

1 DAVID YEREMIAN & ASSOCIATES, INC.  
David Yeremian (SBN 226337)  
2 David@yeremianlaw.com  
Jason Rothman (SBN 304961)  
3 Jason@yeremianlaw.com  
535 N. Brand Blvd., Suite 705  
4 Glendale, California 91203  
Telephone: (818) 230-8380  
5 Facsimile: (818) 230-0308

6 Attorneys for Plaintiffs Rene Ramos,  
7 on behalf of himself and all others similarly situated

8 EMILIO LAW GROUP, APC  
Daniel G. Emilio (SBN 164892)  
9 Justin G. Schmidt (SBN 248872)  
12832 Valley View Street, Suite 106  
10 Garden Grove, California 92845  
Telephone: (714) 379-6239 | Facsimile: (714) 379-5444

12 Attorneys for Defendant Fairway Staffing, Inc.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF LOS ANGELES**

16 YADIRA ESPINOZA, an individual;  
EDITH MOLINA, an individual, on their  
17 own behalf and on behalf of all others  
similarly situated,

18 Plaintiffs,

19 vs.

20 PHOENIX WAREHOUSE OF  
CALIFORNIA, LLC, a California  
21 corporation; COASTAL EMPLOYMENT,  
INC., a California corporation; DIAMOND  
22 STAFFING SERVICES, INC. d/b/a TRI-  
DIAMOND STAFFING, a Delaware  
23 corporation; and DOES 1 through 20,

24 Defendants.

25  
26 RENE RAMOS, on behalf of himself and  
others similarly situated,

27 Plaintiffs,

Case No. BC503678  
Consolidated with: BC512859 & BC549172

CLASS ACTION

Assigned for All Purposes To:  
Hon. Elihu Berle  
Dept.: 6

**AMENDED JOINT STIPULATION OF  
CLASS ACTION SETTLEMENT**

Complaint Filed: March 21, 2013  
First Amended: June 25, 2015  
Trial Date: None Set

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

vs.

FAIRWAY STAFFING SERVICES, a  
California corporation; PHOENIX  
WAREHOUSE OF CALIFORNIA, LLC, a  
California Limited Liability Company; and  
DOES 1 through 50, inclusive,

Defendants.

IGNACIO VILLA, on behalf of himself  
and all others similarly situated,

Plaintiffs,

vs.

PHOENIX WAREHOUSE OF  
CALIFORNIA, INC., etc., et al.

Defendants.

1 This Joint Stipulation of Class Action Settlement (“Settlement” or “Settlement  
2 Agreement”) is made and entered into by and between Plaintiff Rene Ramos (“Plaintiff” or “Class  
3 Representative”), an individual and on behalf of all others similarly situated, and Defendant  
4 Fairway Staffing, Inc., a California corporation (“Defendant”) (collectively with Plaintiff, the  
5 “Parties”).

## 6 DEFINITIONS

7 The following definitions are applicable to this Settlement Agreement.

8 Definitions contained elsewhere in this Settlement Agreement will also be effective:

9 1. “Action” means *Yadira Espinoza, et al., v. Phoenix Warehouse of California,*  
10 *LLC, et al.*, Los Angeles County Superior Court Case No. BC503678 (previously consolidated  
11 with Case No’s BC512859 and BC549172).

12 2. “Attorneys’ Fees and Costs” means attorneys’ fees and costs approved by the  
13 Court for Class Counsel’s litigation and resolution of this Action.

14 3. “Class Counsel” means David Yeremian & Associates, Inc.

15 4. “Class List” means a complete list of all Class Members that Defendant will  
16 diligently and in good faith compile from its records and provide to the Settlement  
17 Administrator within ten (10) calendar days after Preliminary Approval of this Settlement. The  
18 Class List will be formatted in Microsoft Office Excel and will include the following  
19 information from Defendant’s records: each Class Member’s full name; last-known mailing  
20 address; Social Security number; and dates of employment as a non-exempt employee in  
21 California during the Class Period.

22 5. “Class Member(s)” or “Settlement Class” means all current and former non-  
23 exempt hourly employees of Defendant who worked upon the premises of Phoenix Warehouse  
24 of California, LLC, in California during the Class Period (or if any such person is incompetent,  
25 deceased, or unavailable due to military service, the person’s legal representative or successor  
26 in interest evidenced by reasonable verification). “Class Members” shall not include any  
27 person who submits a timely and valid request for exclusion.

28

1           6.       “Class Period” means the period from March 21, 2009 through December 31,  
2 2014.

3           7.       “Class Representative Enhancement Payment” means the amount approved by  
4 the Court to be paid to Plaintiff in recognition of his contributions to the Action on behalf of  
5 Class Members and Aggrieved Employees.

6           8.       “Court” means the Superior Court of California, County of Los Angeles.

7           9.       “Defendant” means Fairway Staffing, Inc., a California corporation.

8           10.      “Effective Date” means: (a) the date of entry of the Court’s order granting final  
9 approval of the Settlement Agreement and Judgment, if no objections have been filed or if an  
10 objection was filed and later withdrawn; or (b) if an objection to the Settlement Agreement is  
11 filed, then the date when the time expires to file an appeal of the Court’s grant of Final  
12 Approval of the Settlement Agreement; or (c) if an objection is filed, as well as a timely Notice  
13 of Appeal of the Court’s grant of Final Approval of the Settlement Agreement, then the date the  
14 appeal is finally resolved, with the final approval unaffected.

15          11.      “Individual Settlement Payment” means each Class Member’s share of the Net  
16 Settlement Amount.

17          12.      “Maximum Settlement Amount” is the amount of One Hundred and Fifty-Five  
18 Thousand Dollars and Zero Cents (\$150,000.00), which is the maximum amount to be paid by  
19 Defendant pursuant to this Settlement Agreement. Defendant estimates that there are  
20 approximately Three Hundred and Fifty (350) Class Members. If, the number of Class  
21 Members increases by more than ten percent (10%) of the amount stated then the Net  
22 Settlement Fund shall increase by an equal percentage. The Maximum Settlement Amount  
23 includes all Individual Settlement Payments to Class Members, the Class Representative  
24 Enhancement Payment to Plaintiff, Attorneys’ Fees and Costs to Class Counsel, the Settlement  
25 Administration Costs to the Settlement Administrator and the PAGA Payment as specified in  
26 this Agreement. Defendant shall pay the employer’s share of payroll taxes due on the portion of  
27 Settlement Payments allocated to wages separately and in addition to the Maximum Settlement  
28 Amount. The Parties agree that Defendant will have no obligation to pay any amount in

1 connection with this Settlement Agreement apart from the Maximum Settlement Amount and  
2 the employer's share of payroll taxes due on the portion of Settlement Payments allocated to  
3 wages, and that none of the Maximum Settlement Amount will revert to Defendant.

4 13. "Net Settlement Amount" means the Maximum Settlement Amount, less the  
5 Class Representative Enhancement Payment, Attorneys' Fees and Costs, and Settlement  
6 Administration Costs, and seventy-five percent (75%) of the PAGA Payment as specified in  
7 this Agreement.

8 14. "Objection" means any written objection to this Settlement sent by a Class  
9 Member to the Settlement Administrator as specified herein and in the Notice of Settlement.  
10 An Objection to Settlement must be sent to the Settlement Administrator within the time  
11 limitations set forth in this Stipulation.

12 15. "Notice of Class Action Settlement" means the notice of settlement, attached as  
13 Exhibit A, to be mailed to all members of the Settlement Class upon Preliminary Approval.

14 16. "PAGA" means the California Labor Code Private Attorneys General Act of  
15 2004.

16 17. "PAGA Payment" means the payment made hereunder to the California Labor  
17 and Workforce Development Agency and the Settlement Class Members for settlement of  
18 claims for civil penalties under PAGA.

19 18. "Parties" means Plaintiff and Defendant collectively.

20 19. "Plaintiff" means Rene Ramos.

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

23 21. "Released Claims" means all causes of action and factual or legal theories that  
24 were alleged in the operative complaints or that could have been alleged against Defendant  
25 based on the facts contained in the operative complaints, including all of the following claims  
26 for relief: (a) failure to pay all regular wages, minimum wages and overtime wages due; (b)  
27 failure to provide proper meal and rest periods, and to properly provide premium pay in lieu  
28 thereof; (c) failure to provide complete, accurate or properly formatted wage statements; (d)

1 waiting time penalties; (e) unfair business practices that could have been premised on the  
2 claims, causes of action or legal theories of relief described above or any of the claims, causes  
3 of action or legal theories of relief pleaded in the operative complaint; (f) all claims under the  
4 California Labor Code Private Attorneys General Act of 2004 for penalties pursuant to Labor  
5 Code section 2698, et seq. (the PAGA) based on alleged violations of the applicable Wage  
6 Orders and Labor Code provisions encompassed under the operative complaint and as  
7 articulated in Plaintiff's PAGA Notice Letter to the LWDA that could have been premised on  
8 the claims, causes of action or legal theories described above or any of the claims, causes of  
9 action or legal theories of relief pleaded in the operative complaint or in any of Plaintiff's  
10 PAGA Notice letters sent to the LWDA (including LWDA-CM-289895-17); (g) any other  
11 claims or penalties under the California Labor Code or other wage and hour laws pleaded in the  
12 Action; and (h) all damages, penalties, interest and other amounts recoverable under said  
13 claims, causes of action or legal theories of relief. The period of the Release shall extend to the  
14 limits of the Class Period, but the Release Effective Date for any Releases under the Agreement  
15 provided by Plaintiff and the Settlement Class will not occur until both the Effective Date of the  
16 Settlement occurs and the final installment payment has been made to fully fund the Maximum  
17 Settlement Amount (i.e. upon Fairway paying the last of the installment payments to fully fund  
18 the \$150,000 Maximum Settlement Amount after the Court enters final approval and/or the  
19 appeal period runs). Defendant shall be entitled to a release of Released Claims which occurred  
20 during the Class Period only during such time that the Settlement Class Member was classified  
21 as non-exempt, and expressly excluding all other claims for vested benefits, wrongful  
22 termination, unemployment insurance, disability, social security, workers' compensation,  
23 claims while classified as exempt, and claims outside of the Class Period.

24           22.       "Release Effective Date" means the date when the releases provided by the  
25 Settlement Class of the above described Released Claims become effective, and more  
26 particularly upon both the Effective Date of the Settlement and the final installment payment to  
27 fully fund the QSF with the Maximum Settlement Amount.

28

1           23.     “Released Parties” means Defendant Fairway Staffing, Inc., and their past,  
2 present and/or future, direct and/or indirect, owners, shareholders, officers, directors, members,  
3 managers, and employees. Any defendant, whether named or not, other than Defendant Fairway  
4 Staffing, Inc., is specifically excluded from the definition of Released Parties. .

5           24.     “Request for Exclusion” means a timely written request by a Class Member to  
6 be excluded from the Settlement. The Request for Exclusion must: (i) set forth the name,  
7 address, telephone number and last four digits of the Social Security Number of the Class  
8 Member requesting exclusion; (ii) be signed by the Class Member; (iii) be returned to the  
9 Settlement Administrator; (iv) clearly state that the Class Member does not wish to be included  
10 in the Settlement; and (v) be postmarked on or before the Response Deadline.

11           25.     “Response Deadline” means the deadline by which Class Members must  
12 postmark the Settlement Administrator Requests for Exclusion or Objection to the Settlement.  
13 The Response Deadline will be forty-five (45) calendar days from the initial mailing of the  
14 Notice of Class Action Settlement by the Settlement Administrator, unless the 45<sup>th</sup> day falls on  
15 a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next  
16 day on which the U.S. Postal Service is open.

17           26.     “Settlement Administrator” means CPT Group, or any other third-party class  
18 action settlement administrator approved by the Parties and the Court for the purposes of  
19 administering this Settlement. The Parties each represent that they have no financial interest in  
20 the Settlement Administrator or otherwise have a relationship with the Settlement  
21 Administrator that could create a conflict of interest.

22           27.     “Settlement Administration Costs” includes all costs payable to the Settlement  
23 Administrator for administering this Settlement, including, but not limited to, printing,  
24 distributing, and tracking notice and other documents for this Settlement, tax reporting,  
25 distributing all payments to be made pursuant to this Settlement, and providing necessary  
26 reports and declarations, as requested by the Parties. After conference and consultation with the  
27 Settlement Administrator, \$12,000.00 will be allocated to Settlement Administration as a  
28 “discounted flat fee” cost.





1 and Aggrieved Employees and Defendant agrees not to oppose such application. This amount  
2 will be considered non-wage damages and will be reported on an IRS Form 1099. The Class  
3 Representative Enhancement Payment, which will be paid from the Maximum Settlement  
4 Amount, will be in addition to Plaintiff's right to an Individual Settlement Payment pursuant to  
5 the Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes  
6 on the payments made pursuant to this paragraph and will hold Defendant harmless from any  
7 claim or liability for taxes, penalties, or interest arising as a result of the payments. Plaintiff will  
8 not have the right to revoke this Settlement in the event the Court fails to approve the amount  
9 sought by Plaintiff as a Class Representative Enhancement Payment. Any portion of the Class  
10 Representative Enhancement Payment not awarded to the Class Representatives will be added to  
11 the Net Settlement Amount.

12       33.     Settlement Administration Costs. The Settlement Administrator will be paid for  
13 the reasonable costs of administration of the Settlement and distribution of payments. These  
14 costs, which will be paid from the Maximum Settlement Amount, will include, *inter alia*, the  
15 required tax reporting on the Individual Settlement Payments, the issuing of 1099 IRS Forms,  
16 preparing and distributing Notices of Class Action Settlement, calculating and distributing all  
17 payments to be made pursuant to the Settlement, and providing necessary reports and  
18 declarations. Class Counsel obtained a "discounted flat fee" quote from the Settlement  
19 Administrator to complete the administration for \$12,000.00. The Settlement Administrator's  
20 "not to exceed" quote will represent the Settlement Administrator's agreement that, based on  
21 the class size and distributions under the terms of this Settlement, the costs for administration  
22 of the terms of this Settlement will not exceed the specified amount. All of the Settlement  
23 Administration Costs shall be paid from the Maximum Settlement Amount upon completion of  
24 all duties required to be performed by the Settlement Administrator under the terms of this  
25 Settlement, or as otherwise required by the Court, subject to the "not to exceed" quote from the  
26 Settlement Administrator. The Settlement Administrator will establish the Qualified Settlement  
27 Fund Account.

1           34.     PAGA Payment. Five Thousand Dollars and Zero Cents (\$5,000.00) shall be  
2 allocated from the Maximum Settlement Fund for settlement of claims for civil penalties under  
3 PAGA. The Settlement Administrator shall pay seventy-five percent (75%), or \$3,750.00, to  
4 the LWDA and twenty-five percent (25%), or \$1,250.00, will be included in the Net Settlement  
5 Amount and distributed to Settlement Class Members as described in this Agreement. Each  
6 Settlement Class Member's pro rata share of that \$1,250.00 will be part of his or her Individual  
7 Settlement Payment.

8           35.     Individual Settlement Payment Calculations. Individual Settlement Payments  
9 will be calculated and apportioned from the Net Settlement Amount based on the number of  
10 Workweeks a Class Member worked during the Class Period as a non-exempt employee within  
11 the employment of Phoenix Warehouse of California, LLC, in California. Specific calculations  
12 of Individual Settlement Payments will be made as follows:

13                     34(a).           The Settlement Administrator will calculate the total number of  
14 Workweeks worked by each Class Member as a non-exempt employee in California during the  
15 Class Period and the aggregate total number of Workweeks worked by all Class Members as  
16 non-exempt employees in California during the Class Period.

17                     34(b). To determine each Class Member's estimated "Individual Settlement  
18 Payment," the Settlement Administrator will use the following formula: The Net Settlement  
19 Amount will be divided by the aggregate total number of Workweeks, resulting in the  
20 Workweek Value. Each Class Member's "Individual Settlement Payment" will be calculated by  
21 multiplying each individual Class Member's total number of Workweeks by the Workweek  
22 Value.

23                     34(c). The entire Net Settlement Amount will be disbursed as Individual  
24 Settlement Payments to Class Members. If there are any valid and timely Requests for  
25 Exclusion from members of the Settlement Class, the Settlement Administrator shall  
26 proportionately increase the Individual Settlement Payment for each Class Member according  
27 to the number of Workweeks worked, so that the amount actually distributed to the Settlement  
28 Class equals 100% of the Net Settlement Amount.

1           36.     No Credit Toward Benefit Plans. The Individual Settlement Payments made to  
2 Class Members under this Settlement, as well as any other payments made pursuant to this  
3 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to  
4 which any Class Members may be eligible, including, but not limited to: (i) profit-sharing  
5 plans, (ii) bonus plans, (iii) 401(k) plans, (iv) stock purchase plans, (v) vacation plans, (vi) sick  
6 leave plans, (vii) PTO plans, and (viii) any other benefit plan. Rather, it is the Parties' intention  
7 that this Settlement Agreement will not affect any rights, contributions, or amounts to which  
8 any Class Members may be entitled under any benefit plans.

9           37.     Settlement Administration Process. The Parties agree to cooperate in the  
10 administration of the settlement and to make all reasonable efforts to control and minimize the  
11 costs and expenses incurred in administration of the Settlement. Defendant agrees to fund the  
12 Qualified Settlement Fund by timely making the above-described payments through the  
13 Settlement Administrator. The schedule and timing of this Settlement and the four installment  
14 payments Defendant will make to the Qualified Settlement Fund are intended for the Qualified  
15 Settlement Fund to be fully funded.

16           38.     Delivery of the Class List. Within ten (10) business days of entry of the Court's  
17 Order Granting Preliminary Approval, Defendant will provide the Class List to the Settlement  
18 Administrator.

19           39.     Notice by First-Class U.S. Mail. Within ten (10) business days after receiving  
20 the Class List from Defendant, the Settlement Administrator will mail English and Spanish  
21 versions of the Notice of Class Action Settlement to all Class Members via regular First-Class  
22 U.S. Mail, using the most current, known mailing addresses identified in the Class List.

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

1 Administrator will indicate the date of such re-mailing on the Notice of Class Action  
2 Settlement. If no forwarding address is provided, the Settlement Administrator will promptly  
3 attempt to determine the correct address using an Accurant search/skip-trace, and will then  
4 perform a single re-mailing.

5 41. Notices of Class Action Settlement. All Class Members will be mailed a Notice  
6 of Class Action Settlement in both English and Spanish in the form attached as Exhibit A<sup>1</sup>, or as  
7 provided by Court order.

8 42. Disputed Information on Notices of Class Action Settlement. Class Members  
9 will have an opportunity to dispute the information provided in their Notices of Class Action  
10 Settlement. To the extent Class Members dispute their employment dates or the number of  
11 Workweeks as set forth on the Notice, Class Members may produce evidence to the Settlement  
12 Administrator showing that such information is inaccurate. The Settlement Administrator will  
13 advise the Parties of such dispute, allow Defendant five (5) business days to respond with any  
14 additional information or records, and then decide the dispute. Defendant's records will be  
15 presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the  
16 Class Member and Defendant and will make the final decision as to the merits of the dispute.

17 43. Requests for Exclusion. Any Class Member wishing to opt-out from the  
18 Settlement Agreement must sign and postmark a written Request for Exclusion to the  
19 Settlement Administrator within the Response Deadline. The postmark date will be the  
20 exclusive means to determine whether a Request for Exclusion has been timely submitted. The  
21 Parties and their counsel will not solicit or encourage any Class Member, directly or indirectly,  
22 to opt out of the Settlement Agreement. More specifically, a Class Member may request to be  
23 excluded from the effect of this Agreement, and any payment of amounts under this Agreement  
24 by timely mailing a Request for Exclusion letter to the Settlement Administrator stating that the  
25 Class Member wants to be excluded from this Action. This letter must include the Class

26  
27 \_\_\_\_\_  
28 <sup>1</sup> Only the English version of the Class Notice is being attached to the Stipulation of Class Action Settlement. Once the above entitled case receives Preliminary Approval then the Claim Administrator, CPT Group will translate the Class Notice also into Spanish.

1 Member's name, address, telephone number, and signature. To be valid and timely, the request  
2 to be excluded must be postmarked by the Response Deadline date that will be specified in the  
3 Class Notice (no less than forty-five (45) days from the initial mailing of the Class Notice by  
4 the Settlement Administrator). If a notice needs to be re-mailed then that individual Class  
5 Member will not be provided additional time to object or request exclusion from the settlement.  
6 A Class Member who properly submits a valid and timely request to be excluded from the  
7 Action will not receive any payment of any kind in connection with this Agreement or this  
8 Action, will not be bound by or receive any benefit of this Agreement, and will have no  
9 standing to object to the Settlement. Class Members who do not timely request exclusion will  
10 be bound by the releases herein and receive an individual settlement payment ("Participating  
11 Class Members"). A request for exclusion must be mailed to the Settlement Administrator at its  
12 address to be provided in the Class Notice, and the Settlement Administrator will promptly  
13 transmit the requests for exclusion to counsel for the parties.

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

23       45.     Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class  
24 Member who does not affirmatively opt out of the Settlement Agreement by submitting a  
25 timely and valid Request for Exclusion will be bound by all of its terms, including those  
26 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if  
27 it grants final approval of the Settlement.  
28

1           46.     Objection Procedures. The Notice shall state that Settlement Class Members  
2 who wish to object to the Settlement may do so by a written statement of objection (“Notice of  
3 Objection”) to be mailed by the Response Deadline to the Settlement Administrator or by  
4 appearing at the hearing for Final Approval. The Objection must be signed by the Class  
5 Member and contain all information required by this Settlement Agreement. The postmark date  
6 of the filing and service will be deemed the exclusive means for determining that the Objection  
7 is timely. The Notice of Objection must state: (1) the case name and number; (2) the name of  
8 the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four  
9 digits of the Settlement Class Member’s Social Security number; (4) the basis for the objection;  
10 and (5) if the Settlement Class Member intends to appear at the Final Approval/Settlement  
11 Fairness Hearing. The Settlement Administrator will promptly provide any Notices of  
12 Objection to the parties’ counsel upon receiving them. Class Counsel will include all objections  
13 received and Plaintiff’s response(s) with Plaintiff’s motion for final approval of the Settlement.  
14 Settlement Class Members may also have a right to have their objections heard at the Final  
15 Approval/Settlement Fairness Hearing. Class Counsel will not represent any Class Members  
16 with respect to any such Objections to this Settlement, and any Class Members who request  
17 exclusion from the Settlement will have no standing to object to it.

18           47.     Settlement Administrator Reports. The Settlement Administrator will provide  
19 Defendant’s counsel and Class Counsel a weekly report of the number of Class Members who  
20 have submitted valid Requests for Exclusion, Objections, and disputes regarding Pay Periods  
21 calculations. Additionally, the Settlement Administrator will provide to counsel for both Parties  
22 any updated reports regarding the administration of the Settlement Agreement as needed or  
23 requested.

24           48.     Distribution and Timing of Payments. After the Effective Date of the  
25 Settlement occurs, and after Defendant has made the final installment payment to the Qualified  
26 Settlement Fund to fully fund the Maximum Settlement Amount, then within 30 calendar days  
27 of receiving that final payment from Defendant, the Settlement Administrator will issue: (i)  
28 Individual Settlement Payments to all Class Members who have not submitted a valid and

1 timely Request for Exclusion, including any Class Member whose notice was returned as  
2 undeliverable; (ii) Plaintiff's awarded Class Representative Enhancement; (iii) Class Counsel's  
3 awarded attorneys' fees and reasonable litigation costs; and (iv) the 75% portion of the PAGA  
4 Payment to the LWDA. The Settlement Administrator will also issue a payment to itself for  
5 Court-approved services performed in connection with the Settlement and its administration.  
6 The Settlement Administrator will pay Individual Settlement Payments from the Net Settlement  
7 Amount to all Participating Class Members. The Settlement Administrator will do so by  
8 sending a check in the appropriate amount to the Class Member at the address indicated in the  
9 list of Class Member names and addresses provided by Defendant, or as subsequently  
10 determined by the Settlement Administrator to be correct.

11         49.     Un-Cashed Settlement Checks. Class Members will receive checks for their  
12 Individual Settlement Payments. Checks will remain negotiable for 120 days ("Check-Cashing  
13 Deadline"). Any check not cashed within 120 calendar days will be void. The funds from the  
14 uncashed checks shall be distributed by the Settlement Administrator to the State Controller's  
15 Unclaimed Property Fund. No later than ten (10) calendar days after the expiration of the 120  
16 day period, the Settlement Administrator shall deposit the total amounts contained in the  
17 settlement checks, and all interest that has accrued, to the State Controller's Unclaimed  
18 Property Fund. The Settlement Administrator shall provide a declaration of deposit with the  
19 State Controller's Unclaimed Property Fund, which will be served on Class Counsel and  
20 Defendant's Counsel within ten (10) calendar days of payment of the residual to such  
21 beneficiary.

22         Any costs associated with administering the remaining funds under this section (e.g.,  
23 bank stop-payment charges, settlement administration costs associated with any reserve  
24 amount) or payments to the State Controller's Unclaimed Property Fund will be deducted  
25 before the deposit into the State Controller's Unclaimed Property Fund

26         50.     Certification of Completion. Upon completion of administration of the  
27 Settlement, the Settlement Administrator will provide a written declaration under oath to certify  
28 such completion to the Court and counsel for all Parties.

1           51.     Allocation of Individual Settlement Payments. All Individual Settlement  
2 Payments will be allocated as follows: (a) 20% as wages and (b) 80% as penalties and interests.  
3 The Settlement Administrator will be responsible for issuing to each claimant a form W-2 for  
4 amounts deemed “wages” and an IRS Form 1099 for the portions allocated to penalties.

5           52.     Administration of Taxes by the Settlement Administrator. The Settlement  
6 Administrator will be responsible for issuing to Plaintiff, Class Members, and Class Counsel  
7 tax forms as may be required by law for all amounts paid pursuant to this Settlement. The  
8 Settlement Administrator will also be responsible for forwarding all taxes and penalties to the  
9 appropriate government authorities as may be required by law.

10          53.     Tax Liability. Defendant makes no representation as to the tax treatment or  
11 legal effect of the payments called for hereunder, and Plaintiff and Class Members are not  
12 relying on any statement, representation, or calculation by Defendant or by the Settlement  
13 Administrator in this regard. Plaintiff and Class Members understand and agree that they will  
14 be solely responsible for the payment of any taxes and penalties assessed on the payments  
15 described herein and will defend, indemnify, and hold Defendant free and harmless from and  
16 against any claims resulting from treatment of such payments as non-taxable damages.

17          54.     Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
18 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY  
19 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER  
20 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
21 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN  
22 OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR  
23 WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE  
24 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN  
25 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31  
26 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
27 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX  
28 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS



1 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
2 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO  
3 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
4 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY  
5 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
6 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER  
7 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY  
8 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF  
9 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
10 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY  
11 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS  
12 AGREEMENT.

13           55.     No Prior Assignments. The Parties and their counsel represent, covenant, and  
14 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported  
15 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,  
16 demand, action, cause of action or right herein released and discharged.

17           56.     Nullification of Settlement Agreement. In the event that: (i) the Court does not  
18 finally approve the Settlement as provided herein; or (ii) the Settlement does not become final  
19 for any other reason, then this Settlement Agreement, and any documents generated to bring it  
20 into effect, will be null and void. Any order or judgment entered by the Court in furtherance of  
21 this Settlement Agreement will likewise be treated as void from the beginning.

22           57.     Preliminary Approval Hearing. Plaintiff will obtain a date for hearing before the  
23 Court to request the Preliminary Approval of the Settlement Agreement, and the entry of a  
24 Preliminary Approval Order for: (i) conditional certification of the Settlement Class for  
25 settlement purposes only, (ii) preliminary approval of the proposed Settlement Agreement, (iii)  
26 setting a date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval  
27 Order will provide for the Notice of Class Action Settlement to be sent to all Class Members as  
28 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit

1 this Settlement Agreement, which sets forth the terms of this Settlement, and will include the  
2 proposed Notice of Class Action Settlement.

3           58.     Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of  
4 the deadlines to postmark Requests for Exclusion and/or Objections to the Settlement  
5 Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will  
6 be conducted to determine the Final Approval of the Settlement Agreement along with the  
7 amounts properly payable for (i) Individual Settlement Payments; (ii) the Class Representative  
8 Enhancement Payment; (iii) Attorneys' Fees and Costs; and (iv) all Settlement Administration  
9 Costs. The Final Approval/Settlement Fairness Hearing will be held no earlier than thirty  
10 calendar (30) days after the Response Deadline. Class Counsel will be responsible for drafting  
11 all documents necessary to obtain final approval. Class Counsel will also be responsible for  
12 drafting the attorneys' fees and costs application to be heard at the final approval hearing.

13           59.     Judgment and Continued Jurisdiction. Upon final approval of the Settlement by  
14 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the  
15 Judgment to the Court for its approval. After entry of the Judgment, the Court will have  
16 continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement  
17 of the terms of the Settlement, (ii) Settlement administration matters, and (iii) such post-  
18 Judgment matters as may be appropriate under court rules or as set forth in this Settlement  
19 Agreement.

20           60.     General Release by Plaintiff. In consideration for the consideration set forth in  
21 this Agreement, Plaintiff, for himself, his heirs, successors and assigns, does waive, release,  
22 acquit and forever discharge the Released Parties, from any and all claims, actions, charges,  
23 complaints, grievances and causes of action, of whatever nature, whether known or unknown,  
24 which exist or may exist on Plaintiff's behalf as of the date of this Agreement, including but not  
25 limited to any and all tort claims, contract claims, wage claims, wrongful termination claims,  
26 disability claims, benefit claims, public policy claims, retaliation claims, statutory claims,  
27 personal injury claims, emotional distress claims, invasion of privacy claims, defamation  
28 claims, fraud claims, quantum meruit claims, and any and all claims arising under any federal,

1 state or other governmental statute, law, regulation or ordinance, including any claims arising  
2 under the California Fair Employment and Housing Act (FEHA), the California Labor Code,  
3 the Wage Orders of California's Industrial Welfare Commission, other state wage and hour  
4 laws, the Americans with Disabilities Act, the Age Discrimination in Employment Act  
5 (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of  
6 1964, the California Fair Employment and Housing Act, the California Family Rights Act, the  
7 Family Medical Leave Act, California's Whistleblower Protection Act, California Business &  
8 Professions Code Section 17200 et seq., and any and all claims arising under any federal, state  
9 or other governmental statute, law, regulation or ordinance. Plaintiff hereby expressly waives  
10 and relinquishes any and all claims, rights or benefits that he may have under California Civil  
11 Code § 1542, which provides as follows:

12  
13 **A GENERAL RELEASE DOES NOT EXTEND TO**  
14 **CLAIMS WHICH THE CREDITOR OR**  
15 **RELEASING PARTY DOES NOT KNOW OR**  
16 **SUSPECT TO EXIST IN HIS OR HER FAVOR AT**  
17 **THE TIME OF EXECUTING THE RELEASE**  
18 **WHICH IF KNOWN BY HIM OR HER WOULD**  
19 **HAVE MATERIALLY AFFECTED HIS OR HER**  
20 **SETTLEMENT WITH THE DEBTOR OR**  
21 **RELEASED PARTY.**

22 Plaintiff may hereafter discover claims or facts in addition to, or different from, those  
23 which he now knows or believes to exist, but he expressly agrees to fully, finally and forever  
24 settle and release any and all claims against the Released Parties, known or unknown, suspected  
25 or unsuspected, which exist or may exist against Released Parties at the time of execution of  
26 this Agreement, including, but not limited to, any and all claims relating to or arising from  
27 Plaintiff's employment with Defendant. The Parties further acknowledge, understand and  
28 agree that this representation and commitment is essential to the Agreement and that this  
Agreement would not have been entered into were it not for this representation and  
commitment.

61. Release by All Settlement Class Members. Plaintiff and all Class Members who  
do not submit a valid and timely Request for Exclusion, on behalf of himself or himself, his or

1 her heirs, descendants, dependents, executors, administrators, assigns, and successors, fully and  
2 finally release and discharge the Released Parties from any and all of the Released Claims for  
3 the entirety of the Class Period. This release does not extend beyond Defendant Fairway  
4 Staffing, Inc., and no other defendant who has been named in the Action is in privity with  
5 Defendant Fairway Staffing, Inc., or covered by this release. This waiver and release will be  
6 final and binding on the Effective Date, and will have every preclusive effect permitted by law.  
7 Plaintiff and the Settlement Class Members may hereafter discover facts or legal arguments in  
8 addition to or different from those they now know or currently believe to be true with respect to  
9 the Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way  
10 limit the scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiff  
11 and the Settlement Class Members shall be deemed to have, and by operation of the final  
12 judgment approved by the Court, shall have, fully, finally, and forever settled and released all of  
13 the Released Claims. The parties understand and specifically agree that the scope of the release  
14 described in this Paragraph: is a material part of the consideration for this Agreement; was  
15 critical in justifying the agreed upon economic value of this settlement and without it  
16 Defendant would not have agreed to the consideration provided; and is narrowly drafted and  
17 necessary to ensure that Defendant is obtaining peace of mind regarding the resolution of  
18 claims that were or could have been alleged based on the facts, causes of action, and legal  
19 theories contained in the operative complaint in the Action.

20           62.     Exhibits Incorporated by Reference. The terms of this Settlement Agreement  
21 include the terms set forth in any attached Exhibits, which are incorporated by reference as  
22 though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of  
23 the Settlement.

24           63.     Publicity Agreement. Plaintiff and Class Counsel agree not to disclose or  
25 publicize the Settlement, including the fact of the Settlement, its terms or contents, and the  
26 negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any  
27 person or entity, except potential class members and as shall be contractually required to  
28 effectuate the terms of the Settlement. For the avoidance of doubt, this section means Plaintiff

1 and Class Counsel agree not to issue press releases, communicate with, or respond to any  
2 media or publication entities, publish information in manner or form, whether printed or  
3 electronic, on any medium or otherwise communicate, whether by print, video, recording or  
4 any other medium, with any person or entity concerning the Settlement, including the fact of  
5 the Settlement, its terms or contents and the negotiations underlying the Settlement, except as  
6 shall be contractually required to effectuate the terms of the Settlement. However, for the  
7 limited purpose of allowing Plaintiff's Counsel to prove adequacy as class counsel in other  
8 actions for the limited purpose of showing to the court that the case has settled, Plaintiff's  
9 Counsel may disclose the name of the Parties in this action and the venue/case number of this  
10 action (but not any other settlement details) for such purposes.

11         64.     No Unalleged Claims. Plaintiff and Class Counsel represent that they are not  
12 currently aware of any: (a) unalleged claims in addition to, or different from, those which are  
13 finally and forever settled and released against the Released Parties by this Settlement; and (b)  
14 unalleged facts or legal theories upon which any claims or causes of action could be brought  
15 against Defendant, except such facts and theories specifically alleged in the operative  
16 complaints in this Action. Plaintiff and Plaintiff's Counsel will further represent that, other than  
17 the instant Action, they have no current intention of asserting any other claims against  
18 Defendant in any judicial or administrative forum and do not currently know of or represent  
19 any persons who have expressed any interest in pursuing litigation or seeking any recovery  
20 against Defendant. The Parties acknowledge, understand and agree that the representations  
21 described in this paragraph are essential to the Settlement Agreement and that this Settlement  
22 Agreement would not have been entered into were it not for this representation.

23         65.     Defendant's Option to Revoke Settlement. If, after the Response Deadline, the  
24 number of Settlement Class Members who submitted timely and valid written requests for  
25 exclusion from the Settlement is at least ten percent (10%) of all 350 Settlement Class  
26 Members, Defendant shall have, in its sole discretion, the option to terminate this Settlement.  
27 If Defendant exercises the option to terminate this Settlement, Defendant shall: (a) provide  
28 written notice to Class Counsel within seven (7) calendar days after the Response Deadline and

1 (b) pay all Settlement Administration Costs incurred up to the date or as a result of the  
2 termination, and the Parties shall proceed in all respects as if this Settlement Agreement had not  
3 been executed.

4 66. Entire Agreement. This Settlement Agreement and any attached Exhibits  
5 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous  
6 written or oral agreements may be deemed binding on the Parties.

7 67. Amendment or Modification. This Settlement Agreement may be amended or  
8 modified only by a written instrument signed by counsel for all Parties or their successors-in-  
9 interest.

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

20 69. Binding on Successors and Assigns. This Settlement Agreement will be binding  
21 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously  
22 defined.

23 70. California Law Governs. All terms of this Settlement Agreement and Exhibits  
24 hereto will be governed by and interpreted according to the laws of the State of California.

25 71. Execution and Counterparts. This Settlement Agreement is subject only to the  
26 execution of all Parties. However, the Settlement may be executed in one or more counterparts.  
27 All executed counterparts and each of them, including facsimile and scanned copies of the  
28

1 signature page, will be deemed to be one and the same instrument provided that counsel for the  
2 Parties will exchange among themselves original signed counterparts.

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

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

17           74.     Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate  
18 to class certification for purposes of this Settlement only; except, however, that Plaintiff or  
19 Class Counsel may appeal any reduction in Attorneys' Fees and Costs below the amount they  
20 request from the Court, and either party may appeal any court order that materially alters the  
21 Settlement Agreement's terms.

22           75.     Non-Admission of Liability. The Parties enter into this Settlement to resolve the  
23 dispute that has arisen between them and to avoid the burden, expense and risk of continued  
24 litigation. In entering into this Settlement, Defendant does not admit, and specifically denies,  
25 that it violated any federal, state, or local law; violated any regulations or guidelines  
26 promulgated pursuant to any statute or any other applicable laws, regulations or legal  
27 requirements; breached any contract; violated or breached any duty; engaged in any  
28 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its

1 employees. Neither this Settlement, nor any of its terms or provisions, nor any of the  
2 negotiations connected with it, will be construed as an admission or concession by Defendant  
3 of any such violations or failures to comply with any applicable law. Except as necessary in a  
4 proceeding to enforce the terms of this Settlement, this Settlement and its terms and provisions  
5 will not be offered or received as evidence in any action or proceeding to establish any liability  
6 or admission on the part of Defendant or to establish the existence of any condition constituting  
7 a violation of, or a non-compliance with, federal, state, local or other applicable law.

8         76.     Waiver. No waiver of any condition or covenant contained in this Settlement or  
9 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
10 constitute a further waiver by such party of the same or any other condition, covenant, right or  
11 remedy.

12         77.     Enforcement Action. In the event that one or more of the Parties institutes any  
13 legal action or other proceeding against any other Party or Parties to enforce the provisions of  
14 this Settlement or to declare rights and/or obligations under this Settlement, the successful  
15 Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable  
16 attorneys' fees and costs, including expert witness fees incurred in connection with any  
17 enforcement actions.

18         78.     Mutual Preparation. The Parties have had a full opportunity to negotiate the  
19 terms and conditions of this Settlement. Accordingly, this Settlement Agreement will not be  
20 construed more strictly against one party than another merely by virtue of the fact that it may  
21 have been prepared by counsel for one of the Parties. It being recognized that, because of the  
22 arms-length negotiations between the Parties, all Parties have contributed to the preparation of  
23 this Settlement Agreement.

24         79.     Representation By Counsel. The Parties acknowledge that they have been  
25 represented by counsel throughout all negotiations that preceded the execution of this  
26 Settlement Agreement, and that this Settlement Agreement has been executed with the consent  
27 and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are  
28 no liens on the Settlement Agreement.



1           80.     All Terms Subject to Final Court Approval. All amounts and procedures  
2 described in this Settlement Agreement herein will be subject to final Court approval.

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

6           82.     Binding Agreement. The Parties warrant that they understand and have full  
7 authority to enter into this Settlement, and further intend that this Settlement will be fully  
8 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 mediation confidentiality  
10 provisions that otherwise might apply under federal or state law.

11           **SO AGREED AND STIPULATED**

12  
13 Dated:     5/21/2021

**PLAINTIFF**

DocuSigned by:

*Rene Ramos*

EABC58AD46A4401...

Rene Ramos

14  
15  
16 Dated:     5/19/2021

**DEFENDANT**

*Nelson Copalera*

By: *Nelson Copalera*

Title: *President*

17  
18  
19  
20 DATED:     5/19/2021

DAVID YEREMIAN & ASSOCIATES, INC.

By *[Signature]*

David Yeremian

Attorneys for Plaintiff Rene Ramos and all  
others similarly situated

21  
22  
23  
24 DATED:     5/19/21

EMILIO LAW GROUP, APC

By *[Signature]*

Justin G. Schmidt

Attorneys for Defendant, Fairway Staffing,  
Inc.