

**AEGIS LAW FIRM, PC**

KASHIF HAQUE State Bar No. 218672  
SAMUEL A. WONG State Bar No. 217104  
JESSICA L. CAMPBELL, State Bar No. 280626  
JOSEPH M. SZILAGYI, State Bar No. 317450  
Email: jcampbell@aegislawfirm.com  
Email: jszilagyi@aegislawfirm.com  
9811 Irvine Center Drive, Suite 100  
Irvine, California 92618  
Telephone: (949) 379-6250  
Facsimile: (949) 379-6251

Attorneys for Plaintiff Araceli Casillas, individually,  
and on behalf of all others similarly situated.

**LITTLER MENDELSON, P.C.**

JON YONEMITSU, State Bar No. 199026  
jyonemitsu@littler.com  
NOAH J. WOODS, State Bar No. 264823  
nwoods@littler.com  
501 W. Broadway, Suite 900  
San Diego, CA 92101  
Telephone: (619) 232-0441  
Facsimile: (619) 232-4302

Attorneys for Defendant The Produce Exchange, Inc.

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

ARACELI CASILLAS, individually and on  
behalf of all others similarly situated

Plaintiff,

vs.

THE PRODUCE EXCHANGE, INC.; and DOES  
1 through 20, inclusive,

Defendants.

Case No. 37-2019-00050077-CU-OE-CTL

*Assigned for all purposes to  
Hon. Judge Joel R. Wohlfeil  
Dept. C-73*

**JOINT STIPULATION OF CLASS  
ACTION SETTLEMENT**

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of  
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be  
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein  
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of Class  
5 Action Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Araceli Casillas (“Named  
7 Plaintiff”) and the Class Members, on the one hand, and Defendant The Produce Exchange, Inc.  
8 (“Defendant”), on the other hand. Named Plaintiff and Defendant collectively are referred to in this  
9 Agreement as “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and  
11 concluded by agreement of Defendant to pay the settlement amount of Three Hundred Twenty  
12 Thousand Dollars (\$320,000.00) as provided in Section 3.07(a) below (“Gross Settlement Amount”)  
13 pursuant to the terms and conditions of this Agreement and for the consideration set forth herein,  
14 including but not limited to, a release of all claims by Named Plaintiff and the Class Members as set  
15 forth herein.

16 **ARTICLE I**

17 **DEFINITIONS**

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the  
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Araceli Casillas, individually and on*  
21 *behalf of all others similarly situated v. The Produce Exchange, Inc.*; and DOES 1 through 20,  
22 inclusive,” Case No. 37-2019-00050077-CU-OE-CTL, commenced on September 20, 2019, in the  
23 Superior Court of the State of California for the County of San Diego.

24 b. “Agreement” means this Joint Stipulation of Class Action Settlement, including the  
25 attached Exhibit(s).

26 c. “Class” means all current and former exempt employees who are or were employed  
27 by Defendant in California at any time during the Class Period, excluding employees who worked  
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1 in the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse  
2 Manager positions.

3 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:  
4 AEGIS LAW FIRM, PC  
5 Kashif Haque  
6 Samuel A. Wong  
7 Jessica L. Campbell  
8 Joseph M. Szilagyi  
9 9811 Irvine Center Drive, Suite 100  
10 Irvine, California 92618  
11 Telephone: (949) 379-6250  
12 Facsimile: (949) 379-6251

9 e. “Class List” means a list based on Defendant’s business records that identifies each  
10 Class Member’s name, last known home or mailing address, Social Security number or, as  
11 applicable, other taxpayer identification number, and the number of Qualifying Workweeks worked  
12 during the Class Period.

13 f. “Class Member(s)” means all members of the Class.

14 g. “Class Period” means September 20, 2015 through the date the Settlement is  
15 preliminary approved or July 31, 2022, whichever occurs sooner.

16 h. “Court” means the California Superior Court for the County of San Diego, where the  
17 Action is currently pending.

18 i. “Date of Finality” means 30 days after the date when all of the following events have  
19 occurred: (i) the Court has given preliminary approval to the Settlement; (ii) the Notice has been sent  
20 to the Class Members, providing them the opportunity to object to the Settlement, and the opportunity  
21 to opt out of the Settlement; (iii) the Court has held a formal fairness hearing and entered the Court’s  
22 Final Order and Judgment approving this Settlement; and (iv) the later of the following events: (A)  
23 when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has  
24 elapsed without any appeal, writ or other appellate proceeding having been filed; *i.e.*, within 60  
25 calendar days after entry of the Order and Judgment; (B) when any appeal, writ or other appellate  
26 proceeding opposing the Settlement has been dismissed finally and conclusively with no right to  
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1 pursue further remedies or relief; or (C) when any appeal, writ or other appellate proceeding has  
2 upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief.

3 j. "Defendant" means Defendant The Produce Exchange, Inc.

4 k. "Defense Counsel" means counsel for Defendant:

5 Littler Mendelson, P.C.  
6 Jon Yonemitsu  
7 Noah Woods  
8 501 W. Broadway, Suite 900  
9 San Diego, CA 92101  
10 Telephone: (619) 232-0441  
11 Facsimile: (619) 232-4302

12 l. "Disposition" means the method by which the Court approves the terms of the  
13 Settlement and retains jurisdiction over its enforcement, implementation, construction,  
14 administration, and interpretation.

15 m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final  
16 formal court order signed by the Court following the Final Fairness and Approval Hearing in  
17 accordance with the terms herein, approving this Agreement.

18 n. "Gross Settlement Amount" means Three Hundred Twenty Thousand Dollars and  
19 Zero Cents (\$320,000.00) to be paid by Defendant as provided by this Agreement to settle this  
20 Action. All payments to the Class, administration costs, attorney's fees and costs, and Incentive  
21 Awards, pursuant to Section 3.07 below, shall be paid out of the Gross Settlement Amount. The  
22 employer's share of payroll taxes arising from the payments made under this settlement shall be paid  
23 by Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement  
24 Amount is subject to a pro rata increase pursuant to Section 3.05(e) below. No part of the Gross  
25 Settlement Amount shall revert to Defendant.

26 o. "Incentive Award" means a monetary amount of up to Fifteen Thousand Dollars  
27 (\$15,000.00) for the Named Plaintiff, subject to Court approval, in recognition of her effort and work  
28 in prosecuting the Action on behalf of Class Members, and for her general release of claims.

1 p. "Individual Settlement Payment(s)" means each Participating Class Member's  
2 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined  
3 by the calculations provided in this Agreement.

4 q. "Individual PAGA Payment(s)" means each PAGA Group Member's pro rata portion  
5 of the PAGA Settlement Amount, based on his or her number of PAGA Qualifying Workweeks. The  
6 Settlement Administrator will divide each PAGA Group Member's PAGA Qualifying Workweeks  
7 by the total PAGA Qualifying Workweeks for all PAGA Group Members, resulting in a PAGA  
8 Payment Ratio for each Class Member. Each PAGA Group Member's PAGA Payment Ratio will  
9 then be multiplied by the PAGA Settlement Amount to determine his or her Individual PAGA  
10 Payment.

11 r. "LWDA" means The State of California Labor and Workforce Development Agency.

12 s. "LWDA Payment" means 75% of the \$20,000 allocated to the settlement of PAGA  
13 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.07(e) of  
14 this Agreement, as provided for below.

15 t. "Motion for Final Approval" means Plaintiff's submission of a written motion,  
16 including any evidence as may be required for the Court to conduct an inquiry into the fairness of  
17 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and  
18 to enter a Final Order in this Action.

19 u. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,  
20 including any evidence as may be required for the Court to grant preliminary approval of the  
21 Settlement as required by Rule 3.769 of the California Rules of Court.

22 v. "Named Plaintiff" means Araceli Casillas.

23 w. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved  
24 administration costs, Class Counsels' attorney's fees and costs, Incentive Awards, and LWDA  
25 Payment, pursuant to Section 3.07(a)-(f) below.

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1 x. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the  
2 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant  
3 to Section 3.05(b) below.

4 y. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form  
5 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

6 z. “PAGA” means the California Private Attorneys General Act of 2004, which is  
7 codified in California Labor Code §§ 2698 *et seq.*

8 aa. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount  
9 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have  
10 agreed that the PAGA Settlement Amount is Twenty Thousand Dollars (\$20,000), subject to Court  
11 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the  
12 remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group  
13 Members.

14 bb. “PAGA Group Members” means all Class Members employed by Defendant at any  
15 time between September 20, 2018 through the date the Settlement is preliminary approved or July  
16 31, 2022, whichever occurs sooner (“PAGA Period”).

17 cc. “PAGA Payment Ratio” means the respective PAGA Qualifying Workweeks for each  
18 PAGA Group Member divided by the total PAGA Qualifying Workweeks.

19 dd. “PAGA Qualifying Workweeks” means the number of weekly pay periods worked  
20 by each PAGA Group Member during the PAGA Period, based on Defendant’s records and used as  
21 a value to calculate Individual PAGA Payment. PAGA Qualifying Workweeks will be calculated by  
22 the Settlement Administrator by determining the number of days between the start and end dates of  
23 employment as a non-exempt employee for Defendant within the PAGA Period, dividing the  
24 resulting number by seven (7), and rounding up the nearest whole integer.

25 ee. “Participating Class Member(s)” is defined as a Class Member who does not timely  
26 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net  
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1 Settlement Amount automatically without the need to return a claim form. Each Participating Class  
2 Member will be paid his/her Individual Settlement Payment.

3 ff. “Preliminary Approval Date” means the date the Court preliminarily approves the  
4 Settlement embodied in this Agreement.

5 gg. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury  
6 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement  
7 Administrator for the benefit of Participating Class Members.

8 hh. “Qualifying Workweeks” means the number of weeks that Class Members worked  
9 for Defendant as exempt employees during the Class Period.

10 ii. “Released Parties” means Defendant and each of its past and current parents,  
11 subsidiaries, affiliates, trusts, trust funds, investors and related entities or companies, and each of its  
12 and their respective owners, partners, members, shareholders, officers, directors, employees, agents,  
13 managing agents, attorneys, representatives, fiduciaries, trustees, insurers, temporary agencies, and  
14 other service providers, and their respective predecessors, successors, and assigns

15 jj. “Response Deadline” means the deadline by which Class Members must postmark or  
16 fax to the Settlement Administrator requests for exclusion or written notices of objection. The  
17 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by  
18 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal  
19 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.  
20 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-  
21 mailing.

22 kk. “Settlement Administration Costs” means all costs incurred by the Settlement  
23 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to  
24 the class, calculation of Individual Settlement Payments and Individual PAGA Payments, generation  
25 of Individual Settlement Payment checks and related tax reporting forms, generation of Individual  
26 PAGA Payments, administration of unclaimed checks, and generation of checks to Class Counsel  
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1 does not occur, this Agreement shall be deemed null and void, shall be of no force or effect  
2 whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly  
3 reserves the right to challenge the propriety of class certification in the Action for any purpose, if the  
4 Date of Finality does not occur.

5 The Parties and their respective counsel shall take all steps that may be requested by the Court  
6 relating to the approval and implementation of this Agreement and shall otherwise use their  
7 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not  
8 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree  
9 to meet and confer to address the Court’s concerns. If the Parties are unable to agree upon a  
10 resolution, the Parties agree to seek the assistance of mediator Jill R. Sperber to resolve the dispute.

11 **ARTICLE III**

12 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

13 The procedure for obtaining Court approval of and implementing this Agreement shall be as  
14 follows:

15 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

16 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the  
17 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.  
18 The date that the Court grants preliminary approval of this Agreement will be the “Preliminary  
19 Approval Date.”

20 **Section 3.02: Notice of Settlement to Settlement Administrator**

21 Pursuant to PAGA, by the time that Plaintiff files the Motion for Preliminary Approval with  
22 the Superior Court, Plaintiff will also submit the required notice of PAGA settlement to the LWDA  
23 along with a copy of this Agreement, and Class Counsel will take all reasonable steps necessary to  
24 timely notify the LWDA of the settlement of the PAGA claims, per the requirements set forth in  
25 Labor Code section 2699(1)(2), including the submission of the [Proposed] Final Order Approving  
26 Settlement to the LWDA at the time of filing the Motion for Final Approval of the Settlement. The  
27 Parties will cooperate fully in requesting the settlement of the PAGA claims and entry of a final  
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1 judgment by the Court, and Class Counsel will timely notify the LWDA of the final judgment  
2 pursuant to Labor Code section 2699(1)(3).

3 **Section 3.03: The Settlement Administrator**

4 The Parties have chosen Phoenix Class Action Settlement Administrators to administer this  
5 Settlement and to act as the Settlement Administrator, including but not limited to distributing and  
6 responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs,  
7 calculating the Net Settlement Amount, the Individual Settlement Payment, and Individual PAGA  
8 Payments, issuing the Individual Settlement Payment and Individual PAGA Payment checks and  
9 distributing them to Participating Class Members and PAGA Group Members, establishing and  
10 maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees and costs, the  
11 Incentive Award checks to Named Plaintiff, and the employer payroll taxes to the appropriate taxing  
12 authorities. The Settlement Administrator shall expressly agree to all of the terms and conditions of  
13 this Agreement.

14 All costs of administering the Settlement, including but not limited to all costs and fees  
15 associated with preparing, issuing and mailing any and all notices to Class Members and/or  
16 Participating Class Members, all costs and fees associated with computing, processing, reviewing,  
17 and mailing the Individual Settlement Payments and Individual PAGA Payments, all costs and fees  
18 associated with preparing any tax returns and any other filings required by any governmental taxing  
19 authority or agency, all costs and fees associated with preparing any other checks, notices, reports,  
20 or filings to be prepared in the course of administering disbursements from the Net Settlement  
21 Amount, and any other costs and fees incurred and/or charged by the Settlement Administrator in  
22 connection with the execution of its duties under this Agreement ("Settlement Administration  
23 Costs"), shall be paid to the Settlement Administrator from the Gross Settlement Amount.

24 **Section 3.04: Notice to Class Members**

25 No later than ten (10) business days after the Preliminary Approval Date, Defendant will  
26 provide the Settlement Administrator with a "Class List" in electronic format based on its business  
27 records, identifying the names of the Class Members, their last known home addresses, Social  
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1 Security numbers or, as applicable, other taxpayer identification number, and weeks worked during  
2 the Class Period.

3       Within ten (10) business days of receiving a Class List from Defendant, the Settlement  
4 Administrator will send Class Members, by first-class mail, at their last known address, the Court  
5 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the  
6 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate  
7 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of  
8 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the  
9 Settlement Administrator will check all Class Member addresses against the National Change of  
10 Address database and shall update any addresses before mailing. The Settlement Administrator will  
11 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a  
12 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall  
13 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the  
14 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class  
15 Members shall not be required to submit claim forms in order to receive a proportional share of the  
16 Net Settlement Amount.

17       If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall  
18 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose  
19 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement  
20 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or  
21 mass search on LexisNexis or comparable databases based on set criteria and, if another address is  
22 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties  
23 that reasonable means be used to locate Class Members and that the Settlement Administrator be  
24 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the  
25 Individual Settlement Payments to all Participating Class Members.

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1 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records  
2 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly  
3 status report provided to the Parties.

4 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days  
5 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class  
6 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class  
7 Member's Individual Settlement Payment during the check cashing period on behalf of the Class  
8 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and  
9 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement  
10 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the  
11 procedures set forth in Section 3.07(g) below.

12 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the  
13 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration  
14 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses  
15 for and re-sending of any returned Notice Packets, as well as the number of valid requests for  
16 exclusion and objections that the Settlement Administrator received.

17 **Section 3.05: Responses to Notice**

18 **a. Class Member Disputes**

19 If any Class Member disagrees with Defendant's records as to his or her Qualifying  
20 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set  
21 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period  
22 and submit such writing to the Settlement Administrator by the Response Deadline, along with any  
23 supporting documentation. The Notice will also provide a method for the Class Member to challenge  
24 the employment data on which his or her Individual Settlement Payment is based. The Settlement  
25 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith  
26 to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the

1 final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on  
2 the information provided to it.

3 **b. Requests for Exclusion from Class**

4 In order for any Class Member to validly exclude himself or herself from the Class and this  
5 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class  
6 Member or his or her authorized representative, and must be sent to the Settlement Administrator,  
7 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement  
8 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall  
9 contain instructions on how to validly exclude himself or herself from the Class and this Settlement  
10 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial  
11 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be  
12 conclusively determined according to the records of the Settlement Administrator. Any Class  
13 Member who timely and validly requests exclusion from the Class and this Settlement will not be  
14 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this  
15 Agreement, and will not have any right to object, appeal, or comment thereon.

16 Any Class Member who fails to timely submit a request for exclusion shall automatically be  
17 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are  
18 determined by the Court's Final Order Approving Settlement of Class Action, and by the other  
19 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action  
20 and/or released in this Agreement will be extinguished.

21 **c. Objections to Settlement**

22 For any Class Member to object to this Agreement, or any term of it, the person making the  
23 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the  
24 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)  
25 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),  
26 a written statement of the grounds of objection, signed by the objecting Class Member or his or her  
27 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and  
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1 the date the signed objection was postmarked, shall be conclusively determined according to the  
2 records of the Settlement Administrator. The Settlement Administrator shall send any objections it  
3 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class  
4 Members may also appear at the final approval hearing to object. The Court retains final authority  
5 with respect to the consideration and admissibility of any Class Member objections.

6 **d. Encouragement of Class Members**

7 The Parties to this Agreement and the counsel representing such Parties shall not, directly or  
8 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from  
9 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from  
10 Class Members.

11 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

12 Defendant has estimated the number of Class Members to be 78 and estimated Class Members  
13 worked approximately 14,608 workweeks in California from September 20, 2015 to May 19, 2022.  
14 If the actual number of Class Members eligible to participate in the settlement or the actual number  
15 of workweeks worked in California increases by more than 10% (*e.g.* if the number of employees is  
16 11.0% greater than 78 employees or 14,608 workweeks through May 19, 2022), Defendant will  
17 increase the Gross Settlement Amount by 1.0%.

18 **Section 3.06: Final Fairness and Approval Hearing**

19 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final  
20 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement  
21 and determine whether the Court should give it final approval, and (2) consider any objections made  
22 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the  
23 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a  
24 Proposed Final Order Approving Settlement of Class Action.

1           **Section 3.07: Settlement Payment Procedures**

2                   **a. Settlement Amount**

3           In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the  
4 Gross Settlement Amount in the amount of Three Hundred Twenty Thousand Dollars (\$320,000.00),  
5 subject to a pro rata increase under the condition set forth in Section 3.05(e). The Gross Settlement  
6 Amount includes all Individual Settlement Amounts to Participating Class Members, all  
7 administration costs, Class Counsel’s attorney’s fees and costs, PAGA Settlement Amount, and the  
8 Incentive Payment.

9           Within ten (10) court days of the Date of Finality, Defendant shall transfer the Gross  
10 Settlement Amount plus Defendant’s share of employer-side payroll taxes, as set forth herein, into a  
11 QSF established by the Settlement Administrator either directly or by sending the funds to the  
12 Settlement Administrator to be deposited and distributed. The Settlement Administrator will use these  
13 funds to fund payment of the Individual Settlement Payments to Participating Class Members, Class  
14 Counsel’s attorneys’ fees and costs, the Incentive Award, the LWDA Payment, and the Settlement  
15 Administration Costs.

16           Within ten (10) court days after receiving Defendant’s payment, funding the Gross Settlement  
17 Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to  
18 Participating Class Members, Class Counsel’s attorneys’ fees and costs, LWDA Payment, the  
19 Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement  
20 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a  
21 search based on the National Change of Address Database to update and correct for any known or  
22 identifiable address changes.

23                   **b. Payment of Attorneys’ Fees and Costs**

24           Class Counsel shall submit an application for an award of attorneys’ fees of up to thirty-five  
25 percent of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is  
26 One Hundred Twelve Thousand Dollars and Zero Cents (\$112,000.00). Class Counsel shall submit  
27 an application for an award of costs not to exceed Fifteen Thousand Dollars (\$15,000.00). Such  
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1 application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval  
2 Hearing. Defendant shall not object to or oppose any such application in these amounts. Class  
3 Counsel shall serve Defendant with copies of all documents submitted in support of their application  
4 for an award of attorneys' fees and costs.

5 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the  
6 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'  
7 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,  
8 and expenses related to the investigation, prosecution, and settlement of the Action incurred through  
9 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees  
10 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts  
11 will be reallocated to the Net Settlement Amount.

12 **c. Payment of Settlement Administration Costs**

13 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and  
14 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Six  
15 Thousand Five Hundred Dollars (\$6,500.00).

16 **d. Payment of Incentive Award to Named Plaintiff**

17 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to  
18 Fifteen Thousand Dollars (\$15,000.00), the request for which Defendant will not object to or oppose.  
19 The Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute  
20 payment to any Participating Class Member(s) other than Named Plaintiff. To the extent that the  
21 Court approves less than the amount of incentive award that Class Counsel request, the difference  
22 between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

23 Because it is the intent of the Parties that the Incentive Award represent payment to Named  
24 Plaintiff for her service to the Class Members, and not wages, the Settlement Administrator will not  
25 withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099,  
26 which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing  
27 authorities as required by law.



1                                   **e. Payment to the Labor and Workforce Development Agency**

2           In consideration of claims made under PAGA, Class Counsel will request that the Court  
3 approve allocation of Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount to  
4 these claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and  
5 Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%) will be paid  
6 to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose  
7 this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount.  
8 The Court’s adjustment, if any, of the amount allocated to Named Plaintiff’s PAGA claim in the  
9 Action, will not invalidate this Agreement.

10                                   **f. Payment of Individual Settlement Payments to Participating Class Members**

11           The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement  
12 Payments. The Parties agree that the Net Settlement Amount shall be divided between all  
13 Participating Class Members in proportion to the number of individual Qualifying Workweeks for  
14 each Class Member. To calculate the minimum amount each Class Member will receive based on  
15 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total  
16 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated  
17 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class  
18 Member’s approximate Individual Settlement Payment amount will be included in his or her Notice  
19 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to  
20 Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the  
21 individual Qualifying Workweeks worked during the Class Period by each Participating Class  
22 Member.

23           Each Individual Settlement Payment will represent wages and penalties allocated using the  
24 following formula: 50% allocated to wages; 50% allocated to penalties and interest. The amounts  
25 paid as wages shall be subject to all tax withholdings customarily made from an employee’s wages  
26 and all other authorized and required withholdings and shall be reported by W-2 forms. The  
27 employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The  
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1 amounts paid as penalties and interest shall be subject to all authorized and required withholdings  
2 other than the tax withholdings customarily made from employees' wages and shall be reported by  
3 IRS 1099 forms.

4         The Parties and their counsel make no representations as to the tax treatment or legal effect  
5 of the payments specified herein, and Class Members are not relying on any statement or  
6 representation by the Parties, Class Counsel, or Defense Counsel in this regard. Named Plaintiff,  
7 Class Members and Class Counsel understand and agree that they shall be solely responsible for the  
8 payment of all employee-side applicable taxes and any penalties and interest assessed on the  
9 payments specified herein, other than those amounts to be withheld and paid by the Claims  
10 Administrator, and shall hold, as applicable, the Parties, Class Counsel, and/or Defense Counsel free  
11 and harmless from and against any claims resulting from the tax treatment of such payments in this  
12 Agreement, including the treatment of such payments as not being subject to withholding or  
13 deduction for payroll and employment taxes.

14         No later than ten (10) business days after receiving the Gross Settlement Amount from  
15 Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual  
16 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the  
17 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee  
18 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of  
19 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the  
20 extent required by law for the interest and penalty portions of the Individual Settlement Payments.  
21 Participating Class Members shall have 180 days from the date their Individual Settlement Payment  
22 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration  
23 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller  
24 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

25         If a check is returned to the Settlement Administrator as undeliverable, the Settlement  
26 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or  
27 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address  
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1 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the  
2 Settlement Administrator is unable to obtain a valid mailing address through this process, the  
3 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller  
4 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

5 **g. Default on Payment.**

6 Defendant's failure to fund the Gross Settlement Amount within ten (10) court days after the  
7 date that the Court grants final approval of the Settlement shall be considered a default. In the event  
8 Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will  
9 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed  
10 payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to  
11 the Settlement Administrator. In the event Defendant fails to cure the default within the times set  
12 forth herein, Named Plaintiff may elect to enter judgment against Defendant for the balance of the  
13 unpaid Gross Settlement Amount to date, and Named Plaintiff will be entitled to recover interest at  
14 ten percent (10%) per year from the due date for such payment and reasonable attorneys' fees and  
15 costs.

16 **h. No Credit Toward Benefit Plans.**

17 The Individual Settlement Payments made to Participating Class Members under this  
18 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to  
19 calculate any additional benefits under any benefit plans to which any Class Members may be  
20 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase  
21 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'  
22 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class  
23 Members may be entitled under any benefit plans.

1 **ARTICLE IV**

2 **LIMITATIONS ON USE OF THIS SETTLEMENT**

3 **Section 4.01: No Admission**

4 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a  
5 Class should not have been certified in the Action. This Agreement is entered into solely for the  
6 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be  
7 construed as an admission of liability or wrongdoing by Defendant.

8 **Section 4.02: Non-Evidentiary Use**

9 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor  
10 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or  
11 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,  
12 including but not limited to, evidence of a presumption, concession, indication, or admission by any  
13 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or  
14 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further  
15 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this  
16 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims  
17 released through this Agreement.

18 **Section 4.03: Nullification**

19 The Parties have agreed to the certification of the Class encompassing all claims alleged in  
20 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason  
21 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this  
22 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order  
23 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the  
24 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this  
25 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all  
26 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had  
27 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to  
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1 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will  
2 have no bearing on, and will not be admissible in connection with, the issue of whether the Class  
3 should be certified by the Court in a non-settlement context in this Action or any other action, and in  
4 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

5 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the  
6 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

7 **ARTICLE V**

8 **RELEASES**

9 **Section 5.01: Released Claims by Class Members**

10 Upon the entry of an order by the Court granting final approval of this Settlement, Named  
11 Plaintiff and all Participating Class Members who have not properly submitted a timely and valid  
12 request to “opt-out” or be excluded from the Action, and without the need to manually sign a release  
13 document, in exchange for the consideration recited in this Agreement (whether later received or  
14 not), on behalf of himself or herself and on behalf of his/her current and former heirs, executors,  
15 administrators, attorneys, agents, successors and assigns, shall hereby fully, finally and forever  
16 waive, release, relinquish and discharge Defendant and Released Parties from any and all claims,  
17 rights, demands, damages, liabilities, and causes of action, arising from, or reasonably related to, the  
18 same or similar set of operative facts and/or allegations as those set forth in Named Plaintiff’s  
19 Complaint and First Amended Complaint, during the Class Period, including but not limited to (1)  
20 failure to pay overtime wages, (2) failure to provide meal periods, (3) failure to permit rest periods,  
21 (4) failure to provide accurate itemized wage statements, (5) failure to pay wages due upon separation  
22 of employment, and (6) violation of California Business and Professions Code §§17200, *et seq.*,  
23 based on the preceding claims (“Released Claims”). Said Released Claims also include all federal  
24 claims that could have been alleged based on the same or similar set of facts Complaint or First  
25 Amended Complaint, including but not limited to claims under the Fair Labor Standards Act, and  
26 shall be barred by the settlement by virtue of res judicata, in accordance with *Rangel v. PLS Check*  
27 *Cashers of Cal., Inc.* 889 F.3d 1106 (9th Cir. 2018).

1           **Section 5.02: Released Claims by PAGA Group Members**

2           Upon the entry of an order by the Court granting final approval of this Settlement, the State  
3 of California and PAGA Group Members release the Released Parties from all PAGA claims arising  
4 from, or reasonably related to, the same or similar set of operative facts and/or allegations as those  
5 set forth in Plaintiff’s notice(s) sent to the LWDA and/or alleged in the Complaint or First Amended  
6 Complaint, which arose during the PAGA Period, regardless of whether PAGA Group Members opt  
7 out of the Class Settlement (“PAGA Released Claims”).

8           **Section 5.03: Named Plaintiff’s General Release of All Claims, Including Unkown**  
9 **Claims**

10           Upon the entry of an order by the Court granting final approval of this Settlement, Named  
11 Plaintiff, on his own behalf and on behalf of his respective heirs, successors, assigns, does hereby  
12 fully, finally and forever waive, release, acquit and forever discharge Defendant and the Released  
13 Parties from any and all known and unknown claims Plaintiff has or may have against Defendant and  
14 the Released Parties of every nature or description whatsoever as of the date of this Agreement. This  
15 General Release of claims includes, but is not limited to, the Released Claims and the PAGA  
16 Released Claims as well as any and all known or unknown claims based on contract, tort, public  
17 policy, wrongful termination, intentional infliction of emotional distress, fraud, defamation, invasion  
18 of privacy or any other common law claims, and any and all claims based on any federal, state or  
19 local law, statute, regulation or ordinance, including, but not limited to, claims arising under, as  
20 amended, the Americans With Disabilities Act, the Equal Pay Act, the Employee Retirement Income  
21 Security Act, the Worker Adjustment and Retraining Notification Act, Title VII of the Civil Rights  
22 Act of 1964, the Civil Rights Acts of 1866, 1871 and 1991, including Section 1981 of the Civil Rights  
23 Act, the Family and Medical Leave Act, the California Family Rights Act, the California Fair  
24 Employment and Housing Act, and any similar federal, state or local law, statute, regulation or  
25 ordinance relating to employment, discrimination, harassment, retaliation, whistleblowing, protected  
26 leaves of absence, reasonable accommodation and/or any other rights afforded to employees on any  
27 other basis protected by law.

1           Additionally, Plaintiff waives all rights and benefits afforded by Section 1542 of the Civil  
2 Code of the State of California, and does so understanding the significance of that waiver. Section  
3 1542 of the California Civil Code provides as follows:

4                   ***“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT  
5 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR  
6 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
7 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR  
8 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER  
9 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”***

10           Plaintiff’s general release provided herein is made with an express waiver and relinquishment  
11 of any claim, right, or benefit under California Civil Code § 1542.

12                                   **ARTICLE VI**

13                                   **MISCELLANEOUS PROVISIONS**

14           **Section 6.01: Amendments or Modification**

15           The terms and provisions of this Agreement may be amended or modified only by an express  
16 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,  
17 and approved by the Court.

18           **Section 6.02: Right to Rescind**

19           Defendant will have, in its sole discretion, the right to void and withdraw from the Settlement  
20 if, at any time prior to Final Approval, seven-and-a-half percent (7.5%) or more of Class Members  
21 opt out of the settlement. Defendant must exercise this right of rescission in writing to Class Counsel  
22 within fourteen (14) calendar days after the Response Deadline. If the option to rescind is exercised,  
23 then Defendant will be solely responsible for all Settlement Administration Costs incurred to the date  
24 of rescission.

25           **Section 6.03: Assignment**

26           None of the rights, commitments, or obligations recognized under this Agreement may be  
27 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written  
28 consent of each other Party and their respective counsel. The representations, warranties, covenants,  
and agreements contained in this Agreement are for the sole benefit of the Parties under this  
Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

1           **Section 6.04: Governing Law**

2           This Agreement shall be governed, construed, and interpreted, and the rights of the Parties  
3 shall be determined, in accordance with the laws of the State of California, without regard to conflicts  
4 of laws.

5           **Section 6.05: Entire Agreement**

6           This Agreement, including the Exhibits referred to herein, which form an integral part hereof,  
7 contains the entire understanding of the Parties with respect to the subject matter contained herein.  
8 In case of any conflict between text contained in Articles I through VI of this Agreement and text  
9 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be  
10 controlling, unless the Exhibits are changed by or in response to a Court order. There are no  
11 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject  
12 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement  
13 supersedes all prior agreements and understandings among the Parties with respect to the settlement  
14 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of  
15 prior agreements or proposals.

16           **Section 6.06: Waiver of Compliance**

17           Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any  
18 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived  
19 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective  
20 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or  
21 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or  
22 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

23           **Section 6.07: Counterparts and Fax/PDF Signatures**

24           This Agreement, and any amendments hereto, may be executed in any number of counterparts  
25 and any Party and/or their respective counsel may execute any such counterpart, each of which when  
26 executed and delivered shall be deemed to be an original. All counterparts taken together shall  
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1 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original  
2 signature.

3 **Section 6.08: Meet and Confer Regarding Disputes**

4 Should any dispute arise among the Parties or their respective counsel regarding the  
5 implementation or interpretation of this Agreement, a representative of Class Counsel and a  
6 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior  
7 to submitting such disputes to the Court.

8 **Section 6.09: Agreement Binding on Successors**

9 This Agreement will be binding upon, and inure to the benefit of, the successors in interest  
10 of each of the Parties.

11 **Section 6.10: Cooperation in Drafting**

12 The Parties have cooperated in the negotiation and preparation of this Agreement. This  
13 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,  
14 was the drafter or participated in the drafting of this Agreement.

15 **Section 6.11: Fair and Reasonable Settlement**

16 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of  
17 the Action and have arrived at this Agreement through arm's-length negotiation and in the context  
18 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties  
19 further believe that the Settlement is and is consistent with public policy, and fully complies with  
20 applicable law.

21 **Section 6.12: Headings**

22 The descriptive heading of any section or paragraph of this Agreement is inserted for  
23 convenience of reference only and does not constitute a part of this Agreement and shall not be  
24 considered in interpreting this Agreement.

25 **Section 6.13: Notice**

26 Except as otherwise expressly provided in the Agreement, all notices, demands, and other  
27 communications under this Agreement must be in writing and addressed as follows:

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*To Named Plaintiff and the Class:*

Kashif Haque  
Samuel A. Wong  
Jessica L. Campbell  
Joseph M. Szilagyi  
AEGIS LAW FIRM, PC  
9811 Irvine Center Drive, Suite 100  
Irvine, California 92618  
Telephone: (949) 379-6250  
Facsimile: (949) 379-6251

And

*To Defendant:*

Jon Yonemitsu  
Noah Woods  
LITTLER MENDELSON, P.C.  
501 W. Broadway, Suite 900  
San Diego, CA 92101  
Telephone: (619) 232-0441  
Facsimile: (619) 232-4302

**Section 6.14: Enforcement of Settlement and Continuing Court Jurisdiction**

To the extent consistent with class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

1           **Section 6.15: Mutual Full Cooperation**

2           The Parties agree fully to cooperate with each other to accomplish the terms of this  
3 Agreement, including but not limited to the execution of such documents, and the taking of such  
4 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties  
5 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its  
6 terms. In the event the Parties are unable to reach agreement on the form or content of any document  
7 needed to implement the Settlement, or on any supplemental provisions that may become necessary  
8 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

9           **Section 6.16: Authorization to Act**

10          Class Counsel warrants and represents that they are authorized by Named Plaintiff, and  
11 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action  
12 required to effectuate the terms of this Agreement, except for signing documents, including but not  
13 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant  
14 represents and warrants that the individual executing this Agreement on its behalf has the full right,  
15 power, and authority to enter into this Agreement and to carry out the transactions contemplated  
16 herein.

17          **Section 6.17: No Reliance on Representations**

18          The Parties have made such investigation of the facts and the law pertaining to the matters  
19 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,  
20 on any statement, promise, or representation of fact or law, made by any of the other parties, or any  
21 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted  
22 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect  
23 to any other matters. No representations, warranties, or inducements, except as expressly set forth  
24 herein, have been made to any party concerning this Agreement.

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26   **EXECUTION BY PARTIES AND COUNSEL**

27          The Parties and their counsel hereby execute this Agreement.

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Dated: 7/7/2022

ARACELI CASILLAS

By:   
Named Plaintiff

Dated: 07/11/2022

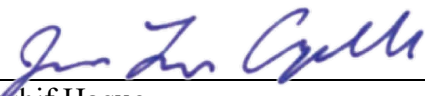
THE PRODUCE EXCHANGE, INC.

By:   
(Signature)  
Drew Yurko  
(Printed Name)  
CFO  
(Title)

**APPROVED AS TO FORM ONLY:**

Dated: 7/7/2022

AEGIS LAW FIRM, PC

By:   
Kashif Haque  
Jessica L. Campbell  
Joseph M. Szilagyi  
Attorneys for Named Plaintiff  
Araceli Casillas

Dated:

July 12, 2022

**LITTLER MENDELSON, P.C.**

By:



\_\_\_\_\_  
Jon Yonemitsu  
Noah Woods  
Attorneys for Defendant  
The Produce Exchange, Inc.

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# **EXHIBIT A**

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

*Araceli Casillas v. The Produce Exchange, Inc.*  
San Diego County Superior Court  
Case No. 37-2019-00050077-CU-OE-CTL

**If you worked for The Produce Exchange, Inc. as an exempt employee in California at any time from September 20, 2015 through [INSERT], a settlement of a class action lawsuit may affect your rights.**

*This is a court-authorized notice. It is not a solicitation from a lawyer.*

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Araceli Casillas v. The Produce Exchange, Inc.*, Case No. 37-2019-00050077-CU-OE-CTL (San Diego County Superior Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the proposed settlement.
- The Court has preliminarily approved a class action settlement with Defendant The Produce Exchange, Inc. (“The Produce Exchange”), which will affect all exempt employees who worked for The Produce Exchange as an exempt employees in California at any time between September 20, 2015 through [INSERT], excluding employees who worked in the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse Manager positions (the “Class”).
- If the Court grants final approval of the Settlement, there may be money available to you.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u></b>	<b>Stay in this Lawsuit. Receive a payment. Cannot pursue your own lawsuit.</b> By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But you will not be able to bring your own lawsuit against The Produce Exchange for wage and hour violations that relate to the claims brought in this Lawsuit.
<b>OBJECT TO THE SETTLEMENT</b>	<b>Stay in this Lawsuit. Receive a payment. Object. Cannot pursue your own lawsuit.</b> To object to the Settlement, you must write to the Settlement Administrator about why you do not like the settlement. You will remain a member of the Class, and if the Court approves the Settlement, you will be bound by the terms of the settlement in the same way as Class Members who do not object.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this Lawsuit. Receive a smaller or no payment from it. Keep your right to pursue your own lawsuit for damages.</b> If you ask to be excluded from the Settlement, you keep your right to sue The Produce Exchange separately about the legal claims in this Lawsuit, except as to the claim under the California Private Attorneys General Act (“PAGA”). If you choose this option, you must exclude yourself, in writing, from the Settlement. As a result, you may receive no payment at all. At most, you will receive a very small payment for resolution of

	the PAGA claim if you a member of the PAGA Group, which is a subset of the Class.
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- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.** To object to the Settlement or to ask to be excluded, you must act before [DATE].
- **Any questions?** Read on or contact the Settlement Administrator listed below at 1-XXX-XXX-XXXX.

### BASIC INFORMATION

#### 1. Why did I get this notice?

The Produce Exchange’s records show that you worked for The Produce Exchange in California as an exempt employee at some point between September 20, 2015 through [DATE].

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this settlement.

#### 2. What is this lawsuit about?

In this Lawsuit, Plaintiff Araceli Casillas (“Plaintiff”) claims that The Produce Exchange: (1) failed to pay overtime wages, (2) failed to provide meal periods, (3) failed to permit rest periods, (4) failed to provide accurate itemized wage statements, (5) failed to pay wages due upon separation of employment, and Plaintiff argued that these claimed violations were unfair and unlawful business practices under California’s Unfair Competition Laws, and that they entitled Plaintiff to recover civil penalties to be split 75% to the State of California and 25% to certain employees pursuant to PAGA. Plaintiff also claimed entitlement to restitution, interest, attorneys’ fees, and costs. You can read Plaintiff’s allegations as stated in the complaint, which is available at [settlement administrator website](#).

Throughout the litigation, The Produce Exchange has denied—and continues to deny—the factual and legal allegations in the case. The Produce Exchange does not believe that it violated any law or regulation relating to how it paid employees, when it paid employees, how much it paid employees, or how wage statements displayed information. The Produce Exchange denies any wrongdoing and asserts that its conduct at all times complied with the law. The Produce Exchange further denies that it owes the monies claimed in the Lawsuit. However, The Produce Exchange has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

#### 3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the “Class Representative” sues on behalf of other people who may have similar claims. The people together are a "Class" or "Class Members." The person who is the Class Representative is also called the plaintiff. The companies sued are called the defendant. In class action litigation, one Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This class action also includes a “Private Attorney General” (PAGA) claim where the Plaintiff is attempting to recover penalties for the State of California. In a PAGA action, the State receives 75%



of the civil penalties, while employees receive 25%. This settlement will resolve all claims by the State for civil penalties arising from claims made by Plaintiff in the Lawsuit during the period of September 20, 2018 through [INSERT] and exempt employees covered by the Lawsuit will be barred from bringing another lawsuit on behalf of the State for such penalties.

#### **4. Why is this Lawsuit a class action?**

For settlement purposes only, Plaintiff and The Produce Exchange agreed that this case can proceed as a class action and to ask the Court to approve the settlement for the Class. The Court has not ruled on the merits of the case, and the decision to certify Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action.

#### **5. What are the terms of the proposed Settlement?**

Subject to final Court approval, the major terms of the Settlement are as follows:

1. The Produce Exchange has agreed to pay \$320,000.00 to settle the claims made in this lawsuit. This amount is also known as the “Gross Settlement Amount.”
2. Plaintiff has agreed to release all of her claims, including her claims alleged in this lawsuit, against The Produce Exchange.
3. **Class Settlement Payments:** Plaintiff seeks the following deductions from the Gross Settlement Amount:
  - a. Up to thirty-five percent of the Gross Settlement Amount (currently equal to \$112,000.00) for Class Counsel’s attorneys’ fees.
  - b. Up to \$15,000.00 for reimbursement of Class Counsel’s litigation costs.
  - c. An incentive award of up to \$15,000.00 to Plaintiff for filing the Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
  - d. Up to \$6,500.00 to cover the costs of the Settlement Administrator.
  - e. Payment of \$20,000.00 to the California Labor and Workforce Development Agency and PAGA Group Members for release of PAGA claims.

If the Court approves the requested deductions, there will be approximately \$[INSERT] remaining, before deducting for taxes, to be distributed. These remaining funds will be referred to as the “Net Settlement Amount.” Any amounts not requested or awarded by the Court will be included in the Net Settlement Amount. The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Settlement Class Members”) on a pro rata basis according to the number of weeks they worked during the Class Period, and whether they signed individual settlements.

**PAGA Settlement Payments.** A portion of the Gross Settlement Amount in the amount of \$5,000 will be set aside for Class Members who worked for The Produce Exchange in California at some

point between September 20, 2018 through [INSERT] (“PAGA Group”). If you are a member of the PAGA Group, you will receive a pro rata share of the PAGA Group Payment, regardless of whether you opt-out of the settlement. You will not be able to pursue any claim on behalf of the State for such penalties.

**Settlement Payments Generally.** Settlement Payment checks returned as undeliverable and unclaimed and uncashed 180 days after issuance and delivered checks remaining uncashed for more than 180 days after issuance will be void and a stop payment will be placed on the uncashed check. The funds from any voided checks will be paid to State of California’s State Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each Participating Class Member.

Your estimated settlement payment is listed in Section 8 of this Notice. Applicable taxes will be withheld from your payment.

### WHO IS IN THE CLASS?

#### 6. Am I part of this Class?

The “Class” includes: All exempt employees who worked for The Produce Exchange in California at any time between September 20, 2015 through [INSERT], excluding employees who worked in the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse Manager positions (the “Class Period”).

#### 7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting **Phoenix Class Action Settlement Administrators**, the “Settlement Administrator,” at the designated phone number for this matter at (800) XXX-XXXX or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

#### 8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by The Produce Exchange, the total number of weeks you worked in California for The Produce Exchange as an exempt employee during the Class Period is \_\_\_\_\_.

Based on information provided above and anticipated court-approved deductions, your share of the settlement is estimated to be \$\_\_\_\_\_, less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

#### **Disputing Your Payment Amount**

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct by no later than [DATE]. You should also send any documents or other information that supports your belief. The

Settlement Administrator will attempt to resolve any dispute based on The Produce Exchange's records and any information you provide. Any disputes not resolved by the Settlement Administrator will be resolved by the Court.

#### **9. What rights am I releasing if I participate in the Settlement?**

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released The Produce Exchange and Released Parties from all claims, rights, demands, damages, liabilities and causes of action, whether known or unknown, contingent or vested, state or federal, in law or in equity, arising from, or reasonably related to, the same or similar set of operative facts and/or allegations as those set forth in Named Plaintiff's Complaint and First Amended Complaint arising at any time during the Class Period, along with related claims and all associated penalties from September 20, 2015 to [DATE] ("Released Claims"). All Settlement Class Members shall be bound by the Settlement Class Released Claims, unless they formally opt out.

Additionally, if you worked during the period of September 20 through [DATE], you are a PAGA Group Member and you will also release the right to bring a claim for civil penalties on behalf of the State (and other employees) based on the same facts or theories as the Settlement Class Released Claims, which arose during the PAGA Period, even if you have formally opted-out of being a Settlement Class Member.

#### **10. How do I object to the Settlement?**

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt out). In order to object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. To be valid, your objection must: (1) state your full name and the last four digits of your Social Security Number; (2) state the grounds for the objection; (3) be signed by you; and (4) indicate whether you intend to appear at the Final Approval Hearing. You can also hire an attorney at your own expense to represent you in your objection. Your written objection to the Settlement Administrator must be postmarked on or before [DATE]. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely written objection.

#### **11. Why would I ask to be excluded?**

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you won't get any money or benefits from the class settlement. However, you may then be able to sue or continue to sue The Produce Exchange for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit, except for the release by PAGA Group Members, as explained above. Whether or not you submit a Request for Exclusion, you will still receive a small PAGA Group Payment if you are determined to be a part of the PAGA Group.

#### **12. How do I ask to be excluded from the Class?**

If you are a Class Member and would like to exclude yourself from the Class ("opt-out"), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must be signed and dated

by you or your authorized representative and must be postmarked on or before [DATE]. To be valid, your request for exclusion must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in the *Casillas v. The Produce Exchange, Inc.* action; and (3) be signed by you.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement, except for potential entitlement to a portion of the PAGA Group Payment, and will not be bound by the Settlement, except for the portion of the Settlement that releases PAGA claims, or have any right to object, appeal, or comment on the Settlement. Class Members who fail to submit a valid and timely request for exclusion will be bound by all terms of the Settlement and any ruling from the Court to give final approval of the Settlement. But Class Members cannot opt out of releasing PAGA claims, as those claims belong to the State of California and Plaintiff has agreed to release those claims by acting as a proxy for the State.

## THE LAWYERS REPRESENTING YOU

### 13. Who are the attorneys representing the Parties?

#### Lawyers for the Class

Kashif Haque (khaque@aegislawfirm.com)  
Samuel A. Wong (swong@aegislawfirm.com)  
Jessica L. Campbell (jcampbell@aegislawfirm.com)  
Joseph M. Szilagyi (jszilagyi@aegislawfirm.com)  
AEGIS LAW FIRM, PC  
9811 Irvine Center Drive, Suite 100  
Irvine, CA 92618  
Tel: 949-379-6250

#### The Produce Exchange's Lawyers

Jon Yonemitsu  
Noah Woods  
LITTLER MENDELSON, P.C.  
501 W. Broadway, Suite 900  
San Diego, CA 92101  
Telephone: (619) 232-0441  
Facsimile: (619) 232-4302

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at [www.aegislawfirm.com](http://www.aegislawfirm.com).

### 14. How will the lawyers be paid?

As part of the Settlement with The Produce Exchange, Class Counsel has requested thirty-five percent of the Gross Settlement Amount (currently equal to \$112,000.00) in attorneys' fees, plus costs not to exceed \$15,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

### 15. How will Plaintiff be paid?

As part of the Settlement with The Produce Exchange, Class Counsel has requested an enhancement payment of up to \$15,000.00 to be paid to Plaintiff for her efforts in this matter while serving as Class Representative and taking on the burden and risks of litigation.

## THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

**16. Who is handling the Settlement Administration process?**

[Phoenix Class Action Settlement Administrators]  
[ADDRESS]  
[PHONE NUMBER]

**17. When is the Final Fairness and Approval Hearing and do I have to attend?**

The Final Fairness and Approval Hearing has been set for [DATE], at [TIME] in Department C-73 of the San Diego County Superior Court for the State of California, located at the Hall of Justice at 330 W. Broadway, San Diego, CA 92101. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class. Make sure you check the Court's website before attempting to come to Court in person. You may be required to appear only by phone or video, depending on the current safety requirements due to the pandemic.

**18. When will I get money after the hearing?**

The Court will hold a hearing on [DATE], to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after The Produce Exchange makes payment to the Settlement Administrator. If there are no objections or appeals, The Produce Exchange will transfer the settlement funds and the Administrator will then distribute the funds. If there are objections or appeals, the payment can be delayed by at least 60 days, or even over a year. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

**GETTING MORE INFORMATION**

**19. Are more details available?**

For more information, the pleadings and other records in this litigation may be examined at any time during regular business hours at the records department office for the Superior Court of the State of California for San Diego, located at the Hall of Justice at 330 W. Broadway, San Diego, CA 9210. You can also view the schedule of events and register of actions for the Lawsuit at the court's website and : <https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact the Lawyers for the Class at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

[Phoenix Class Action Settlement Administrators]

[ADDRESS]

[PHONE NUMBER]

**PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS. ABOUT THIS NOTICE**