 **4. SETTLEMENT FUNDING AND PAYMENTS.**

15 4.1. Class Workweeks and Aggrieved Employee Pay Periods. This Settlement is made based on
16 the estimate that number of Workweeks worked by the estimated 320 class members during the Class Period
17 is estimated to be 22,653 and the number of pay periods worked by the estimated 246 Aggrieved Employees
18 is 6,745.

19 4.2. Class Data. Not later than fourteen (14) days after the Court grants Preliminary Approval of
20 the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel
21 spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in
22 confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict
23 access to the Class Data to Administrator employees who need access to the Class Data to effect and perform
24 required tasks under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel
25 if it discovers that the Class Data omitted class member identifying information and to provide corrected or
26 updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which
27 Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously
28 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted

1 Class Data.

2 4.3. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount,
3 and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as to the Wage Portion
4 of the Gross Settlement Amount by transmitting the funds in two separate and equal installments: one-half
5 (1/2) of the Gross Settlement Amount within fifteen (15) days of the Effective Date (Installment 1), and a
6 second payment due not later than six months following the date on which Installment 1 is deposited with
7 the Administrator (Installment 2).

8 4.4. Payments from the Gross Settlement Amount. Within thirty (30) days after each date on
9 which Defendant funds the settlement as provided for in Paragraph 4.3, the Administrator will mail checks
10 for all Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the
11 Administration Expenses Payment, Class Counsel Fees Payment, the Class Counsel Litigation Expenses
12 Payment, and the Class Representative Service Payment. However, disbursement of the LWDA PAGA
13 Payment, the Administration Expenses Payment, Class Counsel Fees Payment, the Class Counsel Litigation
14 Expenses Payment, and the Class Representative Service Payment shall not precede disbursement of
15 Individual Class Payments and Individual PAGA Payments such that the Individual Class Payments and
16 Individual PAGA Payments must be fully disbursed prior to the issuance of the other approved Payments.

17 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
18 Individual PAGA Payments and send them to the Class Members via First Class
19 U.S. Mail, postage prepaid. The face of each check shall prominently state the date
20 when the check will be voided, which date shall be one hundred eighty (180) days
21 after the date of mailing. The Administrator will cancel all checks not cashed by the
22 void date. The Administrator will send checks for Individual Settlement Payments
23 to all Participating Class Members (including those for whom Class Notice was
24 returned undelivered). The Administrator will send checks for Individual PAGA
25 Payments to all Aggrieved Employees including Non-Participating Class Members
26 who qualify as Aggrieved Employees (including those for whom Class Notice was
27 returned undelivered). The Administrator may send Participating Class Members a
28 single check combining the Individual Class Payment and the Individual PAGA

1 Payment. Before mailing any checks, the Settlement Administrator must update the
2 recipients' mailing addresses using the National Change of Address Database.

3 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class
4 Members whose checks are returned undelivered without USPS forwarding address.
5 Within seven (7) days of receiving a returned check the Administrator must re-mail
6 checks to the USPS forwarding address provided or to an address ascertained
7 through the Class Member Address Search. The Administrator need not take further
8 steps to deliver checks to Class Members whose re-mailed checks are returned as
9 undelivered. The Administrator shall promptly send a replacement check to any
10 Class Member whose original check was lost or misplaced, requested by the Class
11 Member prior to the void date.

12 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA
13 Payment check is uncashed and cancelled after the void date, the Administrator shall
14 transmit the funds represented by such checks to the California Controller's
15 Unclaimed Property Fund in the name of the Class Member thereby leaving no
16 "unpaid residue" subject to the requirements of California Code of Civil Procedure
17 § 384(b).

18 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
19 not obligate Defendant to confer any additional benefits or make any additional
20 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
21 specified in this Agreement.

22 **5. RELEASES OF CLAIMS.**

23 As of the Effective Date of this Settlement, Plaintiff and the Participating Class Members will release
24 claims against all Released Parties as follows:

25 5.1. Plaintiff's Release.

26 5.1.1. Scope of Plaintiff's Release. Plaintiff and his respective former and present spouses,
27 representatives, agents, attorneys, heirs, administrators, successors, and assigns
28 generally, release and discharge Released Parties from any and all of the claims,

1 whether known or unknown, suspected or unsuspected, contingent or non-
2 contingent, which now exist, or have existed, upon any theory of law or equity now
3 existing, including, but not limited to, conduct that is negligent, intentional, with or
4 without malice, or a breach of any duty, law or rule, without regard to the subsequent
5 discovery or existence of such different or additional facts. Additionally, Plaintiff
6 releases the Released Parties of all claims, charges, complaints, liens, demands,
7 causes of action, obligations, damages and liabilities, known or suspected, arising
8 from their employment with the Defendant. The released claims include, without
9 limitation: claims under (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C.
10 § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the
11 Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair
12 Labor Standards Act (including the Equal Pay Act); (7) the California and the United
13 States Constitution; (8) the California Labor Code; (9) the Family and Medical
14 Leave Act; (10) the California Family Rights Act; (11) the Worker Adjustment and
15 Retraining Notification Act; (12) the Employee Retirement Income Security Act;
16 (13) the Immigration Reform and Control Act; (14) the California Business and
17 Professions Code, sections 17200, et seq.; (15) the California Government Code; and
18 (16) the California Wage Orders (collectively “Claim” or “Claims”) which Plaintiff
19 now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any
20 time had, owned or held, or claimed to have, own or hold against any of the Released
21 Parties up to and including, as of the final approval of this Settlement Agreement.
22 (Everything released based on the above as well as everything released as part of the
23 Released Class Claims discussed below will be referred to as “Plaintiff’s Release.”)
24 Plaintiff’s Release does not extend to any claims for vested benefits, unemployment
25 benefits, disability benefits, social security benefits, workers’ compensation benefits
26 that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or
27 law different from, or in addition to, the facts or law that Plaintiff now knows or
28 believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and

1 remain effective in all respects, notwithstanding such different or additional facts or
2 Plaintiff's discovery of them.

3 5.1.2. Release of PAGA Claims: Upon approval by the Court and upon funding of the
4 Gross Settlement Amount, Plaintiff, as agent and proxy of the LWDA, will release
5 the Released Parties from any and all claims for civil penalties under the California
6 Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section
7 2698, et seq., against the Released Parties for work performed during the PAGA
8 Period and based on or arising out of the alleged violations of the Labor Code
9 sections alleged in Plaintiff's August 2, 2024 letter to the LWDA and the Action, or
10 which could have been alleged under the facts plead in Plaintiff's letter to the LWDA
11 or the Action.

12 5.1.3. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of
13 Plaintiff's Release, Plaintiff expressly waives and relinquish the provisions, rights,
14 and benefits, if any, of Section 1542 of the California Civil Code, which reads:

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

18 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
19 themselves and their respective former and present representatives, agents, attorneys, heirs, administrators,
20 successors, and assigns, release the Released Parties from all claims that occurred during the Class Period
21 and were alleged, or reasonably could have been alleged, based on the facts stated in the Operative
22 Complaint ("Released Class Claims") for unpaid overtime, meal period premiums, rest period premiums,
23 unpaid minimum wage, untimely payment of final wages, failure to timely pay wages during employment,
24 non-compliant wage statements, failure to keep requisite payroll records, waiting time penalties,
25 unreimbursed business expenses, and violation of Business and Professions Code §§ 17200, et seq.
26 Participating Class Members do not release any other claims, including claims for vested benefits, wrongful
27 termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social
28 security, workers' compensation, or claims based on facts occurring outside the Class Period.

1 **6. MOTION FOR PRELIMINARY APPROVAL.**

2 Plaintiff shall prepare and file a motion for preliminary approval (“Motion for Preliminary
3 Approval”) that complies with the Court’s current checklist for Preliminary Approval.

4 6.1. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all
5 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
6 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement
7 under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699(f)(2)); (ii)
8 a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft
9 proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for
10 administering the Settlement and attesting to its willingness to serve; competency; operative procedures for
11 protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of
12 funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class
13 Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
14 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and
15 disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the
16 Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent
17 the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice
18 of violations (Labor Code § 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this Agreement
19 (Labor Code § 2699(l)(2)) and (vi) all facts relevant to any actual or potential conflict of interest with Class
20 Members, the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not
21 aware of any other pending matter or action asserting claims that will be extinguished or adversely affected
22 by the Settlement.

23 6.2. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and
24 filing the Motion for Preliminary Approval after the full execution of this Agreement; obtaining a prompt
25 hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the
26 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary
27 Approval to the Administrator.

28 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for

1 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense
2 Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and
3 in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions
4 Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will
5 expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith,
6 to modify the Agreement and otherwise satisfy the Court's concerns.

7 **7. SETTLEMENT ADMINISTRATION.**

8 7.1. Selection of Administrator. The Parties have jointly selected Apex Class Action
9 Administration ("Apex") to serve as the Administrator and verified that, as a condition of appointment, Apex
10 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement
11 in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they
12 have no interest or relationship, financial or otherwise, with the Administrator other than a professional
13 relationship arising out of prior experiences administering settlements.

14 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
15 Identification Number for purposes of calculating payroll tax withholdings and providing reports state and
16 federal tax authorities.

17 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
18 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation § 468B-1.

19 7.4. Notice to Class Members.

20 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator
21 shall notify Class Counsel that the list has been received and state the number of
22 Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class
23 Data.

24 7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen
25 (14) days after receiving the Class Data, the Administrator will send to all Class
26 Members identified in the Class Data, via first-class United States Postal Service
27 ("USPS") mail, the Class Notice (with Spanish translation) substantially in the form
28 attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall

1 prominently estimate the dollar amounts of any Individual Class Payment and/or
2 Individual PAGA Payment payable to the Class Member, and the number of
3 Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing
4 Class Notices, the Administrator shall update Class Member addresses using the
5 National Change of Address database.

6 7.4.3. Not later than three (3) business days after the Administrator's receipt of any Class
7 Notice returned by the USPS as undelivered, the Administrator shall re-mail the
8 Class Notice using any forwarding address provided by the USPS. If the USPS does
9 not provide a forwarding address, the Administrator shall conduct a Class Member
10 Address Search, and re-mail the Class Notice to the most current address obtained.
11 The Administrator has no obligation to make further attempts to locate or send Class
12 Notice to Class Members whose Class Notice is returned by the USPS a second time.

13 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
14 and/or Pay Periods, and Requests for Exclusion will be extended an additional
15 fourteen (14) days beyond the sixty (60) days otherwise provided in the Class Notice
16 for all Class Members whose notice is re-mailed. The Administrator will inform the
17 Class Member of the extended deadline with the re-mailed Class Notice.

18 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
19 discovers any persons who believe they should have been included in the Class Data
20 and should have received Class Notice, the Parties will expeditiously meet and
21 confer in person or by telephone, and in good faith in an effort to agree on whether
22 to include them as Class Members. If the Parties agree, such persons will be Class
23 Members entitled to the same rights as other Class Members, and the Administrator
24 will send, via email or overnight delivery, a Class Notice requiring them to exercise
25 options under this Agreement not later than fourteen (14) days after receipt of Class
26 Notice, or the deadline dates in the Class Notice, which ever are later.

27 7.5. Requests for Exclusion (Opt-Outs).

28 7.5.1. Class Members who wish to exclude themselves from (opt-out of) the Class

1 Settlement must send the Administrator, by fax, email, or mail, a signed written
2 Request for Exclusion not later than sixty (60) days after the Administrator mails the
3 Class Notice or as otherwise extended for re-mailed Class Notices as described
4 herein. A Request for Exclusion is a letter from a Class Member or his/her
5 representative that reasonably communicates the Class Member's election to be
6 excluded from the Settlement and includes the Class Member's name, address and
7 email address or telephone number. To be valid, a Request for Exclusion must be
8 timely faxed, emailed, or postmarked by the Response Deadline, subject to extension
9 for remailed Class Notices as described herein.

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

19 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion
20 is deemed to be a Participating Class Member under this Agreement, entitled to all
21 benefits and bound by all terms and conditions of the Settlement, including the
22 Participating Class Members' Releases under Paragraphs 5.2 of this Agreement,
23 regardless whether the Participating Class Member actually receives the Class
24 Notice or objects to the Settlement.

25 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
26 Non-Participating Class Member and shall not receive an Individual Class Payment
27 or have the right to object to the class action components of the Settlement. Because
28 future PAGA claims are subject to claim preclusion upon entry of the Judgment,

1 Non-Participating Class Members are eligible for an Individual PAGA Payment.

2 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days
3 after the Administrator mails the Class Notice, or as otherwise extended for re-mailed Class
4 Notices as described herein, to challenge the number of Workweeks and PAGA Pay Periods
5 (if any) allocated to the Class Member in the Class Notice. The Class Member may
6 challenge the allocation by communicating with the Administrator via fax, email or mail.
7 The Administrator must encourage the challenging Class Member to submit supporting
8 documentation. In the absence of any contrary documentation, the Administrator is entitled
9 to presume that the Workweeks contained in the Class Notice are correct so long as they are
10 consistent with the Class Data. The Administrator's determination of each Class Member's
11 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
12 susceptible to challenge. The Administrator shall promptly provide copies of all challenges
13 to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and
14 the Administrator's determination the challenges.

15 7.7. Objections to Settlement.

16 7.7.1. Only Participating Class Members may object to the class action components of the
17 Settlement and/or this Agreement, including contesting the fairness of the
18 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
19 Counsel Litigation Expenses Payment and/or Class Representative Service
20 Payment.

21 7.7.2. Participating Class Members may send written objections to the Administrator, by
22 fax, email, or mail. In the alternative, Participating Class Members may appear in
23 Court (or hire an attorney to appear in Court) to present verbal objections at the Final
24 Approval Hearing. A Participating Class Member who elects to send a written
25 objection to the Administrator must do so not later than the Response Deadline, or
26 as otherwise extended for re-mailed Class Notices as described herein.

27 7.7.3. Non-Participating Class Members have no right to object to any of the class action
28 components of the Settlement.

1 7.7.4. Class Members (whether Participating or Non-Participating) and Aggrieved
2 Employees have no right to object to or intervene in any of the PAGA components
3 of the Settlement.

4 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
5 performed or observed by the Administrator contained in this Agreement or otherwise.

6 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will post
7 information of interest to Class Members including the date, time and location for
8 the Final Approval Hearing and copies of the Settlement Agreement, the Class
9 Notice, the Final Approval and the Judgment on the Administrator's website. The
10 Administrator will also maintain and monitor an email address and a toll-free
11 telephone number to receive Class Member calls, faxes and emails.

12 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
13 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
14 Not later than five (5) days after the expiration of the deadline for submitting
15 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
16 Defense Counsel containing (a) the names and other identifying information of Class
17 Members who have timely submitted valid Requests for Exclusion ("Exclusion
18 List"); (b) the names and other identifying information of Class Members who have
19 submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion
20 from Settlement submitted (whether valid or invalid).

21 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports
22 to Class Counsel and Defense Counsel that, among other things, tally the number of:
23 Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
24 Exclusion (whether valid or invalid) received, objections received, challenges to
25 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
26 Individual Class Payments and Individual PAGA Payments ("Weekly Report").
27 The Weekly Reports must include provide the Administrator's assessment of the
28 validity of Requests for Exclusion and attach copies of all Requests for Exclusion

1 and objections received.

2 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
3 address and make final decisions consistent with the terms of this Agreement on all
4 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
5 The Administrator's decision shall be final and not appealable or otherwise
6 susceptible to challenge.

7 7.8.5. Administrator's Declaration. Not later than fourteen (14) days before the date by
8 which Plaintiff is required to file the Motion for Final Approval of the Settlement,
9 the Administrator will provide to Class Counsel and Defense Counsel, a signed
10 declaration suitable for filing in Court attesting to its due diligence and compliance
11 with all of its obligations under this Agreement, including, but not limited to, its
12 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of
13 Class Notices, attempts to locate Class Members, the total number of Requests for
14 Exclusion from Settlement it received (both valid or invalid), the number of written
15 objections and attach the Exclusion List. The Administrator will supplement its
16 declaration as needed or requested by the Parties and/or the Court. Class Counsel is
17 responsible for filing the Administrator's declaration(s) in Court.

18 7.8.6. Final Report by Settlement Administrator. Within fourteen (14) days after the
19 Administrator disburses all funds in the Gross Settlement Amount, the Administrator
20 will provide Class Counsel and Defense Counsel with a final report detailing its
21 disbursements by employee identification number only of all payments made under
22 this Agreement. At least fourteen (14) days before any deadline set by the Court, the
23 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
24 signed declaration suitable for filing in Court attesting to its disbursement of all
25 payments required under this Agreement. Class Counsel is responsible for filing the
26 Administrator's declaration in Court.

27 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.**

28 Based on its records, Defendant estimates that the number of Workweeks during the Class Period is

1 estimated to be 22,653. The Parties have stipulated to a 10% escalation of the estimated Workweeks in the
2 final Workweeks' count at the end of the Class Period without any increase to the Gross Settlement Amount.
3 If the number of actual Workweeks during the Class Period exceeds this 10% cushion above the estimated
4 workweek total of 22,653 (i.e., exceeds 24,919 workweeks), Defendant may elect to either (1) purchase the
5 additional workweeks above the 10% cushion (i.e. the weeks above the 24,919 total) at a *pro rata* rate, or
6 (2) cut off the release period as of the date the 10% cushion is exhausted. If Defendant elects Option (1)
7 from the previous sentence, Defendant shall increase the Gross Settlement Amount by a *pro-rata* dollar
8 value equal to the number of Workweeks in excess of 24,919 workweeks. For example, if there is a 1%
9 increase over the 10% cushion, then the GSA increases by 1%. Defendant shall use its best efforts to inform
10 Class Counsel of whether the escalator clause has triggered and if so, which option it intends to select at
11 least three (3) days prior to the date on which a Motion for Preliminary Approval is due to be filed with the
12 Court. Final determination regarding the provisions of this Paragraph will be determined by the
13 Administrator; in the event the provisions of this paragraph are triggered, Defendant must inform Class
14 Counsel and the Administrator of its election to increase the Gross Settlement Amount or to modify the
15 Class Period no later than five (5) days prior to the date on which Class Notice is scheduled to be mailed to
16 Class Members pursuant to Paragraph 7.4.2.

17 **9. RIGHT TO WITHDRAW**

18 If 10% or more of the Settlement Class members elect not to participate in the Settlement by
19 submitting a valid Request for Exclusion, Defendant may, at its election, rescind the Settlement and all
20 actions taken in its furtherance of it will be thereby null and void. The Parties agree that, if Defendant elects
21 to withdraw pursuant to this Paragraph, the Settlement shall be void *ab initio*, have no force or effect
22 whatsoever, and neither Party will have any further obligation to perform under this Agreement; provided,
23 however, Defendant will be responsible for paying all Settlement Administration Expenses incurred to that
24 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 30
25 calendar days following the Response Deadline.

26 **10. MOTION FOR FINAL APPROVAL**

27 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will
28 file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA

1 settlement under Labor Code § 2699(s)(2), a Proposed Final Approval Order and a proposed Judgment
2 (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense
3 Counsel prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
4 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
5 concerning the Motion for Final Approval.

6 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a
7 Participating Class Member, including the right to file responsive documents in Court no
8 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
9 accepted by the Court.

10 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval
11 on any material change to the Settlement (including, but not limited to, the scope of release
12 to be granted by Class Members), the Parties will expeditiously work together in good faith
13 to address the Court’s concerns by revising the Agreement as necessary to obtain Final
14 Approval. The Parties agree that changes to the timing of payments or notice periods (not
15 including those in Paragraph 4.2), or to the contents of the Notice of Settlement, which are
16 requested by the Court do not necessitate an amendment or revision to this Agreement unless
17 such an Amendment is required by the Court.

18 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
19 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes
20 of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration
21 matters, and (iii) addressing such post-Judgment matters as are permitted by law.

22 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
23 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
24 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
25 their respective counsel, and all Participating Class Members who did not object to the
26 Settlement as provided in this Agreement, waive all rights to appeal from the Judgment,
27 including all rights to post-judgment and appellate proceedings, the right to file motions to
28 vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of

1 appeal does not include any waiver of the right to oppose such motions, writs or appeals. If
2 an objector appeals the Judgment, the Parties' obligations to perform under this Agreement
3 will be suspended until such time as the appeal is finally resolved and the Judgment becomes
4 final, except as to matters that do not affect the amount of the Net Settlement Amount.

5 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
6 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
7 material modification of this Agreement (including, but not limited to, the scope of release
8 to be granted by Class Members), this Agreement shall be null and void. The Parties shall
9 nevertheless expeditiously work together in good faith to address the appellate court's
10 concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any
11 additional Administration Expenses reasonably incurred after remittitur. An appellate
12 decision to vacate, reverse, or modify the Court's award of the Class Representative Service
13 Payment or any payments to Class Counsel shall not constitute a material modification of
14 the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount
15 remains unchanged.

16 **11. AMENDED JUDGMENT.**

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

19 **12. ADDITIONAL PROVISIONS.**

20 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other
21 Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in
22 this Agreement is intended or should be construed as an admission by Defendant that any of the allegations
23 in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should
24 it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit.
25 The Parties agree that class certification and representative treatment is for purposes of this Settlement only.
26 If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment,
27 Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all
28 available defenses to the claims in the Action, and Plaintiff reserve the right to move for class certification

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

5 12.2. Court Approval. In the event that the Court fails to approve the settlement notwithstanding
6 the good faith efforts of the Parties pursuant to Paragraph 12.7 of this Agreement, or if the appropriate
7 appellate court fails to approve the settlement, or if the Settlement Agreement is otherwise terminated: (1)
8 the Settlement Agreement shall have no force and effect and the Parties shall be restored to their respective
9 positions prior to entering into it, and no Party shall be bound by any of the terms of the Settlement
10 Agreement; (2) Defendant shall have no obligation to make any payments to the Settlement Class Members,
11 the Settlement Administrator, the LWDA, Plaintiff or Plaintiff's counsel; (3) any preliminary approval order,
12 final approval order or judgment, shall be vacated; and (4) the Settlement Agreement and all negotiations,
13 statements, proceedings and data relating thereto shall be deemed confidential mediation settlement
14 communications and not subject to disclosure for any purpose in any proceeding.

15 12.3. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
16 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they
17 and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to
18 disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or
19 generally, to any person, corporation, association, government agency, or other entity except: (1) to the
20 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement
21 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
22 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued
23 by a state or federal government agency. Each Party agrees to immediately notify each other Party of any
24 judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant,
25 and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
26 communication, before the filing of the Motion for Preliminary Approval, any with third party regarding
27 this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was
28 resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with

1 Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
2 Notwithstanding the foregoing, the settlement is not confidential, and Plaintiff and/or Plaintiff's Counsel
3 shall submit the settlement to the LWDA and the Court for purposes of obtaining preliminary and/or final
4 settlement approval.

5 12.4. No Solicitation. The Parties separately agree that they and their respective counsel and
6 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the
7 Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate
8 with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

9 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
10 together with its attached exhibits shall constitute the entire agreement between the Parties relating to the
11 Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or
12 by any Party.

13 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
14 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action
15 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
16 execute any other documents reasonably required to effectuate the terms of this Agreement including any
17 amendments to this Agreement.

18 12.7. Cooperation. The Parties and their counsel will cooperate with each other and use their best
19 efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement
20 Agreement, submitting supplemental evidence and supplementing points and authorities as requested by
21 the Court. In the event the Parties are unable to agree upon the form or content of any document necessary
22 to implement the Settlement, or on any modification of the Agreement that may become necessary to
23 implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

24 12.8. No Prior Assignments. The Parties separately represent and warrant that they have not
25 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
26 person or entity and portion of any liability, claim, demand, action, cause of action, or right released and
27 discharged by the Party in this Settlement.

28 12.9. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are

1 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as
2 such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended)
3 or otherwise.

4 12.10. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified,
5 changed, or waived only by an express written instrument signed by all Parties or their representatives, and
6 approved by the Court.

7 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
8 benefit of, the successors of each of the Parties.

9 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
10 governed by and interpreted according to the internal laws of the state of California, without regard to
11 conflict of law principles.

12 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this
13 Agreement. This Agreement will not be construed against any Party on the basis that the Party was the
14 drafter or participated in the drafting.

15 12.14. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
16 during Action and in this Agreement relating to the confidentiality of information shall survive the execution
17 of this Agreement.

18 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence
19 Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in
20 connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be
21 used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates
22 any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the
23 Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all
24 Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
25 Defendant.

26 12.16. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted
27 for convenience of reference only and does not constitute a part of this Agreement.

28 12.17. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be

1 to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal
2 legal holiday, such date or deadline shall be on the first business day thereafter.

3 12.18. Notice. All notices, demands or other communications between the Parties in connection
4 with this Agreement will be in writing and deemed to have been duly given as of the third business day after
5 mailing by United States mail, or the day sent by email or messenger, addressed as follows:

6 To Plaintiff:

7 Seung L. Yang
8 seung.yang@thesentinel.com
9 Tiffany Hyun
10 tiffany.hyun@thesentinel.com
11 Jeffrey P. Jackson
12 jeffrey.jackson@thesentinel.com
13 **THE SENTINEL FIRM, APC**
14 355 S Grand Ave. Suite 1450
15 Los Angeles, California 90071
16 Telephone: (213) 985-1150
17 Facsimile: (213) 985-2155

18 To Defendants:

19 LEBEAU THELEN, LLP
20 Daniel K. Klingenberger
21 dklingenberger@lebeauthelen.com
22 Matthew J. Dobbs
23 mdobbs@lebeauthelen.com
24 5001 East Commercenter Drive, Suite 300
25 Bakersfield, California 93389
26 Telephone: (661) 325-8962
27 Facsimile: (661) 325-1475

28 12.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts
by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted
as an original. All executed counterparts and each of them will be deemed to be one and the same instrument
if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart
will be admissible in evidence to prove the existence and contents of this Agreement.

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

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IT IS SO AGREED.

Plaintiff & Class Representative:

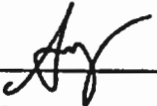
Dated: 01/09/2026

By: 
GUSTAVO ESPINOZA SAUCEDO

Plaintiff's Counsel:

Dated: 1/15/26

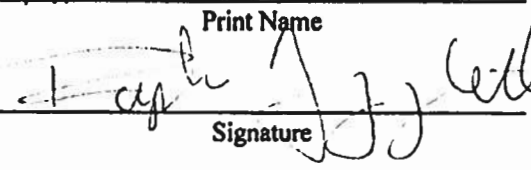
THE SENTINEL FIRM, APC

By: 
**Seung L. Yang
Tiffany Hyun
Jeffrey P. Jackson**
Attorneys for Plaintiff

Defendant:

Dated: 1/28/26

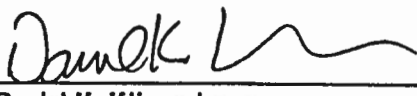
FRUGATTI, INC.

By: RALPH FRUGUGLIETTA
Print Name

Signature
PRESIDENT
Title

Defendant's Counsel:

Dated: 1/18/26

LEBEAU THELEN, LLC

By: 
**Daniel K. Klingenberger
Matthew J. Dobbs**
**Attorneys for Defendant
FRUGATTI, INC.**

