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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SACRAMENTO**
15

16 **CASE NO.: 34-2018-00247289**

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

17 RANDALL COWEN, individually, and on behalf)
of other members of the general public similarly)
18 situated and on behalf of aggrieved employees)
pursuant to the Private Attorneys General Act)
19 (“PAGA”);)

20 Plaintiff,

21 v.

22 EVERETT FINANCIAL, INC. D/B/A)
23 SUPREME LENDING, a Texas Corporation; and)
DOES 1 through 100, inclusive;)
24)

25 Defendants.
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1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This Joint Stipulation of Class Action Settlement and Release (“Agreement” or “Stipulation of
3 Settlement”) is made and entered into by and between Plaintiff Randall Cowen (“Plaintiff” or “Class
4 Representative”), individually and on behalf of other members of the general public similarly situated,
5 on the one hand, and Defendant Everett Financial, Inc. d/b/a Supreme Lending (“Defendant”), on the
6 other hand (collectively with Plaintiff, the “Parties”).

7 Subject to approval of the Court pursuant to the California Rules of Court, this Stipulation of
8 Settlement shall be binding on Plaintiff, Class Counsel, the Class, Defendant, and its former and present
9 parents, subsidiaries, and affiliates, and their current and former officers, directors, employees, partners,
10 shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all
11 such entities and individuals (hereinafter “Released Parties”), subject to the terms and conditions hereof
12 and the approval of the Court.

13 **RECITALS**

14 1. On May 18, 2018, Plaintiff Richard Baretich filed a Class Action Complaint against
15 Defendant in the Superior Court for the State of California, County of San Diego, entitled *Richard*
16 *Baretich, individually, and on behalf of other members of the general public similarly situated v. Everett*
17 *Financial, Inc. d/b/a Supreme Lending, a Texas Company; and DOES 1 through 100, inclusive*, Case
18 No. 37-2018-00024796-CU-OE-CTL for: 1) Violation of California Labor Code §§ 510 and 1198
19 (Unpaid Overtime); 2) violation of California Labor §§ 226.7 and 512(a) (unpaid meal period
20 premiums); 3) violation of California Labor Code § 226.7 (unpaid rest period premiums); 4) violation
21 of California Labor Code §§ 1194, 1197, and 1197.1 (unpaid minimum wages); 5) violation of
22 California Labor Code §§ 201 and 202 (final wages not timely paid); 6) violation of California Labor
23 Code § 226(a) (non-compliant wage statements); 7) violation for California Labor Code §§ 2800 and
24 2802 (unreimbursed Business Expenses); and 8) violation of California Business & Professions Code §
25 17200, et seq. Mr. Baretich passed away during the pendency of the Action.

26 2. On December 27, 2018, Plaintiff Randall Cowen filed a representative action under
27 California Labor Code § 2698 et seq. (Private Attorneys General Act of 2004) against Defendant in the
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1 Superior Court for the State of California, County of Sacramento, entitled *Randall Cowen, individually,*
2 *on behalf of other members of the general public similarly situated and on behalf of aggrieved*
3 *employees pursuant to the Private Attorneys General Act (“PAGA”); v. Everett Financial, Inc. d/b/a*
4 *Supreme Lending and DOES 1 through 100, inclusive*, Case No. 34-2018-00247289, seeking civil
5 penalties for various California Labor Code violations.

6 3. Defendant denies all material allegations set forth in the Action and has asserted
7 numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation,
8 Defendant desires to fully and finally settle all actual or potential claims by the Class.

9 4. Plaintiff’s counsel Justice Law Corporation (“Class Counsel”) in the Action, diligently
10 investigated the proposed Class’ claims against Defendant, including any and all applicable defenses
11 and the applicable law. The investigation included, *inter alia*, formal written discovery and production,
12 the exchange of information pursuant to informal discovery methods, and review of numerous corporate
13 policies and practices.

14 5. On May 11, 2021, the Parties participated in mediation before Mark S. Rudy, Esq. (the
15 “Mediator”), a respected mediator of wage and hour class actions. After a full day of negotiations, the
16 Parties agreed to settle and stipulated to the material terms of this Stipulation of Settlement now before
17 this Court. The Mediator’s supervision of the mediation and negotiations was critical in managing the
18 expectations of the Parties and providing a useful and neutral analysis of the issues and risks to both
19 sides.

20 6. The settlement discussions during and after mediation were conducted at arm’s-length
21 and this Stipulation of Settlement is the result of an informed and detailed analysis of Defendant’s
22 potential liability of total exposure in relation to the costs and risks associated with continued litigation.

23 7. Based on the data produced pursuant to formal and informal discovery, as well as Class
24 Counsel’s own independent investigation and evaluation, and the Mediator’s efforts, Class Counsel
25 believe that the settlement with Defendant for the consideration and on the terms set forth in this
26 Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light
27 of all known facts and circumstances.

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1 Action, and expenses for any experts. Class Counsel will collectively request attorneys' fees not to
2 exceed Thirty-Five Percent (35%) of the Maximum Settlement Amount, or up to Nine Hundred and
3 Fifty Nine Thousand Dollars (\$959,000.00). Class Counsel will also request reimbursement of Class
4 Counsel's litigation costs and expenses, not to exceed Twenty-Five Thousand Dollars (\$25,000.00). For
5 any Attorneys' Fees and Costs approved by the Court, the Claims Administrator may purchase an
6 annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class Counsel.
7 Defendant has agreed not to oppose Class Counsel's request for fees and reimbursement of costs and
8 expenses as to the amounts set forth above. Any portion of the Attorneys' Fees and Costs not awarded
9 to Class Counsel will be a part of the Net Settlement Amount, for distribution in conformity with this
10 Agreement.

11 13. "Claimant" means all Class Members who submit timely and valid Claim Forms.

12 14. "Claim Form" means the document, substantially in the form attached as **Exhibit B**, that
13 Class Members must complete and postmark by the Response Deadline (as defined below) to receive a
14 proportional share of the Net Settlement Amount in the form of an Individual Settlement Payment.

15 15. "Claims" means all lawsuits, arbitrations, causes of action, complaints, obligations,
16 demands, liabilities, or claims of any kind, whether in law or in equity, known or unknown, direct or
17 indirect, asserted or unasserted, liquidated or unliquidated, by Releasing Parties.

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

23 17. "Claims Administration Costs" means the costs payable from the Maximum Settlement
24 Amount to the Claims Administrator for administering this Settlement, including, but not limited to,
25 printing, distributing, and tracking documents for this Settlement, calculating estimated amounts per
26 Class Member, tax reporting, distributing the appropriate settlement amounts, and providing necessary
27 reports and declarations, and other duties and responsibilities set forth herein to process this Settlement,
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1 and as requested by the Parties. The Claims Administration Costs are currently estimated not to exceed
2 Fifteen Thousand Dollars (\$15,000.00). Any portion of the Claims Administration Costs that are not
3 awarded to the Claims Administrator will flow through to the Net Settlement Amount.

4 18. "Class Counsel" means Justice Law Corporation which will seek to be appointed counsel
5 for the Class.

6 19. "Class Lists" mean a complete list of all Class Members within the Class that Defendant
7 will diligently and in good faith compile from its records or other records and provide only to the Claims
8 Administrator within ten (10) business days of the Court's Preliminary Approval of this Stipulation of
9 Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will
10 include each Class Member's full name; most recent mailing address; Social Security number; and dates
11 of employment as hourly-paid or non-exempt employee in California.

12 20. "Class Member(s)" or "Class" collectively refer to: All current and former hourly, non-
13 exempt employees of Defendant employed in the State of California at any time from May 18, 2014,
14 through July 10, 2021 or the date the Court grants preliminary approval of the Settlement, whichever
15 occurs earlier.

16 20(a) Class Member Warranty: Defendant represents that the Class includes
17 approximately 660 Class Members and the total Workweeks equals
18 approximately 47,000 as of May 11, 2021. If the actual number of Workweeks
19 at the end of the Class Period is fifteen percent (15%) or more greater than the
20 47,000 Workweeks represented by Defendant, the Net Settlement Amount will
21 be increased on a pro-rata basis equal to the increase in number of Workweeks
22 (e.g. if the actual Class Workweeks are 15% greater than 47,000 (i.e. 54,050
23 workweeks), than the Net Settlement Amount will increase at the rate of \$50.00
24 per workweek for each workweek over 54,050 workweeks).

25 21. "Class Period" means the period from May 18, 2014 through July 10, 2021 or the date
26 the Court grants preliminary approval of the Settlement, whichever date is earlier.

27 22. "Class Representative" mean Randall Cowen who will seek to be appointed as the
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1 representative for the Class.

2 23. "Class Representative Enhancement Payment" means the amounts to be paid to Plaintiff
3 in recognition of his effort and work in prosecuting the Action on behalf of Class Members. The Parties
4 agree that Plaintiff will be paid up to Ten Thousand Dollars (\$10,000.00), subject to Court approval,
5 from the Maximum Settlement Amount for his services on behalf of the Class, including his assistance
6 as Plaintiff and Class Representative, subject to the Court granting final approval of this Stipulation of
7 Settlement and subject to the exhaustion of any and all appeals. Any portion of the Class Representative
8 Enhancement Payment not awarded to Plaintiff will be a part of the Net Settlement Amount, for
9 distribution in conformity with this Agreement.

10 24. "Court" means the Superior Court of the State of California for the County of
11 Sacramento or any other court taking jurisdiction of the Action.

12 25. "Defendant" means Everett Financial, Inc. d/b/a Supreme Lending

13 26. "Defendant's Counsel" means counsel for Defendant who are:

14 Ryan Abernethy
15 **WEINTRAUB TOBIN**
16 400 Capital Mall, 11th Floor
Sacramento, California 95814

17 27. "Effective Date" means the date on which the settlement embodied in this Stipulation of
18 Settlement shall become effective after all of the following events have occurred: (i) this Stipulation of
19 Settlement has been executed by all parties and by counsel for the Class and Defendant; (ii) the Court
20 has given preliminary approval to the Settlement; (iii) the notice has been given to the Class Members,
21 providing them with an opportunity to object to the terms of the Stipulation of Settlement or to opt out
22 of the Stipulation of Settlement; (iv) the Court has held a formal fairness hearing and, having heard no
23 objections to the Settlement, entered a final order and judgment certifying the Class, and approving this
24 Stipulation of Settlement; and (v) only in the event that there are written objections filed prior to the
25 formal fairness hearing which are not later withdrawn or denied, the later of the following events: five
26 (5) business days after the period for filing any appeal, writ or other appellate proceeding opposing the
27 Court's final Order approving the Stipulation of Settlement has elapsed without any appeal, writ or other
28 appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing

1 the Court's final Order approving the Stipulation of Settlement has been filed, five (5) business days
2 after any appeal, writ or other appellate proceedings opposing the Stipulation of Settlement has been
3 finally and conclusively dismissed with no right to pursue further remedies or relief.

4 28. "Individual Settlement Payment" means each Class Member's share of the Net
5 Settlement Amount.

6 29. "Maximum Settlement Amount" means the maximum settlement amount of up to Two
7 Million Seven Hundred and Forty Thousand Dollars (\$2,740,000.00) to be paid by Defendant in full
8 satisfaction of all claims arising from the Action, which includes all Individual Settlement Payments to
9 Claimants, the Class Representative Enhancement Payment, Claims Administration Costs to the Claims
10 Administrator, Attorneys' Fees and Costs to Class Counsel, and PAGA Payment. This Maximum
11 Settlement Amount has been agreed to by Plaintiff and Defendant based on the aggregation of the
12 agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than
13 the Maximum Settlement Amount, except that employer-side payroll taxes shall be paid separate and
14 apart from the Maximum Settlement Amount.

15 30. "Net Settlement Amount" means the portion of the Maximum Settlement Amount
16 remaining after deduction of the approved Class Representative Enhancement Payment, Claims
17 Administration Costs, and Attorneys' Fees and Costs. The Net Settlement Amount will be distributed
18 to Claimants in accordance with Paragraphs 59 and 61-76. Plaintiff and Defendant agree that the amount
19 actually distributed to the Claimants will equal at least Fifty Percent (50%) of the Net Settlement
20 Amount. If the total Individual Settlement Payments to the Claimants would equal less than Fifty
21 Percent (50%) of the Net Settlement Amount, the Claims Administrator will proportionately increase
22 the Individual Settlement Payment for each Claimant to ensure that total Individual Settlement Payments
23 equal to Fifty Percent (50%) of the Net Settlement Amount. Except as otherwise provided in Paragraph
24 59, any unclaimed and/or undistributed amounts above Fifty Percent (50%) of the Net Settlement
25 Amount will be the exclusive property of Defendant (i.e. the "Reversionary Amount").

26 31. "Notice of Objection" or "Objection" means a Class Member's valid and timely written
27 objection to this Stipulation of Settlement. For the Notice of Objection to be valid, it must include: (a)
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1 the objector’s full name, signature, and address, (b) a written statement of all grounds for the objection
2 accompanied by any legal support for such objection, (c) a clear reference to the title of this case and
3 case number, and (d) copies of any papers, briefs, or other documents upon which the objection is based.

4 32. “Notice Packet” means the Notice of Class Action Settlement and Claim Form,
5 substantially in the forms attached as **Exhibit A**, and **Exhibit B** respectively.

6 33. “Obligations” means all obligations, duties, liabilities, agreements, promises, damages,
7 costs, penalties, interest, fees (including without limitation attorney’s fees), losses, expenses, and debts
8 of any kind or nature whatsoever, whether known or unknown, direct or indirect, asserted or unasserted,
9 liquidated or unliquidated, by the Releasing Parties.

10 34. “PAGA Payment” means the amount of One Hundred Thousand Dollars (\$100,000.00)
11 which the Parties have agreed to allocate for penalties pursuant to the Private Attorneys’ General Act,
12 California Labor Code § 2698, *et seq.* (“PAGA”). The Parties have agreed that the PAGA Payment will
13 be paid out of the Maximum Settlement Amount. Pursuant to PAGA, the Labor and Workforce
14 Development Agency (“LWDA”) shall be paid 75% or Seventy Thousand Dollars (\$75,000.00) of the
15 PAGA Payment (“LWDA Payment”), and 25% or Twenty-Five Thousand Dollars (\$25,000.00) of the
16 PAGA Payment will be part of the Net Settlement Amount, for distribution in conformity with
17 Paragraphs 29 and 58.

18 35. “Parties” means Plaintiff and Defendant collectively.

19 36. “Plaintiff” means Randall Cowen.

20 37. “Preliminary Approval” means the Court order granting preliminary approval of this
21 Stipulation of Settlement.

22 38. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
23 Regulations § 1.46B-1, 26 C.F.R. § 1.468B-1 *et seq.*, that is established by the Claims Administrator
24 for the benefit of Claimants, Plaintiff and Class Counsel.

25 39. “Released Claims” means the Claims and Obligations that the Releasing Parties ever had
26 or now have against the Released Parties arising out of or relating to all wage-and-hour matters, that
27 Releasing Parties through this Stipulation of Settlement are releasing, acquitting and forever
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1 discharging, including, without limitation the following:

2 a) Claims and Obligations (including but not limited to those under federal, state, or
3 local statute, rule or regulation) that the Releasing Parties allege or could have alleged or pled
4 based on the factual allegations or predicate in the Lawsuits;

5 b) Claims and Obligations relating to wages and benefits including, without
6 limitation, compensation, salary, commissions, incentive pay, overtime, regular rate of pay, meal
7 and rest breaks, paychecks, wage statements, wait time, expense reimbursement, payroll periods,
8 pay cycles, pay dates, final paychecks, use of personal cell phones for business purposes, time
9 reporting, rounding of time clock entries, off-the-clock work, wage recapture, classification as
10 exempt or non-exempt employees, health and welfare benefits, relocation, separation pay,
11 severance pay, notice pay, paid time off, sick pay, bonuses, and/or compensation and benefits of
12 any kind; and

13 c) Claims and Obligations based on: (i) California Labor Code §§ 510 and 1198
14 (unpaid overtime); (ii) California Labor Code §§ 226.7 and 512(a) (unpaid meal premiums); (iii)
15 California Labor Code §§ 226.7 (unpaid rest premiums); (iv) California Labor Code §§ 1194,
16 1197, and 1197.1 (unpaid minimum wages); (v) California Labor Code §§ 201 and 202 (final
17 wages not timely paid); (vi) California Labor Code § 226(a) (non-compliant wage statements);
18 (vii) California Labor Code §§ 2800 and 2802 (unreimbursed business expenses); (viii)
19 California Business & Professions Code § 17200, *et seq.*; (ix) California Labor Code § 2698 *et*
20 *seq.*; (x) the California Labor Code, Wage Orders of the California Industrial Welfare
21 Commission, the California Private Attorney General Act, and all other state and local wage-
22 and-hour statutes, regulation, and rules. The Plaintiffs and Settlement Class will release
23 Defendant and the Released Parties from all remedies that could be claimed in connection with
24 the Released Claims including, but not limited to, statutory, constitutional, contractual damages,
25 unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution,
26 and equitable relief.

27 d) This does not prohibit Releasing Parties from participating in an Equal
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1 Employment Opportunity Commission, the state Department of Fair Employment and Housing,
2 or any other federal, state or local administrative agency investigation or proceeding. It also does
3 not preclude Releasing Parties from filing claims for workers' compensation or unemployment
4 benefits, or from any other claims or rights that are not waivable as a matter of law.

5 40. "Released Claims Period" means the period from May 18, 2014 through July 10, 2021
6 or the date the Court grants preliminary approval of the Settlement, whichever date is earlier.

7 41. "Released Parties" means Defendant, its parents and all of its subsidiaries, related, and
8 affiliated entities and each of their respective past and present employees, officers, directors,
9 administrators, staff, attorneys, owners, shareholders, members, partners, insurers, benefit plan
10 fiduciaries and agents, and all of their respective successors and assigns.

11 42. "Releasing Parties" means all Settlement Class Member and all Settlement Class
12 Members' heirs, assigns, agents, representatives, administrators, and executors.

13 43. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
14 request to be excluded from the settlement. The Request for Exclusion must: (a) be signed by the Class
15 Member; (b) contain the name, address, telephone number, and the last four digits of the Social Security
16 Number of the Class Member requesting exclusion; (c) clearly state the name of this case, the case
17 number, and that the Class Member does not wish to be included in the settlement; (d) be returned by
18 mail to the Claims Administrator at the specified address and/or facsimile number; and (e) be
19 postmarked on or before the Response Deadline. The date of the postmark on the return mailing
20 envelope will be the exclusive means to determine whether a Request for Exclusion has been timely
21 submitted. A Class Member who does not request exclusion from the settlement ("Settlement Class
22 Member") will be bound by all terms of the settlement, if the settlement is granted final approval by the
23 Court.

24 44. "Response Deadline" means the deadline by which Class Members must postmark to the
25 Claims Administrator valid Claim Forms, Requests for Exclusion, or file and serve objections to the
26 settlement. The Response Deadline will be sixty (60) calendar days from the initial mailing of the
27 Notice Packet by the Claims Administrator, unless the 60th day falls on a Sunday or Federal holiday, in
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1 which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
2 open. The Response Deadline for Claim Forms or Requests for Exclusion will be extended fifteen (15)
3 calendar days for any Class Member who is re-mailed a Notice Packet by the Claims Administrator,
4 unless the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be
5 extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be
6 extended by express agreement between Class Counsel and Defendant. Under no circumstances,
7 however, will the Claims Administrator have the authority to extend the deadline for Class Members to
8 submit a Claim Form, Request for Exclusion, or objection to the settlement.

9 45. "Workweeks" means the number of weeks of employment that Class Member worked
10 for Defendant as an hourly, non-exempt employee in California at any time during the Class Period (as
11 defined above). The Claims Administrator will calculate the number of Workweeks by calculating the
12 number of days each Class Member was employed during the Class Period, dividing by seven (7), and
13 rounding up to the nearest whole number. Each Claimant shall be entitled to payment for at least one
14 workweek.

15 46. "Workweek Value" means the value of each compensable Workweek, as determined by
16 the formula set forth herein.

17 **CLASS CERTIFICATION**

18 47. Solely for purposes of settling the Action, and not for purposes of class certification
19 should the matter not be settled or for any other reason, the Parties stipulate and agree that the requisites
20 for establishing class certification with respect to the Class have been met and are met. More
21 specifically, the Parties stipulate and agree that:

- 22 a. The Class is ascertainable and so numerous as to make it impracticable to join all
23 Class Members;
- 24 b. There are common questions of law and fact including, but not limited to, the
25 following:
 - 26 i. Whether Defendant properly compensated its employees;
 - 27 ii. Whether Defendant failed to provide meal and rest breaks;

1 forth herein, the Parties agree, subject to the Court's approval, as follows:

2 53. Funding of the Maximum Settlement Amount. Within three (3) business days after the
3 Final Approval of the Settlement, the Claims Administrator will provide the Parties with an accounting
4 of the amounts to be paid by Defendant pursuant to the terms of the Settlement. Defendant will deposit
5 for payment of all Court-approved claim amounts from the Maximum Settlement Amount into a
6 Qualified Settlement Fund account to be established by the Claims Administrator within fourteen (14)
7 days of the Effective Date.

8 54. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or
9 motion by Class Counsel for Attorneys' Fees and Costs of not more than Thirty-Five Percent (35%) of
10 the Maximum Settlement Amount or up to Nine Hundred and Eighty Thousand Dollars (\$980,000.00),
11 plus the reimbursement of costs and expenses associated with Class Counsel's litigation and settlement
12 of the Action, not to exceed Twenty-Five Thousand Dollars (\$25,000.00), both of which will be paid
13 from the Maximum Settlement Amount. Any attorneys' fees and costs awarded by the Court shall not
14 constitute payment to any Class Member(s). To the extent that the Court approves less than the amount
15 of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and
16 awarded amounts will be reallocated to the Net Settlement Amount. Except for the attorneys' fees and
17 costs set forth in this Agreement, the Parties agree to bear their own attorneys' fees and costs related to
18 this Action. In consideration of their awarded attorneys' fees and expenses, Class Counsel waive any
19 and all claims to any further attorneys' fees and expenses in connection with the Stipulation of
20 Settlement.

21 55. Class Representative Enhancement Payment. In recognition of Plaintiff's effort and
22 work in prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede
23 any application or motion for a Class Representative Enhancement Payment of up to Ten Thousand
24 Dollars (\$10,000.00). The Class Representative Enhancement Payment will be paid from the Maximum
25 Settlement Amount and shall not constitute payment to any Participating Class Member(s) (other than
26 Plaintiff). To the extent that the Court approves less than the amount of Enhancement Payment that
27 Class Counsel request, the difference between the requested and awarded amounts will be reallocated
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1 to the Net Settlement Amount. Because it is the intent of the Parties that the Enhancement Payment
2 represents payment to Plaintiff for his service to the Class Members, and not wages, the Settlement
3 Administrator will not withhold any taxes from the Enhancement Payment. The Claims Administrator
4 will issue an IRS Form 1099 for the Enhancement Payment to Plaintiff; and he shall be solely and legally
5 responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on
6 the amounts received.

7 56. General Release by Class representative. As a condition of the class action Stipulation of
8 Settlement, Plaintiff, as the Class Representative, shall separately release the following: any and all
9 Claims, Obligations, demands, actions, rights, causes of action, and liabilities against the Releasees, of
10 whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort,
11 contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of
12 law or contract, whether known or unknown, and whether anticipated or unanticipated, including all
13 unknown claims covered by California Civil Code § 1542, by the Class Representative, arising at any time
14 up to and including the date on which the Court enters the Order of Final Approval, for any type of relief,
15 including without limitation claims for wages, premium and other forms of pay, unpaid/unreimbursed
16 costs, penalties (including waiting time penalties and wage statement penalties), general damages,
17 compensatory damages, liquidated damages, punitive damages, interest, attorneys' fees, litigation and
18 other costs, expenses, restitution, and equitable and declaratory relief. The Class Representative's
19 Released Claims include, but are not limited to, the Released Claims, all Claims relating to his
20 employment with Defendant, as well as any other Claims or Obligations under any provision of the Fair
21 Labor Standards Act ("FLSA"), the California Labor Code, any applicable California Industrial Welfare
22 Commission Wage Orders, any city or county Living Wage Ordinances, and claims under state or federal
23 discrimination statutes, including, without limitation, the California Government Code; the Unruh Civil
24 Rights Act, California Civil Code; the California Constitution; the California Business and Professions
25 Code, including but not limited to §§ 17200 *et seq.*; the United States Constitution; the Age Discrimination
26 in Employment Act ("ADEA") and the Older Workers Benefit Protection Act; the Uniformed Services
27 Employment and Reemployment Rights Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000

1 *et seq.*; the Family and Medical Leave Act, to the extent not prohibited by law; the Americans with
2 Disabilities Act, 42 U.S.C. § 12101 *et seq.*; and the Employee Retirement Income Security Act of 1974,
3 29 U.S.C. § 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines. As a
4 condition to this settlement, the named Plaintiff will provide a full and general release of all known and
5 unknown claims, including but not limited to, all claims alleged or that could have been alleged in the
6 Action and Operative Complaint. Class Representative is aware and familiar with the provisions of
7 California Civil Code Section 1542, which provides as follows: “*A general release does not extend to*
8 *claims which the creditor does not know or suspect to exist in his or her favor at the time of executing*
9 *the release, which if known by him or her must have materially affected his or her settlement with the*
10 *debtor.*” With full awareness and understanding of the above provision, Class Representative waives
11 and relinquishes any and all rights and benefits that he may have under California Civil Code Section
12 1542, or the law of any other state or jurisdiction, or common law principle, to the same or similar effect.
13 Class Representative understands that the facts with respect to which this Stipulation of Settlement and
14 all additional agreements entered into may be materially different from those the Parties now believe to
15 be true. Class Representative accepts and assumes this risk, and agrees that this release and any
16 additional agreements shall remain in full force and effect, and legally binding, notwithstanding the
17 discovery or existence of any additional or different facts, or any claims with respect to those facts.

18 57. Claims Administration Costs. The Claims Administrator will be paid for the reasonable
19 costs of administration of the Settlement and distribution of payments from the Maximum Settlement
20 Amount, which is currently estimated not to exceed Fifteen Thousand Dollars (\$15,000.00). These
21 costs, which will be paid from the Maximum Settlement Amount, will include, *inter alia*, the required
22 tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms,
23 distributing the Notice Packet, sending reminder notices, calculating shares and payment, distributing
24 the Maximum Settlement Amount in accordance with the Settlement and the Court’s order, and
25 providing necessary reports and declarations. Any portion of the Claims Administration Costs that are
26 not awarded to the Claims Administrator will be reallocated to the Net Settlement Amount.

27 58. PAGA Payment. Subject to Court approval, the Parties agree that the amount of One
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1 Hundred Thousand Dollars (\$100,000.00) from the Maximum Settlement Amount will be designated
2 for satisfaction of Plaintiff's and Class Members' PAGA claims. Pursuant to PAGA, Seventy-Five
3 Percent (75%), or \$75,000, of this sum will be paid to the LWDA and Twenty-Five Percent (25%), or
4 \$25,000, will be part of the Net Settlement Amount.

5 59. Net Settlement Amount. The Net Settlement Amount will be used to satisfy Individual
6 Settlement Payments to Claimants in accordance with the terms of this Agreement. If the total claimed
7 Individual Settlement Payments would equal less than Fifty Percent (50%) of the Net Settlement
8 Amount, the Claims Administrator will proportionately increase the Individual Settlement Payment for
9 each Claimant so that the amount actually distributed to Claimants will equal at least Fifty Percent
10 (50%) of the Net Settlement Amount.

11 60. Acknowledgement of Potential Administration Cost Increases. The Parties acknowledge
12 that Claims Administration Costs may increase above the current estimate of \$15,000.00 and that any
13 such additional Claims Administration Costs will be taken out of the Maximum Settlement Amount.
14 Any portion of the estimated or designated Class Administration Costs which are not in fact required to
15 fulfill the total Class Administration Costs will flow though to the Net Settlement Amount.

16 61. Individual Settlement Payment Calculations. Individual Settlement Payments will be
17 calculated and apportioned from the Net Settlement Amount based on the number of Workweeks a Class
18 Member worked during the Class Period. Specific calculations of Individual Settlement Payments will
19 be made as follows:

20 a. The Claims Administrator will calculate the total number of Workweeks worked
21 by each individual Class Member ("Individual Workweeks") to determine the
22 total number of Workweeks worked by all Class Members ("Class Workweeks")
23 during the Class Period. The Claims Administrator shall be provided with such
24 information, by Defendant, as is necessary to calculate the Individual Workweeks
25 and Class Workweeks.

26 b. To determine each Class Member's estimated Individual Settlement Payment, the
27 Claims Administrator will use the following formula: Estimated Individual
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1 Settlement Payment = (Net Settlement Amount ÷ Class Workweeks) x Individual
2 Workweeks for each individual Class Member.

- 3 c. If the total Individual Settlement Payments actually claimed by Claimants
4 equals less than Fifty Percent (50%) of the Net Settlement Amount, the
5 Individual Settlement Payments will proportionately increase for each Claimant
6 submitting a Claim Form such that the total Individual Settlement Payments
7 equal Fifty Percent (50%) of the Net Settlement Amount with the remainder of
8 the Net Settlement Amount to be returned to Defendant.
- 9 d. The Individual Settlement Payment will be reduced by any required deductions
10 for each Claimant as set forth herein.

11 62. Individual Settlement Payments Do Not Trigger Additional Benefits. All individual
12 settlement payments to Class Members shall be deemed to be paid to such Class Members solely in the
13 year in which such payments actually are received by the Class Members. It is expressly understood
14 and agreed that the receipt of such individual settlement payments will not entitle any Class Member to
15 additional compensation or benefits under any company bonus, contest or other compensation or benefit
16 plan or agreement in place during the period covered by the Settlement, nor will it entitle any Class
17 Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation
18 benefits. It is the intent of this Stipulation of Settlement that the individual settlement payments
19 provided for in this Settlement are the sole payments to be made by Defendant to the Class Members,
20 and that the Class Members are not entitled to any new or additional compensation or benefits as a result
21 of having received the individual settlement payments (notwithstanding any contrary language or
22 agreement in any benefit or compensation plan document that might have been in effect during the
23 period covered by this Stipulation of Settlement).

24 63. Claims Administration Process. The Parties agree to cooperate in the administration of
25 the Stipulation of Settlement and to make all reasonable efforts to control and minimize the costs and
26 expenses incurred in administration of the Stipulation of Settlement.

27 64. Delivery of the Class List. Within ten (10) business days of Preliminary Approval,
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1 Defendant will provide the Class List(s) to the Claims Administrator.

2 65. Notice by First-Class U.S. Mail. Within fifteen (15) calendar days of receipt of the Class
3 List(s), the Claims Administrator will perform a search based on the National Change of Address
4 Database (“NCOA”), or any other similar services available, and mail a Notice Packet to all Class
5 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses available.

6 66. Confirmation of Contact Information in the Class List. Prior to mailing, the Claims
7 Administrator will perform a NCOA check, such as provided by Experian or any other similar services
8 available, for information to update and correct for any known or identifiable address changes. Any
9 Notice Packets returned to the Claims Administrator as non-deliverable on or before the Response
10 Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed
11 thereto and the Claims Administrator will indicate the date of such re-mailing on the Notice Packet. If
12 no forwarding address is provided, the Claims Administrator will promptly attempt to determine the
13 correct address using a skip-trace and will then perform a single re-mailing within five (5) days after
14 return of the Notice Packet. Those Class Members who receive a re-mailed Notice Packet, whether by
15 skip-trace or by request, will have between the later of (a) an additional fifteen (15) days or (b) the
16 Response Deadline to postmark a Claim Form, Request for Exclusion, or file and serve an objection to
17 the Settlement.

18 67. Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
19 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement’s
20 principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class
21 Member worked for Defendant during the Class Period; (e) each Class Member’s estimated Individual
22 Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which
23 comprise the Class Period; (g) instructions on how to submit valid Claim Forms, disputes regarding
24 Workweeks, Requests for Exclusion, or objections; (h) the requirements relating to, and deadlines by
25 which the Class Member must submit, Claim Forms, disputes regarding Workweeks, Requests for
26 Exclusions, and objections to the Settlement; (i) the Released Claims, as set forth herein; and (j) the
27 date for the Final Approval Hearing. Only the Current Employees will receive a Claim Form.

1 68. Disputed Information on Notice Packets. Class Members may dispute the information
2 provided in their Notice Packets, but must do so in writing, via first class mail, and it must be postmarked
3 by the Response Deadline. To the extent Class Members dispute the number of Workweeks to which
4 they have been credited or the amount of their Individual Settlement Payment, Class Members must
5 produce evidence to the Claims Administrator showing that such information is inaccurate. Absent
6 evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
7 However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence
8 submitted by the Class Member and will make the final decision as to the number of eligible Workweeks
9 that should be applied and/or the Individual Settlement Payment to which the Class Member may be
10 entitled. If the Parties are unable to resolve the dispute, the Claims Administrator will be the final
11 arbiter of the Workweeks for each Class Member during the Class Period, based on the information
12 provided to it.

13 69. Claim Form Procedures. To receive Individual Settlement Payments, all Class Members
14 will be required to submit a timely Claim Form by the Response Deadline. All Claim Forms must be
15 signed and returned to the Claims Administrator via first class mail or fax and postmarked or faxed by
16 the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive
17 means to determine whether a Claim Form has been timely submitted. However, it is not the intention
18 of the Parties to exclude Class Members from obtaining payment in the Settlement for technical reasons
19 that do not interfere with the orderly administration of the Settlement. Therefore, the Claims
20 Administrator will compile a list of claims rejected for (1) failure to cure an unsigned Claim Form or
21 (2) late submission of the Claim Form. As to the Class Members on that rejected claims list, any Class
22 Member who requests, in a signed letter, to receive payment in the Settlement will be treated like a
23 Claimant so long as that written request is received by the Effective Date.

24 70. Defective Submissions. If a Class Member's Claim Form or Request for Exclusion is
25 defective as to the requirements listed herein, that Class Member will be given an opportunity to cure
26 the defect(s). The Claims Administrator will mail the Class Member a cure letter within three (3)
27 business days of receiving the defective submission to advise the Class Member that his or her
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1 submission is defective and that the defect must be cured to render the Claim Form or Request for
2 Exclusion valid. The Class Member will have ten (10) calendar days from the date of the cure letter to
3 postmark a revised Claim Form or Request for Exclusion. If a Class Member responds to a Cure Letter
4 by filing a defective claim, then the Claims Administrator will have no further obligation to give notice
5 of a need to cure. If the revised Claim Form is not postmarked or received within that period, it will be
6 deemed untimely.

7 71. Request for Exclusion Procedures. Any Class Member wishing to opt-out from this
8 Stipulation of Settlement must sign and postmark a written Request for Exclusion to the Claims
9 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope
10 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.
11 All Requests for Exclusion will be submitted to the Claims Administrator, who will certify jointly to
12 Class Counsel and Defendant’s Counsel the Requests for Exclusion that were timely submitted.

13 72. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
14 who does not affirmatively opt-out of this Stipulation of Settlement by submitting a timely and valid
15 Request for Exclusion (“Settlement Class Member”) will be bound by all of its terms, including those
16 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants
17 final approval to the Settlement.

18 73. Objection Procedures. To object to this Stipulation of Settlement, a Class Member must
19 file a valid Notice of Objection with the Court and serve copies of the Notice of Objection on the Parties
20 before the Response Deadline. The Notice of Objection must be signed by the Class Member and
21 contain all information required by this Stipulation of Settlement. The postmark date of the filing and
22 service will be deemed the exclusive means for determining that the Notice of Objection is timely. Class
23 Members who fail to object in the specific and technical manner specified above will be deemed to have
24 waived all objections to the Settlement and will be foreclosed from making any objections and seeking
25 any adjudication or review, whether by appeal or otherwise, to this Stipulation of Settlement. At no
26 time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to
27 submit written objections to this Stipulation of Settlement or appeal from the Order and Judgment.

1 However, Class Counsel, Defense Counsel, and Defendant may respond to inquiries from Class
2 Members with truthful information. Class Counsel will not represent any Class Members with respect
3 to any such objections to this Settlement.

4 74. Reminders. Not earlier than twenty (20) days or later than thirty (30) days after the initial
5 mailing, the Claims Administrator will send a Reminder Postcard to all Class Members who have not
6 returned a Claim Form or a Request for Exclusion. All Reminder Postcards will include the Response
7 Deadline, and the contact information for Class Counsel and the Claims Administrator.

8 75. Certification Reports Regarding Individual Settlement Payment Calculations. The
9 Claims Administrator will provide Defendant's counsel and Class Counsel a weekly report which
10 certifies: (a) the number of Class Members who have submitted valid Claim Forms; (b) the number of
11 Claimants; (c) the number of Class Members who have submitted valid Requests for Exclusion; (d) the
12 then current amount and percentage of the Net Settlement Amount claimed by Claimants; and (e)
13 whether any Class Member has submitted a challenge to any information contained in their Claim Form
14 or Notice Packet. Additionally, the Claims Administrator will provide to counsel for both Parties any
15 updated reports regarding the administration of this Stipulation of Settlement as needed or requested.

16 76. Payment Schedule for All Court-Approved and Individual Settlement Payment Amounts.
17 Within three (3) business days of the Court granting final approval, the Claims Administrator will
18 calculate all payments due and issue checks accordingly, including the Reversionary Amount to
19 Defendant.

20 77. Unclaimed Funds from the Net Settlement Amount. After all Individual Settlement
21 Payments have been made, any remaining or unclaimed funds from the Net Settlement Amount above
22 50% shall remain the property of the Defendant as the Reversionary Amount.

23 78. Payroll Taxes. Any and all applicable employer-side payroll taxes relating to the portion
24 of the Individual Settlement Payments paid as wages shall be paid separate and apart from the Maximum
25 Settlement Amount.

26 79. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
27 Claimants will be negotiable for at least 180 calendar days. Those funds represented by settlement
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1 checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180
2 calendar days after issuance will be sent to the California State Controller’s Office – Unclaimed Property
3 Fund.

4 80. Certification of Completion. Upon completion of administration of the Settlement, the
5 Claims Administrator will provide a written declaration under oath to certify such completion to the
6 Court and counsel for all Parties. The declaration will include any attempts to obtain valid mailing
7 addresses for and re-sending of any returned Notice Packets, as well as the number of valid exclusions
8 and objections that the Claims Administrator received.

9 81. Administration Costs if Settlement Fails or is Delayed. If the Settlement is voided or
10 rescinded, for any reason other than set forth in Paragraph 89, any costs incurred by the Claims
11 Administrator will be paid equally by the Parties (half by Defendant and half by Class Counsel), unless
12 otherwise specified in this Agreement.

13 82. Treatment of Individual Settlement Payments. For purposes of this Stipulation of
14 Settlement, all Individual Settlement Payments will be allocated as follows: 20% of each Individual
15 Settlement Payment will be allocated as wages, 80% will be allocated as interest and penalties. The
16 amounts paid as wages shall be subject to all tax withholdings customarily made from an employee’s
17 wages and all other authorized and required withholdings and shall be reported by W-2 forms. The
18 amounts paid as penalties and interest shall be subject to all authorized and required withholdings other
19 than the tax withholdings customarily made from employees’ wages and shall be reported by IRS 1099
20 forms.

21 83. Administration of Taxes by the Claims Administrator. The Claims Administrator will be
22 responsible for issuing to Plaintiff, Claimants, and Class Counsel any W-2, 1099, or other tax forms as
23 may be required by law for all amounts paid pursuant to this Agreement. The Claims Administrator will
24 also be responsible for forwarding all payroll taxes and penalties to the appropriate government
25 authorities.

26 84. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect
27 of the payments called for hereunder; and Plaintiff and Claimants are not relying on any statement,
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1 representation, or calculation by Defendant, Defendant’s Counsel, or by the Claims Administrator in
2 this regard. Plaintiff and Claimants understand and agree that except for Defendant’s payment of the
3 employer’s portion of any payroll taxes, they will be solely responsible for the payment of any taxes
4 and penalties assessed on the payments described herein and will defend, indemnify, and hold Defendant
5 free and harmless from and against any claims resulting from treatment of such payments as non-taxable
6 damages.

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

2 86. No Assignments. The Parties and their counsel represent, covenant, and warrant that
3 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
4 or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action
5 or right herein released and discharged. Further, none of the rights, commitments, or obligations
6 recognized under this Agreement may be assigned by any Party, Class Member, Class Counsel, or
7 Defense Counsel without the express written consent of each other Party and their respective counsel.
8 The representations, warranties, covenants, and agreements contained in this Agreement are for the sole
9 benefit of the Parties under this Agreement and shall not be construed to confer any right or to avail any
10 remedy to any other person.

11 87. Release of Claims by Class Members. Upon the Effective Date, Plaintiff and all Class
12 Members who have not submitted valid and timely Requests for Exclusion, will be deemed to have
13 fully, finally and forever released, settled, compromised, relinquished, and discharged with respect to
14 all of the Released Parties any and all Released Claims for any period during the Released Claims
15 Period.

16 88. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this
17 Stipulation of Settlement to the Court in support of Plaintiff’s Motion for Preliminary Approval and
18 determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution
19 of this Stipulation of Settlement, the Parties shall apply to the Court for the entry of an order scheduling
20 a fairness hearing on the question of whether the proposed settlement, including payment of attorneys’
21 fees and costs, and Plaintiff’s Class Representative Enhancement Payment and Class Representative
22 Settlement Payment, should be finally approved as a fair, reasonable and adequate settlement. As part
23 of Plaintiff’s Motion for Preliminary Approval, Plaintiff shall also apply to the Court for the entry of an
24 order as follows:

- 25 a. Certifying the Class for the purpose of settlement;
- 26 b. Approving, as to form and content, the proposed Notice of Class Action Settlement;
- 27 c. Approving as to form and content the proposed Claim Form;

- 1 d. Approving the manner and method for Class Members to request exclusion from
2 the Settlement as contained herein and within the Notice of Class Action
3 Settlement;
- 4 e. Directing the mailing of the Notice of Class Action Settlement, Claim Form, and
5 Reminder Postcards to the Class Members, in accordance with the Settlement
6 Agreement;
- 7 f. Preliminarily approving the Settlement subject only to the objections of Class
8 Members and final review by the Court; and
- 9 g. and enjoining Plaintiff and any Class Member from filing or prosecuting any
10 claims, suits or administrative proceedings (including filing claims with the
11 California Division of Labor Standards Enforcement and the LWDA) regarding the
12 Released Claims unless and until such Class Members have filed valid Requests for
13 Exclusion with the Claims Administrator.

14 89. Duties of the Parties Following Final Court Approval. Following final approval by the
15 Court of the Settlement provided for in this Stipulation of Settlement, Class Counsel will submit a
16 proposed final order of approval and judgment as follows:

- 17 a. Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
18 adequate, and directing consummation of its terms and provisions;
- 19 b. Approving Class Counsel's application for an award of attorneys' fees and costs;
- 20 c. Approving the Class Representative Enhancement Payment to Plaintiff;
- 21 d. Setting a date when the parties shall report to the Court the total amount that was
22 actually paid to the Class Members; and
- 23 e. Entering judgment in this Action consistent with this Agreement.

24 90. Defendant's Option to Terminate the Settlement. If two percent (2%) or more of the
25 Class Members opt out of the Settlement, Defendant may, at its election, rescind the Settlement and all
26 actions taken in furtherance of it will thereby be null and void. Defendant must exercise this right of
27 rescission, in writing, to Class Counsel within ten (10) calendar days after the Claims Administrator
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1 notifies the Parties of the total number of opt-outs received by the Response Deadline. If the option to
2 rescind is exercised, Defendant shall be solely responsible for all costs of the Claims Administrator
3 accrued to that point.

4 91. Nullification of Stipulation of Settlement. In the event that: (a) the Court does not finally
5 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
6 reason, then this Stipulation of Settlement, and any documents generated to bring it into effect, will be
7 null and void. Any order or judgment entered by the Court in furtherance of this Stipulation of
8 Settlement will likewise be treated as void from the beginning.

9 92. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
10 the Preliminary Approval of this Stipulation of Settlement, and the entry of a Preliminary Approval
11 Order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary
12 Approval of the proposed Stipulation of Settlement, and (c) setting a date for a Final
13 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the Notice
14 Packet to be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
15 hearing, Plaintiff will submit this Stipulation of Settlement, which sets forth the terms of this Settlement,
16 and will include the proposed Notice Packet; i.e., the proposed Notice of Class Action Settlement
17 documents, and the proposed Claim Form, attached as **Exhibit A** and **Exhibit B** respectively. Class
18 Counsel will be responsible for drafting all documents necessary to obtain preliminary approval.
19 Defendant agrees not to oppose the Motion for Preliminary Approval, provided the Motion for
20 Preliminary Approval is consistent with the terms of the Parties' final agreement and with the agreement
21 that Defendant's counsel will be provided with sufficient time to review the Motion for Preliminary
22 Approval.

23 93. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
24 deadlines to postmark Claim Forms, Requests for Exclusion, or objections to this Stipulation of
25 Settlement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be
26 conducted to determine the Final Approval of this Stipulation of Settlement along with the amounts
27 properly payable for (a) Individual Settlement Payments; (b) the Attorneys' Fees and Costs; (c) the
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1 Class Representative Enhancement Payment; and (d) all Claims Administration Costs. Class Counsel
2 will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will
3 also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval
4 hearing and shall submit to the Court a Proposed Final Approval Order. Defendant agrees not to oppose
5 the Motion for Final Approval and Attorneys' Fee and Costs, subject to Paragraph 12.

6 94. Either Party's Option to Terminate the Settlement. Subject to the obligation(s) of mutual
7 full cooperation, either Party may terminate this Settlement if the Court declines to enter the Preliminary
8 Approval Order, the Final Approval Order or final judgment in substantially the form submitted by the
9 Parties, including all its material terms, or this Stipulation of Settlement as agreed does not become final
10 because of appellate court action. The Parties agree that the Reversionary Amount in Paragraphs 30
11 and 77 is material to the Stipulation of Settlement. However, an award by the Court of a lesser amounts
12 than sought for the Attorneys' Fees and Costs, and/or settlement administration costs will not be
13 considered a material change to the settlement. The terminating Party shall give to the other Party
14 (through its counsel) written notice of its decision to terminate no later than ten (10) business days after
15 receiving notice that one of the enumerated events has occurred. Termination shall have the following
16 effects:

- 17 a. The Stipulation of Settlement shall be terminated and shall have no force or effect,
18 and no Party shall be bound by any of its terms;
- 19 b. In the event the Settlement is terminated, Defendant shall have no obligation to
20 make any payments to any party, class member or attorney, except that the
21 Terminating Party shall pay the Claims Administrator for services rendered up to
22 the date the Claims Administrator is notified that the settlement has been
23 terminated;
- 24 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
25 any order of class certification, shall be vacated;
- 26 d. The Stipulation of Settlement and all negotiations, privileged statements and
27 proceedings relating thereto shall be without prejudice to the rights of any of the
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1 Parties, all of whom shall be restored to their respective positions in the Action
2 prior to this Stipulation of Settlement; and

3 e. Neither this Stipulation of Settlement, nor any ancillary documents, actions,
4 statements or filings in furtherance of this Stipulation of Settlement (including all
5 matters associated with the mediation) shall be admissible or offered into evidence
6 in the Action or any other action for any purpose whatsoever.

7 95. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set
8 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein.
9 Any Exhibits to this Agreement are an integral part of this Stipulation of Settlement.

10 96. Confidentiality. The Parties and their counsel agree that they will not issue any press
11 releases, initiate any contact with the press, respond to any press inquiry, or have any communication
12 with the press about the fact, amount, or terms of the Stipulation of Settlement prior to the Stipulation
13 of Settlement being preliminarily approved by the Court. In addition, the Parties and their counsel agree
14 that they will not engage in any advertising or distribute any marketing materials relating to the
15 Stipulation of Settlement of this case prior to the Settlement being preliminarily approved by the Court,
16 including but not limited to any postings on any websites maintained by Class Counsel. Any
17 communication about the Stipulation of Settlement to Class Members prior to the Stipulation of
18 Settlement being preliminarily approved by the Court will be limited to a statement that a settlement
19 has been reached and the details will be communicated in a forthcoming Court-approved notice. Nothing
20 set forth herein, however, shall prohibit the Parties from providing this Agreement to the Court in
21 connection with the Parties' efforts to seek the Court's approval of this Settlement. Neither Plaintiff
22 nor Class Counsel shall hold a press conference or otherwise seek to affirmatively contact the media
23 about the Settlement. If contacted by the media regarding the settlement, Class Counsel will direct any
24 media inquiries to the public records of the Action on file with the Court. Additionally, neither Plaintiff
25 nor Class Counsel will disparage the Settlement. This Paragraph does not apply to, and shall in no way
26 restrict, Defendant's ability to communicate with its own employees about the Stipulation of Settlement.

27 97. Entire Agreement. This Stipulation of Settlement and any attached Exhibits constitute
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1 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
2 agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil
3 Code § 1625 and California Code of Civil Procedure § 1856(a), which provide that a written agreement
4 is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence,
5 and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
6 contradict the terms of this Agreement.

7 98. Amendment or Modification. This Stipulation of Settlement may be amended or
8 modified only by a written instrument signed by the named Parties and counsel for all Parties or their
9 successors-in-interest.

10 99. Authorization to Enter Into Stipulation of Settlement. Counsel for all Parties warrant and
11 represent they are expressly authorized by the Parties whom they represent to negotiate this Stipulation
12 of Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant
13 to this Stipulation of Settlement to effectuate its terms and to execute any other documents required to
14 effectuate the terms of this Stipulation of Settlement. The Parties and their counsel will cooperate with
15 each other and use their best efforts to affect the implementation of the Settlement. If the Parties are
16 unable to reach agreement on the form or content of any document needed to implement the Settlement,
17 or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
18 the Parties may seek the assistance of the Court to resolve such disagreement.

19 100. Signatories. It is agreed that because the members of the Class are so numerous, it is
20 impossible or impractical to have each member of the Class execute this Stipulation of Settlement. The
21 Notice of Class Action Settlement, attached hereto as Exhibit A, will advise all Class Members of the
22 binding nature of the Released Claims, and the release shall have the same force and effect as if this
23 Stipulation of Settlement were executed by each Settlement Class Member.

24 101. Binding on Successors and Assigns. This Stipulation of Settlement will be binding upon,
25 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

26 102. California Law Governs. All terms of this Stipulation of Settlement and Exhibits hereto
27 will be governed by, construed, and interpreted according to the laws of the State of California,
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1 irrespective of the State of California's choice of law principles.

2 103. Execution and Counterparts. This Stipulation of Settlement is subject only to the
3 execution of all Parties. However, the Agreement may be executed in one or more counterparts. All
4 executed counterparts and each of them, including facsimile and scanned copies of the signature page,
5 will be deemed to be one and the same instrument.

6 104. Acknowledgement that the Settlement is Fair, Reasonable, and Adequate. The Parties
7 believe this Stipulation of Settlement is a fair, adequate, and reasonable settlement of the Action and
8 have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation,
9 taking into account all relevant factors, present and potential. The Parties further acknowledge that they
10 are each represented by competent counsel and that they have had an opportunity to consult with their
11 counsel regarding the fairness and reasonableness of this Agreement. In addition, the Mediator may
12 execute a declaration supporting the Settlement and the reasonableness of the Settlement and the Court
13 may, in its discretion, contact the Mediator to discuss the Settlement and whether or not the Settlement
14 is objectively fair and reasonable.

15 105. Invalidity of Any Provision. Before declaring any provision of this Stipulation of
16 Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
17 possible consistent with applicable precedents so as to define all provisions of this Stipulation of
18 Settlement valid and enforceable.

19 106. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this
20 Stipulation of Settlement and, by signing this Stipulation of Settlement, are hereby bound by the terms
21 herein. For good and valuable consideration, Plaintiff further agrees that they will not request to be
22 excluded from this Stipulation of Settlement. Any such request for exclusion by Plaintiff will be void
23 and of no force or effect.

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

10 108. Captions. The captions and section numbers in this Agreement are inserted for the
11 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
12 provisions of this Agreement.

13 109. Waiver. No waiver of any condition or covenant contained in this Agreement or failure
14 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a
15 further waiver by such party of the same or any other condition, covenant, right or remedy.

16 110. Meet and Confer Regarding Disputes. Should any dispute arise among the Parties or their
17 respective counsel regarding the implementation or interpretation of this Agreement, a representative of
18 Class Counsel and a representative of Defense Counsel shall meet and confer in an attempt to resolve
19 such disputes prior to submitting such disputes to the Court.

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

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

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

14 114. All Terms Subject to Final Court Approval. All amounts and procedures described in
15 this Stipulation of Settlement herein will be subject to final Court approval.

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

20 To Plaintiff and the Class:

21 Douglas Han, Esq.
22 Shunt Tatavos-Garajeh, Esq.
23 Daniel J. Park, Esq.
24 JUSTICE LAW CORPORATION
25 751 N. Fair Oaks Avenue, Suite 101
26 Pasadena, California 91103

27 To Defendant EVERETT FINANCIAL, INC. D/B/A SUPREME LENDING:

28 Ryan Abernethy, Esq.
WEINTRAUB TOBIN
400 Capital Mall, 11th Floor
Sacramento, California 95814

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2 116. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
3 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
4 Stipulation of Settlement.

5 117. Integration Clause. This Stipulation of Settlement contains the entire agreement between
6 the Parties relating to the settlement and transaction contemplated hereby, and all prior or
7 contemporaneous agreements, understandings, representations, and statements, whether oral or written
8 and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be
9 waived except in writing.

10 118. Binding Agreement. The Parties warrant that they understand and have full authority to
11 enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding
12 on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce
13 its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under
14 federal or state law.

15 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
16 Stipulation of Settlement and Release Between Plaintiff and Defendant as of the date(s) set forth below:

17 **NAMED PLAINTIFF AND CLASS COUNSEL**

18 **READ CAREFULLY BEFORE SIGNING**

19 DATED: 06/22/2021

20 *Randall Cowen*

21 RANDALL COWEN
22 Named Plaintiff

23 DEFENDANT EVERETT FINANCIAL, INC. D/B/A
24 SUPREME LENDING

25 DATED: 06/29/2021

26 By:

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APPROVED AS TO FORM

JUSTICE LAW CORPORATION

DATED: 6/23/21

By: 

DOUGLAS HAN
SHUNT TATAVOS-GARAJEH
ARSINE GRIGORYAN
Attorney for Plaintiff Randall Cowen and the Class

WEINTRAUB TOBIN

DATED: 6/30/2021

By: 

Ryan Abernethy
Attorneys for Defendant
EVERETT FINANCIAL, INC. D/B/A SUPREME
LENDING