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Attorneys for Defendant Leon's Transmission Service, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

VINCENT STADNIK, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

LEON'S TRANSMISSION SERVICE, INC., a
California corporation; DOES 1 through 25,

Defendants.

Case No.: 19STCV44253

*Assigned for all purposes to:
Hon. Carolyn B. Kuhl, Dept. 12*

**FIRST AMENDED STIPULATION
OF CLASS ACTION SETTLEMENT**

Complaint Filed: December 10, 2019

1 This First Amended Stipulation of Class Action Settlement replaces and supersedes
2 the Stipulation of Class Action Settlement signed by the parties in or about August 2020 and
3 seeks to address the changes requested by the Court in its April 8, 2021 Tentative Ruling.
4

5 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

6 This stipulation sets forth the terms of the settlement of a class action filed on behalf
7 of current and former non-exempt employees who worked for Defendant Leon's Transmission
8 Service, Inc. ("Defendant" or "Leon's Transmission") in California during the Class Period,
9 as defined below. The First Amended Complaint alleges causes of action against Defendant
10 for: (1) failure to pay overtime; (2) failure to pay twice minimum wage, (3) failure to provide
11 meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to pay all
12 wages owed at termination; (6) failure to reimburse necessary expenditures, (7) violation of
13 the Unfair Practices Act; and (8) recovery of civil penalties under the California Labor Code
14 Private Attorneys' General Act ("PAGA"), California Labor Code sections 2698-2699.5.

15 Under the terms of the parties' Settlement and after final approval and entry of
16 judgment pursuant to California Rule of Court 3.769, Defendant will pay a gross settlement
17 amount of three hundred sixty thousand dollars (\$360,000) (the "Gross Settlement Amount"),
18 plus the employer's share of payroll taxes. The Settlement will be administered by a third-
19 party settlement administrator with experience administering class action settlements of this
20 type. Until distribution, the Gross Settlement Amount will be held in a Qualified Settlement
21 Fund established by the Settlement Administrator. This is an opt-out settlement, and Class
22 Members (as defined in Section II) will receive a settlement payment unless they timely
23 submit a Request for Exclusion. Settlement Class Members shall not be required to submit a
24 claim form.

25 The Parties agree and propose that the following disbursements will be made from the
26 Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval
27 Hearing:

28 A. Settlement Administration Costs, estimated to be \$7,500.

1 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount
2 not to exceed one hundred twenty thousand dollars (\$120,000), which is one-third of the Gross
3 Settlement Amount;

4 C. Class Counsel's Costs, as approved by the Court, in an amount not to exceed
5 \$15,000;

6 D. Service and Release Awards to Plaintiff Vincent Stadnik in the amount of
7 \$10,000 as payment for his time and efforts in pursuing this Action, and for the broader release
8 and other covenants that he will be providing to Defendant;

9 E. A payment of \$3,000 to the California Labor and Workforce Development
10 Agency (the "LWDA Payment"), which represents the Labor and Workforce Development
11 Agency's ("LWDA") 75% share of the total \$4,000 allocated to Plaintiff's PAGA claims (the
12 "PAGA Amount"). The other 25% of the PAGA Amount (\$1,000) will be distributed to those
13 Class Members who were employed by Defendant at any time during the PAGA Period.

14 F. The remainder of the Gross Settlement Amount (the "Net Settlement Amount")
15 will be distributed to Settlement Class Members based on the methodology discussed in
16 section IV.K.1, below. It is estimated that the Net Settlement Amount will be approximately
17 \$203,500 after deductions for Class Counsel's Attorneys' Fees, Class Counsel's Costs,
18 Settlement Administration Costs, the Service and Release Awards, and the PAGA payment.

19 Defendant represents that the Class consisted of approximately 219 members as of
20 April 2020. Defendant represents that there are approximately 132 PAGA Employees (as
21 defined in Section II.NN hereinbelow).

22 **II. DEFINITIONS**

23 As used in this Stipulation, the following terms shall have the meanings set forth
24 below:

25 A. "Action" means this putative class and representative action pending in Los
26 Angeles County Superior Court titled *Vincent Stadnik v. Leon's Transmission Service, Inc.*,
27 Case No. BC 19STCV44253.

1 B. "Agreement" or "Stipulation" means this Stipulation of Class Action
2 Settlement.

3 C. "Class" means all individuals who were employed by Defendant in California
4 as non-exempt employees during the applicable Class Period (as defined below).

5 D. "Class Counsel" means Aaron C. Gundzik and Rebecca G. Gundzik of
6 Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423,
7 (818) 290-7461, and Dan Holzman of Caskey & Holzman, 24025 Park Sorrento, Ste. 400,
8 Calabasas, CA 91302, (818) 657-1070.

9 E. "Class Counsel's Attorneys' Fees" means the amount to be awarded to Class
10 Counsel from the Gross Settlement Amount for their attorneys' fees for their work in this
11 Action, subject to Court approval at the Final Fairness and Approval Hearing.

12 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
13 from the Gross Settlement Amount to reimburse Class Counsel for their reasonable costs and
14 expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval
15 Hearing.

16 G. "Class Data" means each Class Member's full name, social security number,
17 last known address, and telephone number(s), along with the number of weeks that each Class
18 Member worked for Defendant in a Class position and a Sub-Class position during the Class
19 Period to the extent that this information is in Defendant's reasonable possession.

20 H. "Class Member" is a person who is a member of the Class.

21 I. "Class Period" means the period from December 10, 2015 through the earlier
22 of the following dates: (a) the date that this Settlement is preliminarily approved by the court;
23 and (b) October 15, 2020.

24 J. "Complaint" means the First Amended Complaint on file in the Action.

25 K. "Court" means the Superior Court of the State of California, in and for the
26 County of Los Angeles, where the Action is pending.

27 L. "Defendant" means Leon's Transmission Service, Inc.
28

1 “Defendant’s Counsel” means Alfred Landegger, Marie D. Davis and Kristina Kourasis of
2 LANDEGGER VERANO & DAVIS ALC, 15760 Ventura Blvd., Suite 1200, Encino,
3 California 91436, Telephone: (818) 986-7561, Facsimile: (818) 986-5147.

4 M. “Effective Date” means the date of entry of the order of the “Final Approval
5 Order” if no objection is filed. If a timely objection to the settlement is filed, the “Effective
6 Date” will be the later of (1) 65 days following entry of the Final Approval Order and (2) if
7 an appeal, review or writ is sought from the Final Approval Order, the date on which (i) the
8 highest reviewing court renders its decision denying the petition or writ challenging the Final
9 Approval Order or renders its decision affirming the Final Approval Order and (ii) the Final
10 Approval Order is no longer subject to further review.

11 N. “Employer’s Withholding Share” means Defendant’s share of all federal, state,
12 and local taxes and required withholdings, including without limitation, FICA, Medicare tax,
13 FUTA, and state unemployment taxes.

14 O. “Final Approval Order” means the Order Granting Final Approval of Class
15 Action Settlement and Judgment entered by the Court.

16 P. “Final Fairness and Approval Hearing” means the hearing on Plaintiff’s
17 Motion for Final Approval of Class Action Settlement at which the Court will be asked to give
18 final approval to the settlement terms set forth herein and to enter judgment.

19 Q. “Gross Settlement Amount” means the three hundred sixty thousand dollars
20 (\$360,000) which Defendant will pay under this Settlement.

21 R. “LWDA Payment” means 75% of the PAGA Payment. The LWDA Payment
22 will be paid to the LWDA.

23 S. “Net Settlement Amount” means the amount remaining from the Gross
24 Settlement Amount after payments of Court-approved Class Counsel’s Attorney’s Fees and
25 Class Counsel’s Costs, Service and Release Awards to the Representative Plaintiff, Settlement
26 Administration Costs, and the PAGA Amount. It is estimated that the Net Settlement Amount
27 will be at least \$204,500.

1 T. “Notice of Settlement” means the “Notice of Proposed Class Action Settlement
2 and Final Approval Hearing,” the form of which is attached hereto as Exhibit A.

3 U. “Notice of Objection” means any written objection to this Settlement sent by a
4 Settlement Class Member to the Settlement Administrator as specified herein and in the
5 Notice of Settlement.

6 V. “PAGA Amount” means the \$4,000 portion of the Gross Settlement Amount
7 that the Parties allocated to settlement of Plaintiff’s PAGA claims.

8 W. “Parties” means the Representative Plaintiff on behalf of themselves and all
9 Settlement Class Members and Defendant.

10 X. “Preliminary Approval Date” is the date that the Court grants preliminary
11 approval of this Settlement pursuant to California Rule of Court 3.769(c).

12 Y. “Qualified Settlement Fund” or “QSF” means a federally insured bank account
13 to be established by the Settlement Administrator into which all payments from Defendant
14 related to this Settlement will be deposited and from which all payments authorized by the
15 Court will be made. The QSF will be established prior to Defendant’s deposit of the Gross
16 Settlement Amount.

17 Z. “Qualifying Workweek” means the number of weeks that each Class Member
18 worked for Defendant in a Class position during the Class Period.

19 AA. As determined by the Court, “Released Claims” means all causes of action and
20 factual or legal theories that were alleged in the First Amended Complaint or are based on or
21 arise out of the facts alleged in the First Amended Complaint, including without limitation
22 any claims for (1) failure to pay overtime; (2) failure to pay twice minimum wage, (3) failure
23 to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to
24 pay all wages owed at termination; (6) failure to reimburse necessary expenditures, and (7)
25 violation of the Unfair Practices Act and all related penalties. Provided, however, the Released
26 Claims shall not include the PAGA Released Claims. The time period governing these
27 Released Claims shall be the Class Period only. Claims and damages that were not alleged in
28

1 the First Amended Complaint (or any subsequent operative Complaint) and do not arise from
2 the facts alleged in the First Amended Complaint are specifically excluded from the release.

3 BB. “Released Parties” means Defendant and its past, present and/or future officers,
4 directors, owners, members, managers, employees, agents, representatives, attorneys,
5 insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries,
6 affiliates, divisions, predecessors, successors, assigns, and joint venturers, but only as to the
7 Released Claims.

8 CC. “Representative Plaintiff” means Plaintiff Vincent Stadnik.

9 DD. “Request for Exclusion” means a written and signed request by a Class
10 Member to be excluded from the Settlement Class that is submitted in accordance with the
11 procedure set forth herein, also known as an “opt-out request.”

12 EE. “Response Deadline” means the date that is 45 days after mailing of Notices
13 of Settlement. Provided, for Notices of Settlement that are re-mailed to a different address,
14 the Response Deadline will be the earlier of: (1) 45 days after re-mailing, and (2) ten days
15 before the initial date set by the Court for the Final Fairness and Approval Hearing.

16 FF. “Service and Release Award” means the payment to be made to the
17 Representative Plaintiff for his service to the Class and for the broader general release that
18 they are providing to Defendant, which is in addition to whatever payment each otherwise
19 would be entitled to receive as a Settlement Class Member.

20 GG. “Settlement” means the disposition of the Action and all related claims
21 effectuated by this Agreement.

22 HH. “Settlement Administration Costs” means the fees and costs incurred or
23 charged by the Settlement Administrator in connection with the execution of its duties under
24 this Agreement including, but not limited to fees and costs associated with: (1) establishing
25 and maintaining the QSF; (2) preparing, issuing and/or monitoring reports, filings, and notices
26 (including the cost of printing and mailing all notices and other documents to the Class
27 Members) required to be prepared in the course of administering the Settlement; (3)
28 computing the amount of the settlement payments, taxes, and any other payments to be made

1 under this Agreement; (4) calculating and handling inquiries about the calculation of
2 individual settlement payments; (5) establishing and operating a settlement payment center
3 website, address, and phone number to receive Class Members' inquiries about the Settlement;
4 (6) providing a due diligence declaration for submission to the Court prior to the final approval
5 hearing; (7) printing and providing Settlement Class Members and the Plaintiff with W-2 and
6 1099 forms as required under this Agreement and applicable law; (8) preparing, issuing, and
7 filing any tax returns and information returns and any other filings required by any
8 governmental taxing authority or other governmental agency; and (9) for such other tasks as
9 the Parties mutually agree or the Court orders the Settlement Administrator to perform. The
10 Settlement Administration Costs will not exceed \$7,500. Settlement Administration Costs will
11 be paid out of the Gross Settlement Amount.

12 II. "Settlement Administrator" refers to Phoenix Class Action Administration
13 Solutions.

14 JJ. "Settlement Class" means all Class Members who have not submitted a timely
15 and complete Request for Exclusion.

16 KK. "Settlement Class Member" is a person who is a member of the Settlement
17 Class.

18 LL. "Sub-Class" means all individuals who were employed by Defendant in
19 California as non-exempt employees who were paid a weekly salary and were not separately
20 compensated for their overtime work during the applicable Class Period (as defined above).

21 MM. "Sub-Class Member" is a person who is a member of the Sub-Class.

22 NN. "PAGA Employee" means a member of the Class who was employed by
23 Defendant at any time during the PAGA Period.

24 OO. "PAGA Employee Portion" means \$1,000, which is 25% of the PAGA
25 Amount.

26 PP. "PAGA Period" means the time period from December 10, 2018 through
27 October 15, 2020.

28

1 QQ. "PAGA Released Claims" means all claims under the California Labor Code
2 Private Attorneys General Act of 2004 or for civil penalties recoverable under the Act for
3 violations that were alleged in, or arise out of the facts alleged in, the First Amended
4 Complaint and/or the December 10, 2019 letter submitted by Plaintiff to California's Labor
5 and Workforce and Development Agency with respect to failure to pay overtime wages,
6 failure to provide off-duty meal periods, failure to provide uninterrupted off-duty rest periods,
7 failure to furnish accurate wage statements, failure to pay wages due upon termination, and
8 failure to reimburse necessary expenses arising during the PAGA Period.

9 **III. BACKGROUND**

10 During the Class Period, Defendant operated a transmission repair and servicing
11 business in California that. Plaintiff contends that during the Class Period, he and other non-
12 exempt employees of Defendant were not paid for all of their work, were not provided with
13 compliant meal and rest breaks, were not provided compliant wage statements, were not paid
14 all amounts due at separation, and were not reimbursed for all of their necessary expenses.
15 Plaintiff further alleges that during the Class Period, he and the other non-exempt employees
16 who were paid a flat salary were not paid for all of their overtime work and were not paid at
17 overtime rates of pay.

18 The Parties have undertaken significant investigation and informal discovery during
19 the prosecution of this Action. Such discovery and investigation include extensively
20 interviewing the Representative Plaintiff, Defendant's production and Plaintiff's counsel's
21 review of personnel records, policies, as well as time pay records for all Class Members during
22 the Class Period, and other detailed information relevant to the Class Members' claims.
23 Counsel for the Parties have investigated the law as applied to the facts discovered regarding
24 the alleged claims of the Class and potential defenses thereto, and the potential damages
25 claimed by the Class.

26 The Parties' attorneys have engaged in extensive discussions about the strengths and
27 weaknesses of the claims and defenses in the Action. On July 28, 2020, the Parties attended
28 a mediation before an experienced and well-regarded mediator, Gig Kyriacou, after which the

1 Parties' reached an agreement regarding the resolution of this Action which is embodied in
2 the terms of this Agreement.

3 Plaintiff and Class Counsel have concluded, after considering the sharply disputed
4 factual and legal issues involved in this Action, the risks attending further prosecution, and
5 the substantial benefits to be received pursuant to the compromise and settlement of the Action
6 as set forth in this Agreement, that this Settlement is in the best interests of the Representative
7 Plaintiff and the Settlement Class and is fair and reasonable.

8 This Settlement contemplates: (i) entry of an order preliminarily approving the
9 Settlement and approving certification of a provisional Class for settlement purposes only, (ii)
10 dissemination of a notice to Class Members about the settlement; (iii) entry of a Final
11 Approval Order granting final approval of the Settlement; and (iv) entry of final judgment.

12 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

13 **A. Preliminary Approval of Settlement**

14 Following the execution of this Stipulation by all Parties or at such other time specified
15 by the Court, Class Counsel will submit this Stipulation to the Court as part of Plaintiff's
16 motion for preliminary approval of the settlement. Plaintiff's motion will include such briefing
17 and evidence as may be required for the Court to determine that this Agreement is fair and
18 reasonable, as required by California Code of Civil Procedure section 382 and California Rule
19 of Court 3.769. Class Counsel will provide Defendant's counsel with the opportunity to
20 review and comment on all drafts of all papers to be filed in connection with the motion for
21 preliminary approval (notice of motion, memorandum of points and authorities and
22 declarations) before filing such motion with the Court. Plaintiff's motion for preliminary
23 approval will also include a proposed order that is mutually agreed-upon by the Parties.
24 Defendant shall not oppose Plaintiff's motion for preliminary approval of the settlement to
25 the extent it is consistent with the terms and conditions of this Agreement. Defendant may,
26 however, provide a written response to any characterization of the law or facts contained in
27 the motion for preliminary approval.

1 The Parties have agreed to the certification of the Class for the sole purposes of
2 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
3 the Settlement not be approved by the Court or the judgment not become final, the fact that
4 the Parties were willing to stipulate to class certification as part of the Settlement will have no
5 bearing on, and will not be admissible in connection with, the issue of whether a class should
6 be certified in a non-settlement context in this Action, and in any of those events, Defendant
7 expressly reserves the right to oppose class certification. Additionally, if the Settlement does
8 not become final, this Agreement and all negotiations, court orders, and proceedings related
9 thereto shall be without prejudice to the rights of all Parties hereto, and evidence relating to
10 the Agreement and all negotiations shall not be admissible in the Action or otherwise. The
11 Parties further agree that if, for any reason, the Settlement is not approved, the certification
12 for purposes of this Settlement will have no force or effect and will be immediately revoked.

13 **B. Cooperation**

14 The Parties agree to fully cooperate with each other to accomplish the terms of this
15 Agreement, including but not limited to, execution of such documents and to take such other
16 reasonably necessary actions to implement the terms of this Agreement. No party, nor any of
17 its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object to
18 the Settlement.

19 **C. Notice of Settlement**

20 Within twenty-one (21) calendar days following the Court's order granting
21 preliminary approval of the Settlement, Defendant will provide the Settlement Administrator
22 with the Class Data in an electronic format acceptable to the Settlement Administrator. At the
23 same time, Defendant will provide the Class Data, without Class Member names, contact
24 information and social security numbers, to Class Counsel. This information will remain
25 confidential and will not be disclosed to anyone, except as required to applicable taxing
26 authorities, pursuant to Defendant's express written authorization, by order of the Court, or as
27 otherwise provided for in this Agreement.

1 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
2 Class Members and Sub-Class Members and the number of Qualifying Workweeks for each,
3 (2) finalize and print the Notice of Settlement; (3) check all addresses against the National
4 Change of Address database; and (4) within ten (10) calendar days of receiving the Class Data,
5 send to each Class Member via First-Class United States mail an English and Spanish version
6 of the Notice of Settlement to the most recent address known for each Class Member.

7 **D. Re-Sending Class Notices**

8 In the event that Defendant's Counsel or Class Counsel becomes aware of new
9 addresses for any Class Member, prior to the filing of the motion for final approval, such
10 information must immediately be communicated to the Settlement Administrator. The
11 Settlement Administrator will then re-send a Notice of Settlement to the Class Member(s) at
12 the new address.

13 For any Notice of Settlement that is returned as undeliverable, the Settlement
14 Administrator will perform a utility database search or other skip trace. The returned Notices
15 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
16 searching and re-mailing will be completed within ten (10) calendar days of the date that
17 Notices of Settlement were originally returned as undeliverable.

18 **E. Requests for Exclusion (Opt-Outs)**

19 Any Class Member who wishes to be excluded from the Settlement must notify the
20 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
21 own Request for Exclusion to the Settlement Administrator that clearly expresses such desire
22 and is signed by such Class Member. Any such Request for Exclusion shall include the Class
23 Member's name (and former names, if any), current address, telephone number, and last four
24 numbers of the Class Member's social security number. To be valid, the Request for Exclusion
25 must be postmarked by no later than the Response Deadline.

26 Any Class Member who submits a valid and timely Request for Exclusion shall be
27 barred from participating in this Settlement, shall be barred from objecting to this Settlement,
28 and shall receive no benefit from the Class Settlement. Provided, however, notwithstanding a

1 valid Request for Exclusion, all PAGA Employees shall receive their share of the PAGA
2 Employee Portion and will be deemed to have released the PAGA Released Claims.

3 Any Class Member who fails to submit a timely, complete, and valid Request for
4 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively presumed
5 that, if a Request for Exclusion is not postmarked on or before the expiration of the period to
6 submit a Request for Exclusion, the Class Member did not make the request in a timely
7 manner. Under no circumstances shall the Settlement Administrator have the authority to
8 extend the deadline for Class Members to file a Request for Exclusion.

9 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,
10 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and
11 conditions of this Agreement. The releases provided for in this Agreement shall conclusively
12 preclude any Settlement Class Member from asserting any of the Released Claims against any
13 of the Released Parties in any judicial, administrative, or arbitral forum.

14 The Settlement Administrator shall promptly provide Class Counsel and Defendant's
15 Counsel with copies of all Requests for Exclusion that it receives.

16 **F. Declaration of Compliance**

17 At the time determined by Class Counsel, the Settlement Administrator shall provide
18 Class Counsel and Defendant's Counsel with a declaration attesting to completion of the
19 notice process set forth in this Section IV, including the number of notices sent and returned,
20 an explanation of efforts to resend undeliverable notices, and copies of all Requests for
21 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their
22 papers requesting final approval of the Settlement.

23 **G. Sufficient Notice**

24 Compliance with the procedures described in this Section IV shall constitute due and
25 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
26 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
27 the Representative Plaintiff, Class Counsel, Defendant, Defendant's Counsel, or the
28

1 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
2 Approval Hearing.

3 **H. Objections to Settlement**

4 **1. Procedure and Deadline for Objections**

5 In order for any Class Member to object to the Settlement, he or she must send to the
6 Settlement Administrator, postmarked no later than the Response Deadline, a Notice of
7 Objection, signed by the objecting Class Member or his or her attorney, along with all
8 supporting papers (if any). The date the signed Notice of Objection was postmarked shall be
9 conclusively determined according to the records of the Settlement Administrator. The
10 Settlement Administrator shall send any Notices of Objections it receives to Defense Counsel
11 and Class Counsel within three (3) business days of receipt. The Court retains final authority
12 with respect to the consideration and admissibility of any Notice of Objection.

13 A Class Member's Notice of Objection will not be valid if the Class Member also
14 submits a valid and timely Request for Exclusion. A Class Member who does not submit a
15 valid and timely Request for Exclusion and who objects to the Settlement will still be
16 considered a Settlement Class Member.

17 **2. Responses to Objections**

18 Class Counsel and Defendant's Counsel shall file any written objections from Class
19 Members submitted to the Settlement Administrator, and Class Counsel's and Defendant's
20 Counsel's responses to such objections, at least five (5) court days before the Final Fairness
21 and Approval Hearing.

22 **I. Pro-Rata Increase in Settlement Fund**

23 If, as reflected in the Class Data delivered to the Settlement Administrator, the total
24 number of Class Member Qualifying Workweeks exceeds 24,200, the Gross Settlement
25 Amount shall increase by the same percentage that the number of Qualifying Workweeks
26 exceeds 24,200.

27 **J. Final Fairness and Approval Hearing**

28 On or before the date set by the Court, Class Counsel will file a motion for final

1 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will
2 provide Defendant's counsel with the opportunity to review and comment on drafts of all
3 papers to be filed in connection with the motion for final approval (notice of motion,
4 memorandum of points and authorities and declarations) before filing such motion with the
5 Court. Plaintiff's motion for final approval will also include a proposed order that is mutually
6 agreed-upon by the Parties. Defendant shall not oppose Class Counsel's motion for final
7 approval of the settlement to the extent it is consistent with the terms and conditions of this
8 Agreement. Defendant may, however, provide a written response to any characterization of
9 the law or facts contained in the motion for final approval.

10 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
11 before the Court in order to: (1) determine whether the Court should give this Settlement final
12 approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and
13 request for the Service and Release Awards to the Representative Plaintiff, should be granted;
14 (3) determine whether the Court should approve the payment of fees to the Settlement
15 Administrator and the PAGA Settlement Amount and (4) consider any timely Objections to
16 Settlement, including Class Counsel's and Defendant's Counsel's responses thereto. Upon
17 final approval, the Court shall enter a Final Approval Order (in a form submitted by Class
18 Counsel and approved by Defendant's Counsel) which has the effect of adjudicating all claims
19 set forth in the Complaint and implementing the release of Released Claims, as set forth in
20 this Agreement. The Final Approval Order will be posted on the Settlement Administrator's
21 website. The posting of the Final Approval Order on the Settlement Administrator's website
22 will constitute notice of entry of the judgment, as required by California Rule of Court
23 3.771(b).

24 **K. Settlement Payments to Settlement Class Members**

25 **1. Calculation of Settlement Payments.**

26 The Net Settlement Amount shall be divided among and distributed to individual
27 Settlement Class Members using the following formula: Defendant will determine the amount
28 of each participating Settlement Class Member's "Qualifying Workweeks" (as that term is

defined in Section II herein). Thirty percent (30%) of the Net Settlement Amount shall be allocated to the Sub-Class, which includes approximately 54 of the Class Members. That amount shall be allocated to the Class Members who worked as non-exempt employees but were paid a flat salary during the Settlement Class Period using the following formula:

**(Settlement Class Member's Qualifying Workweeks When they Worked
as a Sub-Class Member ÷ All Workweeks Worked by Sub-Class Members)
x 30% of Net Settlement Amount**

The remaining seventy percent (70%) of the Net Settlement Amount shall be allocated to all of the Class Members, including those who worked as Sub-Class Member during the Settlement Class Period, using the following formula:

**(Settlement Class Member's Qualifying Workweeks ÷ All Qualifying
Workweeks) x 70% of Net Settlement Amount**

The Settlement Administrator shall have the authority and obligation to make payments, credits, and disbursements, including payments and credits in the manner set forth herein, to Settlement Class Members calculated in accordance with the methodology set out in this Agreement and orders of the Court.

The Parties acknowledge and agree that the formula used to calculate individual settlement payments does not imply that all the elements of damages alleged in the Action are not being considered. The above formula was devised as a practical and logistical tool to simplify the settlement process.

2. Inclusion of Qualifying Workweeks and Estimated Settlement Payment Information in Notice of Settlement

The Notice of Settlement sent to each Class Member shall state the amount of the Class Member's Qualifying Workweeks during the Class Period and during the PAGA Period, as reflected in the Class Data. The Notice of Settlement shall provide an estimate of each Class Member's share of the Class settlement and each PAGA Employee's share of the PAGA Employee Portion. The Notice of Settlement shall also state whether the Class Member is a member of the Sub-Class. Each Notice of Settlement shall also include an estimate of the

1 Class Member's settlement payment as a member of the Settlement Class, as calculated by
2 the Settlement Administrator. The estimated settlement payment included in the Notice of
3 Settlement will be calculated by assuming that no Class Members will be excluded from the
4 Settlement.

5 **3. Eligibility**

6 Settlement Class Members (but not Class Members who exclude themselves of the
7 Settlement), will receive a settlement payment from the Net Settlement Fund, distributed
8 through the Settlement Administrator. All PAGA Employees will still receive a check for
9 their share of the PAGA Employee Portion, regardless of whether they submit a valid Request
10 for Exclusion.

11 Should any question arise regarding the determination of eligibility for, or the amounts
12 of, any settlement payments under the terms of this Agreement, Class Counsel and
13 Defendant's Counsel shall meet and confer in an attempt to reach agreement and, if they are
14 unable to do so, the issue shall be submitted to the Court for determination on an expedited
15 basis, through the submission of letter briefs of no more than three pages.

16 **4. Disputes about Qualifying Workweeks**

17 If a Class Member disagrees with the number of Qualifying Workweeks, as stated in
18 his or her Notice of Settlement, he or she may dispute that figure by informing the Settlement
19 Administrator of the number of Qualifying Workweeks he or she claims to have worked
20 during the Class Period or PAGA Period and provide any supporting documentation (such as,
21 without limitation, payroll or time keeping records, and paycheck stubs) on or before the
22 Response Deadline. If there is a dispute, the Settlement Administrator will consult with Class
23 Counsel and Defendant's Counsel to determine whether an adjustment is warranted. However,
24 Defendant's records shall be presumed to be accurate and the Settlement Administrator shall
25 have the sole discretion to determine any such disputes. The Settlement Administrator shall
26 be obligated to resolve any disputes regarding the number of Qualifying Workweeks
27 submitted by a Class Member within ten (10) days.

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5. Allocation of Settlement Payments

Payment to each Settlement Class Member shall be allocated as follows: 25% shall be attributed to wages, to be reported on a W-2 form; 25% shall be attributed to reimbursable expenses, 25% shall be attributed to interest and 25% shall be reported as penalties. The amount of penalties, interest and reimbursement of expenses will be reported on an IRS Form 1099. Shares of the PAGA Employee Portion shall be exclusively IRS Form 1099 income.

6. Payment of Payroll Taxes

The amount paid to each Settlement Class Member attributable to wages shall be subject to all applicable taxes and other withholdings and shall be net of the Settlement Class Member’s share of all federal, state, and local taxes and required withholdings, including without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. The Employer’s Withholding Share shall be paid by Defendant separately and in addition to Defendant’s payment of the Gross Settlement Amount.

For each Settlement Class Member, the Settlement Administrator shall determine the Employer’s Withholding Share. Information related to the Employer’s Withholding Share for each Settlement Class Member shall be provided to Defendant by the Settlement Administrator. If Defendant disagrees with the Settlement Administrator’s determination of the Employer’s Withholding Share, it will communicate with and share information reasonably necessary to reach a good faith determination of the correct Employer’s Withholding Share.

7. Payments to Settlement Class Members

Within ten (10) days of Defendant’s deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will make the settlement payments to Settlement Class Members and PAGA Employees based on the payment formula set forth herein.

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1 **8. Distribution of PAGA Employee Portion**

2 The PAGA Employee Portion will be divided among and distributed to all PAGA
3 Employees based upon the number of workweeks that they worked during the PAGA Period
4 pursuant to the following formula:

5 **(Individual PAGA Employee's Qualifying Workweeks during PAGA**
6 **Period ÷ All PAGA Employees' Qualifying Workweeks during PAGA**
7 **Period) x \$1,000**

8 Settlement Class Members who are also PAGA Employees will receive their shares of the
9 PAGA Employee Portion included in the same checks that include their individual Settlement
10 Class Member payments. Class Members who exclude themselves from the Class Settlement
11 will still receive their shares of the PAGA Employee Portion and such Class Members will
12 still be bound by the PAGA Release, notwithstanding their exclusion from the Settlement
13 Class.

14 **L. The Settlement Administrator**

15 The Settlement Administrator will perform the duties specified in this Agreement and
16 any other duties incidental to such obligations. The Settlement Administrator's duties shall
17 include, without limitation: establishing the QSF, preparing, translating and distributing the
18 Notice of Settlement; calculating and directing the disbursement of payments to Settlement
19 Class Members, Class Counsel, the Class Representative and the LWDA; calculating and
20 timely paying any and all payroll taxes from the wages portion of the Net Settlement Amount
21 to the appropriate tax authorities, as required under this Agreement and applicable law;
22 handling inquiries about the calculation of individual settlement payments; preparing and
23 filing any tax returns and information returns and any other filings required by any
24 governmental taxing authority or other governmental agency; providing weekly status reports
25 to the Parties' counsel; advising Defendant and Class Counsel of any Class Members who
26 submit Notices of Objections and/or Requests for Exclusion; providing a due diligence
27 declaration for submission to the Court prior to the final approval hearing; printing and
28 providing Settlement Class Members and the Representative Plaintiff with W-2 and 1099

1 forms as required under this Agreement and applicable law; arranging for and remitting funds
2 from any uncashed settlement payment to the designated recipient, as determined by the
3 Court; and for such other tasks as the Parties mutually agree or the Court orders the Settlement
4 Administrator to perform.

5 The Settlement Administrator shall establish a settlement payment center address,
6 telephone number and email address to receive Class Members' inquiries about the Notice of
7 Settlement, requests to be excluded from the Settlement and settlement payments.

8 In addition, the Settlement Administrator shall establish a static website and, on the
9 website, post this stipulation, any preliminary approval order and the Final Approval Order
10 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
11 constitute notice of judgment to the Settlement Class, as required by California Rule of Court
12 3.771(b).

13 The Parties confirm, and Class Counsel and Defendant's Counsel confirm that they do
14 not have any financial interest in the Settlement Administrator or otherwise have a relationship
15 with the Settlement Administrator that could create a conflict of interest.

16 **M. Time for Payment by Defendant**

17 Within thirty (30) calendar days after the Effective Date, Defendant shall wire the
18 Gross Settlement Amount and Employer's Withholding Share to the QSF. Provided however,
19 if any appeal of the judgment or final approval order is pending at such time, the deadline for
20 Defendant's payment shall be 25 days following that date that such appeal is finally resolved.

21 If, after the Court enters a Final Approval Order, Defendant fails to timely pay the
22 amount required to satisfy its payment obligation under this Stipulation, the Representative
23 Plaintiff, at his option, may either (1) declare the Settlement terminated, in which case, the
24 Parties agree that the Court will nullify the Final Approval Order and Judgment and Plaintiff
25 may continue to prosecute his claims against Defendant, or (2) seek to collect all amounts
26 owed under the Final Approval Order and Judgment against Defendant.

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N. Payments to Class Counsel, the Representative Plaintiff, the LWDA and the Settlement Administrator

Subject to Court approval, within ten (10) days of Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's Attorneys' Fees and Class Counsel's Costs, as by the Court; (2) the Representative Plaintiff for the Service and Release Award approved by the Court; (3) to the LWDA for the LWDA Amount, as approved by the Court; and (4) to the Settlement Administrator for the Settlement Administration Costs, as approved by the Court. These payments will be reported on an IRS Form 1099.

O. Un-cashed/Un-deposited Settlement Payment Checks

If any Settlement Class Member's settlement payment check has not been cashed or deposited within sixty (60) days after disbursement, the Settlement Administrator shall attempt to contact each individual to advise them to cash their checks, and to offer to replace any checks reported as either lost or stolen. In attempting to contact such persons, the Settlement Administrator will send notices (1) by mail to the individuals' last known addresses (as provided by Defendant) after first checking those addresses against the NCOA database and skip tracing and (2) by telephoning or emailing such persons, in the event that Defendant provides telephone numbers and/or email addresses for such persons.

If a Class Member's check is not cashed within 180 days, the check will be void and a stop payment order may be placed on the check. In such event, the Settlement nevertheless will be binding upon the Settlement Class Member. The funds represented by all uncashed settlement checks will be transmitted by the Settlement Administrator to the California State Controller as unclaimed property in the name of the individual Settlement Class Member.

P. Class Counsel Attorneys' Fees and Costs

Defendant will not oppose Class Counsel's application for an award of attorneys' fees of up to one hundred twenty thousand dollars (\$120,000), which is one-third of the Gross Settlement Amount.

1 Defendant will not oppose Class Counsel's application for an award of their reasonable
2 litigation expenses and costs in an amount not to exceed \$15,000.

3 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the Court,
4 shall be paid from the Gross Settlement Amount.

5 To the extent the Court does not approve any or the entire amount of Class Counsel's
6 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties' settlement
7 and any such unapproved amounts shall remain part of the Gross Settlement Amount and shall
8 be distributed in accordance with the provisions of this Stipulation. Approval of the Settlement
9 by the Court shall not be contingent on approval of the amounts of Class Counsel's Attorney's
10 Fees or Class Counsel's Costs requested by Class Counsel.

11 Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees
12 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class
13 Counsel waives any claim to costs and attorneys' fees and expenses against Defendant arising
14 from or related to the Action, including but not limited to claims based on the California Labor
15 Code, the California Code of Civil Procedure, or any other statute or law. Provided, however,
16 nothing in this Agreement shall prevent Class Counsel from seeking additional fees for
17 enforcing the terms of this Stipulation.

18 **Q. Service and Release Award to Representative Plaintiff**

19 The Representative Plaintiff's Service and Release Award as approved by the Court,
20 shall be paid from the Gross Settlement Amount.

21 The Representative Plaintiff shall be responsible for all portions of federal, state, and
22 local tax liabilities that may result from the payment of the Service and Release Award and
23 agrees that Defendant shall bear no responsibility for any such tax liabilities.

24 To the extent the Court does not approve any or all of the amount of the Service and
25 Release Award sought by the Representative Plaintiff, any amounts not awarded by the Court
26 will remain part of the Gross Settlement Amount and will be distributed in accordance with
27 the terms of this Stipulation and the Parties agree that the settlement shall remain binding with
28 such modification(s) and its terms will otherwise be unchanged.

1 **R. Taxes**

2 **1. Withholding and Reporting Requirements**

3 The Settlement Administrator shall be responsible for ensuring that all taxes required
4 to be withheld from the wage portions of each Settlement Class Member's individual
5 settlement payment, along with the Employer's Withholding Share, are timely paid to the
6 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will
7 also include the following: (a) filing all Federal, state, and local employment tax returns, tax
8 withholding returns, and any other tax returns associated with the taxes, (b) timely and proper
9 filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with
10 the appropriate taxing authorities, and (c) completion of any other steps necessary for
11 compliance with any tax obligations of the settlement fund under Federal, state and/or local
12 law. To verify the Settlement Administrator's compliance with the foregoing withholding and
13 reporting requirements, as soon as administratively practicable, the Settlement Administrator
14 shall furnish Class Counsel and Defendant's Counsel with copies of all filed tax returns and
15 information returns (including all 1099 and W-2 information returns), and a final accounting
16 adequate to demonstrate full compliance with all tax withholding, payment and reporting
17 obligations.

18 **2. Circular 230 Disclaimer**

19 Each party to this Agreement (for purposes of this section, the "Acknowledging
20 Party"; and each party to this Agreement other than the Acknowledging Party, and "Other
21 Party") acknowledges and agrees that: (1) no provision of this Agreement, and no written
22 communication or disclosure between or among the Parties or their attorneys and other
23 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
24 or be construed or be relied upon as, tax advice within the meaning of United States Treasury
25 Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has
26 relied exclusively upon his, her, or its own, independent legal and tax advisers for advice
27 (including tax advice) in connection with this Agreement, (b) has not entered into this
28 Agreement based upon the recommendation of any other party or any attorney or advisor to

1 any other party, and (c) is not entitled to rely upon any communication or disclosure by any
2 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
3 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any
4 limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
5 (regardless of whether such limitation is legally binding) upon disclosure by the
6 Acknowledging Party of the tax treatment or tax structure of any transaction, including any
7 transaction contemplated by this Agreement.

8 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

9 **A. No Admission of Liability**

10 Neither the acceptance nor the performance by Defendant of the terms of this
11 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
12 construed as, or deemed a precedent or an admission by Defendant of the truth or merit of any
13 allegations in the original Complaint or First Amended Complaint or that it has any liability
14 to the Representative Plaintiff or the Class Members on their claims. Defendant denies that it
15 has engaged in any unlawful activity, has failed to comply with the law in any respect, or has
16 any liability to anyone under the claims asserted in the Action. This Agreement is entered into
17 solely for the purpose of compromising highly disputed claims.

18 **B. Nullification**

19 In the event that the Court does not approve the Settlement in accordance with this
20 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the
21 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,
22 after a good faith effort to resolve any issues, the Court for any reason does not approve this
23 Settlement, this Stipulation shall be null and void and all Parties to this Settlement shall stand
24 in the same position, without prejudice, as if the Settlement had been neither entered into nor
25 filed with the Court.

26 **VI. RELEASE**

27 **A. Settlement Class Member Release**

28 It is the desire of the Representative Plaintiff, Settlement Class Members (except those

1 who exclude themselves from the Settlement), and Defendant to fully, finally, and forever
2 settle, compromise, and discharge the Released Claims. Upon entry of the Final Approval
3 Order and Defendant's payment of the Gross Settlement Amount and Employer's
4 Withholding Share, and except as to such rights or claims as may be created by this Settlement
5 Agreement, the Settlement Class Members, on behalf of themselves, and each of their heirs,
6 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation
7 of the final judgment shall have, fully released and discharged the Released Parties from any
8 and all Released Claims that accrued during the Class Period.

9 **B. PAGA Employee Release**

10 Regardless of whether they have submitted a valid Request for Exclusion, all PAGA
11 Employees shall fully, finally, and forever settle, compromise, and discharge the PAGA
12 Released Claims. Upon entry of the Final Approval Order and Defendant's payment of the
13 Gross Settlement Amount and Employer's Withholding Share, and except as to such rights or
14 claims as may be created by this Settlement Agreement, all PAGA Employees, on behalf of
15 themselves, and each of their heirs, representatives, successors, assigns, and attorneys, shall
16 be deemed to have, and by operation of the final judgment shall have, fully released and
17 discharged the Released Parties from any and all PAGA Released Claims.

18 **VII. RELEASES AND COVENANTS BY THE REPRESENTATIVE**
19 **PLAINTIFF**

20 Upon entry of the Final Approval Order and Defendant's payment of the Gross
21 Settlement Amount and Employer's Withholding Share, and except as to such rights or claims
22 as may be created by this Settlement Agreement, the Representative Plaintiff fully releases
23 and forever discharges Defendant and the Released Parties, and its/their respective present
24 and former officers, directors, employees, shareholders, members, agents, trustees,
25 representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates,
26 predecessors, successors, assigns, and any individual or entity that could be jointly liable with
27 Defendant, from any and all claims, causes of action, damages, wages, benefits, expenses,
28 penalties, debts, liabilities, demands, obligations, attorney's fees, costs, and any other form of

1 relief or remedy in law, equity, or whatever kind or nature, whether known or unknown,
2 suspected or unsuspected, exclusive only of any workers compensation claims or any other
3 claims which cannot be released as a matter of law, including but not limited to (1) all
4 Released Claims, (2) the Action and any claims arising out of or related to the Action, (3) any
5 claims under federal, state or local law for or relating to wages, benefits, compensation,
6 vacation or other paid time off, and claims for liquidated damages, penalties, or costs and fees
7 associated therewith, (4) wrongful termination, discrimination, harassment, and/or retaliation,
8 (5) any act, omission, or occurrence or claim arising out of or related to the Action or
9 Plaintiff's employment or termination thereof with Defendant taking place on or before the
10 Effective Date of the Settlement, and (6) and any other form of relief or remedy of any kind,
11 nature, or description whatsoever, whether premised on statute, contract, tort, or other theory
12 of liability under state, federal, or local law. Provided, however, this release shall not include
13 any claims for workers' compensation benefits.

14 The Representative Plaintiff hereby agrees that, notwithstanding section 1542 of the
15 California Civil Code ("Section 1542"), all claims that the Representative Plaintiff may have,
16 known or unknown, suspected or unsuspected, are hereby released as of the Effective Date.
17 Section 1542 provides:

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

23 The Representative Plaintiff expressly waives the provisions of Section 1542 with full
24 knowledge and with the specific intent to release all known or unknown, suspected or
25 unsuspected, claims arising on or before the Effective Date of the Settlement, and therefore
26 specifically waives the provisions of any statute, rule, decision, or other source of law of the
27 United States or of any state of the United States or any subdivision of a state which prevents
28 release of unknown claims.

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1 **VIII. MISCELLANEOUS PROVISIONS**

2 **A. Amendments**

3 This Settlement Agreement may only be modified or changed by a writing signed by
4 the Parties hereto or by their counsel.

5 **B. Integrated Agreement**

6 After this Stipulation is signed and delivered by all Parties to the Action and their
7 counsel, this Stipulation and its exhibits will constitute the entire agreement between the
8 Parties to the Action relating to the Settlement, and it will then be deemed that no oral
9 representations, warranties, covenants, or inducements have been made to any Party
10 concerning this Stipulation or its exhibits other than the representations, warranties,
11 covenants, and inducements expressly stated in this Stipulation and its exhibits.

12 **C. No Inducements**

13 The Parties acknowledge that they are entering into this Agreement as a free and
14 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever
15 and that neither Plaintiff nor Defendant have relied on any promises, representations, or
16 warranties regarding the subject matter hereof other than as set forth in this Stipulation.

17 **D. No Prior Assignment**

18 The Parties hereto represent, covenant, and warrant that they have not directly or
19 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
20 any person or entity any portion of any liability, claim, demand, action, cause of action, or
21 rights herein released and discharged except as set forth herein.

22 **E. No Retaliation or Advice**

23 Defendant agrees not to retaliate against any Class Member, and Defendant will not
24 induce or offer any advice to any current or former employee to opt out of, or object to, the
25 Settlement.

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1 **F. Attorney's Fees**

2 To the extent that any Party institutes any legal action, arbitration, or other proceeding
3 to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their
4 reasonable attorneys' fees and costs from the other Party or Parties.

5 **G. Applicable Law**

6 All terms and conditions of this Stipulation and its exhibits will be governed by and
7 interpreted according to the laws of the State of California, without giving effect to any
8 conflict of law principles or choice of law principles.

9 **H. Entry of Judgment Pursuant to Terms of Settlement**

10 The Parties agree that upon the Settlement of this case, the Court may enter judgment
11 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The
12 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in
13 full of the terms of the Settlement.

14 **I. Notices**

15 All notices, requests, demands and other communications required or permitted to be
16 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
17 first class mail to Class Counsel or Defendant's Counsel at their respective addresses as set
18 forth at the beginning of this Agreement or at any new address as to which counsel have
19 advised the Court and the other Parties.

20 **J. Binding on Successors**

21 This Agreement shall be binding and shall inure to the benefit of the Parties to the
22 Action and their respective successors, assigns, executors, administrators, heirs, and legal
23 representatives.

24 **K. Counterparts**

25 This Stipulation, and any amendments hereto, may be executed in any number of
26 counterparts, each of which when executed and delivered shall be deemed to be an original
27 and all of which taken together shall constitute the same instrument.

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Approved as to form:

Dated: _____, 2021

LANDEGGER VERANO & DAVIS ALC

By: _____

Marie D. Davis
Attorneys for Defendant Leon's Transmission Service,
Inc.

Dated: 4/20, 2021

GUNDZIK GUNDZIK HEEGER LLP



Rebecca G. Gundzik
Attorneys for Plaintiff Vincent Stadnik, individually
and on behalf of all others similarly situated

Dated: April 20, 2021

CASKEY & HOLZMAN



Daniel M. Holzman
Attorneys for Plaintiff Vincent Stadnik, individually
and on behalf of all others similarly situated

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Approved as to form:

Dated: April 19, 2021

LANDEGGER VERANO & DAVIS ALC



By: _____

Marie D. Davis

Attorneys for Defendant Leon's Transmission Service, Inc.

Dated: _____, 2021

GUNDZIK GUNDZIK HEEGER LLP

Rebecca G. Gundzik

Attorneys for Plaintiff Vincent Stadnik, individually and on behalf of all others similarly situated

Dated: _____, 2021

CASKEY & HOLZMAN

Daniel M. Holzman

Attorneys for Plaintiff Vincent Stadnik, individually and on behalf of all others similarly situated

Exhibit A

If you have been employed by Leon's Transmission Service, you may be entitled to receive money from a class action settlement.

The Los Angeles County Superior Court authorized this notice.

This is not a solicitation from a lawyer.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

You are receiving this Notice because the Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees of Defendant Leon's Transmission Service, Inc. ("Defendant" or "Leon's Transmission") who worked for Defendant in California from December 10, 2015 through **[earlier of preliminary approval or October 15, 2020]** (hereinafter "**Class Members**"). A hearing to determine whether the settlement should receive the Court's final approval will be held on _____ at _____.m. in Department ____ of the _____ County Superior Court, which is located at 312 N. Spring Street, Los Angeles, CA 90012.

This Notice explains the proposed settlement and provides an estimate of how much money you will receive as a settlement payment if you do not exclude yourself from the settlement. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described in section 9, below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement, including the release of certain claims that you may have against Leon's Transmission, as described in section 8 of this Notice.

1. PURPOSE OF THIS NOTICE

The Court has ordered that this Notice be sent to you because you have been identified as a member of the class by Defendant's records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT

The people eligible to receive a settlement payment are [all non-exempt California employees of Leon's Transmission who worked for Leon's Transmission at any time from December 15, 2015 through **[earlier of preliminary approval or October 15, 2020]**. You are receiving this notice because, according to Leon's Transmission's records, you are eligible to participate in the settlement.

3. DESCRIPTION OF THE ACTION

A former employee of Leon's Transmission filed a class action against it in the Los Angeles Superior Court. The case is called *Stadnik v. Leon's Transmission Service, Inc.*, Case No. BC 19STCV44253 (the "Action"). The Action alleges that Plaintiff and other non-exempt employees of Defendant (the "Class") were not paid for all of their work, were not provided with compliant meal and rest breaks, were not provided compliant wage statements, were not paid all amounts due at separation, and were not reimbursed for their necessary expenditures. The Action also alleges that Plaintiff and the other non-exempt employees of Defendant who were paid a salary (the "Sub-Class") were not paid for their overtime and were not paid at overtime rates of pay. Based on these facts and others, Plaintiff's First Amended Complaint alleges causes of action for: (1) failure to pay overtime; (2) failure to pay twice minimum wage; (3) failure to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to pay all wages owed at termination; (6) failure to reimburse necessary expenditures; (6) violation of the Unfair Practices Act; and (7) recovery of civil penalties under the California Labor Code Private Attorneys' General Act ("PAGA"), California Labor Code sections 2698-2699.5.

Defendant denies all of Plaintiff's allegations and denies any wrongdoing. Among other things, Defendant contends that all employees have been properly compensated and that Defendant complied with all applicable California labor laws.

The Court has made no ruling on the merits of the alleged claims or the defenses asserted by Defendant. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for _____, 20__ at _____.m. (the "Final Approval Hearing").

FOR MORE INFORMATION CALL 1-800-_____.

4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?

Attorneys representing the Plaintiff and the class ("Class Counsel") are:

Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461 Facsimile: (818) 918-2316	Daniel M. Holzman Caskey & Holzman 24025 Park Sorrento, Ste. 400 Calabasas, CA 91302 Telephone: (818) 657-1070 Facsimile: (818) 297-1775
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Attorneys representing Defendant are:

Alfred Landegger Marie D. Davis Kristina Kourasis LANDEGGER VERANO & DAVIS ALC 15760 Ventura Blvd., Suite 1200 Encino, California 91436 Telephone: (818) 986-7561 Facsimile: (818) 986-5147	
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5. THE TERMS OF THE PROPOSED SETTLEMENT

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class Action Settlement ("Settlement Agreement"), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from Class Counsel (see contact information in Section 4 above) or review it on the following website: [www._____](http://www._____.).

Defendant has agreed to pay \$360,000 to settle any and all obligations for the claims alleged in the lawsuit. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys' fees and costs, service and release awards to the Plaintiff, and funds owed to the state of California in settlement of penalties. All of these payments will be deducted from the Gross Settlement Amount. The remaining amount (called the Net Settlement Amount) will be distributed to Class Members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys' Fees and Costs: Class Counsel has worked on this matter without compensation and have advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$120,000 to compensate them for their work on the case, plus their reasonable costs and expenses incurred in the litigation not to exceed \$15,000. Subject to court approval, the attorneys' fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Awards: The Plaintiff is requesting a service and release award of \$10,000, in addition to the amounts he will receive as a member of the Class and Sub-Class, to compensate him for undergoing the burden and expense of prosecuting the action and for the broader release of claims he is required to provide to Defendant. Subject to court approval, the service and release award will be deducted from the Gross Settlement Amount.

(c) Settlement Administration Costs: The Settlement Administrator, Phoenix Class Action Administration Solutions, has advised the parties that the settlement administration costs will not exceed \$7,500. Subject to court approval, the settlement administration costs will be deducted from the Gross Settlement Amount.

(d) Payment to State of California: A total of \$4,000 of the Gross Settlement Amount will be allocated to settle allegations that Defendant owes penalties to the state for alleged violations of the California Labor Code. Of this amount, \$3,000 (75%) will be paid to the California Labor & Workforce Development Agency ("LWDA"). Subject to court approval, the \$3,000 payment to the LWDA will also be deducted from the Gross Settlement Amount. The other 25%, which is \$1,000, will be distributed to those class members who were employed by Leon's at any time during the PAGA

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Period from December 10, 2018 through October 15, 2020 (hereinafter “PAGA Employees”) as part of the Net Settlement Amount discussed below.

(e) **Payments to Settlement Class Members:** The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to Class Members who do not exclude themselves from the settlement (called Settlement Class Members). Thirty percent (30%) of the Net Settlement Amount will be allocated to the Sub-Class for the claim for unpaid overtime. Seventy percent (70%) of the Net Settlement Amount will be allocated to all of the Class Members, including those Class Members who are also Sub-Class Members. The amount of each Sub-Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Sub-Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Sub-Class Members during the Class Period and multiplying that fraction by thirty percent (30%) of the Net Settlement Amount. The amount of each Class Member’s share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Class Members during the Class Period and multiplying that fraction by seventy percent (70%) of the Net Settlement Amount. A Qualifying Workweek is a full or partial week that a class member worked for Leon’s Transmission during the Class Period. Class Members who worked for Leon’s at any time from December 10, 2018 through October 15, 2020 will also participate in the “PAGA Settlement,” whereby they will receive a portion of the \$1,000 penalty allocation referenced above in section 5(d). The PAGA claim portion of a PAGA Employees’ Settlement payment will be calculated by dividing the total number of qualifying workweeks worked by the employee by the total number of workweeks worked by all such employees and then multiplying that fraction by \$1,000.

6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT

According to Defendant’s records, you worked a total of __ Qualifying Workweeks during the Class Period. According to Defendant’s records, you worked a total of __ Qualifying Workweeks during the Class Period as a Sub-Class Member. You also worked __ Qualifying Workweeks between December 10, 2018 and October 15, 2020. Under the settlement, you will receive approximately \$_____ for the Class settlement and you will receive an additional payment of \$____ which is your share of the \$1,000 PAGA Settlement. This amount may increase or decrease based on various factors, including the number of Class Members who submit Requests for Exclusion, the amounts approved by the Court for attorneys’ fees and costs, settlement administration costs, the service and release award to Plaintiff, payment to the LWDA, and disputes by other Class Members and sub-Class Members regarding their Qualifying Workweeks during the Class Period. **To receive your settlement payment, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.**

7. PAYMENT SCHEDULE

The Settlement Administrator will send out settlement checks to Class Members after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, the settlement check will be voided and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name and you will need to contact that agency to obtain your funds. For tax purposes, 25% of your settlement payment shall be attributed to wages and reported on an Internal Revenue Service (“IRS”) Form W-2; 25% will be attributed to interest, 25% will be attributed to penalties and 25% will be attributed to reimbursement of expenses. The amount of interest and penalties will be reported on an IRS Form 1099. Your share of the PAGA Settlement, if you are eligible, will also be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive. The Settlement Administrator shall issue any necessary Form W-2 to Settlement Class Members for the portion characterized as wages, and shall issue an IRS Form 1099 for those portions of individual Settlement Payments attributable to penalties and interest. By participating in the settlement, each settlement Class Member and PAGA Employee shall agree to be solely and legally responsible for paying all other applicable taxes on their respective individual Settlement Payments.

8. RELEASE OF CLAIMS

A. Release by Class Members who do not exclude themselves from the Settlement.

Unless you submit a valid Request for Exclusion (described below in section 9), you will release Leon’s Transmission and its past, present and/or future owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from all causes of action and factual or legal theories that were alleged in the First

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Amended Complaint or are based on or could arise out of the facts alleged in the First Amended Complaint, including without limitation any claims for (1) failure to pay overtime; (2) failure to pay twice minimum wage, (3) failure to provide meal and rest breaks; (4) failure to provide accurate wage statements; (5) failure to pay all wages owed at termination; (6) failure to reimburse necessary expenditures, and (7) violation of the Unfair Practices Act and all related penalties. Provided, however, the Released Claims shall not include the PAGA Released Claims. The time period governing these Released Claims shall be the Class Period only. Claims and damages that were not alleged in the First Amended Complaint (or any subsequent operative Complaint) and do not arise from the facts alleged in the First Amended Complaint are specifically excluded from the release.

B. Release by Class Members who worked at Leon's at any time from December 10, 2018 through October 15, 2020.

If you worked for Leon's at any time between December 10, 2018 and October 15, 2020, you will receive a payment that is your share of the \$1,000 penalty and you will release Leon's its past, present and/or future owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from any and all claims for civil penalties recoverable by a private attorney general for violations that were alleged in, or arise out of the facts alleged in the First Amended Complaint and the December 10, 2019 letter submitted by Plaintiff to California's Labor and Workforce and Development Agency with respect to failure to pay overtime wages, failure to provide off-duty meal periods, failure to provide uninterrupted off-duty rest periods, failure to furnish accurate wage statements, failure to pay wages due upon termination, and failure to reimburse necessary expenses arising between December 10, 2018 and October 15, 2020. You cannot exclude yourself from this release.

9. YOUR OPTIONS

As a member of the settlement class you have four options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

(a) You Can Do Nothing.

If you do nothing, you will remain a member of the settlement class and will receive a settlement payment. You will also be bound by the release of claims set forth in Section 8 above. The payment will remain valid and negotiable for one hundred eighty (180) days from the date of the issuance. This deadline to cash the payment check shall not be extended for you absent Court Order.

(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.

You can contest the number of Qualifying Workweeks attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Stadnik v. Leon's Transmission Service, Inc.*, Case No. BC 19STCV44253). You must provide written documentation supporting the number of workweeks you believe that you worked; otherwise, the number listed above will be presumed correct. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider the documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will mail you its final determination.

(c) You Can Exclude Yourself from the Settlement Class.

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case number (*Stadnik v. Leon's Transmission Service, Inc.*, Case No. BC 19STCV44253), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement

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Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8 above; however, you will not receive any money under the settlement. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendant.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement, including the Release of Claims, if it is approved by the Court and by the judgment, and you will receive a settlement payment.

Please note, however, that the submission of a Request for Exclusion will not exclude you from the PAGA Settlement. Thus, if you worked for Leon's at any time from December 10, 2018 and October 15, 2020, you will receive your portion of the PAGA Settlement and you will be bound by the more limited release set forth in section 8(B).

(d) You Can Object to the Settlement.

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objections to the Settlement Administrator at the address specified in Section 11 below. The deadline to postmark your objections is **[45 days from mailing]**. Only Class Members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Stadnik v. Leon's Transmission Service, Inc.*, Case No. BC 19STCV44253).

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement and be deemed to have released all of the Released Claims as set forth in Section 8 above, and you will not be permitted to file a Request for Exclusion.

10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiff, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on _____, 20__ at __ __.m., in Department _____ of the _____ County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time.

11. NON-RETALIATION

Defendant will not retaliate or take any adverse action against a class member for participating in the settlement.

12. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Los Angeles County Superior Court, 312 N. Spring Street, Los Angeles, CA 90012, subject to the social distancing procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at [www._____](http://www._____.) or you may contact the Settlement Administrator as follows:

Phoenix Class Action Administration Solutions

Telephone: _____

Facsimile: _____

Email: _____

Website: _____

FOR MORE INFORMATION CALL 1-800-_____.

You may also contact Class Counsel at the address and telephone number provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

If you are planning to come to the Final Approval Hearing, you should review the Court's social distancing requirements at: <http://www.lacourt.org/newsmedia/ui/HfySfy.aspx> (Here for You, Safe for You).

These rules require that all persons entering any courthouse or courtroom must wear a face covering/mask over his or her nose and mouth at all times within the public areas of the courthouse or courtroom. Individuals who wear a face shield must ensure it covers both the nose and the mouth, wraps around the sides of a wearer's face and extend to below the chin with a cloth drape from the bottom of the face shield to below the neck. Children under the age of three (3) are exempt, as are persons with a medical condition, mental health condition, or disability that precludes them from wearing a face covering. However, they must "take whatever protective measures their condition permits, such as wearing a face shield without a drape on the bottom edge."

Individuals are required to maintain at least (6) six feet of physical distance from all persons (except those within their household) at all times and comply with social distance signage throughout the courthouse.

Individuals are requested to use hand sanitizer when entering the courthouse, practice good hand-washing hygiene, and cover coughs and sneezes, preferably with a tissue.

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

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