

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

JOSEPH R. LORDAN, SB# 265610

E-Mail: [Joseph.Lordan@lewisbrisbois.com](mailto:Joseph.Lordan@lewisbrisbois.com)

ROBERT I. LOCKWOOD, SB# 259870

E-Mail: [Robert.Lockwood@lewisbrisbois.com](mailto:Robert.Lockwood@lewisbrisbois.com)

SAMANTHA G. ACUNA, SB# 330676

E-Mail: [Samantha.Acuna@lewisbrisbois.com](mailto:Samantha.Acuna@lewisbrisbois.com)

45 Fremont Street, Suite 3000

San Francisco, California 94105

Telephone: 415.362.2580

Facsimile: 415.434.0882

Attorneys for Defendant CASE INDUSTRIES, INC.

*[Additional counsel listed on following page]*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ALAMEDA**

**RENE C. DAVIDSON COURTHOUSE**

OSCAR ARANA, as an individual and on  
behalf of all similarly situated employees,

Plaintiffs,

vs.

CASE INDUSTRIES, INC.; and DOES 1-50,  
inclusive,

Defendants.

Case No.: 22CV005351

**CLASS ACTION**

**JOINT STIPULATION OF CLASS  
ACTION SETTLEMENT AND RELEASE**

Assigned for all purposes to:  
Hon. Brad Seligman, Dept. 23

Complaint Filed: January 13, 2022  
Trial Date: None Yet Set

**MAHONEY LAW GROUP, APC**

KATHERINE J. ODENBREIT, SB# 184619

E-Mail: [kodenbreit@mahoney-law.net](mailto:kodenbreit@mahoney-law.net)

LAURA THERIAULT, SB# 330474

E-Mail: [ltheriault@mahoney-law.net](mailto:ltheriault@mahoney-law.net)

249 East Ocean Boulevard, Suite 814

Long Beach, CA 90802

Telephone No.: (562) 590-5550

Facsimile No.: (562) 590-8400

Attorneys for Plaintiff OSCAR ARANA and the CLASS

**JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

This Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Oscar Arana (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others alleged to be similarly situated and aggrieved, and Defendant Case Industries, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”).

**DEFINITIONS**

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means the civil lawsuit Plaintiff filed against Defendant, styled *Oscar Arana, as an individual and on behalf of all others similarly situated, Plaintiff, vs. Case Industries, Inc; and Does 1 through 50, inclusive, Defendants*, on or about January 13, 2022, in the Superior Court of California, in and for the County of Alameda, case number 22CV005351.

2. “Appeal” means a timely appeal by a Class Member to the Order and Judgment approving the Settlement, or an appeal by one of the Parties to an order that materially alters the Settlement.

3. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all actual costs incurred and to be incurred by Class Counsel in the Action up to Nine Thousand Dollars and Zero Cents (\$9,000.00), such as costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the

1 Settlement, administering the Settlement, obtaining entry of an Order and Judgment approving the  
2 Settlement, and expenses for any expert, and other similar costs. Class Counsel will request not  
3 more than one-third (33.33%) of the Class Settlement Amount, or Fifty Four Thousand One  
4 Hundred Sixty Six Dollars and Sixty Seven Cents (\$54,166.67) in attorneys' fees. Defendant has  
5 agreed not to oppose Class Counsel's request for attorneys' fees and costs and expenses as set forth  
6 above.

7 4. "Class Counsel" means Mahoney Law Group, APC., and specifically attorneys  
8 Kevin Mahoney, Katherine J. Odenbreit, and Laura Theriault.

9 5. "Class List" means a complete list of all Class Members that Defendant will  
10 diligently and in good faith compile from their records and provide to the Settlement Administrator  
11 and to Class Counsel within fifteen (15) calendar days after entry of an Order granting Preliminary  
12 Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel or other  
13 computer-readable format and will include each Class Member's full name; most recent mailing  
14 address and telephone number; Social Security number; dates of employment; the verified number  
15 of Workweeks worked during the Class Period while in Defendant Case Industries, Inc.'s employ;  
16 and any other relevant information needed to calculate settlement payments.

17 6. "Class Member(s)" or "Settlement Class" means any and all persons who have been  
18 employed by Case Industries, Inc. as non-exempt employees in California at any time from January  
19 31, 2018 to December 30, 2022 ("class period").

20 7. "Class Notice" means the Notice of Class Action Settlement substantially in the form  
21 attached hereto as Exhibit A, and approved by the Court.

22 8. "Class Period" means the period from January 31, 2018 to December 30, 2022.

23 9. "Class Representative" means Plaintiff Oscar Arana.

24 10. "Class Settlement Amount" means the exact amount of One Hundred Sixty Two  
25 Thousand Five Hundred Dollars and Zero Cents (\$162,500.00), to be paid by Defendant in full  
26 satisfaction of Defendant's liabilities arising from the settlement (except for employer-side taxes),  
27 including payment of all employee-side taxes on wage payments made to members of the Settlement  
28 Class, interest, Plaintiff's attorney's fees and costs, the incentive award for the Plaintiff, payments

1 to all members of the Settlement Class, and the payment to the Labor and Workforce Development  
2 Agency. Defendant will not pay more than the Class Settlement Amount, plus employer-side taxes  
3 on the wage payments made to members of the Settlement Class. The Class Settlement amount is  
4 non-reversionary, and non-claims-made.

5 11. "Court" means the Honorable Brad Seligman of the Alameda County Superior Court.

6 12. "Defendant" refers to Case Industries, Inc.

7 13. "Effective Date" shall be when Final Approval of the Settlement can no longer be  
8 appealed by an objector, or in the absence of any objections (or if all objections are withdrawn with  
9 Court approval by the time of the Final Approval Hearing), five (5) calendar days following Notice  
10 of Entry of Judgment. If objections are heard by the Court and overruled, and no appeal is taken of  
11 the Judgment by an objector, then the Effective Date shall be sixty-five (65) calendar days after  
12 Notice of Entry of Judgment. If any appeal is taken from the Court's overruling of any objections  
13 to the Settlement, then the Effective Date shall be ten (10) calendar days after all appeals are  
14 withdrawn or after an appellate decision affirming the Final Approval and Judgment becomes final.

15 14. "Final Approval" means the Court's Order granting final approval of the Settlement.

16 15. "Individual Settlement Payment" means each Participating Class Member's  
17 respective share of the Net Settlement Amount.

18 16. "Labor and Workforce Development Agency Payment" means the payment of Two  
19 Thousand Five Hundred and Zero Cents (\$2,500.00) from the Class Settlement Amount, seventy-  
20 five percent (75%) of which will be paid to the California Labor and Workforce Development  
21 Agency for its portion of the civil penalties paid under the California Labor Code Private Attorneys  
22 General Act of 2004 ("PAGA"), Cal. Lab. Code §§ 2698, *et seq.*

23 17. "Net Settlement Amount" means the portion of the Class Settlement Amount  
24 remaining after deducting the Class Representative's Enhancement Payment, the Labor and  
25 Workforce Development Agency Payment, Attorneys' Fees, and Settlement Administration Costs.

26 19. "Notice of Entry of Judgment" means a Notice of Entry of Judgment pursuant to  
27 section 664.5(c) of the California Code of Civil Procedure filed and served by Plaintiff.

28 20. "Notice of Objection and/or Notice of Intent to Appear" means a Class Member's

1 valid and timely written objection to the Settlement Agreement, a Class Member's valid and timely  
2 written statement of intent to appear, either personally or through counsel, at the Final Approval  
3 Hearing, or both. For a Notice of Objection to be valid, it must include: (i) the objector's full name,  
4 signature, address, and telephone number; (ii) a written statement of all grounds for the objection  
5 accompanied by any legal support for such objection; and (iii) copies of papers, briefs, or other  
6 documents upon which the objection is based, if any. For a Notice of Intent to Appear to be valid,  
7 it must include: (i) the objector's full name, signature, address, and telephone number; and (ii) a  
8 brief written statement explaining why the objector wishes to appear and be heard at the Final  
9 Approval Hearing. A Class Member may combine a Notice of Objection and Notice of Intent to  
10 Appear in one submission. Absent good cause found by the Court, any Class Member who does  
11 not submit a timely written Notice of Objection and/or Notice of Intent to Appear to the Settlement  
12 Administrator, or who fails to otherwise comply with the specific requirements of this paragraph,  
13 will be foreclosed from objecting to the Settlement and seeking any adjudication or review of the  
14 Settlement, by appeal or otherwise.

15 21. "Parties" means Plaintiff and Defendant collectively.

16 22. "Participating Class Member" means any Class Member who does not submit a  
17 timely and valid Request for Exclusion.

18 23. "Plaintiff" means Oscar Arana.

19 24. "Plaintiff's Counsel" means Kevin Mahoney, Katherine J. Odenbreit, and Laura  
20 Theriault of Mahoney Law Group, APC.

21 25. "Preliminary Approval" means the Court order granting preliminary approval of the  
22 Settlement.

23 26. "Released Claims" means any and all causes of action, claims, rights, damages,  
24 punitive or statutory damages, penalties, liabilities, expenses, and losses alleged in the operative  
25 complaint or which could reasonably have been alleged in the complaint Plaintiff filed on or about  
26 January 13, 2022 based on the facts alleged therein including but not limited to: (a) any alleged  
27 failure by any Defendant (1) to pay wages, minimum wages, or overtime wages; (2) to provide  
28 legally compliant meal periods or compensation in lieu thereof; (3) to provide legally compliant rest

1 periods; (4) to provide accurate wage statements to employees; (5) to reimburse for necessary  
2 business expenditures; (6) to pay all wages due upon separation of employment; (b) any right or  
3 claim based on any (1) on-duty meal period imposed or required by Defendant; or (2) off-the-clock  
4 work imposed or required by Defendant; (c) any right or claim for civil penalties pursuant to PAGA,  
5 or any penalties arising under the California Labor Code or Wage Orders based on the alleged  
6 failures set forth herein between November 14, 2020 and December 30, 2022; (d) any right or claim  
7 for unfair business practices in violation of California Business & Professions Code §§ 17200, *et*  
8 *seq.*, based on the alleged failures set forth herein; and (e) any violation of the California Labor  
9 Code arising from or related to the conduct alleged herein, including, without limitation, violation  
10 of Labor Code Sections 201, 202, 203, 204, 218.5, 218.6, 221, 226, 226.3, 226.7, 510, 512, 558,  
11 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, or any other ordinance, rule,  
12 regulation, or statute, whether federal state, or administrative, or similar causes of action that any  
13 Class Member has or might have, known or unknown, of any kind whatsoever, that was alleged or  
14 could have been alleged based on the factual allegations in the operative complaint.

15         27.       “Released Parties” means Defendant and any and all of its affiliated companies and  
16 its respective parent companies, subsidiaries, related companies, affiliates, dbas, shareholders,  
17 members, managers, agents (including, without limitation, any investment bankers, accountants,  
18 insurers, reinsurers, board members, trustees, auditors, accountants, attorneys, benefits  
19 administrators, third-party administrators, consultants, contractors, representatives, partners, and  
20 any past, present or future officers, directors, and employees) and any other person acting on their  
21 behalf or on whose behalf they acted, as well as any predecessors, successors, and assigns, as well  
22 as any entity that could be deemed a “joint employer” of Plaintiff or members of the Settlement  
23 Class.

24         28.       “Request for Exclusion” means a timely letter submitted by a Class Member  
25 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (i) set  
26 forth the name, address, telephone number and last four digits of the Social Security Number of the  
27 Class Member requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the  
28 Settlement Administrator; (iv) clearly state that the Class Member does not wish to be included in

1 the Settlement; and (v) be postmarked on or before the Response Deadline.

2 29. "Response Deadline" means the deadline by which Class Members must postmark  
3 to the Settlement Administrator Requests for Exclusion, or postmark or file Notices of Objection  
4 and/or Notices of Intent to Appear to the Court and counsel for the Parties. The Response Deadline  
5 will be forty five (45) calendar days from the initial mailing of the Class Notice by the Settlement  
6 Administrator, unless the forty-fifth (45th) day falls on a Sunday or Federal holiday, in which case  
7 the Response Deadline will be extended to the next day on which the U.S. Postal Service and the  
8 Alameda County Superior Court are open. If the Class Notice is remailed to a Participating Class  
9 Member for any reason, that Participating Class Member will have an additional fifteen (15) days  
10 beyond the Response Deadline to file a Notice of Objection and/or Request for Exclusion.

11 30. "Settlement Administration Costs" means the costs to the Settlement Administrator  
12 for administering this Settlement, including, but not limited to, printing, distributing, and tracking  
13 documents for this Settlement, creating and maintaining a web site and toll-free telephone number,  
14 tax reporting, distributing the Class Settlement Amount, and providing necessary reports and  
15 declarations, as requested by the Parties or the Court. The Cost of a third-party administrator shall  
16 be agreed upon by the Parties.

17 31. "Settlement Administrator" means Phoenix Settlement Administrators, or any other  
18 third-party class action settlement administrator agreed to by the Parties and approved by the Court  
19 for the purposes of administering this Settlement. The Parties each represent that they do not have  
20 any financial interest in the Settlement Administrator or otherwise have a relationship with the  
21 Settlement Administrator that could create a conflict of interest.

22 32. "Workweek" or "Workweeks" means any week in which a Class Member actively  
23 worked at least one day of the week during the Class Period, according to Defendant's records. The  
24 Parties estimate that there are approximately 1,748 workweeks at issue. If the number of workweeks  
25 is 10% or 175 workweeks higher than 1,748 workweeks worked, then Plaintiffs shall, in their sole  
26 discretion, have the right to request a pro-rata increase in the class settlement amount equal to the  
27 percentage increase in workweeks above 1,923. For example, if the workweek count increases by  
28 12%, then Plaintiffs shall request a 2% increase to the Class Settlement Amount.

**TERMS OF AGREEMENT**

The Plaintiff, on behalf of himself and the Settlement Class, and Defendant agree as follows:

33. Funding of the Class Settlement Amount. Defendant will make a deposit of the Class Settlement Amount via wire transfer into a Qualified Settlement Account (“QSA”) to be established by the Settlement Administrator in the exact amount of One Hundred Sixty Two Thousand Five Hundred Dollars and Zero Cents (\$162,500.00). This amount shall be paid in one payment as follows:

(a) One Hundred Sixty Two Thousand Five Hundred Dollars and Zero Cents (\$162,500.00) within thirty (30) calendar days after the Effective Date;

34. Attorneys’ Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for Attorneys’ Fees and Costs, not to exceed one-third (33.33%) of the Class Settlement Amount, or Fifty Four Thousand One Hundred Sixty Six Dollars and Sixty Seven (\$54,166.67) in attorneys’ fees, and actual litigation costs and expenses up to Nine Thousand Dollars and Zero Cents (\$9,000.00). The Parties stipulate that, for purposes of settlement, Plaintiff and the Class are the prevailing parties in the Action and are entitled to attorneys’ fees and costs under the applicable fee-shifting statutes, including, *inter alia*, California Code of Civil Procedure section 1021.5, and Labor Code sections 218.5, 1194(a) and 2699(g). Any funds allocated to Attorneys’ Fees and Costs but not awarded by the Court will be included in the Net Settlement Amount and distributed pro rata to the Participating Class Members.

35. Class Representative Enhancement Payment. In exchange for a general release inclusive of a waiver of any and all rights and benefits conferred upon Plaintiff by the provisions of Section 1542 of the California *Civil Code*,<sup>1</sup> and in recognition of his effort and work in prosecuting the Action on behalf of the Class Members, Defendant agrees not to oppose or impede any

<sup>1</sup> Section 1542 of the California *Civil Code* provides:

**“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or 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.”**



1 application or motion for a Class Representative Enhancement Payment not to exceed Two  
2 Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) for Plaintiff. The Class Representative  
3 Enhancement Payment amount made payable to Plaintiff will be reported to the Internal Revenue  
4 Service and all applicable state or local taxing authorities by means of a Form 1099. The Class  
5 Representative Enhancement Payment will be paid from the Class Settlement Amount and will be  
6 in addition to Plaintiff's Individual Settlement Payment. Any funds allocated to the Class  
7 Representative Enhancement Payment but not awarded by the Court will be included in the Net  
8 Settlement Amount and distributed pro rata to the Participating Class Members. Plaintiff will be  
9 solely responsible to pay any and all applicable taxes on the payments made pursuant to this  
10 paragraph.

11 36. Settlement Administration Costs. The Settlement Administrator will be paid for the  
12 reasonable costs of administration of the Settlement and distribution of payments from the Class  
13 Settlement Amount, which the Parties shall agree upon the Administration Fees. These costs, will  
14 include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of  
15 1099 and W-2 IRS Forms, distributing Class Notices, creating and maintaining a web site and toll-  
16 free telephone number, calculating and distributing the Class Settlement Amount and Attorneys'  
17 Fees and Costs, and providing necessary reports and declarations. These costs shall be paid from  
18 the Class Settlement Amount. Any funds allocated to Settlement Administration Costs but not  
19 incurred by or otherwise paid to the Settlement Administrator will be included in the Net Settlement  
20 Amount and distributed pro rata to the Participating Class Members.

21 37. Payments to Members of the Settlement Class. The Net Settlement Amount will be  
22 distributed to members of the Settlement Class on a pro rata workweek basis, with 25% of each  
23 payment allocated to wages and 75% of each payment allocated to interest and penalties.

24 38. Individual Settlement Payment Calculations. Individual Settlement Payments will be  
25 calculated and apportioned from the Net Settlement Amount as follows: Prorated distribution based on the  
26 number of Workweeks worked during the Class Period as a percentage of the payments to members of the  
27 Settlement Class. Specific calculations of Individual Settlement Payments will be made as follows:

1 (a) Defendant will calculate the total number of Workweeks worked by each Class Member during  
2 the Class Period.

3 (b) Based on those calculations the Settlement Administrator will calculate and determine each Class  
4 Member's estimated "Individual Settlement Payment" using the following formula: The Net Settlement  
5 Amount will be divided by the aggregate total number of Workweeks, resulting in the "Workweek Value."  
6 Each Class Member's "Individual Settlement Payment" will be calculated by multiplying each individual  
7 Class Member's total number of Workweeks by the Workweek Value.

8 39. The Settlement Administrator shall be responsible for reducing each Individual  
9 Settlement Payment based on any required deductions for each Participating Class Member as  
10 specifically set forth herein, including employee-side tax withholdings or deductions.

11 40. The entire Net Settlement Amount will be disbursed to all Class Members who do  
12 not submit timely and valid Requests for Exclusion. If there are any timely and valid Requests for  
13 Exclusion from members of the Class, the Settlement Administrator shall not include all  
14 compensation paid to such individuals while employed by Defendant as a non-exempt employee as  
15 set forth in paragraph 6 during the Class Period. Any such amounts shall not be part of the  
16 calculation of the total compensation paid to Participating Class Members under paragraph 38  
17 above, so that the amount actually distributed to the Participating Class Members equals 100% of  
18 the Net Settlement Amount.

19 41. No Credit To Benefit Plans. The Individual Settlement Payments made to  
20 Participating Class Members under this Settlement, as well as any other payments made pursuant to  
21 this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to  
22 which any Class Member may be eligible, including, but not limited to: profit-sharing plans, bonus  
23 plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other  
24 benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any  
25 rights, contributions, or amounts to which any Class Member may be entitled under any benefit  
26 plans.

27 42. Administration Process. The Parties agree to cooperate in the administration of the  
28 settlement and to make all reasonable efforts to control and minimize the costs and expenses

1 incurred in administration of the Settlement.

2 43. Delivery of the Class List. Within fifteen (15) calendar days of Preliminary  
3 Approval, Defendant will provide the Class List to the Settlement Administrator and to Class  
4 Counsel.

5 44. Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the  
6 Class List from Defendant, the Settlement Administrator will mail a Class Notice to all Class  
7 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses  
8 identified in the Class List.

9 45. Confirmation of Contact Information in the Class List. Prior to mailing, the  
10 Settlement Administrator will perform a search based on the National Change of Address Database  
11 for information to update and correct for any known or identifiable address changes. Any Class  
12 Notices returned to the Settlement Administrator as non-deliverable on or before the Response  
13 Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed  
14 thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class  
15 Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt  
16 to determine the correct address using a skip-trace, or other search using the name, address and/or  
17 Social Security number of the Class Member involved, and will then perform a single re-mailing.

18 46. Class Notices. All Class Members will be mailed a Class Notice via First Class U.S.  
19 Mail. Each Class Notice will provide: (i) information regarding the nature of the Action; (ii) a  
20 summary of the Settlement's principal terms; (iii) the Settlement Class definition; (iv) each Class  
21 Member's estimated Individual Settlement Payment and the formula for calculating Individual  
22 Settlement Payments, including each Class Member's Workweeks worked during the Class Period;  
23 (v) the dates that constitute the Class Period; (vi) instructions on how to submit a Request for  
24 Exclusion, Notice of Objection, Notice of Intent to Appear, or dispute the Workweeks and/or  
25 estimated Individual Settlement Payment; (vii) the deadlines by which the Class Member must  
26 postmark Requests for Exclusion, and the deadlines by which the Class Members must file or  
27 postmark Notices of Objection to the Settlement or Notices of Intent to Appear; and (ix) the claims  
28 to be released. The Class Notice shall be in substantially the same form as Exhibit A hereto, as

1 approved by the Court.

2 47. The Settlement Administrator will also set up and maintain a web site and toll-free  
3 telephone number for Class Members to contact the Settlement Administrator regarding the  
4 Settlement. Both the URL for the web site and the toll-free telephone number will be identified in  
5 the Class Notice. The web site will contain links allowing Class Members to access the operative  
6 complaint, the Class Notice, the Settlement Agreement, the motion for preliminary approval and all  
7 related papers and Court Orders, and the motion for final approval, attorneys' fees and costs, and  
8 representative enhancement and all related papers and Court Orders.

9 48. Disputed Information on Class Notices. Class Members will have an opportunity to  
10 dispute the information provided in their Class Notices. To the extent Class Members dispute their  
11 total number of Workweeks Worked while working for Defendant as a non-exempt employee as  
12 described in paragraph 6, Class Members may produce evidence to the Settlement Administrator  
13 showing that such information in the Class Notice is inaccurate. The Settlement Administrator will  
14 decide the dispute. Defendant's records will be presumed correct, but the Settlement Administrator  
15 will evaluate the evidence submitted by the Class Member and will make the final decision as to the  
16 merits of the dispute, which decision shall be final and unappealable by any Party or Class Member.  
17 All disputes shall be resolved within ten (10) business days of the Response Deadline.

18 49. Defective Submissions. If a Class Member's Request for Exclusion is defective as  
19 to the requirements listed herein, that Class Member will be given an opportunity to cure the  
20 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)  
21 business days of receiving the defective submission to advise the Class Member that his or her  
22 submission is defective and that the defect must be cured to render the Request for Exclusion valid.  
23 The Class Member will have until the later of (i) the Response Deadline or (ii) fifteen (15) calendar  
24 days from the date of the cure letter to postmark a revised Request for Exclusion. If the revised  
25 Request for Exclusion is not postmarked within that period, it will be deemed untimely.

26 50. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the  
27 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement  
28 Administrator within the Response Deadline. The postmark date will be the exclusive means to

1 determine whether a Request for Exclusion has been timely submitted.

2         51.     Option to Rescind the Settlement Agreement: Defendant may elect, at its sole  
3 discretion, to rescind the Settlement if more than ten percent (10%) of Settlement Class Members  
4 submit timely and valid Requests for Exclusion. If Defendant exercises its conditional right to  
5 rescind, it must do so by written communication to Class Counsel that is received by Class Counsel  
6 within fifteen (15) calendar days of the Response Deadline. In the event that Defendant exercises  
7 its conditional right to rescind, Defendant will be responsible for all Settlement Administration  
8 Costs incurred to the date of rescission.

9         53.     Objection Procedures. To object to the Settlement Agreement, a Class Member must  
10 timely submit to the Settlement Administrator a Notice of Objection and/or Notice of Intent to  
11 Appear at the Final Approval Hearing. The Notice of Objection and/or Notice of Intent to Appear  
12 must be signed by the Class Member and contain all information required by this Settlement  
13 Agreement, as specified in the Class Notice. The Notice of Objection and/or Notice of Intent to  
14 Appear shall be mailed to the Settlement Administrator as explained in the Class Notice. Within  
15 three (3) calendar days of receipt, the Settlement Administrator will provide copies of any Notices  
16 of Objection and/or Notices of Intent to Appear to Class Counsel and counsel for the Defendant.  
17 The postmark date or filing date will be deemed the exclusive means for determining whether a  
18 Notice of Objection and/or Notice of Intent to Appear is timely. Class Members who fail to object  
19 in the manner specified above will be deemed to have waived all objections to the Settlement and  
20 will be foreclosed from making any objections, whether by appeal or otherwise, to the Settlement  
21 Agreement. Class Members who postmark timely Notices of Intent to Appear may, but are not  
22 required to, appear at the Final Approval Hearing, personally or through their own counsel, in order  
23 to have their objections heard by the Court. Only those Class Members who do not submit a Request  
24 for Exclusion may object to the Settlement. At no time will any of the Parties or their counsel seek  
25 to solicit or otherwise encourage Class Members to submit written or oral objections to the  
26 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent  
27 any Class Members with respect to any such objections to this Settlement. Class Counsel shall  
28 timely file with the Court copies of any and all Notices of Objection and/or Notices of Intent to

1 Appear prior to the Final Approval Hearing.

2 54. Certification Reports. The Settlement Administrator will provide Defendant's  
3 counsel and Class Counsel a weekly report that certifies the number of Class Members who have  
4 submitted valid Requests for Exclusion, and whether any Class Member has submitted a challenge  
5 to any information contained in their Class Notice. Additionally, the Settlement Administrator will  
6 provide to counsel for both Parties any updated reports regarding the administration of the  
7 Settlement Agreement as needed or requested. The parties agree to class certification for settlement  
8 purposes only.

9 55. Distribution of Settlement Payments. There will be a single distribution as set forth  
10 in paragraph 33. The distribution of the Settlement Payments will be made within thirty (30)  
11 calendar days of the Effective Date. At distribution, the Settlement Administrator will issue the  
12 Court-approved payments to: (i) Participating Class Members; (ii) the Labor and Workforce  
13 Development Agency; (iii) Plaintiff; (iv) Class Counsel; and (v) the Settlement Administrator.

14 56. Uncashed Settlement Checks. Any check issued to a Settlement Class member shall  
15 remain valid and negotiable for one hundred eighty (180) days from the date of its issuance, but may  
16 thereafter automatically be canceled if not cashed by the Settlement Class member within that time,  
17 in which case the funds represented by such check shall be paid to a mutually agreed-upon cy pres.  
18 per section 384(b) of the California Code of Civil Procedure and the procedures set forth therein.

19 57. Certification of Completion. Upon completion of administration of the Settlement,  
20 the Settlement Administrator will provide a written declaration under oath to certify such completion  
21 to the Court and counsel for all Parties.

22 58. Treatment of Individual Settlement Payments. All Individual Settlement Payments  
23 will be allocated as follows: (i) Twenty-five Percent (25%) of each Individual Settlement Payment  
24 will be allocated as wages for which IRS Forms W-2 will be issued; and (ii) Seventy-Five Percent  
25 (75%) will be allocated to penalties and interest for which IRS Forms 1099-MISC will be issued.

26 59. Administration of Taxes by the Settlement Administrator. The Settlement  
27 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class  
28 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant

1 to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll  
2 taxes and penalties to the appropriate government authorities.

3       60.     Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
4 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO  
5 THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER  
6 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
7 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR  
8 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS  
9 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE  
10 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE  
11 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART  
12 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY  
13 UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE  
14 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT  
15 ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY  
16 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS  
17 NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY  
18 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT  
19 MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR  
20 ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS  
21 THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX  
22 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)  
23 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR  
24 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
25 CONTEMPLATED BY THIS AGREEMENT.

26       61.     No Prior Assignments. The Parties and their counsel represent, covenant, and  
27 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to  
28 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,

1 action, cause of action or right herein released and discharged.

2 62. Nullification of Settlement Agreement. In the event that: (i) the Court does not grant  
3 final approval of the Settlement as provided herein; or (ii) the Settlement does not become final for  
4 any other reason, then this Settlement Agreement, and any documents generated to bring it into  
5 effect, will be null and void. Any order or judgment entered by the Court in furtherance of this  
6 Settlement Agreement will likewise be treated as void from the beginning.

7 63. Preliminary Approval Hearing. Class Counsel will be responsible for drafting all  
8 documents necessary to obtain preliminary approval. Class Counsel will also obtain a hearing  
9 before the Court to request the Preliminary Approval of the Settlement, and the entry of a  
10 Preliminary Approval Order. The Preliminary Approval Order will provide for the Class Notice to  
11 be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval  
12 hearing, Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this  
13 Settlement, and will include the proposed Class Notice, which is attached hereto as Exhibit A.

14 64. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the  
15 deadline to postmark Requests for Exclusion, Notices of Objection, and Notices of Intent to Appear,  
16 and with the Court's permission, a Final Approval Hearing will be conducted to determine the Final  
17 Approval of the Settlement, along with the amounts properly payable for: (i) Individual Settlement  
18 Payments; (ii) the Labor and Workforce Development Agency Payment; (iii) the Class  
19 Representative's Enhancement Payment; (iv) Attorneys' Fees and Costs; and (v) all Settlement  
20 Administration Costs. The Final Approval Hearing will not be held earlier than thirty (30) calendar  
21 days after the Response Deadline. Class Counsel will be responsible for drafting all documents  
22 necessary to obtain final approval, including obtaining approval for the Representative  
23 Enhancement Payment and Attorneys' Fees and Costs, and the Settlement Administration Costs, to  
24 be heard at the Final Approval Hearing.

25 65. Release by the Settlement Class and the California Labor and Workforce  
26 Development Agency ("LWDA"). Upon the Effective Date, all Participating Class Members will  
27 be deemed to have released the Released Claims, and the LWDA will be deemed to have released  
28 the Released Claims brought under PAGA, and will be barred and enjoined from bringing or



1 prosecuting any of the Released Claims against the Released Parties.

2       66. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the  
3 Court or after the Final Approval Hearing, the Parties will present the Judgment to the Court for its  
4 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for  
5 purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii)  
6 settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under  
7 court rules or as set forth in this Settlement Agreement.

8       67. Release by Plaintiff. Upon the Effective Date, Plaintiff will release the Released  
9 Parties from any and all claims he has or may have against them at this time and will waive any and  
10 all rights he has or may have under California Civil Code § 1542, and agree that all other members  
11 of the Settlement Class will release any and all claims that were asserted in the operative complaint  
12 or could have arisen out of the allegations made in the operative complaint. Defendant shall release  
13 the representative plaintiff from any claims associated with his employment by Defendant or related  
14 to the filing of this Action.

15       68. Release by Class Members. Upon the Effective Date, all Participating Class  
16 Members will release and forever discharge the Released Parties of any and all of the Released  
17 Claims.

18       69. Exhibit Incorporated by Reference. The terms of this Settlement Agreement include  
19 the terms set forth in the attached exhibits, which are incorporated by this reference as though fully  
20 set forth herein. Any exhibit to this Settlement Agreement is an integral part of the Settlement.

21       70. Entire Agreement. This Settlement Agreement and attached exhibits constitute the  
22 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral  
23 agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil  
24 Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a  
25 written agreement is to be construed according to its terms and may not be varied or contradicted  
26 by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or  
27 terms will modify, vary or contradict the terms of this Settlement Agreement.

28       71. Amendment or Modification. No amendment, change, or modification to this

1 Settlement Agreement will be valid unless in writing and signed, either by the Parties or their  
2 counsel.

3 72. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant  
4 and represent that they are expressly authorized by the Parties whom they represent to negotiate this  
5 Settlement Agreement and to take all appropriate action required or permitted to be taken by such  
6 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other  
7 documents required to effectuate the terms of this Settlement Agreement. The Parties and their  
8 counsel will cooperate with each other and use their best efforts to effect the implementation of the  
9 Settlement. If the Parties are unable to reach agreement on the form or content of any document  
10 needed to implement the Settlement, or on any supplemental provisions that may become necessary  
11 to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court or a private  
12 mediator to resolve such disagreement.

13 73. Binding on Successors and Assigns. This Settlement Agreement will be binding  
14 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously  
15 defined.

16 74. California Law Governs. All terms of this Settlement Agreement and Exhibit hereto  
17 will be governed by and interpreted according to the laws of the State of California.

18 75. Execution and Counterparts. This Settlement Agreement is subject only to the  
19 execution of all Parties. However, the Settlement Agreement may be executed in one or more  
20 counterparts and by DocuSign. All executed counterparts and each of them, including facsimile and  
21 scanned copies of the signature page, will be deemed to be one and the same instrument provided  
22 that counsel for the Parties will exchange among themselves original signed counterparts.

23 76. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe  
24 this Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have  
25 arrived at this Settlement after adversarial and arm's-length negotiations before a well-respected  
26 and neutral mediator, in the context of adversarial litigation, and taking into account all relevant  
27 factors, present and potential. The Parties further acknowledge that they are each represented by  
28 competent counsel and that they have had an opportunity to consult with their counsel regarding the

1 fairness and reasonableness of this Settlement.

2 77. Invalidity of Any Provision. Before declaring any provision of this Settlement  
3 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent  
4 possible consistent with applicable precedents so as to define all provisions of this Settlement  
5 Agreement valid and enforceable.

6 78. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however,  
7 that either party may appeal any court order that materially alters the Settlement Agreement's terms.

8 79. Non-Admission of Liability. The Parties enter into this Settlement to resolve the  
9 dispute that has arisen between them and to avoid the burden, expense and risk of continued  
10 litigation. In entering into this Settlement, Defendant does not admit, and specifically denies, that  
11 it violated any federal, state, or local law; violated any regulations or guidelines promulgated  
12 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any  
13 contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged  
14 in any other unlawful conduct with respect to its employees or the Settlement Class. Neither this  
15 Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with  
16 it, will be construed as an admission or concession by Defendant of any such violations or failures  
17 to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this  
18 Settlement, this Settlement Agreement and its terms and provisions will not be offered or received  
19 as evidence in any action or proceeding to establish any liability or admission on the part of  
20 Defendant or to establish the existence of any condition constituting a violation of, or a non-  
21 compliance with, federal, state, local or other applicable law.

22 80. Waiver. No waiver of any condition or covenant contained in this Settlement  
23 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to  
24 imply or constitute a further waiver by such party of the same or any other condition, covenant, right  
25 or remedy.

26 81. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
27 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be  
28 construed more strictly against one party than another merely by virtue of the fact that it may have

1 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length  
2 negotiations between the Parties, all Parties have contributed to the preparation of this Settlement  
3 Agreement.

4 82. Representation By Counsel. The Parties acknowledge that they have been  
5 represented by counsel throughout all negotiations that preceded the execution of this Settlement  
6 Agreement, and that this Settlement Agreement has been executed with the consent and advice of  
7 counsel. Further, Plaintiff and Plaintiff's Counsel warrant and represent that there are no liens on  
8 the Settlement Agreement.

9 83. All Terms Subject to Final Court Approval. All amounts and procedures described  
10 in this Settlement Agreement herein will be subject to final Court approval.

11 84. Cooperation and Execution of Necessary Documents. All Parties will cooperate in  
12 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of  
13 this Settlement Agreement.

14 85. Publicity. Neither side shall publicize the settlement, including but not limited to  
15 communications through any social media, unless so ordered by the Court. This provision shall not  
16 apply to any court filings made by the parties in seeking approval of the settlement.

17 86. Binding Agreement. The Parties warrant that they understand and have full authority  
18 to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be  
19 fully enforceable and binding on all parties, and agree that it will be admissible and subject to  
20 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality  
21 provisions that otherwise might apply under federal or state law.

22  
23  
24 **SIGNATURES FOLLOW ON NEXT PAGE**  
25  
26  
27  
28

**SIGNATURES**

**PLAINTIFF**


DATED: 01 / 25 / 2023

By Oscar Arana

Oscar Arana  
Named Plaintiff and Representative  
of All Others Similarly Situated and  
All Aggrieved Employees

**DEFENDANT**

DATED: 1/27/2023

By 

Sandra Estrada  
Chief Executive Officer  
On Behalf of and an Authorized Representative  
of Defendant Case Industries, Inc.