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PABON CONSTRUCTION COMPANY

17  
18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
19 **COUNTY OF LOS ANGELES**

20 ROMAN MCGREW, individually and on  
21 behalf of others similarly situated

22 Plaintiff,

23 vs.

24 PABON CONSTRUCTION COMPANY, a  
25 California corporation and DOES 1 through  
26 50, inclusive,

27 Defendants.

CASE NO. 21STCV30819

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

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

Complaint Filed: August 20, 2021  
Trial Date: Not Set

## JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff ROMAN MCGREW, individually and on behalf of the Settlement Class, and Defendant PABON CONSTRUCTION COMPANY.

### DEFINITIONS

1. "Agreement" or "Settlement Agreement" means this Joint Stipulation of Class Action and PAGA Settlement.

2. "Action" means the court action, entitled "*Roman McGrew v. Pabon Construction Company,*" Case No. 21STCV30819, pending before the Los Angeles County Superior Court.

3. "Class Counsel" means Protection Law Group, LLP.

4. "Class Counsel's Fees and Costs" means attorneys' fees for Class Counsel's litigation and resolution of this Action and their expenses and costs incurred in connection with the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request attorneys' fees not to exceed Thirty-Five Percent of the Gross Settlement Amount, i.e., Two Hundred Sixty-Two Thousand Five Hundred Dollars (\$262,500.00) and the reimbursement costs and expenses associated with the litigation and settlement of the Action, not to exceed Twenty Thousand Dollars (\$20,000.00), subject to the Court's approval. Defendant has agreed not to oppose Class Counsel's request for fees and reimbursement of costs and expenses in the amount set forth above.

5. "Class List" means a complete list of all Class Members that Defendant will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include Class Member's: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement.

1           6.       “Class” or “Class Members” means all current and former hourly-paid, non-exempt  
2 employees of Defendant who were employed by Defendant in the State of California at any time  
3 during the Class Period.

4           7.       “Class Period” means the period from August 20, 2017, until the date of preliminary  
5 approval of the settlement by the Court, or, June 15, 2023, whichever date occurs earlier.

6           8.       “Class Representative” means Plaintiff Roman McGrew in his capacity as  
7 representative of the Participating Class Members.

8           9.       “Class Representative Enhancement Payment” or “Plaintiff’s Incentive Payment”  
9 means the amount that the Court authorizes to be paid to Plaintiff Roman McGrew, in addition to  
10 his Individual Class Settlement Payment, in recognition of the efforts and risks he has taken in  
11 assisting with the prosecution of the Action and in exchange for the General Release of his claims  
12 as provided herein.

13          10.       “Court” means the Superior Court of the State of California for the County of Los  
14 Angeles.

15          11.       “Defendant” means Pabon Construction Company.

16          12.       “Effective Date” means: the later of: (a) if no timely objections are filed or if all  
17 objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection  
18 is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any  
19 timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that  
20 does not alter the terms of the settlement.

21          13.       “Final Approval” means the Court entering an order granting final approval of the  
22 Settlement Agreement.

23          14.       “Gross Settlement Amount” means the sum of Seven Hundred and Fifty Thousand  
24 Dollars (\$750,000.00). The Gross Settlement Amount is non-reversionary; no portion of the Gross  
25 Settlement Amount will return to Defendant.

26          15.       “Individual Class Settlement Payment” means the amount payable from the Net  
27 Settlement Amount to each Participating Class Member. Individual Class Settlement Payments  
28

1 shall be paid by a Settlement Check made payable to Participating Class Members. Individual  
2 Class Settlement Payments will be determined by the calculations provided in this Agreement.

3 16. "Net Settlement Amount" means the funds available for payments to the Class,  
4 which shall be the amount remaining after the following amounts are deducted from the Gross  
5 Settlement Amount: (1) Class Counsel's fees, (2) Class Counsel's costs, (3) Settlement  
6 Administration Costs, (4) Class Representative Enhancement Payment to Plaintiff Roman  
7 McGrew, and (5) the PAGA Settlement Amount to the LWDA and PAGA Members.

8 17. "Notice" means the Notice of Class Action Settlement in a form substantially  
9 similar to the form attached hereto as Exhibit A, that will be mailed to Class Members' last known  
10 addresses and which will provide Class Members with information regarding the Action and  
11 information regarding the settlement of the Action.

12 18. "PAGA" means the California Labor Code Private Attorneys General Act of 2004  
13 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA").

14 19. "PAGA Settlement Amount" means the amount that the Parties have agreed to  
15 allocate in order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab.  
16 Code §§ 2698, *et seq.*)(“PAGA”). The Parties have agreed that Fifty Thousand Dollars  
17 (\$50,000.00) of the Gross Settlement Amount will be allocated to the resolution of Plaintiff's  
18 PAGA Claims. Seventy-Five Percent (75%) of this amount (\$37,500.00) will be paid to the  
19 California Labor and Workforce Development Agency in accordance with Labor Code §§ 2698 *et*  
20 *seq.* Twenty-Five Percent (25%) of this amount (\$12,500.00) will be distributed to PAGA  
21 Members. PAGA Members will receive payment from the employee portion of the PAGA  
22 Settlement Amount regardless of their decision to participate in the class action provided the  
23 PAGA Settlement Amount is approved by the Court.

24 20. "Individual PAGA Payment" means each PAGA Group Member's respective share  
25 of the PAGA Settlement Amount. Individual PAGA Payments will be determined by the  
26 calculations provided in this Agreement.

1           21.    “PAGA Period” means the period from August 19, 2020, until the date of  
2 preliminary approval of the settlement by the Court, or, June 15, 2023, whichever date occurs  
3 earlier.

4           22.    “PAGA Group” or “PAGA Group Member(s)” means all current and former non-  
5 exempt employees of Defendant who were employed by Defendant in the state of California at  
6 any time during the PAGA Period.

7           23.    “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either  
8 Plaintiff or Defendant, individually.

9           24.    “Participating Class Members” means all Class Members who do not submit valid  
10 and timely Requests for Exclusion.

11           25.    “Plaintiff” means Roman McGrew.

12           26.    “Preliminary Approval” means the Court order granting preliminary approval of  
13 the Settlement Agreement.

14           27.    “Objection” means a Class Member’s valid and timely written objection to the  
15 Settlement Agreement. For an Objection to be valid, it must include: (a) the objector’s full name,  
16 address, telephone number, last four digits of the employee’s social security number or employee  
17 ID number; and (b) the name of the case and case number; and (c) a written statement of all grounds  
18 for the objection accompanied by legal support, if any, for such objection. The Parties will be  
19 permitted to respond in writing to such objections at least seven calendar days prior to the Final  
20 Approval hearing or within the time period set by the Court; provided that PAGA Group Members  
21 will not be permitted to object or opt out of the PAGA portion of this settlement.

22           28.    “Released Class Claims” means any and all claims, liabilities, demands,  
23 obligations, penalties, costs, expenses, attorney’s fees, damages, action or causes of action that are  
24 alleged, or that reasonably could have been alleged based on the facts alleged in the Action,  
25 including claims for: (a) failure to pay regular and minimum wages; (b) failure to pay overtime  
26 wages; (c) failure to provide accurate itemized wage statements; (d) failure to pay final wages  
27 upon separation of employment; (e) failure to provide timely, duty-free meal periods and/or pay  
28 required meal period premiums; (f) failure to provide compliant rest periods and/or pay rest

1 required period premiums; (g) failure to reimburse necessary expenditures in discharge of duties;  
2 (h) failure to pay wages timely during employment; (i) any right or claim for unfair business  
3 practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on  
4 the alleged failures set forth in (a)–(h) and which were alleged, or that reasonably could have been  
5 alleged based on the facts alleged in the Action; and (j) any other violation of the California Labor  
6 Code that could have been raised based on the facts alleged in the Action, including violation of  
7 California Labor Code sections 201–204, 210, 221, 223, 224, 226, 226.7, 226.3, 510, 512, 558,  
8 558.1, 1182.12, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and IWC Wage  
9 Order No. 16. This release expressly excludes all other claims, including claims for unemployment  
10 insurance, disability, social security, and workers’ compensation, and claims outside of the Class  
11 Period. These Released Class Claims will cover all Class Members who do not opt out. The Parties  
12 agree that the judgment, and the Released Class Claims provided herein, shall have res judicata  
13 effect.

14 29. “Released PAGA Claims” means all claims for civil penalties under the California  
15 Labor Code Private Attorneys General Act of 2004 that could have been premised on the facts and  
16 labor code violations alleged both in the PAGA Notice provided to the LWDA and in the operative  
17 complaint as well as any facts or theories for which Plaintiff could be deemed to have been  
18 deputized under PAGA given the allegations in the PAGA Letter, including but not limited to  
19 penalties that could have been awarded pursuant to Labor Code sections 201–204, 210, 221, 223,  
20 224, 226, 226.7, 226.3, 510, 512, 558, 558.1, 1182.12, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,  
21 1198, 2699, 2800, 2802, and IWC Wage Order No. 16.

22 30. “Released Parties” means Defendant Pabon Construction Company and its former  
23 and present parents, subsidiaries and affiliated companies and entities, franchisors and franchisees,  
24 and its current, former, and future owners, officers, shareholders, directors, members, managers,  
25 operators, employees, consultants, vendors, partners, affiliates, subsidiaries, shareholders,  
26 attorneys, insurers, payroll providers, joint venturers, and agents, and any successors, assigns, or  
27 legal representatives and any individual or entity who or which could be jointly liable with  
28 Defendant and all persons or entities acting by, through under or in concert with any of them,

1 including but not limited to any and all staffing agencies and professional employment  
2 organizations that supplied employees to Defendant, or performed professional employment  
3 organization services, as applicable.

4 31. "Request for Exclusion" means a valid and timely written statement submitted by  
5 a Class Member requesting to be excluded from the Action. To be effective, the Request for  
6 Exclusion must contain (a) the Class Member's name, address, telephone number, and the last four  
7 digits of the Class Member's Social Security number and/or the Employee ID number, and (b) a  
8 clear statement requesting to be excluded from the settlement of the class claims. To be effective,  
9 the Request for Exclusion must be post-marked by the Response Deadline and received by the  
10 Settlement Administrator. The Request for Exclusion shall not be effective as to the release of  
11 claims arising under the Private Attorneys General Act.

12 32. "Response Deadline" means the date sixty (60) days after the Settlement  
13 Administrator mails Notice to Class Members and the last date on which Class Members may  
14 submit Requests for Exclusion, written objections to the Settlement, or Workweek Disputes. In the  
15 event the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended  
16 to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests for  
17 Exclusion, objections, or workweek disputes, will be extended fifteen (15) calendar days for any  
18 Class Member who is re-mailed a Notice by the Settlement Administrator, unless the 15th day falls  
19 on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next  
20 day on which the U.S. Postal Service is open. The Response Deadline may also be extended by  
21 express agreement between Class Counsel and Defendant. Under no circumstances, however, will  
22 the Settlement Administrator have the authority to unilaterally extend the Response Deadline.

23 33. "Settlement" means the disposition of the Action pursuant to this Agreement.

24 34. "Settlement Administrator" means Phoenix Settlement Administrators. The Parties  
25 each represent that they do not have any financial interest in the Settlement Administrator or  
26 otherwise have a relationship with the Settlement Administrator that could create a conflict of  
27 interest.

1           35.   “Settlement Administration Costs” mean the costs payable from the Gross  
2 Settlement Amount to the Settlement Administrator for administering this Settlement, including,  
3 but not limited to, printing, distributing, and tracking documents for this Settlement,  
4 calculating/confirming the class member Workweeks from the information contained in the Class  
5 List, calculating each Participating Class Member’s Individual Class Settlement Payment,  
6 calculating each PAGA Group Member’s Individual PAGA Payment, tax reporting, distributing  
7 the Gross Settlement Amount, providing necessary reports and declarations, and other duties and  
8 responsibilities set forth herein to process this Settlement, and as requested by the Parties.  
9 Settlement Administration Costs shall not exceed Eight Thousand Five Hundred Dollars (\$8,500).

10           36.   “Workweek” shall mean any calendar week (i.e., a week beginning on Sunday and  
11 ending on Saturday) in which a Class Member or PAGA Member worked at least 1 day.

12   **TERMS OF AGREEMENT**

13           37.   Settlement Consideration: Defendant shall fund the Gross Settlement Amount and  
14 all applicable employer-side payroll taxes following Final Approval by the Court and the  
15 occurrence of the Effective Date. The following will be paid out of the Gross Settlement Amount:  
16 the sum of the Individual Class Settlement Payments, the Class Representative Enhancement  
17 Payment, Class Counsel’s Fees and Costs, the PAGA Settlement Amount, the Individual PAGA  
18 Payments, and the Settlement Administration Costs, as specified in this Agreement. Except for  
19 any employer-side taxes due on the Individual Class Settlement Payments, or as a result of an  
20 increase in the number of workweeks as set forth below, Defendant shall not be required to pay  
21 more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no  
22 portion of the Gross Settlement Amount will revert to Defendant.

23           38.   Potential Increase to the Gross Settlement Amount: Defendant has represented  
24 there are approximately 11,370 Workweeks from August 20, 2017, through February 16, 2023.  
25 Should the number of Workweeks within the Class Period increase by more than ten percent (10%)  
26 (i.e., by more than 1,137 Workweeks) from this amount, Defendant shall increase the Gross  
27 Settlement Amount on a *pro-rata* basis equal to the percentage increase in the number of  
28



1 Workweeks worked by the Class Members above 10%. For example, if the number of Workweeks  
2 increases by 11% to 12,607 Workweeks, the Gross Settlement Amount will increase by 1%.

3 39. Funding of the Gross Settlement Amount: Within fourteen (14) calendar days of  
4 the Effective Date of the Settlement, Defendant will deposit the Gross Settlement Amount and all  
5 applicable employer-side payroll taxes into a Qualified Settlement Fund (“QSF”) to be established  
6 by the Settlement Administrator. Defendant shall provide all information necessary for the  
7 Settlement Administrator to calculate necessary payroll taxes including its official name, 8-digit  
8 state unemployment insurance tax ID number, and other information requested by the Settlement  
9 Administrator, no later than seven (7) calendar days of the Effective Date.

10 40. Distribution of the Gross Settlement Amount: Within fourteen (14) calendar days  
11 of the funding of the Settlement, the Settlement Administrator will issue payments for: (a)  
12 Individual Class Settlement Payments; (b) the Individual PAGA Payments; (c) the PAGA  
13 Settlement amount to the Labor and Workforce Development Agency; (d) the Class Representative  
14 Enhancement Payment; (e) Class Counsel’s Fees and Costs; and (f) Settlement Administration  
15 Costs.

16 41. Attorneys’ Fees and Costs: Defendant agrees not to oppose any application or  
17 motion by Class Counsel for attorneys’ fees of not more than Two Hundred Sixty-Two Thousand  
18 Five Hundred Dollars (\$262,500.00), plus the reimbursement of costs and expenses associated  
19 with the litigation and settlement of the Action, in an amount not to exceed Twenty Thousand  
20 Dollars (\$20,000.00), both of which will be paid from the Gross Settlement Amount. Any portion  
21 of the requested fees or costs that is not awarded to the Class Counsel shall be reallocated to the  
22 Net Settlement Amount and distributed to Participating Class Members as provided in this  
23 Agreement.

24 42. Class Representative Enhancement Payment or Plaintiff’s Incentive Payment:  
25 Defendant agrees not to oppose or object to any application or motion by Plaintiff for a Class  
26 Representative Enhancement Payment or Plaintiff’s Incentive Payment of Seven Thousand Five  
27 Hundred Dollars (\$7,500) for Plaintiff Roman McGrew. Plaintiff’s Incentive Payment is in  
28 exchange for the General Release of the Plaintiff’s individual claims and for his time, effort, and

1 risk in bringing and prosecuting the Action. Any portion of the requested Class Representative  
2 Enhancement Payment or Plaintiff's Incentive Payment that is not awarded to the Class  
3 Representative shall be reallocated to the Net Settlement Amount and distributed to Participating  
4 Class Members as provided in this Agreement.

5 43. Settlement Administration Costs: The Settlement Administrator will be paid for the  
6 reasonable costs of administration of the Settlement and distribution of payments from the Gross  
7 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall  
8 not exceed Eight Thousand Five Hundred Dollars (\$8,500).

9 44. PAGA Settlement Amount: Fifty Thousand Dollars (\$50,000.00) shall be allocated  
10 from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA.  
11 The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Settlement  
12 amount, or Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00), to the California Labor  
13 and Workforce Development Agency ("LWDA"). Twelve Thousand Five Hundred Dollars  
14 (\$12,500.00) will be distributed to PAGA Members on a *pro rata* basis based on the total number  
15 of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall  
16 receive their portion of the PAGA Settlement Amount regardless of their decision to opt-out of the  
17 class settlement.

18 45. Net Settlement Amount for Payment of Class Claims: The Net Settlement Amount  
19 will be used to satisfy the class portion of Participating Class Members' Individual Class  
20 Settlement Payments in accordance with the terms of this Agreement. The estimated Net  
21 Settlement Amount is as follows:

Gross Settlement Amount	\$	750,000.00
Plaintiff's Incentive Payment:	\$	7,500.00
Class Counsel's Fees:	\$	262,500.00
Class Counsel's Costs:	\$	20,000.00
PAGA Settlement Amount	\$	50,000.00
Settlement Administration Costs:	\$	8,500.00
<b>Estimated Net Settlement Amount</b>	<b>\$</b>	<b>401,500.00</b>

1           46.    Individual Class Settlement Payment Calculations: Defendant will provide the  
 2 Settlement Administrator with the total number of workweeks for each Participating Class  
 3 Member and PAGA Group Member. The Settlement Administrator will divide the Net Settlement  
 4 Amount by the total number of workweeks for Participating Class Members (“Work Week Rate  
 5 Amount”) and then multiply this amount by each Participating Class Member’s total number of  
 6 workweeks to yield that employee’s Individual Class Settlement Payment. Any one day worked  
 7 during a Workweek will be credited as a full workweek. This formula is reflected as follows:  
 8

$$\begin{array}{r}
 \text{NET} \\
 \text{SETTLEMENT} \\
 \text{AMOUNT} \quad \quad \quad \mathbf{X} \quad \quad \quad \text{Participating} \\
 \hline
 \text{Total number of} \quad \quad \quad \text{Class Member's} \\
 \text{Workweeks for} \quad \quad \quad \text{Workweeks} \\
 \text{all Participating} \\
 \text{Class Members}
 \end{array}$$

14 In the event a Class Member submits a timely Request for Exclusion from the settlement, he/she  
 15 will not receive his or her Individual Class Settlement Payment allocated to Class Members and  
 16 his/her Individual Class Settlement Payment will be added to the Net Settlement Amount.

17           47.    Individual PAGA Payment Calculations: Each PAGA Group Member will receive  
 18 an individual share of the \$12,500 portion of the PAGA Settlement Amount (or 25% of the PAGA  
 19 Settlement Amount approved by the Court). The Individual PAGA Payment shall be calculated by  
 20 the Settlement Administrator, with a formula similar to payments to Participating Class Members.  
 21 Any one day worked during a Workweek will be credited as a full workweek. This formula is  
 22 reflected as follows:  
 23

$$\begin{array}{r}
 \$12,500 \text{ for PAGA} \\
 \text{Penalties to PAGA Group} \\
 \text{Members} \quad \quad \quad \mathbf{X} \quad \quad \quad \text{Individual PAGA} \\
 \hline
 \text{Total number of} \quad \quad \quad \text{Group Member's} \\
 \text{Workweeks for all PAGA} \quad \quad \quad \text{Workweeks during} \\
 \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \quad \text{PAGA Period}
 \end{array}$$

Group Members during  
PAGA Period

No PAGA Group Member will be permitted to exclude themselves from the PAGA claim portion of the Settlement. Individual PAGA Payments will be distributed by the Settlement Administrator by mail to the PAGA Group Members including to those Class Members who submitted a request for exclusion.

48. Allocation of Individual Class Settlement Payments and Individual PAGA Payments: All Individual Class Settlement Payments and Individual PAGA Payments will be allocated as follows: 100% of each Individual PAGA Payment shall be allocated as penalties; 20% of each Individual Class Settlement Payment will be considered wages; 40% of each Individual Class Settlement Payment will be considered interest; and 40% of each Individual Class Settlement Payment will be considered penalties. The portion allocated to wages in each Individual Settlement Payment will be reported on an IRS Form W-2 and the portion allocated to interest and penalties will be reported on an IRS Form-1099 by the Settlement Administrator.

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

50. Settlement Administration Process: The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

- a) Establish and maintain a Qualified Settlement Fund.
- b) Calculate the Individual Class Settlement Payment each Participating Class

1 Member is eligible to receive and the Individual PAGA Payment each  
2 PAGA Member shall receive.

- 3 c) Print and mail the Notice.
- 4 d) Conduct additional address searches for mailed Notices that are returned as  
5 undeliverable.
- 6 e) Process Requests for Exclusion, field inquiries from Class Members.
- 7 f) Print and issue and issue Settlement Payment Checks, prepare IRS W-2 and  
8 1099 Tax Forms and any other filings required by any governmental taxing  
9 authority.
- 10 g) Provide declarations and/or other information to this Court as requested by  
11 the Parties and/or the Court regarding the settlement administration process.
- 12 h) Provide weekly status reports to counsel for the Parties.
- 13 i) Posting a notice of final judgment online at Settlement Administrator's  
14 website.
- 15 j) Translate the Notice from English to Spanish.

16 51. Delivery of the Class List: Within fourteen (14) calendar days of Preliminary  
17 Approval, Defendant will provide the Class List to the Settlement Administrator. This is a material  
18 term of the Agreement, and if Defendant fails to comply, Plaintiff shall have the right to void the  
19 Agreement.

20 52. Notice by First-Class U.S. Mail: Within seven (7) calendar days after receiving the  
21 Class List from Defendant, the Settlement Administrator will mail the Notice in both English and  
22 Spanish to all Class Members via regular First-Class U.S. Mail, using the most current, known  
23 mailing addresses identified in the Class List.

24 53. Confirmation of Contact Information in the Class List: Prior to mailing, the  
25 Settlement Administrator will perform a search based on the National Change of Address Database  
26 for information to update and correct for any known or identifiable address changes. Any Notice  
27 returned to the Settlement Administrator as non-deliverable on or before the Response Deadline  
28 will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto

1 and the Settlement Administrator will indicate the date of such re-mailing on the Notice. If no  
2 forwarding address is provided, the Settlement Administrator will promptly attempt to determine  
3 the correct address using a skip-trace, or other search using the name, address and/or social security  
4 number of the Class Member involved, and will then perform a single re-mailing. If any notice  
5 sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current  
6 employee, then Defendant shall make all reasonable efforts to obtain the current address from the  
7 Class Member and provide the same within seven (7) calendar days of notice from the Settlement  
8 Administrator. Those Class Members who receive a re-mailed Notice, whether by skip-trace or by  
9 request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the  
10 Response Deadline to postmark a Request for Exclusion, written objection, or workweek dispute.

11 54. Notice: All Class Members will be mailed a Notice. Each Notice will provide: (a)  
12 information regarding the nature of the Action; (b) a summary of the Settlement's principal terms;  
13 (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked  
14 for Defendant during the Class Period; (e) each Class Member's estimated Individual Class  
15 Settlement Payment and the formula for calculating Individual Class Settlement Payments; (f) each  
16 PAGA Group Member's estimated Individual PAGA Payment and the formula for calculating  
17 Individual PAGA Payments; (g) the dates which comprise the Class Period; (h) instructions on  
18 how to opt-out of and object to the Settlement; (i) the deadlines by which the Class Member must  
19 postmark Requests for Exclusion, Objections to the Settlement, or Workweek Disputes; (j) the  
20 claims to be released, as set forth herein; and (k) the date for the final approval hearing.

21 55. Disputed Information on Notice: Class Members will have an opportunity to  
22 dispute the information provided in their Notice. To the extent Class Members dispute the number  
23 of Workweeks with which they have been credited or the amount of their Individual Class  
24 Settlement Payment, Class Members may produce evidence to the Settlement Administrator  
25 showing that such information is inaccurate. Absent evidence rebutting Defendant's records,  
26 Defendant's records will be presumed determinative. However, if a Class Member produces  
27 evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence submitted  
28 by the Class Member and the Parties will make the final decision as to the number of eligible

1 Workweeks that should be applied and/or the Individual Class Settlement Payment to which the  
2 Class Member may be entitled. If the Parties do not agree, the dispute will be submitted to the  
3 Court.

4 56. Defective Submissions: If a Class Member's Request for Exclusion is defective as  
5 to the requirements listed herein, that Class Member will be given an opportunity to cure the  
6 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)  
7 business days of receiving the defective submission to advise the Class Member that his or her  
8 submission is defective and that the defect must be cured to render the Request for Exclusion valid.  
9 The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar  
10 days from the date of the cure letter, whichever date is later, to postmark a revised Request for  
11 Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the  
12 Settlement Administrator will have no further obligation to give notice of a need to cure. If the  
13 revised Request for Exclusion is not postmarked within that period, it will be deemed untimely.

14 57. Request for Exclusion Procedures: Any Class Member wishing to opt-out from the  
15 Action must sign and postmark a written Request for Exclusion to the Settlement Administrator  
16 by the Response Deadline. The Request for Exclusion must include (a) the Class Member's name,  
17 address, telephone number, and the last four digits of the Class Member's social security number  
18 and/or the Employee ID number and (b) a clear statement requesting to be excluded from the  
19 settlement of the class claims. The date of the postmark on the return mailing envelope receipt  
20 confirmation will be the exclusive means to determine whether a Request for Exclusion has been  
21 timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator,  
22 who will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that  
23 were timely submitted. All Class Members who do not request exclusion from the Action will be  
24 bound by all terms of the Settlement Agreement if the Settlement is granted final approval by the  
25 Court. The Request for Exclusion shall not be effective as to the release of claims arising under  
26 the Private Attorneys General Act.

27 58. Defendant's Right to Rescind: If more than eight percent (8%) of the Class  
28 Members (rounded to the next whole number) elect not to participate in the Settlement, Defendant

1 may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it will  
2 be thereby null and void. Defendant must meet and confer with Class Counsel prior to exercising  
3 this right and must make clear their intent to rescind the Agreement within fourteen (14) calendar  
4 days of the Settlement Administrator notifying the Parties of these opt-outs. If Defendant exercises  
5 its right to rescind the Agreement, Defendant shall be responsible for all Settlement Administration  
6 Costs incurred to the date of rescission.

7       59. Settlement Terms Bind All Class Members Who Do Not Opt-Out: Upon the  
8 complete funding of the Gross Settlement Amount, any Class Member who does not affirmatively  
9 opt-out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by  
10 all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment  
11 that may be entered by the Court if it grants final approval to the Settlement. Class Members who  
12 opt-out of the Settlement shall not be bound by such Judgment or release. The names of Class  
13 Members who have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff  
14 and Defendant and noted in the proposed Judgment submitted to the Court. If the Court approves the  
15 compromise of the PAGA claim, Class Members who are also PAGA Group Members submitting a  
16 request for exclusion will nevertheless be bound by the Court's resolution of that claim and receive their  
17 pro-rata share of the 25% of the PAGA Settlement Amount allocated to the PAGA Group Members.

18       60. Objection Procedures: To object to the Settlement, a Participating Class Member  
19 must postmark a valid Objection to the Settlement Administrator on or before the Response  
20 Deadline. The Objection must be signed by the Participating Class Member and contain all  
21 information required by this Settlement Agreement including the employee's full name, address,  
22 telephone number, the last four digits of their social security number and/or Employee ID number,  
23 the name of the case and case number, and the specific reason including any legal grounds for the  
24 Participating Class Members objection. The postmark date will be deemed the exclusive means  
25 for determining that the Notice of Objection is timely. Participating Class Members who fail to  
26 object in the manner specified above will be foreclosed from making a written objection, but shall  
27 still have a right to appear at the Final Approval Hearing in order to have their objections to the  
28 Class Action portion of the Settlement heard by the Court. At no time will any of the Parties or



1 their counsel seek to solicit or otherwise encourage Participating Class Members to submit written  
2 objections to the Settlement or appeal from the Order and Judgment. Class Counsel will not  
3 represent any Class Members with respect to any objections to this Settlement.

4 61. Certification Reports Regarding Individual Class Settlement Payment Calculations:  
5 The Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly  
6 report which certifies: (a) the number of Class Members who have submitted valid Requests for  
7 Exclusion; (b) the number of Notices returned and re-mailed; and (c) whether any Class Member  
8 has submitted a challenge to any information contained in the Notice. Additionally, the Settlement  
9 Administrator will provide to counsel for both Parties any updated reports regarding the  
10 administration of the Settlement Agreement as needed or requested.

11 62. Uncashed Settlement Checks: Any checks issued by the Settlement Administrator  
12 to Participating Class Members and PAGA Group Members will be negotiable for at least one  
13 hundred eighty (180) calendar days. If a Participating Class Member or PAGA Group Member  
14 does not cash his or her Settlement Check or Individual PAGA Payment check within 180 days,  
15 the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State of  
16 California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, *et*  
17 *seq.* for the benefit of those Participating Class Members and PAGA Group Members who did not  
18 cash their checks until such time that they claim their property. The Parties agree that this  
19 disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the  
20 entire Net Settlement Amount will be paid out to Participating Class Members and PAGA Group  
21 Members, whether or not they all cash their Settlement Checks or Individual PAGA Payment  
22 checks. Therefore, Defendant will not be required to pay any interest on such amounts. The  
23 Individual Class Settlement Payments and Individual PAGA Payments provided to Participating  
24 Class Members and to PAGA Group Members shall prominently state the expiration date or a  
25 statement that the Settlement Check will expire in one hundred eighty (180) days, or alternatively,  
26 such a statement may be made in a letter accompanying the Individual Class Settlement Payment.  
27 Expired Individual Class Settlement Payments and Individual PAGA Payments will not be  
28 reissued, except for good cause and as mutually agreed by the Parties in writing. The parties agree

1 no unclaimed funds will result from the settlement.

2 63. Administration of Taxes by the Settlement Administrator: The Settlement  
3 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class  
4 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant  
5 to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll  
6 taxes and penalties to the appropriate government authorities.

7 64. Tax Liability: Defendant makes no representation as to the tax treatment or legal  
8 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not  
9 relying on any statement, representation, or calculation by Defendant or by the Settlement  
10 Administrator in this regard. Plaintiff and Participating Class Members understand and agree that  
11 they will be solely responsible for the payment of any taxes and penalties assessed on the payments  
12 described herein. Defendant's share of any employer payroll taxes and other required employer  
13 withholdings due on the Individual Class Settlement Payments, including, but not limited to,  
14 Defendant's FICA and FUTA contributions, shall be paid separate and apart from the Gross  
15 Settlement Amount.

16 65. Circular 230 Disclaimer: Each Party to this Agreement (for purposes of this section,  
17 the "acknowledging party" and each Party to this Agreement other than the acknowledging party,  
18 an "other party") acknowledges and agrees that: (1) no provision of this Agreement, and no written  
19 communication or disclosure between or among the Parties or their attorneys and other advisers,  
20 is or was intended to be, nor shall any such communication or disclosure constitute or be construed  
21 or be relied upon as, tax advice within the meaning of United States Treasury Department circular  
22 230 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon  
23 his, her, or its own, independent legal and tax counsel for advice (including tax advice) in  
24 connection with this Agreement, (b) has not entered into this Agreement based upon the  
25 recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not  
26 entitled to rely upon any communication or disclosure by any attorney or advisor to any other party  
27 to avoid any tax penalty that may be imposed on the acknowledging party, and (3) no attorney or  
28 adviser to any other Party has imposed any limitation that protects the confidentiality of any such

1 attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon  
2 disclosure by the acknowledging party of the tax treatment or tax structure of any transaction,  
3 including any transaction contemplated by this Agreement.

4 66. No Prior Assignments: The Parties and their counsel represent, covenant, and  
5 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to  
6 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,  
7 action, cause of action or right herein released and discharged.

8 67. Release by Participating Class Members: Upon the complete funding of the Gross  
9 Settlement Amount and all applicable employer-side payroll taxes by Defendant, Participating  
10 Class Members shall fully release and discharge the Released Parties from the Released Class  
11 Claims that arose during the Class Period. This release shall be binding on all Participating Class  
12 Members.

13 68. Release by the State of California and LWDA: Upon the complete funding of the  
14 Gross Settlement Amount and all applicable employer-side payroll taxes by Defendant, the LWDA  
15 and the State of California, through Plaintiff as its agent and/or proxy, shall release and discharge  
16 the Released Parties from the Released PAGA Claims that arose during the PAGA Period. The  
17 Parties intend for this PAGA settlement to have claim preclusion, issue preclusion, or otherwise  
18 bar a representative action if an aggrieved employee were to bring a subsequent claim on behalf  
19 of the LWDA based on the same factual predicate as this action and covering the same time period.

20 69. Release of Additional Claims & Rights by Plaintiff: Upon the funding of the Gross  
21 Settlement Amount, Plaintiff Roman McGrew agrees—on behalf of himself only—to the  
22 additional following General Release: In consideration of Defendant's promises and agreements  
23 as set forth herein, Plaintiff hereby fully releases the Released Parties from any and all Released  
24 Class Claims and Released PAGA Claims and also generally releases and discharges the Released  
25 Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any  
26 kind which have been or could have been asserted against the Released Parties arising out of or  
27 relating to his employment by Defendant or termination thereof, including but not limited to claims  
28 for wages, restitution, penalties, retaliation, defamation, discrimination, harassment, or wrongful

1 termination of employment. This release specifically includes any and all claims, demands,  
2 obligations, and/or causes of action for damages, restitution, penalties, interest, and attorneys' fees  
3 and costs (except provided by the Settlement Agreement) relating to or in any way connected with  
4 the matters referred to herein, whether or not known or suspected to exist, and whether or not  
5 specifically or particularly described herein. Specifically, Plaintiff Roman McGrew, waives all  
6 rights and benefits afforded by California Civil Code Section 1542, which provides:

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

13 This release specifically excludes claims for unemployment insurance, disability, social  
14 security, and workers compensation (with the exception of claims arising pursuant to California  
15 Labor Code Sections 132(a) and 4553)

16 70. Neutral Employment Reference: Defendant agrees that it will adopt a neutral  
17 reporting policy regarding any future employment references related to Plaintiff. In the event that  
18 any potential or future employers of Plaintiff request a reference regarding Defendant's  
19 employment of Plaintiff Roman McGrew, Defendant shall only provide the requested Plaintiff's  
20 dates of employment and job titles during employment. Defendant shall not refer to the Action or  
21 this Settlement.

22 71. Nullification of Settlement Agreement: In the event that: (a) the Court does not  
23 finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any  
24 material term of this Settlement Agreement; or (c) the Settlement does not become final as written  
25 and agreed to by the Parties for any other reason, then this Settlement Agreement, and any  
26 documents generated to bring it into effect, will be null and void, all amounts deposited into the  
27 QSF will be returned to Defendant, and the Parties shall be returned to their original respective  
28 positions. Any order or judgment entered by the Court in furtherance of this Settlement Agreement

1 will likewise be treated as void from the beginning. Should the Court fail to approve this settlement  
2 for any reason, the Parties agree that they will return to and attend mediation with a mutually  
3 agreed Mediator in an effort to reach a settlement that may be approved by the Court. The costs of  
4 any such mediation will be split equally between Plaintiff and Defendant.

5 72. Preliminary Approval Hearing: Plaintiff will obtain a hearing before the Court to  
6 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary  
7 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes  
8 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a  
9 Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the  
10 Notice to be sent to all Class Members as specified herein. In conjunction with the Preliminary  
11 Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms of the  
12 Settlement, and will include the proposed Notice attached as Exhibit A. Defendant agrees that it  
13 will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the Court to fully and  
14 completely approve the Agreement as to the Action will result in this Settlement Agreement and  
15 the Memorandum of Understanding entered into by the Parties, and all obligations under this  
16 Settlement Agreement and the Memorandum of Understanding being nullified and voided.

17 73. Final Settlement Approval Hearing and Entry of Judgment: Upon expiration of the  
18 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with  
19 the Court's permission, a Final Approval/Settlement Fairness Hearing will be conducted to  
20 determine the Final Approval of the Settlement Agreement along with the amounts properly  
21 payable for: (a) Individual Class Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the  
22 Class Representative Enhancement Payment or Plaintiff's Incentive Payment; (d) the Settlement  
23 Administration Costs; (e) Individual PAGA Payments; and (f) payment to LWDA for PAGA  
24 penalties. Class Counsel will be responsible for drafting all documents necessary to obtain Final  
25 Approval. Any failure by the Court to fully and completely approve the Settlement Agreement as  
26 to all of the Action, or the entry of any Order by another Court with regard to any of the Action  
27 which has the effect of modifying material terms of this Agreement or preventing the full and  
28 complete approval of the Settlement Agreement as written and agreed to by the Parties, will result

1 in this Agreement and all obligations under this Agreement being null and void. Defendant agrees  
2 it shall not oppose the granting of the Motion for Final Approval, provided Defendant has not  
3 exercised its right to rescind pursuant to the terms of this Agreement.

4 74. Judgment and Continued Jurisdiction: Upon Final Approval of the Settlement by  
5 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the  
6 Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing  
7 jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms  
8 of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as  
9 may be appropriate under court rules or as set forth in this Settlement.

10 75. Exhibits Incorporated by Reference: The terms of this Settlement include the terms  
11 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth  
12 herein. Any Exhibits to this Settlement are an integral part of the Settlement.

13 76. Entire Agreement: This Settlement Agreement and any attached Exhibits constitute  
14 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral  
15 agreements may be deemed binding on the Parties.

16 77. Amendment or Modification: This Settlement Agreement may be amended or  
17 modified only by a written instrument signed by counsel for all Parties or their successors-in-  
18 interest and as approved by the Court.

19 78. Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant  
20 and represent they are expressly authorized by the Parties whom they represent to negotiate this  
21 Settlement Agreement and to take all appropriate action required or permitted to be taken by such  
22 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other  
23 documents required to effectuate the terms of this Settlement Agreement. The Parties and their  
24 counsel will cooperate with each other and use their best efforts to affect the implementation of  
25 the Settlement. If the Parties are unable to reach agreement on the form or content of any document  
26 needed to implement the Settlement, or on any supplemental provisions that may become  
27 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court  
28 to resolve such disagreement.

1           79.    Binding on Successors and Assigns: This Settlement Agreement will be binding  
2 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously  
3 defined.

4           80.    California Law Governs: All terms of this Settlement Agreement and Exhibits  
5 hereto will be governed by and interpreted according to the laws of the State of California.

6           81.    Execution and Counterparts: This Settlement Agreement is subject only to the  
7 execution of all Parties. However, the Settlement Agreement may be executed in one or more  
8 counterparts. All executed counterparts and each of them, including facsimile and scanned copies  
9 of the signature page, will be deemed to be one and the same instrument provided that counsel for  
10 the Parties will exchange among themselves original signed counterparts.

11           82.    Acknowledgement that the Settlement is Fair and Reasonable: The Parties believe  
12 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have  
13 arrived at this Settlement after arm's-length negotiations and in the context of adversarial  
14 litigation, taking into account all relevant factors, present and potential. The Parties further  
15 acknowledge that they are each represented by competent counsel and that they have had an  
16 opportunity to consult with their counsel regarding the fairness and reasonableness of this  
17 Settlement.

18           83.    Invalidity of Any Provision: Before declaring any provision of this Agreement  
19 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible  
20 consistent with applicable precedents so as to define all provisions of this Agreement valid and  
21 enforceable.

22           84.    Waiver of Certain Appeals: The Parties agree to waive appeals and to stipulate to  
23 class certification for purposes of this Settlement only; except, however, that either party may  
24 appeal any court order that materially alters the Settlement Agreement's terms.

25           85.    Class Action Certification for Settlement Purposes Only: The Parties agree to  
26 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the  
27 Settlement is not approved, the stipulation to certification will be void. The Parties further agree  
28 that certification for purposes of the Settlement is not an admission that class action certification

1 is proper under the standards applied to contested certification motions and that this Agreement  
2 will not be admissible in this or any other proceeding as evidence that either: (a) a class action  
3 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than according  
4 to the Settlement's terms.

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

19 87. Captions: The captions and section numbers in this Agreement are inserted for the  
20 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the  
21 provisions of this Agreement.

22 88. 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  
24 to imply or constitute a further waiver by such party of the same or any other condition, covenant,  
25 right, or remedy.

26 89. Enforcement Action: In the event that one or more of the Parties institutes any legal  
27 action or other proceeding against any other Party or Parties to enforce the provisions of this  
28 Settlement or to declare rights and/or obligations under this Settlement, the successful Party or



1 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees  
2 and costs, including expert witness fees incurred in connection with any enforcement actions.

3 90. Mutual Preparation: The Parties have had a full opportunity to negotiate the terms  
4 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly  
5 against one Party than another merely by virtue of the fact that it may have been prepared by  
6 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations  
7 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

8 91. Representation By Counsel: The Parties acknowledge that they have been  
9 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
10 and that this Agreement has been executed with the consent and advice of counsel and reviewed  
11 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the  
12 Agreement.

13 92. All Terms Subject to Final Court Approval: All amounts and procedures described  
14 in this Settlement Agreement herein will be subject to final Court approval.

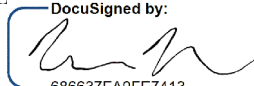
15 93. Cooperation and Execution of Necessary Documents: The Parties agree to  
16 cooperate to promote participation in the Settlement, and in seeking court approval of the  
17 Settlement. The Parties and their counsel agree not to take any action to encourage any Class  
18 Members to opt out of and/or object to the Settlement. Defendant agrees not to obtain any  
19 settlement agreement waivers, Pick Up Stix agreements or arbitration agreements from any Class  
20 Member prior to the funding of the Gross Settlement Amount concerning claims released via this  
21 Agreement, or enter into any arbitration agreement with any Class Member that covers the claims  
22 released via this Agreement during the Settlement approval process prior to the funding of the  
23 Gross Settlement Amount and that the Parties will work in good faith to reach an agreement  
24 approved by the Court.

25 94. Confidentiality: The Parties and their counsel agree to keep the terms of the  
26 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff,  
27 Class Counsel, Defendant, and their counsel agree that they will not issue any press releases,  
28 initiate any contact with the press, respond to any press inquiry, or have any communication with

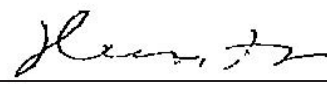
1 the press about the fact, amount, or terms of the Settlement Agreement. Nothing in this Settlement  
2 Agreement shall limit Defendant’s ability to fulfill disclosure obligations reasonably required by  
3 law or in furtherance of business purposes, including the fulfillment of obligations stated in this  
4 Settlement Agreement or limit Class Counsel’s communications with the Class Members in  
5 furtherance of approval of this Settlement.

6 95. Binding Agreement: The Parties warrant that they understand and have full  
7 authority to enter into this Settlement, and further intend that this Settlement Agreement will be  
8 fully enforceable and binding on all Parties, and agree that it will be admissible and subject to  
9 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality  
10 provisions that otherwise might apply under federal or state law.

11  
12  
13 Dated: 7/6/2023 \_\_\_\_\_

14 **PLAINTIFF**  
15 DocuSigned by:  
16   
17 By: \_\_\_\_\_  
18 686637FA9FE7413...  
19 Roman McGrew

20 Dated: July 6, 2023

21 **PROTECTION LAW GROUP, LLP**  
22 By:   
23 Heather Davis, Esq.  
24 Amir Nayebdadash, Esq  
25 Attorneys for Plaintiff, Roman McGrew

26 Dated: \_\_\_\_\_

27 **DEFENDANT**  
28 **PABON CONSTRUCTION COMPANY**  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

1 the press about the fact, amount, or terms of the Settlement Agreement. Nothing in this Settlement  
2 Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by  
3 law or in furtherance of business purposes, including the fulfillment of obligations stated in this  
4 Settlement Agreement or limit Class Counsel's communications with the Class Members in  
5 furtherance of approval of this Settlement.

6 95. Binding Agreement: The Parties warrant that they understand and have full  
7 authority to enter into this Settlement, and further intend that this Settlement Agreement will be  
8 fully enforceable and binding on all Parties, and agree that it will be admissible and subject to  
9 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality  
10 provisions that otherwise might apply under federal or state law.

11  
12  
13 Dated: \_\_\_\_\_

**PLAINTIFF**

14 By: \_\_\_\_\_  
15 Roman McGrew

16 Dated: \_\_\_\_\_


**PROTECTION LAW GROUP, LLP**

17 By: \_\_\_\_\_  
18 Heather Davis, Esq.  
19 Amir Nayebdadash, Esq.  
20 Attorneys for Plaintiff, Roman McGrew

21 Dated: 7/27/23

**DEFENDANT**

**PABON CONSTRUCTION COMPANY**

22 By:   
23  
24 Name: ROBERT PABON  
25  
26 Title: PRESIDENT

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Dated: July 27, 2023

**NIXON PEABODY LLP**

By:



Robert H. Pepple  
Philip Lamborn  
Attorneys for Defendant, Pabon  
Construction Company

# **Exhibit A**

## **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

*McGrew v. Pabon Construction Company*  
Los Angeles County Superior Court, Case No. 21STCV30819

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.  
PLEASE READ THIS NOTICE CAREFULLY.  
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

<b>To:</b> All current and former hourly-paid, non-exempt employees who are or were employed by Pabon Construction Company in the State of California at any time from August 20, 2017, through June 15, 2023.
--

### **BASIC INFORMATION**

#### **1. What is this settlement about?**

A lawsuit was commenced by Roman McGrew (“Plaintiff”) a former employee of Pabon Construction Company (“Defendant”) on August 20, 2021. The case is currently pending in the Los Angeles County Superior Court, Case No. 21STCV30819.

The lawsuit claims that Defendant violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendant failed to provide compliant meal and rest periods and associated premium pay, did not properly pay employees all wages owed for time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, failed to reimburse employees for necessary business expenses, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). The lawsuit claims that the Defendant violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties and restitution. Defendant denies all alleged violations and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

#### **2. Why is this a class action?**

In a class action, one or more people called the Class Representative (in this case Roman McGrew, also known as “Plaintiff”), sue on behalf of people who appear to have similar claims (in this case all individuals who were employed by Defendant Pabon Construction Company in the state of California as hourly-paid, non-exempt employees at any time from August 20, 2017, through June 15, 2023 All these people are referred to here as Class Members. In a class action one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Los Angeles County Superior Court is in charge of this class action.

#### **3. Why is there a settlement?**

The Court has not decided in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement which is memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”). On **[DATE OF PRELIMINARY APPROVAL]** the Court granted preliminary approval of the Settlement, appointed Plaintiff Roman McGrew as the Class Representative, and appointed his attorneys at Protection Law Group as counsel for the Class (“Class Counsel”). The Class Representative and Class Counsel think the Settlement is best for the Class.

### **WHO IS IN THE SETTLEMENT?**

#### 4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you were employed by Defendant as an hourly-paid, non-exempt employee in the state of California at any time between August 20, 2017, and June 15, 2023.

#### THE SETTLEMENT BENEFITS—WHAT YOU GET

#### 5. What does the settlement provide?

The Settlement provides that Defendant will pay a maximum of Seven Hundred and Fifty Thousand Dollars (\$750,000.00) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 35% of the Gross Settlement Amount or Two Hundred and Sixty Two Thousand Five Hundred Dollars (\$262,500.00);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Twenty Thousand Dollars (\$20,000);
- C. **Incentive Payment to the Class Representative** in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00);
- D. **Settlement Administration Costs** which are currently estimated to be Eight Thousand Five Hundred Dollars (\$8,500.00); and
- E. **PAGA Settlement Amount** in the amount of Fifty Thousand Dollars (\$50,000.00) for the settlement of claims arising under the Private Attorney’s General Act of 2004 (PAGA). Seventy-Five percent (75%) of this amount, (\$37,500.00) shall be paid to the LWDA. The remaining twenty-five percent (25%) (\$12,500.00) will be distributed to hourly-paid, non-exempt employees who worked for Defendant from August 19, 2020, to [REDACTED] for the release of their claims arising under PAGA.

The amount you are eligible to receive from the settlement, your “Individual Class Settlement Payment” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as an hourly-paid, non-exempt employee of Defendant from August 20, 2017, through [REDACTED] (“Workweeks”). You may also be eligible to receive an “Individual PAGA Settlement Payment.” The amount you are eligible to receive the “Individual PAGA Settlement Payment” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as an hourly-paid, non-exempt employee of Defendant from August 19, 2020, through June 15, 2023.

Your Individual Class Settlement Payment will be apportioned as twenty percent (20%) wages, forty percent (40%) interest, and forty percent (40%) penalties. Your Individual PAGA Settlement Payment will be allocated 100% as penalties. The wage portion of the Individual Class Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of each class member’s settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

**You worked XXX workweeks during the Class Period. Your Individual Class Settlement Payment is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.**

**You worked XXX workweeks during the PAGA Period. Your Individual PAGA Settlement Payment is \$XXX.XX.**

This Amount was determined based on Defendant’s record of your employment between from August 20, 2017, and June 15, 2023, and is presumed correct. If you dispute the accuracy of Defendant’s records as to the number of weeks worked during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by [DATE]. All disputes regarding your workweeks will be resolved and decided by the Parties or if the Parties cannot agree, the Court, after you submit evidence to the Settlement Administrator. The Settlement Administrator’s contact information is listed below:

[Settlement Administrator]  
[Address]  
[Telephone No].

## HOW TO GET A PAYMENT FROM THE SETTLEMENT

### 6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

### 7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the funding of the Gross Settlement Amount by Defendant, in exchange for the consideration set forth by the Settlement, Class Members who do not submit a timely request for exclusion will release the “Released Parties” from the “Released Class Claims” that arose during the “Class Period.”

The “Released Parties” include Defendant Pabon Construction Company and its former and present parents, subsidiaries and affiliated companies and entities, franchisors and franchisees, and its current, former, and future owners, officers, shareholders, directors, members, managers, operators, employees, consultants, vendors, partners, affiliates, subsidiaries, shareholders, attorneys, insurers, payroll providers, joint venturers, and agents, and any successors, assigns, or legal representatives and any individual or entity who or which could be jointly liable with Defendants and all persons or entities acting by, through under or in concert with any of them, including but not limited to any and all staffing agencies and professional employment organizations that supplied employees to Defendants, or performed professional employment organization services, as applicable.

The “Released Class Claims” any and all claims, liabilities, demands, obligations, penalties, costs, expenses, attorney's fees, damages, action or causes of action that are alleged, or that reasonably could have been alleged based on the facts alleged in the Action, including claims for: (a) failure to pay regular and minimum wages; (b) failure to pay overtime wages; (c) failure to provide accurate itemized wage statements; (d) failure to pay final wages upon separation of employment; (e) failure to provide timely, duty-free meal periods and/or pay required meal period premiums; (f) failure to provide compliant rest periods and/or pay rest required period premiums; (g) failure to reimburse necessary expenditures in discharge of duties; (h) failure to pay wages timely during employment; (i) any right or claim for unfair business practices in violation of California Business & Professions Code sections 17200, *et seq.*, based on the alleged failures set forth in (a)-(h) and which were alleged, or that reasonably could have been alleged based on the facts alleged in the Action; and (j) any other violation of the California Labor Code that could have been raised based on the facts alleged in the Action, including violation of California Labor Code sections 201–204, 210, 221, 223, 224, 226, 226.7, 226.3, 510, 512, 558, 558.1, 1182.12, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and IWC Wage Order No. 16. This release expressly excludes all other claims, including claims for unemployment insurance, disability, social security, and workers’ compensation, and claims outside of the Class Period...

The “Class Period” during which the release of Released Class Claims pertains is from August 20, 2017, to June 15, 2023.

Additionally, all current and former non-exempt employees of Defendant who were employed by Defendant in the



state of California between August 19, 2020, and June 15, 2023 shall release the Released PAGA Claims that arose during the PAGA Period. You cannot opt-out of the release of the claims alleged under PAGA.

The “Released PAGA Claims” all claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the facts and labor code violations alleged both in the PAGA Notice provided to the LWDA and in the operative complaint as well as any facts or theories for which Plaintiff could be deemed to have been deputized under PAGA given the allegations in the PAGA Letter, including but not limited to penalties that could have been awarded pursuant to Labor Code sections 201–204, 210, 221, 223, 224, 226, 226.7, 226.3, 510, 512, 558, 558.1, 1182.12, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2699 2800, 2802, and IWC Wage Order No. 16.

The “PAGA Period” during which the release of the Released PAGA Claims pertains is from August 19, 2020, to June 15, 2023.

### **EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS**

If you want to keep the right to sue or continue to sue Defendant with respect to the Released Class Claims then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment from Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Settlement Amount because the Request for Exclusion does not apply to this claim.

#### **8. How can I not participate in the Settlement?**

To exclude yourself from the release of Released Class Claims you must submit a written request for exclusion. You must include your name, address, telephone number and the last four digits of your social security number and/or Employee ID number. Your request for exclusion must include a clear statement that you do not wish to be included in this action.

The written for Exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]  
[Address]  
[Telephone No.]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You will not be legally bound by the release of Released Class Claims.

You may be able to sue Defendant and/or the Released Parties or continue any suit you have pending against Defendant or the Released Parties, regarding the Released Class Claims.

#### **9. If I don't exclude myself, can I sue Defendant for the same thing later?**

No. Unless you submit a request for exclusion, you give up the right to sue Defendant and Released Parties for the Released Class Claims. If you have a pending lawsuit involving the Released Class Claims, speak to your lawyer in that lawsuit immediately.

#### **10. If I exclude myself, can I get money from this settlement?**

No. (except if you worked between August 19, 2020, and June 15, 2023, in which case you will still receive your Individual PAGA Settlement Payment.). But if you submit a timely and valid request for exclusion, you retain any right that you may have to sue, continue to sue, or be part of a different lawsuit against Released Parties for Released Class Claims.

## THE LAWYERS REPRESENTING YOU

### 11. Do I have a lawyer in this case?

The Court has approved PROTECTION LAW GROUP, LLP. as Class Counsel. The firm's contact information is:

#### PROTECTION LAW GROUP LLP

Heather Davis, Esq.  
Amir Nayebdadash, Esq.  
237 California Street  
El Segundo, California 90245  
Telephone: (424) 290-3095  
Facsimile: (866) 264-7880

Class Counsel will ask the Court for attorneys' fees of up to \$262,500 and reimbursement of litigation cost/expenses of up to \$20,000. These amounts are subject to Court approval and the Court may award less than these amounts.

## OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

### 12. How do I tell the Court if I don't like the settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you must mail your objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, address, telephone number, the last four digits of your social security number or employee ID number, and the specific reason for your objection. You may also come to the Final Approval Hearing on [DATE] and make an objection at that time, regardless of whether you submitted a written objection.

### 13. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend.

### 14. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at [ ] a.m./p.m. on [ ], 2023], at the Los Angeles Superior Court—Spring Street Courthouse, located at 312 N. Spring St. Los Angeles, CA 90012.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

**15. Do I have to come to the hearing?**

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf. You may attend in person, but you may also attend remotely if you wish. Remote appearances may be scheduled through “LA Court Connect” <https://www.lacourt.org/lacc/>

**16. How will I learn if the settlement was approved**

A notice of final judgment will be posted on the Settlement Administrator website located at [www.\\_\\_\\_\\_\\_.com](http://www._____.com)

**IF YOU DO NOTHING**

**17. What happens if I do nothing at all?**

If you do nothing, you will receive your share of the Settlement, and you will release the Released Class Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant or Released Parties about the Released Class Claims, ever again. Your Individual Settlement Payments will be mailed to you and remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days, these funds will be transferred to the Controller of the State of California’s Unclaimed Property Fund. You may then claim these funds from there.

**GETTING MORE INFORMATION**

**18. How do I get more information?**

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by viewing the settlement located on the Settlement Administrator’s website at [\\_\\_\\_\\_\\_.com](http://_____.com) or by contacting the Settlement Administrator or Class Counsel.

**WHAT IF MY INFORMATION CHANGES?**

**19. What if my contact information changes ?**

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

**DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE**