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14 **MORSCO SUPPLY, LLC, A LIMITED LIABILITY COMPANY**
(also formerly known as EXPRESS PIPE & SUPPLY CO., LLC)

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF LOS ANGELES

17 MARK PEREIDA, individually, and on behalf of
18 all others similarly situated,

19 Plaintiffs,

20 v.

21 MORSCO SUPPLY, LLC, a limited liability
22 company; EXPRESS PIPE & SUPPLY CO.,
23 LLC, a limited liability company; and DOES 1
through 10, inclusive,

24 Defendants.

Case No. 20STCV05543

CLASS ACTION

**FIRST AMENDED JOINT STIPULATION
AND CLASS AND REPRESENTATIVE
ACTION SETTLEMENT AGREEMENT
AND RELEASE**

1 This First Amended Class and Representative Action Settlement Agreement and Stipulation
2 (“Settlement” or “Agreement”) is made and entered into by Plaintiff Mark Pereida (“Plaintiff” or
3 “Class Representative”), individually and as representative of the Class and alleged aggrieved
4 employees, as defined below, on the one hand, and Defendant Morsco Supply, LLC doing business as
5 Express Pipe & Supply Co., LLC (“Defendant” and together with “Plaintiff,” the “Parties”), on the
6 other.

7 This Agreement is subject to the approval of the Court, and is made for the sole purpose of
8 attempting to consummate settlement of this Action on a class-wide and representative basis subject
9 to the following terms and conditions. As detailed below, in the event the Court does not enter an order
10 granting approval of the PAGA Settlement, as defined below, final approval of the Class Settlement,
11 as defined below, or the conditions precedent are not met for any reason, this Agreement is void and
12 is of no force or effect whatsoever.

13 NOW THEREFORE, in consideration of the promises and warranties set forth below, and
14 intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings
15 set forth below, Plaintiff, individually, and as representative of the Class/alleged aggrieved employees,
16 and Defendant agree that the Action shall be, and is finally and fully compromised and settled on the
17 following terms and conditions:

18 **1. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

19 1.1. On or about February 13, 2020, Plaintiff filed a putative class action in the Superior
20 Court of California, County of Orange County entitled: *Mark Pereida, individually, and on behalf of*
21 *all others similarly situated v. Morsco Supply LLC, a limited liability company; Express Pipe & Supply*
22 *Co., LLC, a limited liability company and DOES 1-20, inclusive*, Case No. 20STCV05543 (the
23 “Complaint”). The Complaint was filed on behalf of a putative class of California non-exempt
24 employees alleging: (1) failure to pay minimum and straight time wages, (Labor Code §§ 204, 1194,
25 1194.2, and 1197); (2) failure to pay overtime compensation, (Labor Code §§ 1194, 1198); (3) failure
26 to provide meal periods, (Labor Code §§ 226.7, 512); (4) failure to authorize and permit rest breaks,
27 (Labor Code § 226.7); (5) failure to pay final wages at termination (Labor Code §§ 201-203); (6)
28 failure to furnish accurate wage statements, (Labor Code § 226); and (7) violation of California

1 Business and Professions Code §17200, *et seq.*.

2 1.2. On or about March 12, 2020, the Parties filed a Joint Stipulation to File First Amended
3 Complaint to revise the duration of the class period. Plaintiff filed his First Amended Complaint on
4 or about March 24, 2020.

5 1.3. On or about May 14, 2020, the Parties filed a Joint Stipulation to File Second Amended
6 Complaint to add a cause of action for Penalties Pursuant to the Private Attorneys General Act (Labor
7 Code § 2699) (“PAGA”). Plaintiff filed the operative Second Amended Complaint on or around June
8 25, 2020 (“Second Amended Class Action Complaint”).

9 1.4. Prior to mediating the case on October 21, 2020, the Parties informally exchanged
10 information and documentation about *inter alia*: the number of current and former putative class
11 members/alleged aggrieved employees who worked during the relevant time period; Defendant’s
12 timekeeping, meal period and rest break policies; electronic time and pay records for putative class
13 members/alleged aggrieved employees; and other relevant information, including Plaintiff’s personnel
14 file and payroll records.

15 1.5. On October 21, 2020, the Parties participated in an all-day mediation with mediator
16 Lisa Klerman, which included lengthy and fully informed negotiations. The mediator provided the
17 Parties with a mediator’s proposal, which was accepted by both Parties, principally settling the entire
18 matter the same day. The Parties memorialized the general terms of their settlement via a
19 Memorandum of Understanding. Defendant did not admit any liability whatsoever and entered into
20 the Memorandum of Understanding solely for the purposes of compromising and settling the Action.

21 1.6. The Parties believe this Settlement is a fair, adequate and reasonable settlement of this
22 Action and have arrived at this Settlement after lengthy, extensive arms-length negotiations, facilitated
23 by an experienced wage and hour class action mediator, taking into account all relevant factors, present
24 and potential. This Agreement shall not be construed in favor of or against any of the Parties by reason
25 of their participation in the drafting of this Agreement.

26 1.7. Defendant has denied and continues to deny each and all of the allegations, claims, and
27 contentions alleged by Plaintiff in the Action. Defendant has expressly denied and continues to deny
28 all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or

1 omissions alleged in the Action. Defendant contends that it complied in good faith with California
2 wage and hour laws and has dealt legally and fairly with Plaintiff and Class Members. Defendant
3 further denies that, for any purpose other than settling the Action, these claims are appropriate for
4 class or representative treatment. Nonetheless, Defendant has concluded that further proceedings in
5 the Action would be protracted and expensive and that it is desirable that the Action be fully and finally
6 settled in the manner and upon the terms and conditions set forth in this Agreement in order to dispose
7 of burdensome and protracted litigation, to permit the operation of Defendant’s business without
8 further expensive litigation and the distraction and diversion of its personnel with respect to matters
9 at issue in the Action. Defendant has also taken into account the uncertainty and risks inherent in any
10 litigation, especially in complex cases such as the Action. Defendant has, therefore, determined that it
11 is desirable and beneficial to it that the Action be settled in the manner and upon the terms and
12 conditions set forth in this Agreement.

13 1.8. Plaintiff, on behalf of himself and the Class, along with Defendant, and subject to the
14 approval of the Court, stipulate that the Action will be compromised and settled pursuant to the terms
15 and conditions set forth in this Agreement and that after the date of the Court’s final approval of this
16 Agreement, judgment shall be entered, subject to the continuing jurisdiction of the Court as set forth
17 below, subject to the recitals set forth above which by this reference become an integral part of this
18 Agreement, and subject to the following definitions, terms and conditions:

19 **2. DEFINITIONS**

20 As used in this Agreement, the following terms shall have the meanings specified below. To
21 the extent terms or phrases used in this Agreement are not specifically defined below, but are defined
22 elsewhere in this Agreement, they are incorporated by reference into this definition section.

23 2.1 “**Action**” means the class action litigation titled *Mark Pereida, individually, and on*
24 *behalf of all others similarly situated v. Morsco Supply LLC, a limited liability company; Express Pipe*
25 *& Supply Co., LLC, a limited liability company and DOES 1-20, inclusive*, Case No. 20STCV05543,
26 pending in the Superior Court of the State of California, County of Los Angeles, Case No.
27 20STCV05543, and all pleadings filed therein.

28 2.2 “**Administrative Expenses**” include all costs and expenses associated with and paid to

1 the Settlement Administrator, which are anticipated not to exceed \$7,000, based upon the “not-to-
2 exceed” bid accepted by the Parties from the Settlement Administrator.

3 2.3 “**Agreement**” means this Joint Stipulation and Class and Representative Action
4 Settlement Agreement and Release, including any attached exhibits.

5 2.4 “**Claims**” means all claims for wages and related penalties actually alleged or that could
6 have been alleged in the Action by Plaintiff, on behalf of himself and the Class Members, based on
7 the facts alleged in the Second Amended Class Action Complaint, including but not limited to: (1)
8 failure to pay minimum and straight time wages, (Labor Code § 204, 1194, 1194.2, and 1197); (2)
9 failure to pay overtime compensation, (Labor Code §§ 510, 1194, 1198); (3) failure to provide meal
10 periods, (Labor Code §§ 226.7 and 512); (4) failure to permit rest breaks, (Labor Code § 226.7); (5)
11 failure to pay timely pay final wages due upon separation of employment within the required time,
12 (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements, (Labor Code §
13 226); (7) violation of Business and Professions Code §§ 17200, *et seq.*; and (8) civil penalties under
14 PAGA, (Labor Code § 2699 *et seq.*). Additionally, for those Class Members who do not timely and/or
15 properly submit an Opt-Out Request, “Claims” shall include all claims for failure to pay wages under
16 the Federal Fair Labor Standards Act.

17 2.5 “**Class**” means all non-exempt employees of Defendant who worked in California
18 during the Class Period, excluding those non-exempt employees that signed severance and release
19 agreements. Defendant represents there are approximately 262 Class Members who worked
20 approximately 7,770 pay periods.

21 2.6 “**Class Counsel**” means Kane Moon, H. Scott Leviant, and Lilit Ter-Astvatsatryan of
22 Moon & Yang, APC.

23 2.7 “**Class Counsel’s Fees and Expenses**” means the amount awarded to Class Counsel
24 by the Court to compensate them for their fees in prosecuting the Action not to exceed one-third of
25 the Gross Settlement Amount, or \$153,333.33, plus up to \$15,000 in costs as approved by the Court.

26 2.8 “**Class Members**” means the individuals in the Class.

27 2.9 “**Class Notices**” means the Notice of PAGA and Class Action Settlement, directed to
28 Class Members and PAGA Employees, as set forth in the form of **Exhibit A** attached hereto, or as

1 otherwise approved by the Court, which are to be mailed to Class Members and PAGA Employees.
2 The Class Notice will be translated into Spanish and mailed to Class Members in both English and
3 Spanish language versions.

4 2.10 **“Class Pay Period Value”** means the value of each pay period, as determined by the
5 Settlement Administrator, by dividing the Net Settlement Amount (the PAGA Employee Payment to
6 PAGA Employees is separate from the Net Settlement Amount) by the total number of pay periods
7 available to the Participating Class Members during the Class Period.

8 2.11 **“Class Period”** means December 1, 2018 through June 30, 2021 or the date upon which
9 the Court grants Preliminary Approval of this settlement, whichever is sooner.

10 2.12 **“Class Representative”** means Plaintiff Mark Pereida.

11 2.13 **Class Representative Enhancement”** means any additional monetary payment
12 provided to Plaintiff Mark Pereida in his capacity as Class Representative, not to exceed \$7,500.00,
13 for his efforts and risks on behalf of the Class in the Action, as determined by the Court.

14 2.14 **“Class Settlement”** means the non-PAGA portion of the settlement embodied in this
15 Agreement, which is subject to the Court’s preliminary and final approval.

16 2.15 **“Complaint”** means the Class Action Complaint, the First Amended Class Action
17 Complaint, and the operative the Second Amended Class Action Complaint filed in the Action by
18 Plaintiff, in the Superior Court of the State of California, County of Los Angeles.

19 2.16 **“Court”** means the Superior Court of the State of California, County of Los Angeles.

20 2.17 **“Defendant”** means Morsco Supply, LLC doing business as Express Pipe & Supply
21 Co., LLC.

22 2.18 **“Defense Counsel”** or **“Counsel for Defendant”** means Keith Jacoby, Rachael Lavi
23 and Lauren Schwartz of Littler Mendelson, P.C.

24 2.19 **“Effective Date”** of this Agreement means the date when all of the conditions set forth
25 in Paragraph 6.8 have occurred.

26 2.20 **“Employee’s Taxes”** means the employee’s share of any and all applicable federal,
27 state or local payroll taxes on the portion of any Participating Class Member’s Individual Settlement
28 Payment that constitutes wages. The Employee’s Taxes will be deducted from their Individual

1 Settlement Shares.

2 2.21 “**Employer’s Taxes**” means and refers to the employer’s share of corporate federal,
3 state and/or local payroll taxes that is owed on the portion of any Participating Class Member’s
4 Individual Settlement Payment that constitutes wages and any Class Representative Enhancement that
5 constitutes wages. The Employer’s Taxes shall be paid separate and apart from the Gross Settlement
6 Amount.

7 2.22 “**Final Approval Hearing**” means the hearing held to determine whether the Court
8 will enter a Final Approval Order finally approving this Settlement.

9 2.23 “**Final Approval Order**” means the Court’s entry of an Order finally approving and
10 granting final judgment of this Settlement.

11 2.24 “**Gross Settlement Amount**” means the agreed-upon non-reversionary settlement
12 amount totaling \$460,000.00 to be paid by Defendant in full settlement of the Released Claims and
13 the PAGA Claims asserted in the Action, inclusive of all payments to Class Members, attorneys’ fees,
14 costs and expenses directly related to the Action, which includes all such fees and costs incurred to
15 date, as well as all such fees and costs incurred in documenting the Settlement, administrating the
16 Settlement (including the Administrative Expenses), the Class Representative Enhancement, and the
17 PAGA Payment. If, as of the end of the Class Period, the actual number of Class Members is more
18 than 10% larger than the estimated number of Class Members on October 21, 2020 (which is estimated
19 to be 262 individuals), Defendant will have the option of either: (a) Closing the Class Period on the
20 date the class reaches the 10% threshold (26 additional individuals over the 262 estimate, *i.e.*, the date
21 the Class reaches 288 Class Members), or (b) the Gross Settlement Amount shall be increased by one
22 percentage point for each percentage point over the 10% threshold (26 additional individuals over the
23 262 estimate) that the actual number of Class Members exceeds the estimated number (for example,
24 if the actual number of Class Members is 11% higher than the estimated number at the end of the Class
25 Period, then the Gross Settlement Amount would increase by 1%). The Gross Settlement Amount will
26 not be reduced due to Defendant’s estimate.

27 2.25 “**Individual Class Pay Periods**” means the number of pay periods of employment in
28 California for each Class Member as a non-exempt employee in California of Defendant, at any time

1 in the Class Period. Defendant will calculate the number of pay periods by calculating the number of
2 weeks in which each Participating Class Member was employed and performed any work during the
3 Class Period using each Participating Class Member's hire date and termination date and/or payroll
4 data.

5 2.26 “**Individual PAGA Pay Periods**” means the number of pay periods of employment in
6 California for each PAGA Employee as a non-exempt employee in California of Defendant, at any
7 time in the PAGA Period. Defendant will calculate the number of pay periods by calculating the
8 number of weeks in which each PAGA Employee was employed and performed any work during the
9 PAGA Period using each PAGA Employee's hire date and termination date and/or payroll data.

10 2.27 “**Individual Settlement Payment**” means a Class Member's Total Class Pay Periods
11 multiplied by the Class Pay Period Value (if the Class Member is a Participating Class Member) plus
12 the Class Member's Total PAGA Pay Periods multiplied by the PAGA Pay Period Value (if the Class
13 Member is a PAGA Employee). The Individual Settlement Payment will be reduced by any required
14 legal deductions.

15 2.28 “**Mailing Date**” means the date that the Settlement Administrator initially mails by
16 Regular United States Mail the Class Notices to the Class Members and the PAGA Employees.

17 2.29 “**Net Settlement Amount**” means the portion of the Gross Settlement Amount
18 available for distribution to Participating Class Members after deduction of Class Counsel's Fees and
19 Expenses, the Class Representative Enhancement, the Administrative Expenses, and the PAGA
20 Settlement.

21 2.30 “**Notice of Objection**” means a written request by a Class Member to object to this
22 Settlement, which must be completed and filed or mailed in the manner set forth in this Agreement
23 and the Notice of Settlement.

24 2.31 “**Notice Period**” means a sixty (60) calendar day period which begins on the Mailing
25 Date, with up to a 14-day extension of that response period for re-mailed Class Notices. A Class
26 Member who wishes to opt out of the settlement must complete an Opt-Out Request and return it to
27 the Settlement Administrator, either by e-mail before the expiration of the Notice Period (to an address
28 maintained by the Settlement Administrator) or with a postmark dated during the Notice Period, to be

1 valid and effective. A Class Member who wishes to object to the settlement in writing must submit
2 any written objection to the Settlement Administrator during the Notice Period to be considered, either
3 by e-mail before the expiration of the Notice Period (to an address maintained by the Settlement
4 Administrator) or with a postmark dated during the Notice Period. The Settlement Administrator shall
5 be required to authenticate written objections via a declaration and provide copies to Class Counsel
6 and Defendant’s Counsel. A written notice disputing the number of Pay Periods worked must be
7 returned to the Settlement Administrator with a postmark dated during the Notice Period to be
8 considered by the Settlement Administrator when calculating that person’s Individual Settlement
9 Payment.

10 2.32 **“Opt-Out Request”** means a written request from a Class Member requesting
11 exclusion from the Class in accordance with the terms of the Agreement and Class Notices.

12 2.33 **“PAGA Claims”** means all disputes, claims, and/or causes of action set forth in
13 Paragraph 5.5.

14 2.34 **“PAGA Employee”** means Class Members employed during the PAGA Period. PAGA
15 Employees cannot opt out of the settlement.

16 2.35 **“PAGA Employee Payment”** means the portion of the PAGA Settlement allocated to
17 all PAGA Employees, which is 25% of the PAGA Settlement.

18 2.36 **“PAGA LWDA Payment”** means the payment to the State of California Labor &
19 Workforce Development Agency (“LWDA”), which is 75% of the PAGA Settlement.

20 2.37 **“PAGA Payment Check”** means the check issued to each PAGA Employee for his or
21 her share of the PAGA Employee Payment. The PAGA Payment Check shall include the date of
22 expiration of the check.

23 2.38 **“PAGA Period”** means the period beginning on February 13, 2019 through June 30,
24 2021, or the date upon which the Court grants Preliminary Approval of this Settlement, whichever is
25 sooner.

26 2.39 **“PAGA Settlement”** means the PAGA portion of the Gross Settlement Amount
27 embodied in this Agreement, which is subject to Court’s approval. The Parties apportion \$60,000 of
28 the Gross Settlement Amount to the PAGA Settlement. 75% of the PAGA Settlement will be paid to

1 the State of California LWDA (the PAGA LWDA Payment). 25% of the PAGA Settlement shall be
2 distributed *pro rata* to all PAGA Employees (the PAGA Employee Payment).

3 2.40 **“PAGA Pay Period Value”** means the value of each PAGA Pay Period, as determined
4 by the Settlement Administrator, by dividing the PAGA Employee Payment by the Total PAGA Pay
5 Periods.

6 2.41 **“Participating Class Member”** means each Class Member who has not timely and
7 properly opted out of the Class Settlement pursuant to Paragraph 4.6 of this Agreement.

8 2.42 **“Parties”** means Plaintiff, individually and on behalf of all Class Members and all
9 PAGA Employees, and Defendant.

10 2.43 **“Plaintiff”** means Mark Pereida.

11 2.44 **“Preliminary Approval Order and Order Approving PAGA Settlement”** means an
12 order from the Court: (1) preliminarily approving the Class Settlement; and (2) approving the PAGA
13 Settlement.

14 2.45 **“Released Claims”** or **“Settled Claims”** mean all disputes, claims, and/or causes of
15 action set forth in Paragraph 5.4. Other than as provided in Paragraph 5.4, it is understood and agreed
16 that this Agreement will not release any person, party or entity from claims, if any, by Class Members
17 for workers’ compensation, unemployment, or disability benefits of any nature, nor does it release any
18 claims, actions, or causes of action which may be possessed by Class Members under state or federal
19 discrimination statutes, specifically California Fair Employment and Housing Act (“FEHA”), Cal.
20 Government Code § 12940, *et seq.*; the Unruh Civil Rights Act, Cal. Civil Code §51, *et seq.*; the
21 California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*; the
22 Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement
23 Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*; and all of their implementing
24 regulations and interpretive guidelines.

25 2.46 **“Released Parties”** means Defendant Morsco Supply, LLC (d/b/a Express Pipe &
26 Supply Co., LLC) its past or present officers, directors, shareholders, employees, agents, principals,
27 heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective
28 successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

1 2.47 “**Settlement**” means the settlement of the Action effectuated by this Agreement
2 between the Parties (including the Class Settlement and PAGA Settlement).

3 2.48 “**Settlement Administrator**” means Phoenix Settlement Administrators, who is an
4 experienced, neutral third-party administrator that is acceptable to the Parties and approved by the
5 Court. The Settlement Administrator shall be responsible for administration of the Settlement and
6 related matters. The Settlement Administrator shall be paid from the Gross Settlement Amount, as
7 approved by the Court.

8 2.49 “**Settlement Period**” means the period from December 1, 2018 through June 30, 2021
9 or the date upon which the Court grants Preliminary Approval of this settlement, whichever is sooner.

10 2.50 “**Settlement Proceeds Distribution Deadline**” means a date that is twenty-four (24)
11 calendar days after the Effective Date.

12 2.51 “**Total Class Pay Periods**” means the total number of pay periods that all Participating
13 Class Members worked during the Class Period. Any Participating Class Member with less than one
14 complete week of employment will be credited with one workweek.

15 2.52 “**Total PAGA Pay Periods**” means the total number of pay periods that each PAGA
16 Employee worked during the PAGA Period as calculated by Defendant. Defendant represents there
17 are approximately 2,864 PAGA Pay Periods.

18 **3. CLASS CERTIFICATION AND CLASS COUNSEL**

19 3.1 Class Certification. Solely for the purposes of this Settlement, the Parties stipulate and
20 agree that in order for this Settlement to occur, the Court must certify the following class as defined
21 in Paragraph 2.5: all non-exempt employees of Defendant who worked in California during the Class
22 Period, excluding those non-exempt employees that signed severance and release agreements.

23 3.2 For settlement purposes only, the Parties agree that the Class, as defined in Paragraph
24 2.5 herein, which will run from December 1, 2018 through June 30, 2021 or the date upon which the
25 Court grants Preliminary Approval of this Settlement, whichever is sooner, may be certified in the
26 Action. The Parties are not certifying any PAGA claims. In support of this Agreement, Plaintiff will
27 request that the Court certify for settlement purposes the Class as to all non-PAGA claims that have
28 been asserted, which Defendant shall not oppose or object to.

1 3.3 The Parties intend their Class Settlement to be contingent upon the preliminary and
2 final approval of each and every term of this Agreement, without material or substantive modification,
3 unless the Parties agree to such modification. Except as expressly set forth in this Agreement, if the
4 Court does not so approve this Agreement, the Parties intend this Agreement to become null and void,
5 and unenforceable, in which event the settlement terms set forth herein, including any modifications
6 made with the consent of the Parties, and any action taken or to be taken in connection with this
7 Agreement shall be terminated and shall become null and void and have no further force or effect, and
8 the Class certified pursuant to this Agreement will be decertified for all purposes.

9 3.4 Appointment Of Class Representative. Solely for the purposes of this Settlement, the
10 Parties stipulate and agree that Plaintiff Mark Pereida shall be appointed as a representative for the
11 Class.

12 3.5 Appointment Of Class Counsel. Solely for the purposes of this Settlement, the Parties
13 stipulate and agree that Kane Moon, H. Scott Leviant, and Ani Martirosian of Moon & Yang, APC,
14 1055 W. Seventh St., Suite 1880, Los Angeles, CA 900 shall be appointed as Class Counsel for the
15 Class.

16 **4. NOTICE AND SETTLEMENT ADMINISTRATION PROCESS**

17 4.1 Identification of Class Members. Within fourteen (14) days after entry of the
18 Preliminary Approval of Settlement, Defendant shall provide to the Settlement Administrator a list of
19 Class Members that includes: (1) the names, last known addresses, last known personal telephone
20 numbers (if known), and social security numbers of each individual; and (2) the Individual Class Pay
21 Periods, and Individual PAGA Pay Periods. Defendant agrees to provide the list in an electronic format
22 reasonably acceptable to the Settlement Administrator. Defendant shall provide this list to the
23 Settlement Administrator by secure file transfer. The Settlement Administrator will keep the list
24 confidential, use it only for the purposes described herein, and return it to Defendant upon completion
25 of the settlement administration process. Notwithstanding the confidentiality provision, the Settlement
26 Administrator is authorized to provide all counsel with an anonymized spreadsheet showing the
27 number of Individual Class Pay Periods and Individual PAGA Pay Periods worked by each Class
28 Member to permit Class Counsel and Defendant's Counsel to review the Pay Period data and payment

1 calculations for consistency.

2 4.2 Individual Settlement Payment Calculation. Based on the information in the PAGA
3 Employee/Class Member list and the formula set forth in Paragraph 7 below, the Settlement
4 Administrator shall promptly calculate the estimated Individual Settlement Payment for every Class
5 Member/PAGA Employee, to be included in the individualized Class Notices to be sent to that Class
6 Member, and shall prepare and send a spreadsheet setting forth those calculations to Defense Counsel
7 no fewer than five (5) days before mailing the Class Notices to Class Members. The Class Notices
8 will inform each Class Member of his/her right to do nothing, dispute the number of Individual Class
9 Pay Periods and/or Individual PAGA Pay Periods worked, opt out of the non-PAGA payment and
10 release of non-PAGA claims, or to object to the non-PAGA payment and release of non-PAGA claims.
11 It will also inform Class Members that if they first request exclusion from, and opt out of, the Class
12 Settlement and then object in writing, the written objections would not be considered valid and that if
13 the Class Members submit any written objection and then request exclusion from, and opt out of, the
14 Class Settlement, the Class Members would be deemed to have waived their objection.

15 4.3 PAGA Payment Check. Payment to the PAGA Employees of their portion of the PAGA
16 Employee Payment shall be paid to each of them by way of a single check (“PAGA Payment Check”).
17 The PAGA Payment Check represents the portion of the civil penalties awarded directly under PAGA.
18 The PAGA Payment Check shall include the date of expiration of the check.

19 4.4 Notice Procedure. Within ten (10) days after receipt of the list of Class
20 Members/PAGA Employees described in Paragraph 4.1 above, the Settlement Administrator shall
21 mail the Class Notices to each Class Member/PAGA Employee whose address information is known.
22 Prior to this mailing, the Settlement Administrator shall conduct a National Change of Address check
23 as to each address. The mailing shall be sent by first-class U.S. Mail, postage pre-paid. The date that
24 the Settlement Administrator mails the Class Notices is the Mailing Date. It shall be conclusively
25 presumed that each and every Class Member whose Class Notice are not returned to the Settlement
26 Administrator as undeliverable within thirty (30) calendar days after the Mailing Date has received
27 the Class Notices.

28 4.4.1 The Settlement Administrator shall promptly re-mail any Class Notice returned

1 by the Post Office with a forwarding address. It shall be conclusively presumed that those Class
2 Members/PAGA Employees whose re-mailed Class Notice are not returned to the Settlement
3 Administrator as undeliverable within thirty (30) calendar days after re-mailing has received the Class
4 Notice.

5 4.4.2 If any Class Notice is returned as undeliverable with no return address, the
6 Settlement Administrator will perform one search using the social security number of any Class
7 Member/PAGA Employees for a more current address. If an address is not found, no further action is
8 required. It shall be conclusively presumed that those Class Members/PAGA Employees whose re-
9 mailed Class Notice are not returned to the Settlement Administrator as undeliverable within thirty
10 (30) calendar days after re-mailing has received the Class Notice.

11 4.4.3 Class Counsel shall provide to the Court, at or before the Final Approval
12 Hearing, a declaration from the Settlement Administrator confirming that the Class Notices were
13 mailed to all Class Members as required by this Agreement, as well as any additional information
14 Class Counsel and Defense Counsel both deem appropriate to provide to the Court, including
15 identification of any Class Members who opt out of the Settlement and authentication of any written
16 objections submitted timely to the Settlement Administrator.

17 4.4.4 The Class Notice shall state the formula to be used in calculating Individual
18 Settlement Payments as calculated by the Settlement Administrator. A Participating Class Member
19 may seek to challenge his or her estimated Individual Settlement Payment set forth in his or her Class
20 Notice. Such challenges must: (i) be in writing; (ii) state the full name of the Class Member seeking
21 the challenge; (iii) include a statement that the Class Member is seeking to challenge his or her
22 estimated Individual Settlement Payment set forth in the Class Notice; (iv) state the number of
23 Individual Class Pay Periods worked that the Class Member believes he or she has worked; (v) be
24 signed by the Class Member seeking the challenge; and (v) be sent to the Settlement Administrator
25 either by e-mail before the expiration of the Notice Period (to an address maintained by the Settlement
26 Administrator) or by mail with a postmark date on or before the expiration of the Notice Period. A
27 Participating Class Member challenging his or her Individual Settlement Payment may produce
28 documentary evidence to the Settlement Administrator for consideration and/or challenge. The

1 Settlement Administrator will resolve the challenge and make a final and binding determination
2 without hearing or right of appeal. The personnel records, including payroll records, of Defendant
3 shall be considered by the Settlement Administrator as the presumptive best evidence of the number
4 of Individual Class Pay Periods worked. The Settlement Administrator may provide copies of any
5 documentary evidence produced as part of a challenge to Defendant to request confirmation from
6 Defendant that the documentary evidence appears to accurately reflect additional Individual Class Pay
7 Periods worked by the challenging Class Member.

8 The Class Notice shall explain that if a Class Member does not opt out of the Class Settlement,
9 such Class Member will receive the Individual Settlement Payment pursuant to the terms of this
10 Agreement. The Parties intend that reasonable means be used to maximize the probability that all
11 Class Members shall receive the Class Notice.

12 The Class Notice shall provide the date and location of the Final Approval hearing. If the date
13 and/or location of the Final Approval Hearing should change, the Settlement Administrator will give
14 notice by posting the change on the settlement website. The Class Notice shall also provide
15 information about telephonic or videoconference appearances if those are required by the Court at the
16 time of the Final Approval hearing.

17 4.4.5 Within ten (10) days after the close of the Notice Period, the Settlement
18 Administrator will provide Defense Counsel with a report by name and last four digits of Social
19 Security Number listing the amount of all Individual Settlement Payments to be made to the
20 Participating Class Members, a list by name of all Class Members who timely opted out under
21 Paragraph 4.6, below, and a list by name of all Class Members who timely objected under Paragraph
22 4.8 below. That same report shall be provided to Class Counsel with the names of Participating Class
23 Members removed, but the identities of all Class Members who timely opted out under Paragraph 4.6,
24 below, and a list by name of all Class Members who timely objected under Paragraph 4.8 below, shall
25 be included in the report to Class Counsel.

26 4.5 Class Settlement Payment. Any Class Member who wishes to become a Participating
27 Class Member and receive an Individual Settlement Payment must not opt out of the Class.

28 4.6 Opt-Out Procedure. Any Class Member who wishes to be excluded from the Class

1 Settlement may seek exclusion under this Paragraph. However, no PAGA Employee can seek
2 exclusion from the PAGA portion of the settlement. Unless a Class Member timely and properly opts
3 out of the Class Settlement described in this Agreement, he or she shall be a Participating Class
4 Member and shall be bound by all the terms and conditions of this Agreement, and shall also be bound
5 by the Court's Order enjoining all Participating Class Members from pursuing, or seeking to reopen,
6 any of the Settled Claims against the Released Parties. A Class Member will not be entitled to opt out
7 of the Class Settlement established by this Agreement unless he or she submits a timely Opt-Out
8 Request as provided in this Paragraph. An Opt-Out Request must: (i) be in writing; (ii) state the full
9 name of the Class Member seeking exclusion; (iii) include a statement that the Class Member seeking
10 exclusion from the Settlement requests exclusion from the Class and does not wish to participate in
11 the Settlement; (iv) be signed by the Class Member seeking exclusion from the Settlement; and (v) be
12 sent to the Settlement Administrator either by e-mail before the expiration of the Notice Period (to an
13 address maintained by the Settlement Administrator) or mailed with a postmark date on or before the
14 expiration of the Notice Period.

15 The Opt-Out Request must be completed by the Class Member seeking exclusion from the
16 Class Settlement. Any Class Member who properly submits a timely, complete and valid Opt-Out
17 Request using this procedure will not be entitled to an Individual Settlement Payment and will not be
18 bound by the Settlement or have any right to object, appeal or comment thereon, except that a Class
19 Member that is also a PAGA Employee will be bound by the release of PAGA Claims set forth in this
20 Agreement and will be issued the PAGA Employee's share of the PAGA Employee Payment.

21 PAGA Employees will not have the opportunity to opt out or object to the PAGA Settlement
22 and/or release of PAGA Claims although the PAGA Settlement will be subject to Court approval.

23 4.6.1 Upon receipt of any Opt-Out Request within the Notice Period, the Settlement
24 Administrator shall review the request to verify the information contained therein, and to confirm that
25 the request complies with the requirements of this Agreement.

26 4.6.2 Any Class Member who fails to submit a timely, complete and valid Opt-Out
27 Request shall be barred from opting out of the Settlement. The Settlement Administrator shall not
28 review or consider any Opt-Out Request postmarked after the end of the Notice Period. It shall be

1 conclusively presumed that, if an Opt-Out Request is not postmarked on or before the end of the Notice
2 Period, or is not received by the Settlement Administrator, the Class Member did not make the request
3 in a timely or valid manner. Under no circumstances shall the Settlement Administrator have the
4 authority to extend the deadline for Class Members to submit an Opt-Out Request.

5 4.6.3 The Settlement Administrator shall give Class Counsel and Defense Counsel a
6 weekly update on the number of Opt-Out Requests received.

7 4.7 Excessive Opt-Out Requests. If ten percent (10%) or more of Class Members timely
8 opt out of the Class Settlement, Defendant shall have the option to withdraw from the Settlement
9 within twenty calendar (20) days after receiving from the Settlement Administrator the final list of
10 opt-outs. Defendant agrees to meet and confer in good faith with Class Counsel before withdrawing
11 from the Settlement. In the event that Defendant elects to withdraw from the Settlement, Defendant
12 shall provide written notice of such rescission to Class Counsel. Such withdrawal shall have the same
13 effect as a termination of this Agreement for failure to satisfy a condition of settlement, and the
14 Agreement shall become null and void and have no further force or effect, and the Class certified
15 pursuant to this Agreement will be decertified for all purposes. If Defendant chooses to terminate this
16 Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees and
17 costs incurred to that point. If Defendant chooses to terminate this Agreement under this provision,
18 the Parties may re-negotiate settlement terms.

19 4.8 Objections to Class Settlement. Any Participating Class Member may object to the
20 Class Settlement in writing, in person at the Final Approval hearing (which includes live telephonic
21 or video conference attendance), or through an attorney obtained at the expense of the objecting
22 Participating Class Member. Participating Class Members who wish to object in writing must send
23 their written objections to the Settlement Administrator only, either by e-mail before the expiration of
24 the Notice Period (to an address maintained by the Settlement Administrator) or by U.S. Mail, by the
25 close of the Notice Period. The Settlement Administrator must promptly forward all written objections
26 received by the close of the Notice Period to all counsel. An objection must state the specific grounds
27 on which it is being made and all supporting facts. The Class Notice will state in substance:

28 Any member of the settlement Class who has not opted out can ask the Court to deny

1 approval of the settlement by submitting an objection. You can't ask the Court to order a
2 larger settlement; the Court can only approve or deny the settlement. If the Court denies
3 approval, no additional settlement payments will be sent out and the lawsuit will continue.
4 If that is what you want to happen, you must object.

5 You may object to the proposed settlement in writing, except you may not object to the
6 PAGA Settlement and release of PAGA Claims. You may also appear at the Final Approval
7 Hearing, either in person or through your attorney. If you appear through your own attorney,
8 you are responsible for paying that attorney. You may appear and orally object regardless
9 of whether you submitted a written objection. All written objections and supporting papers
10 must: (a) clearly identify the case and number (*Pereida v. Morsco Supply LLC; Express
11 Pipe & Supply Co. LLC*. Case No. 20STCV05543); (b) be submitted to the Settlement
12 Administrator; and (c) be postmarked on or before [insert date of the close of the Notice
13 Period]. Class Members who fail to timely mail such a written statement of objection shall
14 be foreclosed from making any written objection to this Settlement.

15 Class Members who fail to timely submit a written statement of objection shall be foreclosed
16 from making any written objection to this Settlement. Only Participating Class Members may object
17 to the Class Settlement. Class Members may appear at the Final Approval Hearing and object orally
18 regardless of whether he/she submits a written objection. This Paragraph shall be strictly applied and
19 enforced. Failure to comply with its terms shall render an objection ineffective and waived.

20 4.9 Funding and Distribution of Settlement. Within ten (10) calendar days after the
21 Effective Date, Defendant shall transfer to the Settlement Administrator an amount equal to the Gross
22 Settlement Amount plus its share of the Employer's Taxes. The delivery of the Gross Settlement
23 Amount to the Settlement Administrator plus its share of Employer's Taxes shall constitute full and
24 complete discharge of the entire obligation of Defendant under this Agreement. Once Defendant has
25 made such payments, Defendant will be deemed to have satisfied all terms and conditions under this
26 Agreement, shall be entitled to all protections afforded to Defendant under this Agreement, and shall
27 have no further obligations under the terms of the Agreement regardless of what occurs with respect
28 to those sums, regardless of whether the Individual Settlement Payments are actually received and/or
are negotiated by Class Members. Additionally, no Released Party shall have any further obligation
or liability to the Plaintiff, PAGA Employees or Class Members under this Agreement.

4.9.1 The distribution of the Individual Settlement Payments to Participating Class
Members/PAGA Employees shall occur on the Settlement Proceeds Distribution Deadline. The
Settlement Administrator shall be deemed to have timely distributed all such payments to the Class if

1 it places in the mail Individual Settlement Payments for all Participating Class Members and the
2 PAGA Employee Payments to the PAGA Employees and the PAGA LWDA Payment to the State of
3 California LWDA by the applicable deadlines set forth in this Agreement or by the deadlines set by
4 the Court. No person shall have any claim against the Settlement Administrator, Defendant, Class
5 Counsel, Defense Counsel, or any other agent designated by the Plaintiff or Defendant based upon the
6 distribution of Individual Settlement Payments and the PAGA Employee Payments made substantially
7 in accordance with this Agreement or further orders of the Court.

8 4.9.2 Any settlement checks that are not claimed or not negotiated within 180 days
9 after distribution by the Settlement Administrator shall be void. Any funds not distributed after the
10 expiration of the settlement checks shall be cancelled and the proceeds shall be sent to the State of
11 California Controller's Office to be held as unclaimed property in the name of the Class Member who
12 is the payee of the check. All settlement checks shall include the date of expiration of on each check.

13 4.9.3 Except as otherwise stated in this Agreement, the Settlement Administrator's
14 distribution of Class Counsel's Fees and Expenses and the Class Representative Enhancement from
15 the Gross Settlement Fund shall occur on the Settlement Proceeds Distribution Deadline. Upon such
16 payment, Defendant, the Released Parties, Defense Counsel, and the Settlement Administrator shall
17 have no further liability or responsibility to Plaintiff, Class Counsel or to any vendors or third parties
18 employed by the Plaintiff or Class Counsel.

19 4.9.4 Defendant shall not be obligated to make any payments contemplated by this
20 Agreement until the conditions set forth in this Agreement occur.

21 **5. RELEASE PROVISIONS**

22 5.1 Non-Admission of Liability. The Parties enter into this Agreement to resolve the
23 dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation.
24 In entering into this Agreement, Defendant does not admit, and specifically denies, that it has violated
25 any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any
26 statute or any other applicable laws, regulations or legal requirements or engaged in any unlawful
27 conduct with respect to the Plaintiff or any Class Member and/or PAGA Employee. Neither this
28 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be

1 construed as an admission or concession by Defendant of any such violations or failures to comply
2 with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement,
3 this Agreement and its terms and provisions shall not be offered or received as evidence in any action
4 or proceeding to establish any liability or admission on the part of Defendant or to establish the
5 existence of any condition constituting a violation of, or a non-compliance with, federal, state, local
6 or other applicable law.

7 5.2 Entry of Judgment. Subject to final Court approval and the conditions specified in this
8 Agreement, the approval of the Settlement shall result in an entry of judgment and retention of the
9 case for enforcement purposes.

10 5.3 Conditional Nature Of Stipulation For Certification. Solely for the purposes of this
11 Settlement, the Parties stipulate and agree to the certification of the Claims asserted on behalf of the
12 Class. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were
13 willing to stipulate to certification of the Action as part of the Settlement shall have no bearing on, and
14 shall not be admissible in connection with, the issue of whether the Action, or any claim or class,
15 should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendant
16 expressly reserves its right to oppose claim or class certification in this or any other action should this
17 Settlement not become effective.

18 5.4 Release of All Settled Claims. On the later of the Effective Date or the full funding of
19 the Settlement as set forth in Paragraph 4.9 above, and to the maximum extent permitted by law,
20 Plaintiff and all Class Members who do not timely and properly opt-out hereby do, and shall be deemed
21 to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and
22 all of the Released Parties of and from all of the following claims, demands, rights, liabilities and
23 causes of action that were asserted in the operative complaint in the Action or that could have been
24 asserted based on the claims and factual allegations in the operative complaint in the Action, excluding
25 the PAGA Claim but including (1) any claims, demands, rights, liabilities and causes of action for
26 damages, interest, attorney's fees and costs, injunctive relief, declaratory relief, restitution, or
27 fraudulent business practices based on unpaid wages (including but not limited to minimum wages,
28 straight time wages, and overtime pay), failure to provide meal periods, failure to permit rest breaks,

1 failure to reimburse business expenses, failure to maintain accurate records; failure to furnish accurate
2 wage statements, and failure to pay all wages during employment and at the time of termination; and
3 (2) any claims, demands, rights, liabilities and causes of action for damages, interest, attorney’s fees
4 and costs, injunctive relief, declaratory relief, restitution, or fraudulent business practices under
5 California Labor Code sections 201 through 204, 210, 212, 225.5, 226, 226.3, 226.7, 510, 512, 558,
6 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and related provisions contained in the
7 California Wage Orders; and the California Business and Professions Code predicated on such Labor
8 Code sections and California Wage Orders, including but not limited to Business and Professions Code
9 section 17200 *et seq.* With respect to the PAGA Claim, all PAGA Employees, regardless of whether
10 they opt-out of the Class Settlement, shall be deemed to have fully, finally, and forever released,
11 settled, compromised, relinquished and discharged any and all of the Released Parties of and from the
12 PAGA Claim based in whole or in part on the factual or legal allegations and/or claims in the
13 Complaint and/or Plaintiff’s February 11, 2020 LWDA Letter. All claims set forth in this Paragraph
14 shall be collectively referred to as the “Released Claims” or “Settled Claims.”

15 5.5 Release of PAGA Claims. Upon the Court’s approval of the PAGA Settlement and this
16 release of PAGA Claims, Plaintiff and the PAGA Employees and all persons purporting to act on the
17 PAGA Employees’ behalf or purporting to assert a claim under or through them, hereby do and shall
18 be deemed to have fully, finally, and forever released, settled, compromised, relinquished and
19 discharged any and all of the Released Parties of and from any and all PAGA claims premised in whole
20 or in part on any of the claims set forth in sections 5.4 above that arose at any time from February 13,
21 2019 (collectively, the “PAGA Claims”) through June 30, 2021 or the date upon which the Court
22 grants Preliminary Approval of this Settlement, whichever is sooner, to the extent the PAGA claims
23 were alleged in the Second Amended Complaint. The PAGA Employees will be issued a check for
24 their share of the PAGA Employee Payment and will not have the opportunity to opt out of, or object
25 to, the PAGA Settlement and release of the PAGA Claims set forth in this Paragraph. The PAGA
26 Employees are bound by the release of the PAGA Claims regardless of whether they cash their PAGA
27 Payment Check.

28 5.6 Communication to the Class. The Parties agree for settlement purposes only that,

1 because the Class Members are so numerous, it is impossible or impracticable to have each Class
2 Member execute this Agreement. Accordingly, the Class Notices will advise all Class Members of the
3 binding nature of the release of claims and such notices shall have the same force and effect as if the
4 Agreement were executed by each Class Member.

5 5.7 Representation by Plaintiff. The Plaintiff and Class Counsel represent, covenant, and
6 warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to
7 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
8 cause of action, or rights herein released and discharged, except as set forth herein.

9 5.8 Plaintiff's Complete And General Release. As to Plaintiff only, in exchange for the
10 consideration set forth in this Agreement, including the Class Representative Enhancement, Plaintiff,
11 for himself and his heirs, successors and assigns, does hereby waive, release, acquit and forever
12 discharge the Released Parties, from any and all claims, actions, charges, complaints, grievances and
13 causes of action, of whatever nature, whether known or unknown, which existed or occurred on or
14 before Preliminary Approval, including but not limited to, and specifically and expressly to the
15 maximum extent permitted by law, any claims against Defendant and the Released Parties, occurring
16 prior to Preliminary Approval, arising out of or related to violations of any federal or state employment
17 discrimination laws, including the California Fair Employment and Housing Act; Title VII of the Civil
18 Rights Act of 1964; the federal Family and Medical Leave Act; the California Family Rights Act; the
19 Americans With Disabilities Act; the National Labor Relations Act; the Equal Pay Act; the Employee
20 Retirement Income Security Act of 1974; as well as claims arising out of or related to violations of the
21 provisions of the California Labor Code; the California Civil Code; the California Government Code;
22 California Wage Orders, the California Business & Professions Code, including California Business
23 & Professions Code Section 17200 *et seq.*; PAGA; state and federal wage and hour laws; breach of
24 contract; fraud; misrepresentation; common counts; unfair competition; unfair business practices;
25 negligence; defamation; infliction of emotional distress; and any other state or federal law, rule, or
26 regulation. Plaintiff also waives any and all rights conferred upon him under Section 1542 of the
27 California Civil Code, which provides as follows:

28 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**

1 **THAT THE CREDITOR OR RELEASING PARTY DOES NOT**
2 **KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
3 **THE TIME OF EXECUTING THE RELEASE AND THAT, IF**
4 **KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY**
5 **AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR**
6 **OR RELEASED PARTY.**

7 This release does not include any pending claims for workers' compensation benefits that Plaintiff
8 may have against Defendant, or any other claim that cannot be released by law. Any Class
9 Representative Enhancement approved by the Court shall be paid to the Class Representative from the
10 Gross Settlement Amount, and shall be in addition to any distribution to which he may otherwise be
11 entitled as a Class Member and PAGA Employee. The Class Representative Enhancement shall not
12 be considered wages, and Settlement Administrator shall issue Plaintiff a Form 1099 reflecting such
13 payment.

14 5.9 No Pending Or Future Lawsuits By Plaintiff. Other than this Action, Plaintiff
15 represents that he does not have any pending lawsuits, administrative complaints or charges against
16 Defendant or the Released Parties in any local, state or federal court or administrative agency. Plaintiff
17 further acknowledges that all claims raised therein, if any, shall be fully and finally extinguished by
18 virtue of this Settlement Agreement and the Court's Final Approval Order. Plaintiff further represents
19 that he will not bring any action in the future in which he seeks to recover any damages from Defendant
20 or the Released Parties relating to or arising from Plaintiff's employment, other than an action to
21 enforce his rights under this Settlement Agreement.

22 5.10 Settlement Approval And Implementation Procedures. As part of this Settlement, the
23 Parties agree to the following procedures for obtaining the Court's Preliminary Approval of the
24 Settlement, notifying Class Members of the Settlement, obtaining the Court's Final Approval of the
25 Settlement, and processing Individual Settlement Payments.

26 5.11 Release of Claims by Class Counsel. Upon receipt of Class Counsel's Fees and
27 Expenses, as ordered by the Court on final approval of the Class Settlement, Class Counsel shall fully
28 and finally release Defendant and the Released Parties from any and all claims for attorneys' fees and

1 expenses arising from the Action and any claims released by the Plaintiff and Class Members related
2 to the action, whether known and unknown, whether under federal, state and/or local law, statute,
3 ordinance, regulation, common law, or other source of law. Class Counsel's Released Claims and
4 PAGA Claims include, but are not limited to, claims for attorneys' fees and expenses arising from or
5 dependent on the California Civil Code, the California Code of Civil Procedure, the California Labor
6 Code; the Wage Orders of the California Industrial Welfare Commission; California Business and
7 Professions Code sections 17200, *et seq.*; California Labor Code sections 2698, *et seq.*; the California
8 common law of contract and tort, and the Fair Labor Standards Act.

9 5.12 Labor Code Sections Do Not Apply To Releases. The Parties agree that California
10 Labor Code sections 206.5 and 2804 do not invalidate any provision of this Agreement, because
11 among other things, the claims and Released Claims and PAGA Claims are disputed and contested,
12 and the Settlement was bargained for at arms' length and approved by the Court.

13 **6. COURT APPROVAL AND EFFECTIVE DATES**

14
15 6.1 Motions Seeking Approval of Settlement and Order. Upon execution of this
16 Agreement, Plaintiff shall file a motion in the Action requesting that the Court enter a Preliminary
17 Approval Order as follows:

18 6.1.1 Approving, contingent upon Final Approval of the Class Settlement, the PAGA
19 Settlement, including the PAGA LWDA Payment, the PAGA Employee Payment, distribution plan
20 of the PAGA Employee Payment, and the release of the PAGA Claims set forth in this Agreement and
21 preliminarily approving for settlement purposes only the remaining portions of the proposed
22 Settlement;

23 6.1.2 Preliminarily approving the appointment of the Plaintiff as representative of the
24 Class for settlement purposes only;

25 6.1.3 Preliminarily approving the appointment of Class Counsel as counsel for the
26 Class for settlement purposes only;

27 6.1.4 Appointing and approving the Settlement Administrator as chosen by the
28 Parties and approved by the Court, to administer the claims and settlement payment procedures

1 required by this Agreement;

2 6.1.5 Approving the form of the Class Notices, and requiring that individualized
3 Class Notice be sent to Class Members;

4 6.1.6 Approving the plan for the provision of notice to Class Members, as stated
5 herein and in the Class Notices;

6 6.1.7 Scheduling the Final Approval Hearing for consideration of class certification
7 for settlement purposes and final approval of this Agreement;

8 6.1.8 Approving the procedure for Class Members to challenge the estimated
9 Individual Settlement Payment set forth in the Class Notice and the date after which no Class Member
10 shall be allowed to submit a challenge;

11 6.1.9 Approving the procedure for Class Members to opt out of the Class Settlement
12 and the date after which no Class Member shall be allowed to submit a request to opt out; and

13 6.1.10 Approving the procedure for Class Members to object to the Class Settlement
14 and the date after which no Class Member shall be allowed to object.

15 6.2 Defendant will not oppose Plaintiff's filed motion for Preliminary Approval of
16 Settlement.

17 6.3 Should the LWDA provide notice of intent to investigate the alleged violations set forth
18 in Plaintiff's February 11, 2020 LWDA Letter, this Agreement is deemed null and void.

19 6.4 Binding Effect of Agreement on Class Members. Upon the Court's entry of its Final
20 Approval Order, all Participating Class Members shall be bound by this Agreement, and the Action
21 and the Settled Claims shall be dismissed with prejudice and released as against the Released Parties
22 to the greatest extent permitted by law. In addition, unless a Class Member effectively opts out of the
23 Settlement, he or she shall be bound by the Court's Order enjoining all Participating Class Members
24 from pursuing or seeking to reopen Released Claims against the Released Parties to the greatest extent
25 permitted by law. Upon the Court's entry of its Final Approval Order and Judgment regarding the
26 PAGA Settlement and the release of the PAGA Claims, all PAGA Employees shall be bound by the
27 release of the PAGA Claims and the PAGA Claims shall be dismissed with prejudice and released as
28 against all the Released Parties to the greatest extent permitted by law.

1 6.5 Non-Interference With Settlement Procedure. The Parties and their counsel agree that
2 they shall not seek to solicit or otherwise encourage Class Members to submit an Opt-Out Request or
3 an objection to the Settlement or to appeal from the Preliminary Approval Order and Order Approving
4 PAGA Settlement, Final Approval Order or Final Judgment.

5 6.6 Final Approval Order and Judgment. Plaintiff will request that the Court enter, after
6 the Final Approval Hearing finally approving the Class Settlement, a Final Approval Order and
7 Judgment. Plaintiff will request that the Final Approval Order certify the Class for settlement purposes;
8 find that this Agreement is fair, just, equitable, reasonable, adequate and in the best interests of the
9 Class; permanently enjoin all Participating Class Members from pursuing or seeking to reopen
10 Released Claims against the Released Parties; and require the Parties to carry out the provisions of
11 this Agreement. Plaintiff agrees to provide his motion for final approval of the class settlement to
12 Defendant for review no later than seven (7) days before the filing date.

13 6.7 Entry of Final Judgment. Plaintiff (or Plaintiff jointly with Defendant) will request that
14 the Court enter, after or concurrently with the Final Approval Hearing, a Final Approval Order and
15 Judgment as agreed to by the Parties. Notice of Final Judgement will be given to the class along with
16 distribution of the Individual Settlement Payment, and be posted on the website maintained by the
17 Settlement Administrator for a period of no less than 90 days. The Class Notice shall advise the Class
18 that the Final Approval Order and Judgment will be posted to a website address maintained by the
19 Settlement Administrator.

20 6.8 Effective Date Of Agreement. The “Effective Date” of the Class Settlement portion of
21 this Agreement is the last date of: (a) final approval of this Agreement by the Court; (b) if there are
22 objections to the Settlement which are not withdrawn, and if an appeal, review or writ is not sought
23 from the Judgement, the day after the time for appeal of entry of Judgement has expired; or (c) if an
24 appeal, review or writ is sought from the Judgment, the day after the Judgment is affirmed or the
25 appeal, review or writ is dismissed or denied, and the Judgement is no longer subject to judicial review.
26 The Effective Date is conditioned upon all of the following occurring:

27 6.8.1 This Agreement has been signed by the Parties and Class Counsel;

28 6.8.2 The Court has entered a Preliminary Approval Order and Order Approving

1 PAGA Settlement;

2 6.8.3 The Class Notice has been mailed to the Class Members as ordered by the Court
3 in this Action;

4 6.8.4 The Court has entered a Final Approval Order and Judgment; and

5 6.8.5 Settlement Administrator has provided Defense Counsel with written wire/bank
6 transfer instructions, including the Settlement Administrator's address, the bank name, bank address,
7 account number, account name, ABA number, and SWIFT Code.

8 The effective date of the PAGA Settlement portion of this Agreement, including the release of
9 the PAGA Claims, shall be the date the approving Court has approved the PAGA Settlement and
10 release of the PAGA Claims in the form of a Judgment on the PAGA claims as set forth in this
11 Agreement.

12 6.9 Defendant's Option to Void of Agreement if Settlement Not Finalized. If the Court
13 refuses to approve any economic term or term related to the scope of the release, including the
14 Released Claims or the Released Parties, then Defendant, at its option, may void the Settlement. If
15 Defendant elects to void the Settlement, Defendant shall be responsible for any administrative costs
16 incurred to date. In such case, the Settlement shall be null and void and all orders, judgment, and
17 dismissal entered pursuant to this Agreement shall be vacated, and the Parties will be returned to the
18 status quo prior to entering this Agreement with respect to the Action, as if the Parties had never
19 entered into this Agreement, and the settlement class certified pursuant to this Agreement will be
20 decertified for all purposes, except where the approving Court has approved the PAGA Settlement and
21 release of the PAGA Claims set forth in this Agreement and Defendant has issued the PAGA
22 Settlement, the release of the PAGA Claims shall be binding. In addition, in such event, the Agreement
23 (including all exhibits, drafts and related documents, papers, and communications) and all
24 negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights of
25 any and all Parties hereto, and evidence relating to the Agreement (including all exhibits, drafts and
26 related documents, papers, and communications) and all negotiations shall not be admissible or
27 discoverable in the Action or otherwise, except where the approving Court has approved the PAGA
28 Settlement and release of the PAGA Claims set forth in this Agreement and Defendant has issued the

1 PAGA Settlement, the release of the PAGA Claims shall be binding. The Parties agree to return to
2 mediation in an attempt to address the concerns of the Court, and upon reaching an agreement, submit
3 a revised agreement to Court.

4 6.10 Confidentiality and Non-Disparagement and Returning Documents. The Parties agree
5 that the terms of the Agreement shall be confidential until the filing of Plaintiff's Motion for
6 Preliminary Approval. This confidentiality agreement shall not prevent any counsel from conferring
7 with and advising clients who have retained them, provided that the clients agree to abide by this
8 temporary confidentiality agreement. Class Counsel are authorized to discuss the terms of the
9 Settlement with any Class Member.

10 6.10.1 Plaintiff agrees that he shall not promote, or publicize the filing of this Action,
11 the Parties' Settlement, this Agreement and its terms, or the negotiations leading to this Agreement
12 with anyone other than the Court. Notwithstanding the foregoing, Plaintiff may disclose the terms of
13 this Agreement to his spouse, Class Members, to those persons to whom disclosure is necessary for
14 the preparation of tax returns and other financial reports, and to persons to whom disclosure is ordered
15 by a court of competent jurisdiction or otherwise required by law. Plaintiff agrees that he may disclose
16 the terms of the Settlement to his spouse, but only so long as he first obtains his spouse's express
17 agreement to maintain that information in confidence.

18 6.10.2 The Parties and their counsel agree that they will not issue any press releases,
19 engage in any communications, or take any other action that would directly or indirectly provide the
20 press or media or any litigation reporting service with information about this Action, this Agreement,
21 or the Parties' Settlement or would otherwise enable or allow the press or other media or any litigation
22 reporting service to learn or obtain such information; except that Defendant shall have the right to
23 disclose the Settlement and information related thereto as may be required under federal or state
24 securities laws, under generally accepted accounting principles, or in Defendant's judgment are
25 required under the ordinary course of business, and Defendant shall also have the right to respond in
26 reasonably general terms to inquiries from the media and investment-related entities. Plaintiff and his
27 counsel agree not to post any information concerning this Settlement on the internet or social media,
28 including Facebook, Twitter, Instagram and Snapchat. The Parties and their counsel further agree that

1 they will not post any information regarding this Agreement or the Settlement on their internet
2 websites or take any such action that would cause or allow such information to be posted on any other
3 internet website or on the web.

4 6.11 Invalidation of Agreement for Failure to Satisfy Conditions. The terms and provisions
5 of this Agreement are not recitals, but are deemed to constitute contractual terms. In the event that any
6 of the material terms or conditions set forth in this Agreement are not fully and completely satisfied,
7 this Agreement shall terminate and all terms of the Agreement including, but not limited to, the
8 conditional certification of the Class, the payment of Individual Settlement Amounts to Participating
9 Class Members, and the payment of the PAGA Settlement shall be null and void. In such event,
10 nothing in this Agreement shall be used, construed or admissible as evidence by or against any Party
11 or Released Party as a determination, admission, or concession of any issue of law or fact in this
12 Action, or in any other proceeding for any purpose; and the Parties do not waive, and instead expressly
13 reserve, their respective rights to prosecute and defend this Action as if this Agreement never existed.
14 In addition, notwithstanding the generality of the foregoing, if this Agreement is terminated for failure
15 to satisfy any of the terms or conditions of this Agreement, Defendant shall not be obligated to create
16 or maintain any type of settlement fund, and shall not be obligated to pay any amount in the Gross
17 Settlement Amount to any Class Member and/or PAGA Employee, to Class Counsel, to the Settlement
18 Administrator, to the State of California or to the Plaintiff. In event the approving Court has approved
19 the PAGA Settlement and release of the PAGA Claims set forth in this Agreement and Defendant has
20 issued the PAGA Settlement, the release of the PAGA Claims shall be binding. The amount of the
21 Class Representative Enhancement and the amount of the Class Counsel's Fees and Expenses are not
22 material terms of the Settlement. Failure of the Court to award the requested Class Representative
23 Enhancement or award the requested Class Counsel's Fees and Expenses are not grounds to void this
24 Settlement.

25 **7. SETTLEMENT PAYMENT PROVISIONS**

26 7.1 Allocation of Gross Settlement Amount. Subject to Court approval and the conditions
27 specified in this Agreement, and in consideration of the mutual covenants and promises set forth
28 herein, Defendant agrees to make a total settlement payment under this Agreement in the amount of

1 \$460,000 (the “Gross Settlement Amount”). The Gross Settlement Amount includes, but is not limited
2 to, payments to be made for (1) Class Counsel’s Fees and Expenses; (2) the Class Representative
3 Enhancement; (3) Administrative Expenses; (4) PAGA Settlement; and (5) Net Settlement Amount.
4 The Parties agree, subject to Court approval, that the Gross Settlement Amount shall be apportioned
5 as follows:

6 7.2 At the Final Approval Hearing, Class Counsel will apply to the Court for an award of
7 attorneys’ fees incurred by Class Counsel not to exceed one-third of the Gross Settlement Amount,
8 which is \$153,333.33. At the Final Approval Hearing, Class Counsel will also apply to the Court for
9 recovery of actual costs incurred by Class Counsel in the Action, not to exceed \$15,000. Defendant
10 will not oppose such application provided that Class Counsel does not seek to recover more than the
11 maximum amounts as stated in this Paragraph. Approval of the Settlement shall not be contingent
12 upon approval of the attorneys’ fees award or the costs award, and approval of the requested attorneys’
13 fees and costs award is not a material term of this settlement.

14 These fees and costs are included in, and shall come from, the Gross Settlement Amount. The
15 Class Counsel’s Fees and Expenses approved by the Court shall encompass: (a) all work performed
16 and costs and expenses incurred by, or at the direction of, any attorney purporting to represent the
17 Class and/or PAGA Employees through the date of this Agreement; (b) all work to be performed and
18 costs to be incurred in connection with approval by the Court of the Settlement and the termination of
19 this Action; (c) all work to be performed and costs and expenses, if any, incurred in connection with
20 administering the Settlement through the termination of the Action, with prejudice; and (d) may be
21 based *inter alia* on the Common Fund Doctrine and/or the Catalyst Theory.

22 Class Counsel must provide Defendant with IRS Forms W-9, so that Defendant may issue IRS
23 Forms 1099 misc. To the extent attorneys’ fees are not approved in the full amount of \$153,333.333
24 as set forth above, then the amount not approved will be a part of the Net Settlement Amount for
25 distribution to the Participating Class Members on a *pro rata* basis. Similarly, to the extent costs sought
26 by Class Counsel are not approved in their entirety, any sum not approved will be a part of the Net
27 Settlement Amount for distribution to the Participating Class Members on a *pro rata* basis. Except as
28 provided in this Paragraph, upon final approval, each Party shall bear his or its own attorneys’ fees,

1 costs, and expenses incurred in the prosecution, defense, and settlement of the Action. Class Counsel
2 reserves the right to appeal an award of attorney's fees that is less than twenty-five (25%) of the Gross
3 Settlement Amount, which is \$115,000.

4 7.2.1 At the Final Approval Hearing, Class Counsel will apply to the Court for the
5 Class Representative Enhancement in the amount of up to \$7,500.00 to be paid to Plaintiff for his
6 services and for assuming the risks associated with this litigation. Defendant will not oppose such
7 application. Approval of the Settlement shall not be contingent upon approval of the Class
8 Representative Enhancement, and approval of the requested Class Representative Enhancement is not
9 a material term of this settlement.

10 Any Class Representative Enhancement is included in, and shall come from, the Gross
11 Settlement Amount. If the Court approves and awards a Class Representative Enhancement in an
12 amount less than \$7,500.00, as set forth above, the amount not approved will be a part of the Net
13 Settlement Amount for distribution to the Participating Class Members on a *pro rata* basis. The Class
14 Representative Enhancement payable to the Plaintiff shall be in addition to any Individual Settlement
15 Payment he may receive.

16 Subject to Court approval, an amount of \$45,000 shall be paid to the State of California
17 LWDA. The PAGA LWDA Payment is 75% of the \$60,000 PAGA Settlement that the Parties have
18 agreed is to be paid in settlement of all claims for civil penalties under the PAGA. The remaining 25%
19 of the \$60,000 PAGA payment, the PAGA Employee Payment, which amounts to \$15,000 of the
20 PAGA Settlement, shall be distributed *pro rata* to all PAGA Employees, based on the number of
21 PAGA Pay Periods worked by a PAGA Employee, as a fraction of the PAGA Pay Period Value. The
22 PAGA Employee Settlement shall be treated entirely as penalties. PAGA Employees will not have
23 the opportunity to opt out or object to the PAGA Settlement and/or release of PAGA Claims set forth
24 in this Agreement although the PAGA Settlement will be subject to Court approval. In the event the
25 LWDA rejects this allocation, the Parties will meet and confer with the Court and the LWDA to reach
26 a penalty allocation acceptable to all parties that does not materially alter the terms of Settlement, nor
27 require Defendant to pay more than the Gross Settlement Amount. At the same time that Plaintiff files
28 his Motion for Preliminary Approval, Plaintiff shall send a copy of the Agreement to the LWDA

1 pursuant to the 2016 amendments to PAGA. The PAGA Settlement shall be paid from the Gross
2 Settlement Fund. Defendant represents that there are approximately 2,864 PAGA Pay Periods.

3 7.2.2 Subject to Court approval, an estimated amount of \$7,000 will be set aside from
4 the Gross Settlement Amount to cover any of the Settlement Administrator's Administrative Expenses,
5 based upon the "not-to-exceed" bid accepted by the Parties. The Parties agree to use Phoenix
6 Settlement Administrator as the Settlement Administrator. If any portion of the \$7,000 amount for
7 Phoenix Settlement Administrator's expenses remains unused, it will go to the Net Settlement
8 Amount. The amount stated herein for Settlement Administrator's Administrative Expenses is the
9 Parties' best estimate of the amount of such expenses, based upon information known to the Parties at
10 this time.

11 7.2.3 The Settlement Administrator shall calculate the Employers' Taxes and inform
12 Defendant of the amount of Employers' Taxes to be paid by Defendant separate and apart from the
13 Gross Settlement Amount.

14 7.2.4 After deducting the amounts specified in Paragraph 7, each Participating Class
15 Member shall be entitled to a *pro rata* portion of the remaining amount of the Gross Settlement
16 Amount, which is known as the Net Settlement Amount. Individual Settlement Payments shall be
17 awarded to Participating Class Members from the Net Settlement Amount based on the individual's
18 Total Class Pay Periods multiplied by the Class Pay Period Value plus the individual's Total PAGA
19 Pay Periods by the PAGA Pay Period Value (to the extent the Class Members is also a PAGA
20 Employee). The Individual Settlement Payment will be reduced by any required legal deductions.

21 The Parties agree that the entire amount of the Net Settlement Amount, less applicable
22 Employee's Taxes, shall be distributed to Participating Class Members. Any Class Member who is
23 not a Participating Class Member shall not receive an Individual Settlement Payment, but if he/she is
24 a PAGA Employee, such individual will still receive his/her *pro rata* share of the PAGA Employee
25 Payment to the PAGA Employees.

26 7.3 Taxation of Settlement Proceeds. All Individual Settlement Payments paid to
27 Participating Class Members and any Class Representative Enhancement paid to Plaintiff shall be paid
28 in a net amount after applicable state and federal withholdings, including payroll taxes, have been

1 deducted. The Parties acknowledge and agree that: (1) no provision of this Agreement, and no written
2 communication or disclosure between or among the Parties, Class Counsel, or Defendant's Counsel
3 and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute
4 or be construed or be relied upon as, tax advice within the meaning of United States Treasury
5 Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party: (a) has relied
6 exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax
7 advice) in connection with this Agreement, (b) has not entered into Settlement Agreement based upon
8 the recommendation of any other party or any attorney or advisor to any other party; and (c) is not
9 entitled to rely upon any communication or disclosure by any attorney or advisor to any other party to
10 avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or adviser
11 to any other party has imposed any limitation that protects the confidentiality of any such attorney's
12 or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by
13 the acknowledging party of the tax treatment or tax structure of any transaction, including any
14 transaction contemplated by this Settlement Agreement.

15 7.3.1 The Parties agree that forty percent (40%) of the Net Settlement Amount paid
16 to Participating Class Members will be considered wages, and will be reported as such to each
17 Participating Class Member on an IRS Form W-2. The Parties agree that sixty percent (60%) of the
18 Net Settlement Amount paid to Participating Class Members will be considered civil penalties and
19 interest, and will be reported as such to each Participating Class Member on an IRS Form 1099 misc.,
20 if applicable. The foregoing tax allocation shall apply to sums paid to Plaintiff. The Parties further
21 agree that the PAGA Employee Payment distributed to each PAGA Employee will be treated entirely
22 as civil penalties, and will be reported as such to each PAGA Employee on an IRS Form 1099 misc.,
23 if applicable.

24 7.3.2 The Settlement Administrator shall calculate, withhold from each Individual
25 Settlement Payment and the Class Representative Enhancement, and remit to applicable governmental
26 agencies sufficient amounts as may be owed by the Participating Class Members and Plaintiff for
27 applicable employee taxes. The Settlement Administrator will issue appropriate tax forms to each
28 Participating Class Member and PAGA Employee consistent with the foregoing breakdown.

1 7.3.3 The Parties agree that the Gross Settlement Amount will qualify as a settlement
2 fund pursuant to the requirements of section 468(B)(g) of the Internal Revenue Code of 1986, as
3 amended, and section 1.468B-1. *et seq.* of the income tax regulations. Furthermore, the Settlement
4 Administrator is hereby designated as the “Administrator” of the qualified settlement funds for
5 purposes of section 1.46B-2(k) of the income tax regulations. As such, all taxes imposed on the gross
6 income of the Gross Settlement Amount and any tax-related expenses arising from any income tax
7 return or other reporting document that may be required by the Internal Revenue Service or any state
8 or local taxing body will be paid from the Gross Settlement Amount.

9 7.3.4 All Parties represent that they have not received, and shall not rely on, advice
10 or representations from the other Party or her/its agents regarding the tax treatment of payments under
11 federal, state or local law.

12 7.4 No Credit Toward Benefit Plans. Except as otherwise required by applicable plan
13 documents, the Individual Settlement Payments, Class Representative Enhancement and PAGA
14 Employee Payment made to Plaintiff, Class Members and PAGA Employees under this Agreement
15 shall not be utilized to calculate any additional benefits under any benefit plans to which any Plaintiff,
16 Class Members and/or PAGA Employees may be eligible including, but not limited to: retirement
17 plans, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
18 plans, PTO plans, pension plans, or any other benefit plan. It is the Parties’ intention that this
19 Agreement will not affect any rights, contributions, or amounts to which Plaintiff, Class Members and
20 PAGA Employees may be entitled under any benefit plans.

21 **8. GENERAL PROVISIONS**

22 8.1 Notices. All notices, requests, demands and other communications required or
23 permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally
24 or by first class mail to the Settlement Administrator appointed by the Court and to counsel at their
25 respective addresses as set forth below:

26 **CLASS COUNSEL**

27 Kane Moon
28 H. Scott Leviant
Ani Martirosian

1 **Moon & Yang, APC**
1055 W. Seventh St., Suite 1880
2 Los Angeles, CA 90017

3 **DEFENSE COUNSEL**

4 Keith Jacoby
Rachael Lavi
5 Lauren Schwartz
6 **Little Mendelson, P.C.**
2049 Century Park East, 5th Floor
Los Angeles, CA 90067.3107
7

8 8.2 Nullification Of Settlement Agreement. In the event: (1) the Court does not enter the
9 Preliminary Approval Order as provided herein; (2) the Court does not enter a Final Approval Order
10 as provided herein; (3) the Settlement does not become final for any other reason; or (4) Judgment is
11 not entered by the Court dismissing the lawsuit as to all Claims as to all Class Members with prejudice,
12 this Settlement Agreement shall be null and void and any order entered by the Court in furtherance of
13 this Settlement shall be treated as void from the beginning. In such case, the Parties shall be returned
14 to their respective statuses as of the date and time immediately prior to the execution of this Agreement
15 and the Parties shall proceed in all respects as if this Agreement had not been executed.

16 8.3 Headings. The descriptive headings of any paragraphs or sections of this Settlement
17 Agreement are inserted for convenience only and do not constitute a part of this Settlement Agreement.

18 8.4 Interim Stay Of Proceedings. The Parties agree to stay all proceedings in the Action,
19 except such proceedings necessary to implement and complete the Settlement, pending the Final
20 Approval Hearing to be conducted by the Court.

21 8.5 Amendment Or Modification. This Settlement Agreement may be amended or
22 modified only by a written instrument signed by Defense and Class Counsel or their successors-in-
23 interest.

24 8.6 Entire Agreement. This Settlement Agreement constitute the entire agreement among
25 the Parties, and no oral or written representations, warranties or inducements have been made to any
26 Party concerning this Settlement Agreement other than the representations, warranties and covenants
27 contained and memorialized in the Settlement Agreement.

28 8.7 Authorization To Enter Into Settlement Agreement. The person or persons signing this

1 Settlement Agreement on behalf of Defendant represents and warrants that he/she/they are authorized
2 to sign this Settlement Agreement on behalf of Defendant. Plaintiff represents and warrants that he is
3 authorized to sign this Settlement Agreement and that he has not assigned any Claim covered by this
4 Settlement to a third-party. Plaintiff, by signing this Settlement Agreement, is bound by the terms
5 herein and further agrees not to submit any Request for Exclusion from or Notice of Objection to the
6 Settlement. Any such Request for Exclusion or Notice of Objection shall therefore be void and of no
7 force or effect.

8 8.8 Signature of all Class Members Unnecessary to be Binding. The Parties agree that
9 because the Class Members are numerous, it is impossible or impractical to have each Class Member
10 execute this Agreement. The Notice will advise all Class Members of the binding nature of the release
11 provided herein and shall have the same force and effect as if the Agreement were executed by each
12 Class Member. The only Class Members who will not be bound by the terms of this Agreement are
13 those who submit a timely and valid Request for Exclusion.

14 8.9 Binding On Successors And Assigns. This Settlement Agreement shall be binding
15 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

16 8.10 Captions. The captions and section numbers in this Agreement are inserted for the
17 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the
18 provisions of this Agreement.

19 8.11 California Law Governs. All terms of this Settlement Agreement shall be governed by
20 and interpreted according to the laws of the State of California.

21 8.12 Mutual Cooperation. The Parties agree to fully cooperate with each other to accomplish
22 the terms of this Agreement, including but not limited to, execution of such documents and to take
23 such other action as may be necessary to implement the terms of this Agreement. The Parties to this
24 Agreement shall use their best efforts, including all reasonable efforts contemplated by this Agreement
25 and any other reasonable efforts that may become necessary by order of the Court, or otherwise, to
26 effectuate this Agreement and the terms set forth herein.

27 8.13 Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
28 conditions of this Agreement. Accordingly, this Agreement shall not be construed more strictly against

1 one party than another merely by virtue of the fact that it may have been prepared by counsel for one
2 of the Parties, it being recognized that, because of the arms-length negotiations between the Parties,
3 all Parties have contributed to the preparation of this Agreement.

4 8.14 Severability. The Parties to this Agreement agree, covenant, and represent that each
5 and every provision of this Agreement shall be deemed to be contractual, and that they shall not be
6 treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree, covenant,
7 and represent that each and every provision of this Agreement shall be considered severable, except
8 for the release provisions of Paragraph 5 of this Agreement. If a court of competent jurisdiction finds
9 the release provisions of Paragraph 5 of this Agreement to be unenforceable or invalid as against a
10 Class Member, then this Agreement shall become voidable and the payments made pursuant to this
11 Agreement to that Class Member shall be returned to Defendant by that Class Member as to whom
12 the release provisions have been found unenforceable or invalid. If a court of competent jurisdiction
13 finds any provision, other than the release provisions of Paragraph 5, or part thereof to be invalid or
14 unenforceable for any reason, that provision, or part thereof, shall be severed from the Agreement, and
15 all of the remaining provisions of this Agreement shall remain in full force and effect.

16 8.15 Warranties and Representations. With respect to themselves, each of the Parties to this
17 Agreement and or their agent or counsel represents, covenants and warrants that (a) they have full
18 power and authority to enter into and consummate all transactions contemplated by this Agreement
19 and have duly authorized the execution, delivery and performance of this Agreement; and (b) the
20 person executing this Agreement has the full right, power and authority to enter into this Agreement
21 on behalf of the party for whom he/she has executed this Agreement, and the full right, power and
22 authority to execute any and all necessary instruments in connection herewith, and to fully bind such
23 party to the terms and obligations of this Agreement.

24 8.16 Representation by Counsel. The Parties acknowledge that they have been represented
25 by counsel throughout all negotiations that preceded the execution of this Agreement, and that this
26 Agreement has been executed with the consent and advice of counsel. Further, the Plaintiff and Class
27 Counsel warrant and represent that there are no liens on the Agreement, and that Defendant may
28 distribute funds to the Class Members, Class Counsel, and the Plaintiff as provided by this Agreement.

1 8.17 Action to Enforce Agreement. In any suit or court action to enforce the terms of this
2 Agreement, the prevailing party shall be entitled to recover his or its attorneys' fees and costs.

3 8.18 Authorization by Plaintiff. The Plaintiff authorizes Class Counsel to sign this
4 Agreement and further agrees not to request to be excluded from the Class and not to object to any
5 terms of this Agreement. Any such request for exclusion or objection shall therefore be void and of no
6 force or effect.

7 8.19 Counterparts. This Settlement Agreement shall become effective upon its execution
8 by all of the undersigned. Plaintiff, Class Counsel and Defendant may execute this Settlement
9 Agreement in counterparts, which shall have the same force and effect as if each had signed the same
10 instrument. Copies of the executed Settlement Agreement shall be effective for all purposes as though
11 the signatures contained therein were original signatures.

12 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on the
13 date below their signatures or the signature of their representatives. The date of the Agreement shall
14 be the date of the latest signature.

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IT IS SO STIPULATED AND AGREED.

Dated: February ____, 2021

MORSCO SUPPLY, LLC (D/B/A EXPRESS
PIPE & SUPPLY)

BY: _____
ITS: _____

2/18/2021
Dated: February __, 2021

DocuSigned by:


MARCO ANTONIO, Plaintiff

1 8.17 Action to Enforce Agreement. In any suit or court action to enforce the terms of this
2 Agreement, the prevailing party shall be entitled to recover his or its attorneys' fees and costs.

3 8.18 Authorization by Plaintiff. The Plaintiff authorizes Class Counsel to sign this
4 Agreement and further agrees not to request to be excluded from the Class and not to object to any
5 terms of this Agreement. Any such request for exclusion or objection shall therefore be void and of no
6 force or effect.

7 8.19 Counterparts. This Settlement Agreement shall become effective upon its execution
8 by all of the undersigned. Plaintiff, Class Counsel and Defendant may execute this Settlement
9 Agreement in counterparts, which shall have the same force and effect as if each had signed the same
10 instrument. Copies of the executed Settlement Agreement shall be effective for all purposes as though
11 the signatures contained therein were original signatures.

12 IN WITNESS WHEREOF, the Parties and their counsel have executed this Agreement on the
13 date below their signatures or the signature of their representatives. The date of the Agreement shall
14 be the date of the latest signature.

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18 IT IS SO STIPULATED AND AGREED.

19 Dated: February 18, 2021



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22 MORSCO SUPPLY, LLC (D/B/A EXPRESS
PIPE & SUPPLY)

23 BY: _____
24 ITS: _____

25 Dated: February __, 2021

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27 _____
MARK PEREIDA, Plaintiff

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Dated: February 18, 2021



KANE MOON
H. SCOTT LEVIANT
ANI MARTIROSIAN
MOON & YANG
Attorneys for Plaintiff
MARK PEREIDA, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED

Dated: February __, 2021

KEITH JACOBY
RACHAEL LAVI
LAUREN SCHWARTZ
LITTLER MENDELSON, P.C.
Attorneys for Defendant
MORSCO SUPPLY, LLC (D/B/A) EXPRESS
PIPE & SUPPLY CO., LLC.

4837-9351-3170.2 095788.1004

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Dated: February ____, 2021

KANE MOON
H. SCOTT LEVIANT
ANI MARTIROSIAN
MOON & YANG
Attorneys for Plaintiff
MARK PEREIDA, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED

Dated: February 18 2021



KENTH JACOBY
RACHAEL LAVI
LAUREN SCHWARTZ
LITTLER MENDELSON, P.C.
Attorneys for Defendant
MORSCO SUPPLY, LLC (D/B/A) EXPRESS
PIPE & SUPPLY CO., LLC.

4837-9351-3170.2 095788.1004

Exhibit “A”

NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Pereida v. Morsco Supply, LLC, et al.
Los Angeles Superior Court Case No. 20STCV05543

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF MORSCO SUPPLY, LLC (doing business as Express Pipe & Supply Co., LLC) (“DEFENDANT”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN DECEMBER 1, 2018 AND [DATE OF PRELIMINARY APPROVAL or June 30, 2021, whichever is earlier] (THE “CLASS PERIOD”) AND DID NOT SIGN A SEVERANCE AND/OR A RELEASE AGREEMENT PRIOR, DURING AND/OR AT THE TERMINATION OF YOUR EMPLOYMENT, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Mark Pereida, individually, and on behalf of all others similarly situated v. Morsco Supply LLC, a limited liability company; Express Pipe & Supply Co., LLC, a limited liability company and DOES 1-20*, Los Angeles Superior Court Case No. 20STCV05543 (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT: Your estimated Individual Settlement Payment is << **Estimated Payment** >>, which includes your payment from the Class settlement in the estimated amount of << **Estimated Individual Class Payment** >> and, because you [ARE/ARE NOT] also a member of the PAGA Group, your payment from the PAGA settlement in the estimated amount of << **Estimated Individual PAGA Payment** >>.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. Amy D. Hogue on <<FA DATE>>, at <<FA TIME>>, in Department SSC-7 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member (defined below), you are eligible to receive an Individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered a “Participating Class Member” in the Settlement and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to pursue separate legal action against Defendant about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written request to be excluded (“Opt-Out Request”). As a result, you will not receive any benefits under the Settlement (other than based on the PAGA Claim). Opt-Out Requests must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Settlement, you may mail a written explanation of why you don’t like the Settlement to the Settlement Administrator, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit an Opt-Out Request if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DEADLINE>>.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All non-exempt employees of Defendant who worked in the State of California during the Class Period, excluding those non-exempt employees that signed severance and/or release agreements. The “Class Period” is December 1, 2018 through [DATE OF PRELIMINARY APPROVAL or June 30, 2021, whichever is earlier].

According to Defendant’s records, you are a member of the settlement class (“Class Member”). PAGA Employees will automatically receive their *pro rata* share of the \$15,000 allocated from the PAGA Settlement to PAGA Employees, cannot opt-out of the release of PAGA Claims, and will be bound by the release of the PAGA Claims even if they opt-out of the Settlement. Defendant’s records indicate you [ARE/ARE NOT] part of the PAGA Group who worked in the State of California during the PAGA Period of February 13, 2019 through [DATE OF PRELIMINARY APPROVAL or June 30, 2021, whichever is earlier].

What is this case about?

In the Action, Plaintiff Mark Pereida (“Plaintiff”) alleges on behalf of himself and the Class that Defendant: (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay all wages at termination; (6) failed to furnish accurate itemized wage statements; (7) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (8) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*]. Plaintiff seeks unpaid wages, actual, consequential and incidental losses and damages, special damages, liquidated damages, injunctive relief, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

Defendant denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant contends that its conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Kane Moon
H. Scott Leviant
Ani Martirosian
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Defendant’s Counsel

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What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$460,000 (the “Gross Settlement Amount”) for: (a) Individual Settlement Payments to Participating Class Members; (b) the Court-approved Class Representative Enhancement to Plaintiff (\$7,500 to be requested); (c) the Court-approved attorneys’ fees and costs to Class Counsel (“Class Counsel’s Fees and Expenses”) (\$153,333.33 in fees and up to \$15,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency (“LWDA”) for alleged PAGA penalties (the “PAGA LWDA Payment”) (\$45,000 of a total of \$60,000 allocated to the PAGA Settlement); and (e) payment to the Settlement Administrator for settlement administration services (“Administrative Expenses”) (not to exceed the estimated maximum of \$7,000).

Individual Settlement Payments. Class Members who do not timely and properly request to be excluded from the Settlement (the “Participating Class Members”) will receive a share of the Net Settlement Amount, and Class Members who are also PAGA Employees will receive a share of the \$15,000 from the PAGA Settlement allocated to PAGA Employees (the “PAGA Employee Payment”), regardless of whether the request exclusion from the Settlement (the total payment to a Class Member is their “Individual Settlement Payment”).

The “Net Settlement Amount” will be calculated by deducting from the Gross Settlement Amount the Class Counsel’s Fees and Expenses, the Class Representative Enhancement, the PAGA Settlement, and the Administrative Expenses. Payments by Defendant from the Net Settlement Amount will be included in the Individual Settlement Payment to each Class Member who does not timely and properly request to be excluded from the Settlement (“Participating Class Member”).

The Net Settlement Amount shall be divided among all Participating Class Members on a *pro rata* basis based upon the total number of pay periods worked by each Class Member during the Class Period. The portion of the Net Settlement Amount paid to a Participating Class Member = Net Settlement Amount × the pay periods worked by a Participating Class Member ÷ the pay periods worked by all Participating Class Members.

The PAGA Employee Payment shall be divided among all PAGA Employees on a *pro rata* basis based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period. The portion of the PAGA Employee Payment paid to a PAGA Employee = \$15,000 × the pay periods worked by a PAGA Employee (during the PAGA Period) ÷ the pay periods worked by all PAGA Employees (during the PAGA Period).

Your estimated Individual Settlement Payment is <<Estimated Payment>> and your covered pay periods during the Class Period based on your hire and/or termination dates is <<Work Weeks>>. You may seek to dispute the number of your covered pay periods. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of pay periods you believe you have worked; (v) be signed by you; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<RESPONSE DEADLINE>> (the “Response Deadline”) at:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863

You may produce documentary evidence supporting your contention. Defendant’s records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all pay period disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated Individual Settlement Amount is incorrect because your pay periods (the number of total pay periods you worked within the Class Period) are wrong, your deadline to dispute this is <<RESPONSE DEADLINE>>.

For tax reporting purposes, the payments to Class Members will be allocated 40% as wages and 60% as penalties and interest. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Defendant.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller’s Office to be held as unclaimed property in the name of each check recipient who is

the payee of the check. In such event, the Participating Class Member and PAGA Employees shall nevertheless remain bound by the Settlement.

Within (40) calendar days after the “Effective Date,” the Administrator will distribute the Individual Settlement Payments to all Participating Class Members and PAGA Employees. The “Effective Date” is the last date of: (a) final approval of the Settlement by the Court; (b) if there are objections to the Settlement which are not withdrawn, and if an appeal, review or writ is not sought from the Judgment, the day after the time for appeal of entry of Judgment has expired, or (c) if an appeal, review or writ is sought from the Judgment, the day after the Judgment is affirmed or the appeal, review or writ is dismissed or denied, and the Judgment is no longer subject to judicial review.

Payments to Participating Class Members and PAGA Employees will issue only AFTER the payment by Defendant of the Gross Settlement Amount. **PLEASE BE PATIENT AND UPDATE THE SETTLEMENT ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.**

None of the Parties or their attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

Class Counsel’s Fees and Expenses, the Class Representative Enhancement, Administrative Expenses, the PAGA LWDA Payment. Class Counsel will ask the Court to award attorneys’ fees up to \$153,333.33 (one third) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$15,000. In addition, Class Counsel will ask the Court to authorize a Class Representative Enhancement made to Plaintiff, not to exceed \$7,500, for his efforts in bringing the Action on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$7,000.00. The PAGA LWDA Payment in the amount of \$45,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$60,000 PAGA Settlement.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement or the full funding of the Settlement, and to the maximum extent permitted by law, all Class Members who do not timely and properly opt-out hereby do, and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from all of the following claims, demands, rights, liabilities and causes of action that were asserted in the operative complaint in the Action or that could have been asserted based on the claims and factual allegations in the operative complaint in the Action, excluding the PAGA Claim but including (1) any claims, demands, rights, liabilities and causes of action for damages, interest, attorney’s fees and costs, injunctive relief, declaratory relief, restitution, or fraudulent business practices based on unpaid wages (including but not limited to minimum wages, straight time wages, and overtime pay), failure to provide meal periods, failure to permit rest breaks, failure to reimburse business expenses, failure to maintain accurate records; failure to furnish accurate wage statements, and failure to pay all wages during employment and at the time of termination; and (2) any claims, demands, rights, liabilities and causes of action for damages, interest, attorney’s fees and costs, injunctive relief, declaratory relief, restitution, or fraudulent business practices under California Labor Code sections 201 through 204, 210, 212, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and related provisions contained in the California Wage Orders; and the California Business and Professions Code predicated on such Labor Code sections and California Wage Orders, including but not limited to Business and Professions Code section 17200 *et seq.*

With respect to the PAGA Claim, all PAGA Employees, regardless of whether they opt-out of the Class Settlement, shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from the PAGA Claim based in whole or in part on the factual or legal allegations and/or claims in the Complaint and/or Plaintiff’s February 11, 2020 LWDA Letter, to the extent the PAGA claims were alleged in the Second Amended Complaint. These claims shall be collectively referred to as the “Released Claims.” As used above, the “Released Parties” means Defendant Morsco Supply, LLC (d/b/a Express Pipe & Supply Co., LLC) its past or present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys.

No Class Member can request exclusion from the settlement of the PAGA Claim. If you are a Class Member, and this Settlement is approved, you will release the PAGA Claim even if you timely and properly file an Opt-Out Request. The PAGA Employees are bound by the release of the PAGA Claims regardless of whether they cash their PAGA Payment Check.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Settlement Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Settlement Payment, **you do not need to take any action.** By remaining in the Class and receiving settlement monies to resolve your class claims, you consent to the release of the Released Claims as described above.

Any amount paid to Participating Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way and you have selected to remain in the Class, you can ask the Court to deny approval of the Settlement by submitting an objection. You can't object to the release of the PAGA Claim or object to the PAGA Payment. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no additional settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You may object to the Settlement in writing or by appearing at the Final Approval Hearing, either in-person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. Written objections should be sent to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. If you submit a written objection, it should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; (4) the case and number (*Pereida v. Morsco Supply LLC; Express Pipe & Supply Co. LLC*. Case No. 20STCV05543); and (5) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the Final Approval Hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.** If you submit a written objection and then request exclusion from, and opt out of, the Class Settlement, you would be deemed to have waived your objection.

Because of healthcare guidance and Orders of the Los Angeles Superior Court related to COVID-19, the Final Approval Hearing may be a telephonic hearing only. If you wish to attend the Final Approval Hearing telephonically, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. You will need to create an account with LACourtConnect using an e-mail address before you can schedule a telephonic or video appearance at the Final Approval Hearing. You will need to use the Case Number for this case (20STCV05543) to schedule a telephonic or video appearance under the "Civil" case section of the LACourtConnect website.

Regardless of the form, an objection, alone will not satisfy the requirement that a Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (PAGA Employees Still Will Receive Their Share of the PAGA Employee Payment). You may not seek exclusion from the PAGA portion of this Settlement. However, if you do not want to be part of the Class Settlement, you must submit a written request to be excluded from the Class Settlement to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. In order to be valid, your written request to be excluded from the Class Settlement must be signed and include your full name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement like the following:

“I hereby request to be excluded from the Class Action Settlement in *Pereida v. Morsco Supply, LLC., et al.*”

Your written request to be excluded from the Class Settlement must then be signed and postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a written request to be excluded from the Class Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a Participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Class Settlement by the deadline to request exclusion, you will have no further role in the Action as it relates to the Class claims. You will not be able to complain to the Court about any aspect of the Class Settlement and any written objection to the Class Settlement would not be considered valid. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement, except for any payment you may be receive from the PAGA portion of this Settlement.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s Fees and Expenses, the Class Representative Enhancement, the Administrative Expenses, and the PAGA Payment on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department SSC-07 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012. Because of healthcare guidance and Orders of the Los Angeles Superior Court related to COVID-19, the hearing may be a telephonic hearing only. If you wish to attend the Final Approval Hearing telephonically, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website by the Settlement Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<[website](#)>>.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action Settlement attached to the Declaration of H. Scott Leviant in Support of Plaintiff’s Motion for Preliminary Approval. The Joint Stipulation for Class Action and PAGA Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Los Angeles Superior Court. Because of the Los Angeles Superior Court’s COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Class Members may be required to make an appointment with the Court to view documents. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above.

You may also view documents filed in this case, including the complete Settlement, on the Court’s website at: www.lacourt.org/casesummary/ui/index.aspx?casetype=civil. NOTE: If you choose to access documents online, the Court will charge you a fee for access. Class Counsel can provide you with copies of the settlement documents at no charge.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.