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 16 **DUNLOP MANUFACTURING, INC.**

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 18 **FOR THE COUNTY OF SOLANO**

20 LETICIA ALBARIO, individually, and on
 21 behalf of all others similarly situated,

22 Plaintiff,

23 v.

24 DUNLOP MANUFACTURING, INC., a
 California corporation; and DOES 1 through
 25 10, inclusive,

26 Defendants

Case No. FCS057733

**JOINT STIPULATION FOR SETTLEMENT
 OF CLASS AND PAGA REPRESENTATIVE
 ACTION**

JOINT STIPULATION OF CLASS ACTION SETTLEMENT

This Joint Stipulation for Settlement of Class and PAGA Representative Action (“Joint Stipulation of Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff LETICIA ALBARIO, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendant DUNLOP MANUFACTURING, INC. (“Defendant”). Plaintiff and Defendant are sometimes referred to individually as a “Party” or collectively referred to herein as “the Parties.” THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. For purposes of this Settlement, “Complaints” refers to the first amended complaint filed by Plaintiff on April 14, 2022.
2. For purposes of this Settlement, this matter, entitled *Albario v. Dunlop Manufacturing, Inc.*, Solano County Superior Court, Case No. FCS057733, is referred to herein as the “Action.”
3. For purposes of this Settlement, the “Class Period” is September 27, 2017 through the earlier of the date the Court grants preliminary approval or December 8, 2022.
4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current and former non-exempt employees of Defendant who worked in California during the Class Period. “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. The Parties’ estimate that the Class included approximately 404 individuals as of the September 8, 2022 mediation.
5. For purposes of this Settlement, “Class Counsel” means MOON & YANG, APC.
6. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a Class Member worked at Defendant’s locations in California during the Class Period.
7. For purposes of this Settlement, “Response Deadline” means the date forty-five (45) days after the Settlement Administrator initially mails the Notice to Settlement Class Members (“Notice”) and the last date on which Settlement Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 45 calendar days after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

1 8. For purposes of the Settlement, “Defendant’s Counsel” means SEYFARTH SHAW, LLP.

2 9. For purposes of this Settlement, “PAGA” means the Labor Code Private Attorneys
3 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

4 10. For purposes of this Settlement, “FLSA”, means the Fair Labor Standards Act.

5 11. For purposes of this Settlement, “PAGA Allocation” means the portion of the Gross
6 Settlement Amount that the Parties have agreed to allocate to resolution of the Released PAGA Claims.
7 The Parties have agreed that the PAGA Allocation will be \$80,000 from the Gross Settlement Amount.
8 Pursuant to PAGA, Seventy Five Percent (75%), or \$60,000, of the PAGA Allocation will be paid to the
9 Labor and Workforce Development Agency (“LWDA”) (“PAGA Penalty Payment”), and Twenty Five
10 Percent (25%), or \$20,000, of the PAGA Allocation will be included in the Net Settlement Amount for
11 PAGA Employees (“PAGA Settlement Payment”).

12 12. For purposes of this Settlement, “PAGA Period” means the period between September 27,
13 2020 through the earlier of the date preliminary approval is granted, or December 8, 2022.

14 13. For purposes of this Settlement, “PAGA Employee” means all Class Members that worked
15 during the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement, all PAGA
16 Employees are “aggrieved employees” as defined pursuant to PAGA.

17 14. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods
18 each PAGA Employee worked during the PAGA Period.

19 15. For purposes of this Settlement, “PAGA Representative” means Plaintiff.

20 16. For purposes of this Settlement, “Released PAGA Claims” means all claims for penalties
21 and any other available relief pursuant to PAGA, to the extent asserted in Plaintiff’s administrative
22 exhaustion letter submitted to the LWDA in this Action, arising during the PAGA Period.

23 17. For purposes of this Settlement, “Settlement Payments” means all of the payments to
24 Settlement Class Members (the “Settlement Class Payments”) and all of the payments to PAGA
25 Employees (the “PAGA Settlement Payment”).

26 **STIPULATED BACKGROUND**

27 18. On September 27, 2021, Plaintiff filed a putative Class Action alleging the following
28 labelled causes of action: (1) Failure to Pay Minimum Wage [Cal. Lab. Code §§ 204, 1194, 1194.2, and

1 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to
2 Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks
3 [Cal. Lab. Code §§ 226.7]; (5) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-
4 203]; (6) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (7) Unfair
5 Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. In the Complaint, Plaintiff sought to
6 represent all persons that worked for Defendant in California as an hourly-paid, non-exempt employee at
7 any time during the period beginning four years before the filing of the initial complaint and ending when
8 Notice to the Class is sent.

9 19. Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a
10 claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699,
11 *et seq.*] (“PAGA”). On April 14, 2022, Plaintiff filed a First Amended Complaint adding a cause of action
12 for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*].

13 20. Solely for purposes of settling this case, the Parties and their respective counsel stipulate
14 and agree that the requisites for establishing class certification with respect to the Class Members have
15 been met and are met. More specifically for settlement purposes only, the Parties stipulate and agree that:

16 (a) The Class is ascertainable and so numerous as to make it impracticable to join all
17 Class Members.

18 (b) There are common questions of law and fact including, but not limited to, the
19 following:

- 20 1) Whether or not Defendant paid proper wages to the Class;
- 21 2) Whether or not Defendant provided meal periods to the Class;
- 22 3) Whether or not Defendant provided rest periods to the Class;
- 23 4) Whether or not Defendant paid compensation timely upon separation of
24 employment to former Class Members;
- 25 5) Whether or not Defendant paid compensation timely throughout Class
26 Members’ employment;
- 27 6) Whether or not Defendant provided accurate itemized statements to the
28 Class;

- 1 7) Whether or not waiting-time penalties are available to the Class for
- 2 violation of California Labor Code § 203;
- 3 8) Whether or not Defendant maintained requisite records;
- 4 9) Whether or not Defendant paid proper meal period pay or rest period pay to
- 5 the Class; and,
- 6 10) Whether or not Defendant engaged in unlawful or unfair business practices
- 7 affecting the Class in violation of California Business and Professions
- 8 Code §§ 17200-17208.

- 9 (c) Plaintiff’s claims are typical of the claims of the Class Members.
- 10 (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the
- 11 Class.
- 12 (e) The prosecution of separate actions by individual members of the Class would
- 13 create the risk of inconsistent or varying adjudications, which would establish
- 14 incompatible standards of conduct.
- 15 (f) With respect to the Class, questions of law and fact common to the members of the
- 16 Class predominate over any questions affecting any individual member in such
- 17 Class, and that a class action is superior to other available means for the fair and
- 18 efficient adjudication of the controversy.

19 21. Should, for whatever reason, the Settlement not become effective, the fact that the Parties
20 were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be
21 admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be
22 certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves
23 its right to oppose claim or class certification in this or any other action should this Settlement not become
24 effective.

25 22. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the
26 claims alleged in the Complaint, and Defendant further denies that, for any purpose other than settling this
27 lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff’s claims,
28 Defendant contends, among other things, that Plaintiff and the Class Members have been paid proper

1 wages, have been provided meal periods or they have been made available as required, have been provided
2 rest periods or they have been authorized and permitted as required, have been paid timely wages upon
3 separation of employment, and have been provided with accurate itemized wage statements. Defendant
4 contends, among other things, that it has complied at all times with the California Labor Code and the
5 applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims,
6 Defendant contends that it has complied at all times with the California Business and Professions Code,
7 and the FLSA.

8 23. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge
9 all disputes and claims arising from or related to the Complaint.

10 24. Class Counsel has conducted a thorough investigation into the facts of this Action,
11 including an extensive review of relevant documents, and has diligently pursued an investigation of the
12 claims of the Class against Defendant. Based on their own independent investigation and evaluation,
13 Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms
14 set forth in this Joint Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of
15 the Class in light of all known facts and circumstances, including the risk of significant delay, the risk the
16 Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential appellate
17 issues.

18 25. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
19 preliminary and final approval of this Settlement.

20 26. The Parties agree to stay all proceedings in the Action, except such proceedings necessary
21 to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the
22 Court.

23 **PRIMARY TERMS OF SETTLEMENT**

24 27. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements
25 set forth herein, the Parties agree, subject to the Court's approval, as follows:

- 26 (a) It is agreed by and among the Class and Defendant that this Action and any claims,
27 damages, or causes of action arising out of the disputes which are the subject of
28 this Action, be settled and compromised as between the Class and Defendant,

1 subject to the terms and conditions set forth in this Settlement and the approval of
2 the Court.

3 (b) Effective Date: Shall be the date all of the following have occurred: (i) final
4 approval of the settlement is granted by the Court; and (iii) Judgment approving the
5 settlement becomes Final. "Final" shall mean the latest of: (i) if there is an appeal
6 of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of
7 dismissal of such appeal, or the expiration of the time to file a petition for writ of
8 certiorari to the United States Supreme Court, or, (ii) if a petition for writ of
9 certiorari is filed, the date of denial of the petition for writ of certiorari, or the date
10 the Judgment is affirmed pursuant to such petition; or (iii) if no objection is made,
11 or if an objection is withdrawn prior to the date the Court grants final approval, the
12 date the final approval order is signed.

13 (c) Gross Settlement Amount: Defendant's maximum total payment under the
14 Settlement, including all attorney's fees and costs, the Service Payment to the
15 named Plaintiff, the costs of settlement administration, the PAGA Allocation, and
16 any other payments provided by this Settlement, is \$900,00.00 ("Gross Settlement
17 Amount"), subject to the Escalator Clause and except that, to the extent that any
18 portions of the Class Members' Settlement Payments constitute wages, Defendant
19 will be separately responsible for any employer payroll taxes required by law,
20 including the employer FICA, FUTA, and SDI contributions.

21 (d) Escalator Clause: In the event of an increase of more than 20% from original
22 estimate of 45,000 workweeks in the Class Period (i.e. specifically 54,000 or more
23 workweeks), the settlement amount shall be increased by the percentage that that
24 actual number of class members or workweeks exceeds a 20% increase from the
25 original estimates. For example, if the class size is 22% larger, the settlement
26 amount shall be increased by 2% (the "Escalator Clause"). The Gross Settlement
27 Amount will not be reduced for any reason.

28 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will

1 revert to Defendant.

2 (f) No Claims Required: Class Members will not be required to submit a claim to
3 receive their Settlement payment.

4 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
5 deducting from the Gross Settlement Amount (\$900,000.00) the following sums,
6 subject to approval by the Court: (1) attorney’s fees (not to exceed one-third of the
7 Gross Settlement Amount); (2) reasonable litigation costs (not to exceed
8 \$20,000.00); (3) the Service Payments (not to exceed \$10,000.00 to the named
9 Plaintiff); (4) the PAGA Penalty Payment in the amount of \$60,000.00 (which is
10 75% of the PAGA Allocation); and (5) costs of settlement administration
11 (estimated not to exceed \$15,000). Settlement Payments to the Class Members
12 will be calculated by the Settlement Administrator and paid out of the Net
13 Settlement Amount as set forth below.

14 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
15 Settlement Class Members’ Settlement Payments constitute wages, Defendant will
16 be separately responsible for any **employer** payroll taxes required by law,
17 including the employer FICA, FUTA, and SDI contributions. Except for any
18 employer payroll taxes and as set forth in the Escalator Clause, it is understood and
19 agreed that Defendant’s maximum total liability under this Settlement shall not
20 exceed the Gross Settlement Amount. The Settlement Administrator will calculate
21 and submit the Defendant’s employer share of payroll taxes after advising
22 Defendant of the total amount owed, in aggregate, as employer-side payroll taxes
23 and receiving a lump sum payment from Defendant in that amount when the Gross
24 Settlement Amount is delivered to the Settlement Administrator.

25 (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class
26 Payments will be paid out of the Net Settlement Amount. Each Settlement Class
27 Member will be paid a pro-rata share of the Net Settlement Amount (less the
28 PAGA Settlement Payments to the LWDA), as calculated by the Settlement

1 Administrator. The pro-rata share will be determined by comparing the individual
2 Settlement Class Member's Covered Workweeks employed during the Class
3 Period in California to the total Covered Workweeks of all the Settlement Class
4 Members during the Class Period as follows: [Workweeks worked by a Settlement
5 Class Member] ÷ [Sum of all Covered Workweeks worked by all Settlement Class
6 Members] × [Net Settlement Amount – all PAGA Settlement Payments to the
7 LWDA] = individual Settlement Payment for a Settlement Class Member.

8 Settlement Class Payments in the appropriate amounts will be distributed by the
9 Settlement Administrator by mail to the Settlement Class Members. All checks not
10 cashed within 180 days of payment shall be forwarded to the Unclaimed Property
11 Fund in the name of the Settlement Class Member who failed to cash their checks.

12 (j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net
13 Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the
14 PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement
15 Administrator minus PAGA Settlement Payments to the LWDA . Class Members
16 will not be permitted to exclude themselves from this portion of the Settlement.
17 The pro-rata share will be determined by comparing the individual PAGA
18 Employees' PAGA Pay Periods during the PAGA Period to the total PAGA Pay
19 Periods of all the PAGA Employees during the PAGA Period as follows: [PAGA
20 Pay Periods worked by a PAGA Employee] ÷ [Sum of all PAGA Pay Periods
21 worked by all PAGA Employees] × [PAGA Settlement Payment] = individual
22 PAGA Employee's portion of the PAGA Settlement Payment. PAGA Settlement
23 Payments to PAGA Employees in the appropriate amounts will be distributed by
24 the Settlement Administrator by mail to the PAGA Employees at the same time
25 Settlement Class Payments issue to the Settlement Class. Un-cashed, unclaimed or
26 abandoned checks, shall be transmitted to the California Controller's Office, as set
27 forth below. The LWDA's PAGA Penalty Payment will issue to the LWDA at the
28 same time Settlement Payments issue to the Settlement Class.

1 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
2 Payments will be allocated as follows: 33 1/3% to wages, 33 1/3% to penalties, and
3 33 1/3% to interest. The PAGA Settlement Payment shares to PAGA Employees
4 will be entirely allocated to penalties. Appropriate federal, state and local
5 withholding taxes will be taken out of the wage allocations, and each Class
6 Member will receive an IRS Form W-2 with respect to this portion of the
7 Settlement Payment. The employer's share of payroll taxes and other required
8 withholdings will be paid as set forth above, including but not limited to the
9 Defendant's FICA and FUTA contributions, based on the payment of claims to the
10 Class Members. IRS Forms 1099 will be issued to each Class Member reflecting
11 the payments for penalties and interest. Class Members are responsible to pay
12 appropriate taxes due on the Settlement Payments they receive. To the extent
13 required by law, IRS Forms 1099 and W-2 will be issued to each Class Member
14 with respect to such payments.

15 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
16 Payments to individual Class Members shall be deemed to be paid to such Class
17 Member solely in the year in which such payments actually are received by the
18 Class Member. It is expressly understood and agreed that the receipt of such
19 Settlement Payments will not entitle any Class Member to additional compensation
20 or benefits under any company bonus, contest or other compensation or benefit
21 plan or agreement in place during the period covered by the Settlement up to and
22 including the date the Settlement becomes effective, nor will it entitle any Class
23 Member to any increased retirement, 401(k) benefits or matching benefits or
24 deferred compensation benefits. It is the intent that the Settlement Payments
25 provided for in this Settlement are the sole payments to be made by Defendant to
26 the Class Members, and that the Class Members are not entitled to any new or
27 additional compensation or benefits as a result of having received the Settlement
28 Payments (notwithstanding any contrary language or agreement in any benefit or

1 compensation plan document that might have been in effect during the period
2 covered by this Settlement).

3 (m) Attorney's Fees and Costs: Subject to approval by the Court, Defendant will not
4 object to Class Counsel's application for attorney's fees not to exceed one-third of
5 the Gross Settlement Amount and reimbursement of litigation costs and expenses
6 not to exceed \$20,000.00.

7 (n) Service Payment: Subject to Court approval, and in exchange for a general release,
8 Defendant will not object to Class Counsel's application for an additional payment
9 of up to \$10,000.00 to Plaintiff for service as the Class Representative ("Service
10 Payments"). It is understood that the Service Payment is in addition to the
11 individual Settlement Payment to which each Class Representative is entitled to
12 along with the other Class Members. In exchange, Plaintiff has agreed to release
13 all claims, whether known or unknown, under federal law or state law against
14 the Releasees, to the extent permitted by law, through the Class Period
15 ("Plaintiff's Released Claims"). Plaintiff understands that this release includes
16 unknown claims and that they are, as a result, waiving all rights and benefits
17 afforded by Section 1542 of the California Civil Code, which provides:

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

21 Specifically excluded from Plaintiff's Released Claims are any claims for workers'
22 compensation benefits. The Service Payment will issue at the same time all
23 Settlement Payments are mailed to the Settlement Class.

24 (o) Defendant or the Settlement Administrator will issue an IRS Form 1099 for the
25 Service Payment to the Plaintiff. The Plaintiff will be individually responsible for
26 correctly characterizing this compensation on personal income tax returns for tax
27 purposes and for paying any taxes on the amounts received. Should the Court
28 approve a Service Payment in an amount less than that set forth above, the

1 difference between the lesser amount(s) approved by the Court and the Service
2 Payment amount(s) set forth above shall be added to the Net Settlement Amount.
3 Plaintiff agrees not to opt out or object to the Service Payment as the Class
4 Representative.

5 (p) Settlement Administrator: The Settlement Administrator will be Phoenix Class
6 Action Administration Solutions, or such Settlement Administrator as may be
7 mutually agreeable to the Parties and approved by the Court. Settlement
8 Administration Costs are estimated not to exceed \$15,000. The costs of the
9 Settlement Administrator for work done shall be paid regardless of the outcome of
10 this Settlement.

11 (q) Funding of Settlement Account: Defendant will fund the settlement account the
12 later of 14 days after the Effective Date or by September 1, 2024.

13 (r) Mailing of Settlement Payments: The Settlement Administrator shall cause the
14 Settlement Payments to be mailed to the Class Members within 14 calendar days of
15 the receipt of funding.

16 (s) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
17 material terms of the proposed Settlement, along with instructions about how to
18 object or request exclusion from the propose class action Settlement (“Notice”).
19 For each Class Member, there will be pre-printed information on the mailed
20 Notice, based on Defendant’s records, stating the Class Member’s Covered
21 Workweeks during the Class Period and the estimated total Settlement Payment
22 under the Settlement, including the Settlement Class Payment and the PAGA
23 Settlement Payment that will be distributed irrespective of any exclusion request.
24 The pre-printed information based on Defendant’s records shall be presumed to be
25 correct. A Class Member may dispute the pre-printed information on the Notice as
26 to his or her Covered Workweeks during the Class Period. Class Members must
27 submit any dispute regarding the information on the Notice as to his or her
28 Covered Workweeks within the Response Deadline. The records of the Defendant

1 will be determinative.

2 (t) Settlement Notice Language: The Notice will issue in English and Spanish.

3 (u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

4 Class Members submitting a Request for Exclusion will nevertheless receive their
5 pro-rata share of the PAGA Settlement Payment. If the Court approves the
6 compromise of the PAGA Claim, all Class Members are bound by the Court's
7 resolution of that Claim. Plaintiff shall serve a notice of settlement on the
8 California Labor and Workforce Development Agency at or before the time
9 Plaintiff file the motion for preliminary approval.

10 (v) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of
11 Defendant's records used to calculate Covered Workweeks, and the Parties'
12 counsel cannot resolve the dispute informally, the matter will be referred to the
13 Settlement Administrator. The Settlement Administrator will review Defendant's
14 records and any information or documents submitted by the Class Member and
15 issue a non-appealable decision regarding the dispute. The Class Member must
16 submit information or documents supporting his or her position to the Settlement
17 Administrator prior to the expiration of the Response Deadline. Information or
18 documents submitted after the expiration of the Response Deadline will not be
19 considered by the Settlement Administrator, unless otherwise agreed to by the
20 Parties.

21 (w) Right of Class Member to Request Exclusion from the Settlement: Any Class
22 Member may request to be excluded from the Class by mailing a "Request for
23 Exclusion" from the Settlement within the Response Deadline, stating, as follows
24 or in substantially similar terms:

25 "I WISH TO BE EXCLUDED FROM THE CLASS IN THE
26 *ALBARIO V. DUNLOP MANUFACTURING, INC.* CLASS
27 ACTION LAWSUIT. I UNDERSTAND THAT IF I ASK TO
28 BE EXCLUDED FROM THE CLASS, I WILL NOT
RECEIVE ANY MONEY FROM THE SETTLEMENT
OTHER THAN MY SHARE OF THE PAGA PAYMENT."

1 Any Request for Exclusion must include the name, address, telephone number, last
2 four digits of the Class Member's Social Security Number, and the signature of the
3 Class Member requesting exclusion. Any such request must be made in
4 accordance with the terms of the Notice, and the Notice will advise Class Members
5 of these requirements. Any Class Member who timely requests exclusion in
6 compliance with these requirements (i) shall not have any rights under this
7 Settlement other than a right to receive a pro-rata share of the portion of the PAGA
8 payment allocated to the Class Members if the Class Member is also PAGA
9 Employee; (ii) shall not be entitled to receive any Settlement Payments under this
10 Settlement other than the PAGA Settlement Payment; and (iii) shall not be bound
11 by this Settlement or the Court's Order and Final Judgment other than as it applies
12 to the PAGA Claim.

13 (x) Right of Settlement Class Member to Object to The Settlement: Any Class
14 Member may object to the Settlement. To object, the Class Member may (1)
15 appear at the Final Approval Hearing, remotely or in person, to explain any
16 objection, (2) have an attorney object for the Class Member, or (3) submit a simple
17 written brief or statement of objection to the Settlement Administrator. If any
18 Class Member chooses to submit a written objection, the written objection should
19 contain sufficient information to confirm the identity of the objector and the basis
20 of the objection, including (1) the full name of the Settlement Class Member; (2)
21 the signature of the Settlement Class Member; (3) the grounds for the objection;
22 and (4) be postmarked within the Response Deadline to permit adequate time for
23 processing and review by the Parties of the written statement or objection. Class
24 Counsel shall ensure that any written objections are transmitted to the Court for the
25 Court's review (either by Class Counsel or as an attachment to declaration from the
26 Settlement Administrator). Regardless of the form, an objection alone will not
27 satisfy the requirement that a Settlement Class Member must either make a timely
28 complaint in intervention before final judgment or by file a motion to set aside and

1 vacate the class judgment under Code of Civil Procedure § 663 to have standing to
2 appeal entry of judgment approving this Settlement, as is required under the
3 California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal.
4 5th 260 (2018). A Class Member who does not object prior to or at the Final
5 Approval Hearing, will be deemed to have waived any objections and will be
6 foreclosed from making any objections (whether at the Final Approval Hearing, by
7 appeal, or otherwise) to the Settlement. If the objecting Class Member does not
8 formally intervene in the action or move to set aside any judgment and/or the Court
9 rejects the Class Member's objection, the Class Member will still be bound by the
10 terms of this Agreement. Class Counsel and Defendant's Counsel may, at least
11 five (5) calendar days (or some other number of days as the Court shall specify)
12 before the final approval hearing, file responses to any written objections submitted
13 to the Court.

14 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

15 28. Subject to the Court's approval, and subject to reconsideration by the Parties after a
16 competitive bidding process, the Parties have agreed to the appointment of Phoenix Class Action
17 Administration Solutions to perform the customary duties of Settlement Administrator. The Settlement
18 Administrator will mail the Notice, both in English and Spanish, to the Class Members.

19 29. The Settlement Administrator will independently review the Covered Workweeks
20 attributed to each Class Member and will calculate the estimated amounts due to each Class Member and
21 the actual amounts due to each Settlement Class Member in accordance with this Settlement. The
22 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
23 Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform its
24 duties.

25 30. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement
26 Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Payment
27 checks to the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in
28 accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's

1 performance of its duties shall be referred to the Court, if necessary, which will have continuing
2 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
3 contemplated by this Settlement have been fully carried out.

4 31. The Settlement Administrator will post the final judgment approving the Settlement on a
5 website maintained by the Settlement Administrator for a period of not less than 90 calendar days after the
6 final judgment is entered. The address of that website will be included in the Notice.

7 **ATTORNEY'S FEES AND COSTS**

8 32. In consideration for resolving this matter and in exchange for the release of all claims by
9 the Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object to
10 Class Counsel's application for attorney's fees not to exceed one-third of the Gross Settlement Amount
11 and litigation costs not to exceed \$15,000.00. The amounts set forth above will cover all work performed
12 and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in
13 connection with the approval by the Court of this Settlement and administration of the Settlement. Should
14 Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees
15 and/or attorneys' costs, the difference between the lesser amount(s) and the maximum amount set forth
16 above shall be added to the Net Settlement Amount. The Parties agree that there is no prevailing party,
17 and the Class and Class Counsel shall not be entitled to any fees or costs other than those awarded out of
18 and deducted from the Gross Settlement Amount. As with the Settlement Payments to the Settlement
19 Class, the attorney's fees and costs approved by the Court shall be distributed by the Settlement
20 Administrator to Class Counsel, within 14 calendar days of the receipt of settlement funds by the
21 Settlement Administrator. In the event that the Court awards less than 25% of the Gross Settlement
22 Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any Final
23 Approval Order and Judgment.

24 **MATERIALITY OF TERMS.**

25 33. The Court's approval of the Service Payment, Attorneys' Fees and Costs, and the PAGA
26 Fund are not material terms of this Agreement. If the Court approves only a lesser amount of these
27 payments, then the other terms of this Agreement shall still remain in effect and the difference(s) will
28 remain part of the Net Settlement Amount. The Court's refusal to approve the attorneys' fees or costs

1 award requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the
2 settlement. Any amount of an attorneys' fees and costs award requested by Class Counsel, but unapproved
3 by the Court shall be allocated to the Net Settlement Fund.

4 **THE NOTICE PROCESS**

5 34. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the
6 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice
7 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in
8 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the
9 Settlement Administrator to forward the Notices to the Class.

10 (a) Within 10 calendar days from the date of preliminary approval of this Settlement
11 by the Court, Defendant shall provide to the Settlement Administrator a class
12 database containing the following information for each Class Member: (1) name;
13 (2) last known address; (3) social security number; and (5) dates of employment at
14 Defendant's locations in California. This database shall be based on Defendant's
15 payroll and other business records and shall be provided in a reasonable format to
16 the Settlement Administrator. Defendant agrees to consult with the Settlement
17 Administrator prior to the production date to ensure that the format will be
18 acceptable to the Settlement Administrator. The Settlement Administrator will run
19 a check of the Class Members' addresses against those on file with the U.S. Postal
20 Service's National Change of Address List; this check will be performed only once
21 per Class Member by the Settlement Administrator. Absent mutual written
22 agreement of counsel for the Parties or Court order, the Settlement Administrator
23 will keep this database confidential and secure and use it only for the purposes
24 described herein, and will return this database to Defendant upon final approval of
25 the settlement or destroy electronic records containing the database after the
26 Settlement is final and all payments are distributed as required under this
27 Agreement.

28 (b) Within 14 calendar days after the Class database is provided to the Settlement

1 Administrator, the Settlement Administrator will mail the Notices to the Class
2 Members by First Class United States mail.

3 (c) Notices returned to the Settlement Administrator as non-deliverable on or before
4 the initial Response Deadline shall be resent to the forwarding address, if any, on
5 the returned envelope. A returned Notice will be forwarded by the Settlement
6 Administrator any time that a forwarding address is provided with the returned
7 mail. If there is no forwarding address, the Settlement Administrator will do a
8 computer search for a new address using the Class Member's social security
9 number or other information. In any instance where a Notice is re-mailed, that
10 Class Member will have until the extended Response Deadline as described above.
11 A letter prepared by the Settlement Administrator will be included in the re-mailed
12 Notice in that instance, stating the extended Response Deadline. Upon completion
13 of these steps by the Settlement Administrator, Defendant and the Settlement
14 Administrator shall be deemed to have satisfied their obligations to provide the
15 Notice to the affected Class Member. The affected Class Member shall remain a
16 member of the Settlement Class and shall be bound by all the terms of the
17 Settlement and the Court's Order and Final Judgment.

18 (d) Class Counsel shall provide to the Court, at least five calendar days prior to the
19 final approval hearing, or such other date as set by the Court, a declaration by the
20 Settlement Administrator of due diligence and confirming mailing of the Notices.

21 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

22 35. As set forth above, each Class Member will have until the expiration of the applicable
23 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
24 Member's Covered Workweek information on the Notice. No disputes will be honored if they are
25 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.
26 Each Class Member is responsible to maintain a copy of any documents sent to the Settlement
27 Administrator and a record of proof of mailing.

28 36. The Settlement Administrator shall cause the Settlement Payments to be mailed to the

1 Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and
2 PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and
3 negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will
4 automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member
5 within that time, and the Class Member's relevant claims will remain released by the Settlement.
6 Settlement Payment checks which have expired will not be reissued.

7 37. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void
8 date, shall be transmitted to the State of California's Unclaimed Property Fund in the name of the
9 Settlement Class Member who failed to cash their check.

10 38. Upon completion of its calculation of Settlement Payments, the Settlement Administrator
11 shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to
12 be made to Class Members (to be identified anonymously by employee number or other identifier). A
13 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and
14 Defendant's Counsel and filed with the Court by Class Counsel.

15 **RELEASE BY THE CLASS AND PAGA EMPLOYEES**

16 39. Upon the final approval by the Court of this Settlement and Defendant's payment of all
17 sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this
18 Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and
19 timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee,
20 regardless of whether they have requested exclusion from the Settlement of Class claims, will release
21 claims as follows:

- 22 (a) **Identity of Released Parties.** The released parties are Defendant, and each of its
23 former and present direct and/or indirect owners, dba's, affiliates, parents,
24 subsidiaries, brother and sister corporations, divisions, related companies,
25 successors and predecessors, and current and former employees, attorneys, officers,
26 directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries,
27 subrogees, executors, partners, privies, agents, servants, insurers, representatives,
28 administrators, employee benefit plans, and assigns of said entities (collectively

1 “Releasees”).

2 (b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims
3 will be released upon the later of (1) the Settlement’s Effective Date, or (2) the
4 satisfaction of Defendant’s obligation to provide to the Settlement Administrator a
5 sum in the amount required to satisfy all required payments and distributions
6 pursuant to this Settlement and the Order and Judgment of final approval. Class
7 Members will not release the Released Claims or Released PAGA Claims until
8 both the Effective Date of the Settlement has occurred, **and** Defendant has paid all
9 amounts owing under the Settlement.

10 (c) **Claims Released by Settlement Class Members.** Each and every Class Member,
11 on behalf of himself or herself and his or her heirs and assigns, unless he or she has
12 submitted a timely and valid Request for Exclusion (which will not effectuate an
13 opt-out from the release of Released PAGA Claims), hereby releases Releasees
14 from the following claims for the entire Class Period:

15 1) any and all claims stated in the Action, or that could have been stated based
16 on the facts alleged in the Action, including but not limited to all state wage
17 and hour claims (including all claims under the California Labor Code) for
18 unpaid wages, minimum wage, overtime, off-the-clock work, meal periods,
19 rest periods, wage statement violations, interest, penalties, and attorneys’
20 fees, waiting time penalties, withholding from wages and the related
21 provisions of the Labor Code including but limited to Labor Code §§ 201-
22 204, 210, 216, 218.6, 226, 226.3 , 226.7, 510, 512, 512.5, 558, 1194,
23 1194.2, 1198, derivative claims under California Business & Professions
24 Code §§ 17200 et seq., and all claims under the governing Wage Order,
25 and FLSA (“Released Claims”);

26 2) as to any Class Member who cashes their Settlement Payment, the
27 Settlement Administrator shall include language on the Settlement
28 Payments that informs the Class Members that the signing and negotiation

of that check shall serve as the Class Member’s consent to join the Action for purposes of releasing all claims arising under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action;

(d) **Claims Released by the Class, Including PAGA Employees.** All Class Members, including all PAGA Employees, release the Released PAGA Claims, regardless of whether they have requested exclusion from the Settlement as to Class claims.

EMPLOYMENT BY DEFENDANT

40. Employment of Plaintiff by Defendant is not consideration for, or a condition of, this Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

41. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiff’s unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action Settlement, the Parties shall apply to the Court for the entry of an order:

- (a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney’s fees and costs, and the Class Representative’s service payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Certifying a Class;
- (c) Approving as to form and content the proposed Notice;
- (d) Directing the mailing of the Notice;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing Phoenix Class Action Administration Solutions as the Settlement

1 Administrator, and order the Settlement Administrator to issue Notices as outlined
2 above.

3 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

4 42. In conjunction with the hearing of a motion for final approval by the Court of the
5 Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will submit to the Court a
6 proposed final order and judgment containing provisions sufficient to accomplish the following:

- 7 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
8 adequate, and directing consummation of its terms and provisions;
- 9 (b) Approving Class Counsel’s application for an award of attorney’s fees and costs;
- 10 (c) Approving the Service Payment to the Class Representative;
- 11 (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting
12 duties under the Settlement.
- 13 (e) Adjudging Plaintiff and Class Counsel may adequately represent the Settlement
14 Class for the purpose of entering into and implementing the Agreement;
- 15 (f) Entering a final judgment in the action;
- 16 (g) Adjudging that notwithstanding the submission of a timely request for exclusion,
17 Class Members are still bound by the settlement and release of the Released PAGA
18 Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46
19 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to
20 the Released PAGA Claims, and further affirms that the State’s claims for civil
21 penalties pursuant to PAGA are also extinguished;
- 22 (h) Directing the posting of the final judgment on a website maintained by the
23 Settlement Administrator for a period of not less than 90 calendar days after entry
24 of final judgment.

25 **NULLIFICATION AND TERMINATION**

26 43. This Settlement will be null and void if any of the following occur: (a) the Court should for
27 any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to
28 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than

1 adjustments made to the attorney's fees and costs or granting of Service Payment; (c) the Court should for
2 any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or
3 rendered void; or (e) the Settlement does not become final for any other reason.

4 44. If 10% or more of the Class Members opt out of this Settlement, then Defendant in its sole
5 discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall provide
6 Defendant's Counsel with the information necessary to effectuate this provision on a regular basis, but no
7 less frequently than on a monthly basis. To terminate this Settlement under this paragraph, Defendant's
8 Counsel must give Class Counsel written notice, by facsimile, e-mail, or mail, no later than 30 calendar
9 days after the Response Deadline. If this option is exercised by Defendant, Defendant shall be solely
10 responsible for the costs incurred by the Settlement Administrator for the settlement administration.

11 45. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
12 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
13 proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all
14 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
15 neither entered into nor filed with the Court.

16 **PARTIES' AUTHORITY**

17 46. The signatories hereto hereby represent that they are fully authorized to enter into this
18 Settlement and bind the Parties hereto to the terms and conditions thereof.

19 **MUTUAL FULL COOPERATION**

20 47. The Parties agree to fully cooperate with each other to accomplish the terms of this
21 Settlement including, but not limited to, execution of such documents and taking such other action as
22 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
23 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
24 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
25 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
26 assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the
27 Court's preliminary and final approval of this Settlement.
28

NO PRIOR ASSIGNMENTS

48. The Parties and their respective counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein, and that they are not on notice of any liens as to the Gross Settlement Amount or any right to attorneys' fees or costs.

NO ADMISSION OF LIABILITY

49. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all the claims and contentions alleged by the Plaintiff in this case. The Defendant has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

50. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

51. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

Kane Moon (SBN 249857)
kane.moon@moonyanglaw.com
Allen Feghali (SBN 301080)
allen.feghali@moonyanglaw.com
Edwin Kamarzarian (SBN 327830)
edwin.kamarzarian@moonyanglaw.com
MOON & YANG, APC

Counsel for Defendant:

SEYFARTH SHAW LLP
Andrew M. McNaught (SBN 209093)
amcnaught@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

1 1055 W. Seventh St., Suite 1880
2 Los Angeles, California 90017
3 Telephone: (213) 232-3128
4 Facsimile: (213) 232-3125

SEYFARTH SHAW LLP
Heriberto Alvarez, Jr. (SBN 307048)
halvarez@seyfarth.com
999 Third Avenue, Suite 4700
Seattle, Washington 98104
Telephone: (206) 946-4910
Facsimile: (206) 946-4901

6 **CONSTRUCTION**

7 52. The Parties hereto agree that the terms and conditions of this Settlement are the result of
8 lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all- day
9 mediation with Steve Rottman, Esq., and this Settlement shall not be construed in favor of or against any
10 Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this
11 Settlement.

12 **CAPTIONS AND INTERPRETATIONS**

13 53. Paragraph titles or captions contained herein are inserted as a matter of convenience and
14 for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision
15 hereof. Each term of this Settlement is contractual and not merely a recital.

16 **MODIFICATION**

17 54. This Settlement may not be changed, altered, or modified, except in writing and signed by
18 the Parties hereto, and approved by the Court. This Settlement may not be discharged except by
19 performance in accordance with its terms or by a writing signed by the Parties hereto.

20 **INTEGRATION CLAUSE**

21 55. This Settlement contains the entire agreement between the Parties relating to the
22 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
23 understandings, representations, and statements, whether oral or written and whether by a Party or such
24 Party’s legal counsel, are merged herein. No rights hereunder may be waived except in writing.

25 **WAIVER OF APPEALS**

26 56. The Parties agree to waive appeals and to stipulate to class certification for purposes of
27 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
28 amount awarded as attorney’s fees in the event that the Court awards less than twenty-five percent of the

1 Gross Settlement Amount as attorney’s fees.

2 **BINDING ON ASSIGNS**

3 57. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and
4 their respective heirs, trustees, executors, administrators, successors and assigns.

5 **CLASS COUNSEL SIGNATORIES**

6 58. It is agreed that because the members of the Class are so numerous, it is impossible or
7 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class
8 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall
9 have the same force and effect as if this Settlement were executed by each member of the Class.

10 **COUNTERPARTS**

11 59. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
12 and when each Party has signed and delivered at least one such counterpart, each counterpart shall be
13 deemed an original, and, when taken together with other signed counterparts, shall constitute one
14 Settlement, which shall be binding upon and effective as to all Parties.

15 **FINAL JUDGMENT**

16 60. The Parties agree that, upon final approval of the Settlement, final judgment of settlement
17 in this Action will be made and entered in its entirety. The final judgment may be included in the Order
18 granting Final Approval of the Settlement.

19 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
20 Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

21 IT IS SO STIPULATED.

22 **Plaintiff & Class Representative:**

23 Dated: 10/14/2022

By: 
LETICIA ALBARIO

26 **Plaintiff’s Counsel:**

27 Dated: 10/14/2022

MOON & YANG, APC

28 By:



Kane Moon
Allen Feghali
Edwin Kamarzarian
Attorneys for Plaintiff

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Defendant:

Dated: DUNLOP MANUFACTURING, INC.

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated: SEYFARTH SHAW, LLP

By: _____
Andrew M. McNaught
Attorneys for Defendant

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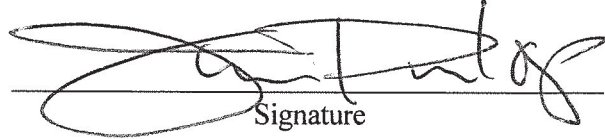
Kane Moon
Allen Feghali
Edwin Kamarzarian
Attorneys for Plaintiff

Defendant:

Dated: October 12, 2022

DUNLOP MANUFACTURING, INC.

By: Jimi Dunlop
Print Name


Signature

C.E.O.
Title

Defendant's Counsel:

Dated: October 13, 2022

SEYFARTH SHAW, LLP

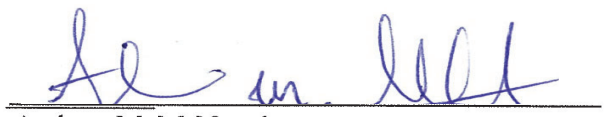
By: 
Andrew M. McNaught
Attorneys for Defendant

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Albario v. Dunlop Manufacturing, Inc.
Solano County Superior Court, Case No. FCS057733

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

IF YOU ARE OR WERE EMPLOYED BY DUNLOP MANUFACTURING, INC. (“DEFENDANT”) IN CALIFORNIA AS AN HOURLY-PAID EMPLOYEE AT ANY TIME BETWEEN SEPTEMBER 27, 2017 THROUGH << the earlier of December 8, 2022 or the date the Court grants preliminary approval>>, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Albario v. Dunlop Manufacturing, Inc.*, Solano County Superior Court, Case No. FCS057733 (the “Action”). The purpose of this Notice of Proposed Class Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. E. Bradley Nelson on <<FA Date and Time>> in Department 4 of the Solano Superior Court, Hall of Justice, 600 Union Ave., Solano, CA 94533, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING – GET MONEY	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: << RESPONSE DATE >>	You have the option to pursue separate legal action against Defendant about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded. As a result, you will not receive any benefits under the Settlement.
OBJECT TO THE SETTLEMENT DEADLINE TO SUBMIT WRITTEN OBJECTIONS: << RESPONSE DATE >>	To object to the Settlement, you may mail a written explanation of why you don’t like the Settlement to the Settlement Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DATE>>.

Who is affected by this proposed Settlement?

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

All current and former non-exempt employees of Defendant who worked in California during the Class Period (the “Class Period” is September 27, 2017 through << the earlier of December 8, 2022 or the date the Court grants preliminary approval >>).

According to Defendant’s records, you are a member of the Class (“Class Member”).

What is this case about?

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

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

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant.

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

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Plaintiff’s Counsel:

Kane Moon
kane.moon@moonyanglaw.com
Allen Feghali
allen.feghali@moonyanglaw.com
Edwin Kamarzarian
edwin.kamarzarian@moonyanglaw.com
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Defendant’s Counsel:

SEYFARTH SHAW LLP
Andrew M. McNaught
amcnaught@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

SEYFARTH SHAW LLP
Heriberto Alvarez, Jr.
halvarez@seyfarth.com
999 Third Avenue, Suite 4700
Seattle, Washington 98104
Telephone: (206) 946-4910
Facsimile: (206) 946-4901

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$900,000 (the “Gross Settlement Amount”) for: (a) individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payment to Plaintiff (\$10,000 to be requested); (c) the Court-approved attorneys’ fees and costs to Class Counsel (up to one-third of the Gross Settlement Amount in fees and up to \$20,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency (“LWDA”) for alleged PAGA penalties (\$60,000 of a total of \$80,000 allocated to PAGA penalties); and (e) proposed payment to the Settlement Administrator for settlement administration services (up to an estimated maximum of \$15,000).

Individual Settlement Payments. After deduction from the Gross Settlement Amount for attorneys’ fees and costs, the Class Representative Service Payment to Plaintiff, the payment to the LWDA, and settlement administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant will make an individual Settlement Payment to each Class Member who does not request to be excluded from the Settlement (“Settlement Class Members”).

The Net Settlement Amount shall be divided among all Settlement Class Members on a pro rata basis based upon the total number of workweeks worked by each respective Settlement Class Member as a non-exempt hourly

employee in the State of California during the Class Period. Your estimated individual Settlement Payment is listed below.

Your estimated minimum settlement payment is << **Estimated Payment** >> and your covered Work Weeks worked during the relevant period between September 27, 2017 to << **the earlier of December 8, 2022 or the date the Court grants preliminary approval** >> are << **Work Weeks** >>. To the extent you dispute the number of Work Weeks, you must make your dispute (“Work Week Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than << **+60 days from date of mailing** >> (the “Response Deadline”) to:

Phoenix Settlement Administrators << **mailing address** >>

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendant’s records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated individual Settlement Amount is incorrect because your Work Weeks (the number of total weeks you worked within the Class Period only) are wrong, the deadline to dispute the workweeks reported for you is << **RESPONSE DATE** >>.

For tax reporting purposes, the payments to Settlement Class Members will be allocated 33 1/3% as wages, 33 1/3% as penalties, and 33 1/3% as interest, excluding the \$20,000 in PAGA Settlement Payments, which will be allocated as 100% penalties. The wage portion of the individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the individual Settlement Payments. The portion of the Settlement Payments allocated to penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC. Any taxes owed on that other miscellaneous income will be the responsibility of Settlement Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Defendant.

All checks for individual Settlement Payments paid to Settlement Class Members shall advise that the checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed by a participating Class Member within that time. Any individual Settlement Payment that is not cashed by a Settlement Class Member within one hundred eighty (180) days of issuance shall be transmitted to the State of California Unclaimed Property Fund in the name of each check recipient who failed to cash their check prior to the void date. The Settlement Administrator shall void any tax documents issued to Settlement Class Members who did not cash their checks within 180 days of issuance. In such event, the Settlement Class Member shall nevertheless remain bound by the Settlement.

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

Calculation of Individual PAGA Settlement Payments. The PAGA Allocation (a total of \$80,000) will be distributed to the California Labor and Workforce Development Agency (“LWDA”) and to the PAGA Employees. In accordance with California law, 75 percent of the PAGA Allocation (or \$60,000) will be paid to the LWDA and the remaining 25 percent of the PAGA Allocation (or \$20,000) will be paid to the PAGA Employees on a pro-rata basis (the “Individual PAGA Settlement Payments”) based on the number of pay periods each PAGA Employee worked for Defendant in California during the PAGA Period. Your estimated individual pay periods during the PAGA Period and estimated PAGA Settlement Payment are listed below:

You worked a total of << **PAGA Pay Periods** >> workweeks in California during the PAGA Period. Based on your pay periods during the PAGA Period, your estimated PAGA Settlement Payment is approximately \$<< **Est PAGA Settlement Payment** >>.

Each PAGA Settlement Payment will be allocated as 100 percent miscellaneous income and reported to state and federal taxing authorities by the Settlement Administrator using Form 1099-MISC. Any taxes owed on the PAGA Settlement Payment will be the responsibility of the PAGA Employee receiving these payment.

Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA. Class Counsel will ask the Court to award attorneys' fees up to one-third of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$20,000. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment of \$10,000 for Plaintiff for her efforts in bringing the case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$15,000.00. A proposed payment in the amount of \$60,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$80,000 set aside for payment under PAGA.

PER THE TERMS OF THE SETTLEMENT, IF THE SETTLEMENT RECEIVES FINAL APPROVAL, DEFENDANT WILL FUND THE SETTLEMENT IN FALL 2024; ACCORDINGLY, IT IS IMPORTANT THAT YOU PROVIDE THE ADMINISTRATOR WITH YOUR UPDATED MAILING ADDRESS IF YOU MOVE PRIOR TO RECEIVING YOUR PAYMENT.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee, regardless of whether they have requested exclusion from the Settlement of Class claims, will release claims as follows:

(a) **Identity of Released Parties.** The released parties are Defendant, and each of its former and present direct and/or indirect owners, dba's, affiliates, parents, subsidiaries, brother and sister corporations, divisions, related companies, successors and predecessors, and current and former employees, attorneys, officers, directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees, executors, partners, privies, agents, servants, insurers, representatives, administrators, employee benefit plans, and assigns of said entities (collectively "Releasees").

(b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, **and** Defendant has paid all amounts owing under the Settlement.

(c) **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, meal periods, rest periods, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and FLSA ("Released Claims");

2) as to any Class Member who cashes their Settlement Payment, the Settlement Administrator shall include language on the Settlement Payments that informs the Class Members that the signing and negotiation of that check shall serve as the Class Member's consent to join the Action for purposes of releasing all claims arising under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action;

d) **Claims Released by the Class, Including PAGA Employees.** All Class Members, including all PAGA Employees, release the Released PAGA Claims, regardless of whether they have requested exclusion from the Settlement as to Class claims.

What are my options in this matter?

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

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

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

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

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing, have an attorney object for you, or submit a written brief or statement of objection (“written objection”) to the Settlement Administrator at Phoenix Settlement Administrators <<address>>. If you submit a written objection, it should contain sufficient information to confirm the your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<Response Deadline>> and returned to the Settlement Administrator at the address listed above to ensure that it is received in time to be transmitted to and considered by the Court. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the final approval hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Settlement Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

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

OPTION B. Request to Be Excluded from the Settlement and Receive No Money from the Settlement. If you do not want to be part of the Settlement, you must submit a written request to be excluded from the Settlement to the Settlement Administrator at Phoenix Settlement Administrators <<address>>. In order to be valid, your written request to be excluded from the Settlement must be signed and include your name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement like the following:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE *ALBARIO V. DUNLOP MANUFACTURING, INC.* CLASS ACTION LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Your written request to be excluded from the Settlement must then be signed and postmarked on or before <<Response Deadline>>. If you do not submit a written request to be excluded from the Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Settlement by the deadline to request exclusion, you will have no further role in the Action. **You will not be entitled to any benefit, including money,** as a result of the Action and Settlement, except to the extent that you recovered to receive a portion of the penalties provided for under PAGA. You will not be able to complain to the Court about any aspect of the Settlement.

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

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on <<**FA Date and Time**>> in Department 4 of the Solano Superior Court, Hall of Justice, 600 Union Ave., Solano, CA 94533. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be mailed to you.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action Settlement attached to the Declaration of Kane Moon in Support of Plaintiff's Motion for Preliminary Approval. The Joint Stipulation of Class Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Solano Superior Court. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above. You can also obtain further information regarding this action and this settlement at: <<**CASE WEBSITE**>>.

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