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13 ARCHITECTURAL PANEL & DOOR,
INC.

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ORANGE
16

17 MIGUEL VALLES, individually, and on
behalf of others similarly situated

18 Plaintiff,

19 vs.

20 TALBERT ARCHITECTURAL PANEL &
21 DOOR, INC., a California corporation; and
DOES 1 through 50, inclusive,

22 Defendants
23
24
25
26
27
28

CASE NO. 30-2020-01174514-CU-OE-CXC

CLASS ACTION

[Assigned for all purposes to the
Honorable Melissa R. McCormick, Dept.
CX104]

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

Complaint Filed: December 14, 2020
Trial Date: None set

1 This Amended Joint Stipulation of Class Action and PAGA Settlement (“Joint
2 Stipulation”) is made and entered by and between Plaintiff Miguel Valles (“Plaintiff”), in his
3 individual capacity, as class representative, and as private attorney general on one hand, and
4 Defendant Talbert Architectural Panel & Door, Inc. (“Defendant”), on the other hand. This Joint
5 Stipulation will be binding on Plaintiff and the class purported to be represented thereby, the
6 PAGA Group Members, and Defendant, subject to the terms and conditions set forth below and the
7 approval of the Court.

8 **I. DEFINITIONS**

9 To the extent any terms or phrases used in this Joint Stipulation are not specifically defined
10 in this section (i.e., Section I), but are defined elsewhere in this Joint Stipulation, they are
11 incorporated herein by reference.

12 “Action” means the class action captioned *Miguel Valles v. Talbert Architectural Panel &*
13 *Door, Inc.*, Case No. 30-2020-01174514-CU-OE-CXC, filed by Plaintiff against Defendant on
14 December 14, 2020, in the Superior Court for the State of California, County of Orange.

15 “Class” or “Class Members” means all current and former non-exempt, hourly paid
16 employees employed by Defendant in California during the Class Period. “Class Member” means
17 an individual, current or former non-exempt, hourly paid employee employed by Defendant in
18 California during the Class Period.

19 “Class Counsel” means counsel for the Plaintiff, Matern Law Group, PC.

20 “Class Member Exclusion Deadline” means the period of sixty (60) days from the original
21 mailing of the Notice Packet to the Class Member, or, in the event of a Second Mailing, within
22 fifteen calendar days of the re-mailing of the Notice Packet, whichever is later.

23 “Class Period” means from December 14, 2016, through June 14, 2022.

24 “Complaint” means the operative complaint filed by Plaintiff in the Action.

25 “Defendant” means Talbert Architectural Panel & Door, Inc. and any of its officers,
26 directors, owners, agents, assigns, employees, parent entities, subsidiaries, affiliates, entities under
27 whose name they conduct business, predecessors, and successors.

28

1 “Effective Date” means the date by which the Court’s order granting Final Approval of this
2 Joint Stipulation becomes final. Such order becomes final upon the following events: (i) upon the
3 Court issuing an order granting Final Approval of this Joint Stipulation, and entry of judgment
4 granting Final Approval, if no objections to the settlement are filed, or if an objection is filed but is
5 withdrawn prior to the Court’s Final Approval Hearing; or (ii) in the event there are written
6 objections filed prior to the final approval hearing which are not thereafter withdrawn prior to the
7 hearing, the later of the following events: (a) the day after the last day by which a notice of appeal
8 of the order and judgment may be timely filed with the California Court of Appeal, and none is
9 filed; (b) if an appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise,
10 the day after the last date for filing a request for further review of the Court of Appeal’s decision
11 elapses and no further review is requested; (c) if an appeal is filed and there is a final disposition
12 by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court
13 of Appeal’s decision is requested, the day after the request for review is denied with prejudice
14 and/or no further review of the order or judgment can be requested; or (d) if review is accepted, the
15 day the Supreme Court of the State of California affirms the Settlement.

16 “Final Approval” means the date upon which the Court enters an order granting approval of
17 this Joint Stipulation, and enters judgment, after having determined that the settlement is fair,
18 adequate, and reasonable to the Class following notice to the Class and a hearing on the fairness of
19 the settlement.

20 “Final Approval Hearing” means the final hearing held to ascertain the fairness,
21 reasonableness, and adequacy of the Joint Stipulation.

22 “Notice Packet” means the Court Approved Notice of Class Action and PAGA Settlement
23 and Hearing Date For Final Court Approval, Opt-Out Form, and Objection Form, substantially in
24 the form attached hereto as Exhibits 1, 2, and 3 respectively. “Opt-Out” means all persons who
25 timely and validly request exclusion from the settlement as to the Released Class Claims by
26 submitting an Opt-Out Form to the Settlement Administrator.

27 “PAGA” means the Labor Code Private Attorneys General Act of 2004, California Labor
28 Code §§ 2698, *et seq.*

1 “PAGA Group Members” means all current and former non-exempt, hourly paid
2 employees employed by Defendant in the State of California at any time during the PAGA Period.

3 “PAGA Payment” means the amount payable from the PAGA Settlement Amount to each
4 PAGA Group Member.

5 “PAGA Period” means the time from October 10, 2019 to June 14, 2022.

6 “PAGA Settlement Amount” means the portion of the Gross Settlement Amount allocated
7 to the resolution of PAGA claims in the Action. The PAGA Settlement Amount is Ten Thousand
8 Dollars (\$10,000.00). Seven-Thousand Five-Hundred Dollars (\$7,500.00) shall be paid by the
9 Settlement Administrator directly to the LWDA. The remaining Two-Thousand Five-Hundred
10 Dollars (\$2,500.00) shall be distributed to PAGA Group Members as their PAGA Payment.

11 “Parties” means Plaintiff and Defendant.

12 “Preliminary Approval” means the date upon which the Court enters an order granting
13 preliminary approval of this Joint Stipulation.

14 “Preliminary Approval Hearing” means the hearing held on the Motion for Preliminary
15 Approval of the Joint Stipulation.

16 “Released Class Claims” means all claims which Plaintiff, the Class, and/or any Class
17 Member had, or may claim to have, against any of the Released Parties, excluding the Released
18 PAGA Claims, that were alleged or reasonably could have been asserted in the Action based on the
19 facts alleged in the Complaint during the Class Period, including claims for: (1) failure to provide
20 required meal periods; (2) failure to provide required rest periods; (3) failure to pay overtime
21 wages; (4) failure to pay minimum wages; (5) failure to pay all wages earned; (6) failure to pay all
22 wages due to discharged and quitting employees; (7) failure to maintain required records; (8)
23 failure to furnish accurate itemized wage statements; (9) failure to indemnify employees for
24 necessary expenditures incurred in discharge of duties; and (10) unfair and unlawful business
25 practices in violation of California Business and Professions Code §§ 17200, et seq.

26 “Released PAGA Claims” means all claims for civil penalties under the California Labor
27 Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code Section 2698 *et seq.*, against
28 the Released Parties during the PAGA Period based on the facts alleged in the Complaint and

1 Plaintiff's PAGA notice letter to the LWDA, including claims for civil penalties under PAGA
2 based on violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558,
3 558.1, 1174, 1174.5, 1193.6, 1194, 1197, 1197.1, 1198, and/or 2802.

4 "Released Parties" means Defendant and all of its past and present owners, officers,
5 directors, shareholders, employees, agents, assigns, attorneys, insurers, brands and concepts, parent
6 companies, subsidiaries, and affiliates, and their respective predecessors, successors, and assigns.

7 "Settlement Administrator" means CPT Group, Inc.

8 "Settlement Administrator's Fees" means all fees, costs, and expenses relating to the
9 administration of the settlement in this Action, including without limitation, printing and mailing
10 Class Notice Forms, receiving and processing Opt-Outs, calculating and determining payments and
11 percentages, regularly updating counsel on the status of administration, and the accounting and
12 maintenance of the Settlement Fund Account.

13 "Settlement Fund Account" means the bank account established under this Joint Stipulation
14 from which all monies payable under this Joint Stipulation shall be paid, as set forth herein.

15 "Gross Settlement Amount" means \$575,000.00 that Defendant will pay in the aggregate to
16 resolve this Action, on a non-claims-made and non-reversionary basis. The Gross Settlement
17 Amount is all-inclusive. The following costs will be deducted from the Gross Settlement Amount:
18 (1) attorney fees and costs (Defendant will not oppose Class Counsel's request for attorney fees
19 amounting to one-third (1/3) of the Gross Settlement Amount, or \$191,666.67, and a maximum of
20 \$15,000.00 in litigation costs as documented in billing statements of the attorneys for Plaintiff); (2)
21 settlement administration fees not to exceed \$10,000.00; (3) Incentive Award to Plaintiff, as class
22 representative, in the amount of \$5,000.00; and (4) \$10,000.00 for penalties under PAGA (75%
23 \$7,500.00) of which will go to the California Labor & Workforce Development Agency
24 ["LWDA"] and 25% (\$2,500.00) will go to Class Members. The employer's portion of the payroll
25 taxes will be paid outside of and in addition to the Gross Settlement Amount. Any deductions from
26 the above allocations will be deposited into the Settlement Fund Account and will be included in
27 the Net Settlement Amount for distribution to the Class.

1 “Net Settlement Amount” means the net amount available for payment to Class Members
2 after deducting the above-referenced costs from the Gross Settlement Amount. If the Court
3 approves a lesser amount of any of the above-referenced costs, the Net Settlement Amount will
4 increase proportionately. In other words, any reductions from the above-referenced costs will
5 increase the Net Settlement Amount proportionally – also referred to herein as the “Payout Fund.”

6 **II. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS**

7 **A. Discovery, Investigation, and Research**

8 The Parties investigated facts and law throughout the Action. Investigation included the
9 exchange of information under informal discovery, including the disclosure of class data,
10 Defendant’s handbooks and policies, and sampling of timekeeping and payroll documents for the
11 other non-exempt hourly drivers. The Parties invested significant time reviewing and analyzing
12 relevant documents and data to evaluate Plaintiff’s claims and Defendant’s defenses, including,
13 and not limited to, calculating potential monetary recovery. The Parties prepared for and attended a
14 full-day mediation with mediator Jeffrey Krivis. After extensive negotiations and with the
15 assistance of the mediator, the Parties eventually accepted a mediator’s proposal for settlement
16 crafted by Jeffrey Krivis.

17 The Parties investigated relevant law as applied to the facts of the case, potential defenses,
18 and damages claimed by Plaintiff on behalf of himself and the Class. Investigations largely
19 focused on Plaintiff’s allegations that Class Members were not paid all wages owed, including
20 overtime and minimum wages, were not provided with all meal and rest breaks under California
21 law, received improper wage statements, were not reimbursed all necessary expenses, and were not
22 paid all owed and due wages upon separation of employment. Information and data exchanges
23 included significant samplings of Class Members’ dates of employment, hourly rates, time records,
24 and wage statements. The Parties conducted their own evaluations of the potential recoveries based
25 on the claims alleged in and the defenses at play.

26 **B. Allegations of the Class Representative and Benefits of Settlement**

27 The Parties entered into this Joint Stipulation after arm’s length bargaining by the Parties
28 with the assistance of an experienced mediator and after Class Counsel thoroughly reviewed all

1 available evidence. The information exchanged between the Parties allowed them to assess the
2 merits of the claims and defenses, and to reach a compromise of the issues.

3 Plaintiff and Class Counsel both contend the claims asserted in the Action have merit.
4 However, they also acknowledge the expense and delay of continued litigation. Class Counsel
5 considered the uncertain outcome and risk of litigation, and the difficulties and delays inherent in
6 such litigation. Class Counsel also considered the potential difficulty maintaining the Action as a
7 class action and the likelihood of appeals. In addition, Class Counsel considered Defendant's
8 numerous defenses and arguments regarding why class certification should be denied.

9 Class counsel determined this Joint Stipulation confers substantial benefit to the Class and
10 respectfully submits an independent review by the Court will confirm this conclusion. Class
11 Counsel has determined that this Joint Stipulation is in the best interests of Plaintiff and the Class
12 Members.

13 **C. Defendant's Denial of Wrongdoing, Defenses, and Benefits of Settlement**

14 Defendant generally denies all claims alleged in the Action and further denies class or
15 representative treatment is appropriate for any purpose other than this settlement. Defendant
16 contends it complied with all applicable laws, whether California or federal law. It is therefore
17 also Defendant's position that if litigation continued, class certification would not be granted, or
18 if it were, that it would be reversed. Defendant contends Plaintiff is not an adequate class
19 representative, his claims are not typical of the Class, and individual issues predominate over
20 common ones. However, Defendant has concluded further litigation would be protracted and
21 expensive. Thus, Defendant determined it is desirable to settle the Action in the manner and upon
22 the terms and conditions herein.

23 **D. Intent of the Settlement**

24 This Joint Stipulation intends to achieve the following: (1) entry of an order approving the
25 Joint Stipulation, conditionally certifying the Class, and granting the monetary relief set forth
26 herein; (2) entry of judgment on Plaintiff's Released Class and PAGA Claims; and (3) discharge of
27 Released Parties from liability for all Released Class Claims and Released PAGA Claims.

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1 **III. PROCEDURAL ISSUES**

2 **A. PRELIMINARY APPROVAL**

3 Class Counsel will submit this Joint Stipulation to the Court with a Motion for Preliminary
4 Approval of Class Action Settlement. Defendant will not oppose the Motion.

5 **B. SETTLEMENT ADMINISTRATOR**

6 The Settlement Administrator will handle: (1) preparing, printing, and mailing
7 simultaneously the Notice of Class Action and PAGA Settlement in substantially the same form as
8 the attached **Exhibit 1** (the "Class Notice") in both English and Spanish; (2) receiving and
9 reviewing any Opt-Out Forms and Objection Forms; (3) calculating payments under the
10 settlement; (5) handling inquiries from Class Members concerning the Notice Packet; (6) resolving
11 any workweek disputes; (7) providing weekly status reports to Defendant's counsel and Class
12 Counsel regarding the mailings, Opt-Outs, objections, workweek disputes, and settlement
13 payments; (7) distributing settlement payments to Class Members, PAGA Group Members, and
14 payment to other parties under the terms of this Joint Stipulation; (8) providing due diligence
15 declarations for submission to the Court, as needed; (9) printing and providing Class Members and
16 Plaintiff with tax forms as required under this Joint Stipulation and applicable law, and providing
17 copies of the same to Defendant; (10) translating the Notice Packet to Spanish; (11) sending,
18 and/or responding to submissions of Opt-Outs, or contact information updates; and (12) such other
19 tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform.

20 The Settlement Administrator will skip trace and re-mail all returned, undeliverable mail
21 within seven (7) days of receiving notice the mailing was undeliverable. The Settlement
22 Administrator will also handle payments to Plaintiff for his Incentive Award, payment of Class
23 Counsel's attorney fees and costs as approved by the Court, and payment of PAGA penalties to the
24 LWDA. The Settlement Administrator will also handle the distribution of any remaining amounts
25 from uncashed checks in accordance with the procedures set forth below. (See Section IV.F.)
26 Settlement Administrator's Fees are to be paid from the Gross Settlement Amount.

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1 **C. NOTICE TO CLASS MEMBERS**

2 Notice will be provided to Class Members as follows:

3 Within 7 calendar days of Preliminary Approval, Defendant will provide the Settlement
4 Administrator with the following information about each Class and PAGA Group Member: (1)
5 name; (2) last known mailing address and telephone number; (3) Social Security Number; (4) dates
6 of employment; and (5) total workweeks worked during the Class Period and pay periods worked
7 during the PAGA Period (collectively, "Class Data").

8 Within 14 calendar days after the Settlement Administrator's receipt of the Class Data, the
9 Settlement Administrator will calculate the estimated payout to the individual Class Members,
10 assuming all Class Members participate in the Settlement, and it will mail the Notice Packet to such
11 Class Members via first-class regular U.S. mail.

12 Prior to mailing, the Settlement Administrator will perform a search based on the National
13 Change of Address Database for information to update and correct any known or identifiable
14 address changes. It will be conclusively presumed that the Class Member received the Notice
15 Packet if the Notice Packet has not been returned within 30) days of mailing. If a new address is
16 obtained by way of a returned Notice Packet or otherwise, then the Settlement Administrator will
17 promptly forward the original Notice Packet to the updated address via first-class regular U.S. mail,
18 indicating on the original packet the date of such re-mailing within 3 business days of receipt (the
19 "Second Mailing"). If a Notice Packet is returned without a forwarding address, the Settlement
20 Administrator shall endeavor to obtain an updated mailing address by performing a skip trace. If the
21 Notice Packet is returned without a forwarding address and the Class Member is currently
22 employed by Defendant, the Settlement Administrator shall directly contact the Class Member to
23 obtain an updated mailing address.

24 Upon completion of these steps by the Settlement Administrator, the Parties will be deemed
25 to have satisfied their obligation to provide notice of the settlement to Class Members. Such
26 persons will be bound by all terms of the Joint Stipulation (including the release) and the Court's
27 order and final judgment, unless they validly Opt-Out of the Class.

28 Class Members shall have sixty (60) calendar days from the original mailing of the Notice

1 Packet or, in the event of a Second Mailing, an additional fifteen (15) calendar days (as indicated
2 by post-marks) from the date the Class Notice was re-mailed to respond (i.e. to submit a written
3 objection, whichever is later, to submit a written Opt-Out Request, or to dispute the number of
4 workweeks) ("Class Member Exclusion Deadline"). The re-mailed Notice Packet shall indicate that
5 the Class Member has sixty (60) calendar days from the original mailing of the Notice Packet or
6 fifteen (15) calendar days from the date the Class Notice was re-mailed to respond, whichever is
7 later.

8 **D. Procedure for Opting-Out of the Settlement as to the Released Class Claims**

9 Class Members who wish to exclude themselves from the settlement as to the Released
10 Class Claims shall either mail, email, or fax the Settlement Administrator a signed and dated Opt-
11 Out requesting exclusion from the settlement as to the Released Class Claims within 60 calendar
12 days after the date the Notice Packet was mailed or, in the event of a Second Mailing, within fifteen
13 calendar days of the remailing of the Notice Packet, whichever is later (unless the Court orders
14 otherwise). To the extent possible, all requests for exclusion shall be made in writing, signed by the
15 Class Member, and submitted by postal mail, email, or fax. The delivery date is the date the Opt-
16 Out Form is deposited in the U.S. Mail as evidenced by the postmark, the date the Opt-Out Form is
17 emailed, or the date the Opt-Out Form is faxed. A written request to be excluded from the
18 settlement as to the Released Class Claims must indicate the Class Member's intent to be excluded
19 from the settlement.

20 A request to be excluded from the settlement as to the Released Class Claims will be
21 deemed valid as long as it is submitted by the Class Member Exclusion Deadline and the Settlement
22 Administrator has sufficient information to ascertain the identity of the Class Member and the fact
23 that the Class Member wishes to opt out of the settlement.

24 Any Class Member who timely submits a valid Opt-Out will not be entitled to recovery
25 under the settlement and will not be bound by the settlement, judgment, or order in this Action,
26 except that if the Class Member is also a PAGA Group Member, the Class Member will be bound
27 by the settlement, judgment, and order entered by the Court as to the Released PAGA Claims, and
28 will receive a PAGA Payment. A Class Member who timely submits a valid Opt-Out will not be

1 able to object, appeal, or comment on the settlement. Class Members who fail to timely opt out of
2 the settlement will be bound by all the terms of this Joint Stipulation and any judgment and order
3 entered in the Action.

4 The Settlement Administrator will provide counsel for the Parties with weekly updates
5 about Class Members who submit Opt-Outs.

6 **E. Procedure for Disputing Workweeks**

7 To dispute the number of workweeks with which he or she has been credited, a Class
8 Member must timely produce evidence to the Settlement Administrator showing that the workweek
9 information is inaccurate by the Class Member Exclusion Deadline. The delivery date is deemed to
10 be the date the dispute is deposited in the U.S. Mail as evidenced by the postmark, the date the
11 dispute is emailed, or the date the dispute is faxed. Class Members shall have sixty (60) calendar
12 days from the date of the original mailing of the Notice Packet or, in the event of a Second Mailing,
13 fifteen (15) days from the date of the remailing, whichever is later, to dispute the workweek
14 information. The Settlement Administrator will notify Class Counsel and Defendant's counsel of
15 the dispute. Defendant's records will be presumed correct, but the Settlement Administrator will
16 evaluate the evidence submitted by the Class Member. The Settlement Administrator may ask
17 Defendant to produce the personnel and payroll files of the Class Member disputing his or her
18 credited workweeks in order for the Settlement Administrator to resolve the dispute.

19 The Parties shall file with the Court all disputes submitted by Class Members, the
20 evidence submitted, and the resolution of the disputes. Although the Settlement Administrator
21 may make the initial decision regarding claim disputes, the Court may review any decision made
22 by the Settlement Administrator regarding a claim dispute.

23 **F. Procedure for Objecting to Settlement**

24 Any Class Member who seeks to object to the settlement in writing may complete the
25 Objection Form and submit it to the Settlement Administrator via mail, email, or fax no later than
26 the Class Member Exclusion Deadline. The delivery date is the date the Objection Form is
27 deposited in the U.S. Mail as evidenced by the postmark, the date the Objection Form is emailed,
28 or the date the Objection Form is faxed. Any Class Member may also object by appearing either

1 in person or by attorney at the Final Approval Hearing even if the Class Member did not submit a
2 written objection. All written Objection Forms must be submitted to the Settlement Administrator
3 within sixty (60) calendar days of mailing of the Notice Packet or, in the event of a Second
4 Mailing, within fifteen days of the remailing, whichever is later. Neither the Parties nor their
5 respective counsel will solicit any Class Member, directly or indirectly, to object to the
6 Settlement, or appeal from the Judgment. The Settlement Administrator will provide counsel for
7 the Parties with weekly updates about Class Members who object to the settlement. Plaintiff's
8 counsel will file a single packet of all written objections with the Court as part of the motion for
9 final approval.

10 **G. Final Approval**

11 At the Final Approval Hearing, Class Counsel will move the Court for the entry of
12 Judgment, incorporating the Joint Stipulation. Class Counsel will seek approval of the Joint
13 Stipulation as being fair, adequate, and reasonable to the Class Members. Class Counsel and
14 Defendant's counsel will submit to the Court such pleadings and evidence as required for the
15 Court's determination.

16 No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement
17 Administrator will serve on Class Counsel and Defendant's counsel, for filing with the Court in
18 support of Plaintiff's motion for final approval of the settlement, a declaration of due diligence
19 setting forth its compliance with its obligations under this Joint Stipulation.

20 **IV. SETTLEMENT TERMS**

21 **A. Gross Settlement Amount and Settlement Payments**

22 To settle the Released Class Claims and Released PAGA Claims in the Action, Defendant
23 will pay the aggregate Gross Settlement Amount on an all-inclusive, non-reversionary basis.
24 Except as required herein, Defendant will not be required to contribute additional sums to fund the
25 settlement or otherwise resolve this action (except for Defendant's share of taxes on the portion of
26 the settlement allocated as wages). All Class Members will be eligible to participate in the
27 settlement. Class Members will receive a pro-rata share of the Net Settlement Amount under a
28

workweek formula, as set forth below. PAGA Group Members will receive a pro-rata share of the PAGA Settlement Amount under a workweek formula, as set forth below.

B. Establishment of Settlement Fund Account

Within seven (7) days of Final Approval, the Settlement Administrator will establish the Settlement Fund Account in a non-interest bearing transaction account at a FDIC-insured institution designated by Defendant with at least one branch in California.

C. Allocation of Settlement Proceeds

The Gross Settlement Amount is inclusive of and will be allocated as follows:

i. The Fee Award, which is the amount the Court awards to Class Counsel for their attorney fees, in an amount not exceeding one-third (1/3) (\$191,666.67) of the Gross Settlement Amount;

ii. The Cost Award, which is the amount the Court awards to Class Counsel for their reasonable litigation costs, in an amount not exceeding \$15,000.00.

iii. The Incentive Award, which comprises the amount the Court awards to the named Plaintiff as class representative, in an amount not exceeding \$5,000.00;

iv. The Settlement Administrator's Fees, as approved by the Court, not to exceed \$10,000.00;

v. PAGA penalties in an amount not to exceed \$10,000.00 (75% of which will go to the LWDA and 25% to PAGA Group Members as part of the Gross Settlement Amount);

vi. The Payout Fund, which is the total money available for payout to Class Members who do not Opt Out, after deducting the above amounts;

vii. Payment to Class Members who do not Opt Out shall be allocated as follows: 50% as penalties, 30% as interest, and 20% as wages;

viii. Payment to PAGA Group Members shall be allocated as follows: 100% as penalties not subject to tax withholdings.

ix. If the Court approves a lesser amount of any of the above-referenced costs or penalties, the Payout Fund will increase proportionately.

No funds will revert back to Defendant.

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1 **D. Distribution of Settlement Proceeds**

2 The Settlement Administrator will keep Defendant's counsel and Class Counsel apprised of
3 all distributions from the Settlement Fund Account. Distribution of the Gross Settlement Amount
4 will be as follows:

5 **1. Initial Payment**

6 Seven (7) calendar days after the Effective Date, Defendant shall provide the Settlement
7 Administrator with the Gross Settlement Amount and the employer's portion of the payroll taxes.
8 Within seven (7) calendar days after receiving the Gross Settlement Amount from Defendant, the
9 Settlement Administrator will pay the Fee Award, the Cost Award, the Incentive Award, the
10 payment to the LWDA, and the Settlement Administrator's Fees, based on how the Court rules at
11 the Final Approval Hearing. The remainder of the Gross Settlement Amount, known as the
12 Payout Fund or the Net Settlement Amount, will be calculated and distributed as set forth below.

13 **2. Payout to Class Members**

14 The Settlement Administrator will calculate the individual settlement payments to Class
15 Members who do not submit valid Opt-Outs. These payments will be calculated by assigning a
16 certain dollar value to each week Class Members worked during the Class Period. The dollar
17 value of each week will be calculated by dividing the aggregate value of the Payout Fund by the
18 total number of weeks worked by the Class Members who do not submit valid Opt-Outs during
19 the Class Period.

20 Partial weeks will be rounded up to the nearest full week. A Class Member who does not
21 submit a valid Opt-Out will receive an individual settlement payment determined by multiplying
22 the number of weeks worked during the Class Period by the dollar value of each week.

23 The Class Members' settlement payments will be apportioned as follows: 20% as wages,
24 30% for interest, and 50% for penalties. The amounts paid as wages shall be subject to all tax
25 withholdings customarily made from employee's wages and all other authorized and required
26 withholdings and shall be reported by W-2 forms. The Settlement Administrator will issue the
27 appropriate federal and state tax forms, including IRS Form 1099 for the non-wage portion.

28 The Settlement Administrator will calculate the PAGA Payments to PAGA Group

1 Members. These payments will be calculated by assigning a certain dollar value to each pay period
2 PAGA Group Members worked during the PAGA Period. The dollar value of each pay period will
3 be calculated by dividing Two Thousand Five Hundred Dollars (\$2,500.00) by the total number of
4 pay periods worked by the PAGA Group Members during the PAGA Period. Partial pay periods
5 will be rounded up to the nearest full pay period. A PAGA Group Member who submits a valid
6 Opt-Out will still receive a PAGA Payment.

7 The PAGA Payments will be apportioned as penalties not subject to tax withholdings and
8 will be reported on an IRS Form 1099. The Settlement Administrator will issue the appropriate
9 federal and state tax forms.

10 The settlement payments to Class Members and PAGA Group Members will be paid within
11 seven (7) calendar days after the Settlement Administrator receives the Gross Settlement Amount
12 and the employer's share of payroll taxes from Defendant. It is expressly understood and agreed
13 that the receipt of settlement payments will not entitle any Class Member or PAGA Group Member
14 to additional or derivative compensation or benefits under any company bonus, contest, or other
15 compensation or benefit plan or agreement in place during the Class Period, nor will it entitle any
16 Class Member or PAGA Group Member to any increased retirement, 401k benefits or matching
17 benefits, or deferred compensation benefits. It is the intent of the Parties that the settlement
18 payments provided for in this Joint Stipulation are the sole payments to be made by Defendant to
19 the Class Members for the Released Class Claims, and PAGA Group Members for the Released
20 PAGA Claims, and that the Class Members and PAGA Group Members are not entitled to any
21 additional or derivative compensation or benefits as a result of having received the settlement
22 payments (notwithstanding any contrary language or agreement in any benefit or compensation
23 plan document that might have been in effect during the period covered by this Settlement). The
24 Settlement Administrator shall distribute the individual settlement payments prior to distributing
25 any attorneys' fees or costs and prior to distributing the Incentive Award to Plaintiff. The
26 Settlement Administrator shall distribute individual settlement payments to all participating Class
27 Members, including those for whom the Notice Packet was returned as undeliverable.

28 Prior to distributing the individual settlement payments, the Settlement Administrator shall

1 update participating Class Members' addresses using the National Change of Address Database.
2 For returned checks directed to Class Members whose Class Notice was returned undelivered and
3 no new address ascertained, no further steps shall be taken by the Settlement Administrator with
4 respect to these checks. With respect to all other returned checks, the Settlement Administrator
5 shall use skip trace or other usual means to ascertain a new address. If the class member is still
6 employed, the Settlement Administrator shall directly contact the Class Member whose check was
7 returned to obtain a new address. The Settlement Administrator shall re-mail checks to the new
8 addresses ascertained within seven business days of the date of the returned check.

9 **E. Uncashed Checks**

10 Settlement checks issued to Class Members and PAGA Group Members will expire one
11 hundred and eighty (180) days from the date they are issued by the Settlement Administrator. The
12 void date of all settlement checks issued to Class Members and PAGA Group Members shall be
13 stated on the checks. Any check not cashed within 180 calendar days will be void. The Settlement
14 Administrator will provide the Parties with a report of uncashed checks. The money from the
15 uncashed checks, plus any interest accrued thereon, shall be distributed by the Settlement
16 Administrator to the cy pres recipient, Bet Tzedek Legal Services,.

17 The Settlement Administrator shall post the Order and Judgment on the Settlement
18 Administrator's website within seven (7) calendar days after entry of Order and Judgement. The
19 Settlement Administrator shall post a copy of the signed judgment for one hundred eighty (180)
20 calendar days on its website in compliance with Rule 3.771(b) of the California Rules of Court in
21 order to provide notice to the Class Members of this Judgment.

22 **F. Fee Award**

23 Defendant will not oppose a request for attorney fees up to one-third (\$191,666.67) of the
24 Gross Settlement Amount. Defendant will not be obligated to pay any attorney fees of Class
25 Counsel, Plaintiff, or Class Members above this amount. Class Counsel's attorney fee application
26 will be submitted and heard during the Final Approval Hearing. The Court will determine the Fee
27 Award. If the Court believes the Fee Award should be reduced, the other terms of the settlement
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1 will remain in effect and any such reduction will not affect the remaining terms, other than
2 adjusting the Net Settlement Amount.

3 **G. Cost Award**

4 Defendant will not oppose a request for reasonable litigation expenses not to exceed
5 \$15,000.00. Defendant will not be obligated to pay any costs of Class Counsel, Plaintiff, or Class
6 Members above the amount approved by the Court or \$15,000.00, whichever amount is less. Class
7 Counsel's request for costs must be submitted with its fee application and heard during the Final
8 Approval Hearing. The Court will determine the Cost Award. If the Court believes the Cost Award
9 should be reduced, the other terms of the settlement will remain in effect and any such reduction
10 will not affect the remaining terms, other than adjusting the Net Settlement Amount.

11 **H. Incentive Award**

12 Defendant will not object to an Incentive Award of \$5,000.00 to Plaintiff. Defendant will
13 not be obligated to pay any Incentive Award in the Action above this amount. The Incentive
14 Award will be considered miscellaneous income. The Settlement Administrator will issue a Form
15 1099, and any other tax forms, to Plaintiff relating to this award. The Court will determine the
16 Incentive Award. If the Court believes the Incentive Award should be reduced, the other terms of
17 the settlement will remain in effect and any such reduction will not affect the remaining terms,
18 other than adjusting the Net Settlement Amount.

19 Plaintiff acknowledges and agrees that Defendant and his attorneys have made no
20 representations or warranties regarding the tax consequences of payment of the Incentive Award,
21 and Plaintiff has not relied on any such representations or warranties. Plaintiff further agrees to pay
22 and bear sole responsibility for all taxes, liens, levies, encumbrances, interest, and penalties that
23 may be due or payable to any taxing authority as a result of payment of the Incentive Award.
24 Furthermore, Plaintiff agrees to defend and indemnify Defendant in connection with any taxes,
25 fines, interest, or penalties incurred as a result of any failure by Plaintiff to pay taxes due, if any,
26 on the Incentive Award paid.

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1 **I. Settlement Administrator Fees**

2 The Parties agree settlement administration costs will be deducted from the Gross
3 Settlement Amount, subject to approval by the Court. Settlement administration costs are not to
4 exceed \$10,000.00. Any portion of the estimated or designated settlement administration costs that
5 are not in fact required to fulfill the total settlement administration costs shall become part of the
6 Net Settlement Amount.

7 **J. PAGA Penalties**

8 The Parties agree to allocate \$10,000.00 of the Gross Settlement Amount to the resolution
9 of all claims for penalties under PAGA during the PAGA Period. Under Labor Code § 2699(i),
10 75% of that amount will be paid to the LWDA. This amount will be paid by the Settlement
11 Administrator within seven (7) calendar days after receiving the Gross Settlement Amount from
12 Defendant. The other 25% will remain part of the settlement funds.

13 **K. Defendant's Fees and Costs**

14 Defendant will bear its own fees and costs.

15 **V. RELEASE OF CLASS CLAIMS BY THE CLASS**

16 Upon the Settlement Administrator's receipt of the Gross Settlement Amount and the
17 employer's portion of payroll taxes, and after the Effective Date, Plaintiff and all participating
18 Class Members will be deemed to have released the Released Parties of and from all of the
19 Released Class Claims during the Class Period. The Released Class Claims include all claims
20 which Plaintiff, the Class, and/or any Class Member had, or may claim to have, against any of the
21 Released Parties, excluding the Released PAGA Claims, that were alleged or reasonably could
22 have been asserted in the Action based on the facts alleged in the Complaint during the Class
23 Period, including claims for: (1) failure to provide required meal periods; (2) failure to provide
24 required rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5)
25 failure to pay all wages earned; (6) failure to pay all wages due to discharged and quitting
26 employees; (7) failure to maintain required records; (8) failure to furnish accurate itemized wage
27 statements; (9) failure to indemnify employees for necessary expenditures incurred in discharge of
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1 duties; and (10) unfair and unlawful business practices in violation of California Business and
2 Professions Code §§ 17200, et seq.

3 The Released Class Claims expressly exclude the Released PAGA Claims, and
4 participating Class Members will not release the Released PAGA Claims unless such participating
5 Class Members are also PAGA Group Members. Participating Class Members who are also PAGA
6 Group Members shall release the Released PAGA Claims, in addition to releasing the Released
7 Class Claims, upon Defendant's fulfillment of its payment obligations.

8 **VI. RELEASE OF PAGA CLAIMS BY THE PLAINTIFF AND THE LWDA**

9 Upon the Settlement Administrator's receipt of the Gross Settlement Amount and the
10 employer's portion of payroll taxes, and after the Effective Date, Plaintiff and the LWDA only will
11 be deemed to have released the Released Parties of and from all of the Released PAGA Claims
12 during the PAGA Period. However, PAGA Group Members will all be bound by the settlement,
13 judgment, and order entered by the Court as to the Released PAGA Claims, regardless of whether
14 the PAGA Group Member submits a valid Opt-Out to the settlement.

15 **VII. RELEASE OF CLAIMS BY PLAINTIFF**

16 Upon the Settlement Administrator's receipt of the Gross Settlement Amount and the
17 employer's portion of payroll taxes, Plaintiff will be deemed to have released the Released Parties
18 of and from all of the Released Class Claims and Released PAGA Claims during the Class Period
19 and PAGA Period, respectively, as set forth above.

20 Plaintiff's release set forth herein also includes a waiver of all rights under California Civil
21 Code section 1542, which includes a release of all known and unknown claims against the
22 Released Parties that have been alleged or could have been alleged arising out of the facts,
23 circumstances, causes of action, and primary rights alleged in the Action. Civil Code section 1542
24 provides:

25 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
26 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
27 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**
28 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
DEBTOR OR RELEASED PARTY.

1 Upon the Settlement Administrator's receipt of the Gross Settlement Amount and the
2 employer's portion of payroll taxes, Plaintiff will be deemed to have waived his rights under Civil
3 Code section 1542, as set forth above.

4 **VIII. NULLIFICATION OF THE JOINT STIPULATION**

5 If (a) the Court should for any reason fail to approve this Joint Stipulation in the form
6 agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment in the
7 Action, or (c) the judgment is reversed, modified, or declared or rendered void, this Joint
8 Stipulation will be null and void, and neither this Joint Stipulation, nor any of the related
9 negotiations or proceedings, will be of any force or effect, and all Parties will stand in the same
10 position, without prejudice, as if the Joint Stipulation had not been entered into or filed.
11 Invalidation of any material portion of this Joint Stipulation will invalidate this Joint Stipulation in
12 its entirety, unless the Parties subsequently agree in writing that the remaining provisions of the
13 Joint Stipulation are to remain in full force and effect or unless as otherwise set forth above.

14 If the number of Class Members who submit valid Opt-Outs exceeds 10%, Defendant may
15 rescind this Joint Stipulation. If Defendant rescinds, it must do so in writing to Class Counsel
16 within fourteen (14) calendar days after the Settlement Administrator notifies the Parties of the
17 total number of valid Opt-Outs received by the Class Member Exclusion Deadline. Defendant shall
18 pay any costs incurred by the Settlement Administrator in the event that Defendant rescinds the
19 Joint Stipulation or the Joint Stipulation is not approved by the Court.

20 **IX. DUTIES OF THE PARTIES**

21 **A. Mutual Full Cooperation**

22 The Parties agree to cooperate to accomplish and implement the terms of this Joint
23 Stipulation. Such cooperation will include, but is not necessarily limited to, execution of such other
24 documents and taking such other actions as may be reasonably necessary to fulfill the terms of this
25 Joint Stipulation. The Parties will use their best efforts, including all efforts contemplated by this
26 Joint Stipulation and any other efforts that may become necessary by court order, or otherwise, to
27 effectuate this Joint Stipulation and the terms set forth herein. As soon as practicable after
28 execution of this Joint Stipulation, Class Counsel, with the cooperation of Defendant and its

1 counsel, will try to secure Preliminary Approval and Final Approval.

2 **B. Duty to Support and Defend the Settlement**

3 The Parties agree the settlement is fair, adequate, and reasonable and will so represent to the
4 Court. The Parties agree to abide by all terms of the Joint Stipulation in good faith and to support
5 the Joint Stipulation fully, and to use their best efforts to defend this settlement from any legal
6 challenge, whether by appeal or collateral attack.

7 **C. STAY OF LITIGATION**

8 The Parties agree that upon the execution of this Joint Stipulation the litigation shall be
9 stayed, except to effectuate the terms of this Joint Stipulation. The Parties further agree that upon
10 the signing of this Joint Stipulation that pursuant to CCP section 583.330 to extend the date to
11 bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

12 **X. MISCELLANEOUS PROVISIONS**

13 **A. Waiver of Appeals**

14 The Parties and Class Members agree to waive any appellate rights; provided, however,
15 Plaintiff may appeal any reduction in the attorney fees and/or cost award.

16 **B. No Admission of Liability**

17 This Joint Stipulation is not an admission of liability by Defendant or any of the Released
18 Parties.

19 **C. Non-Disparagement**

20 Plaintiff agrees not to publicly disparage Defendant or any of the Released Parties and
21 Defendant agrees not to publicly disparage Plaintiff or any of his representatives.

22 **D. Construction**

23 The Parties agree this Joint Stipulation resulted from lengthy, intensive, arm's-length
24 negotiations, and it is not to be construed for or against any party for any reason.

25 **E. Choice of Law**

26 This Joint Stipulation is intended to and will be governed by the laws of California, without
27 regard to conflicts of law principles. The Court will retain continuing jurisdiction to enforce the
28 settlement.

1 **F. Captions and Interpretations**

2 Paragraphs, titles, or captions contained herein are inserted as a matter of convenience and
3 for reference only, and in no way define, limit, extend, or describe the scope of this Joint
4 Stipulation or any provision thereof.

5 **G. Modifications**

6 This Joint Stipulation may not be changed, altered, or modified, except in writing signed by
7 counsel for the Parties and approved by the Court. This Joint Stipulation may not be discharged
8 except by performance under its terms or by a writing signed by the Parties.

9 **H. Integration Clause**

10 All prior or contemporaneous agreements, understandings, representations, and statements,
11 whether oral or written, between the Parties are merged herein. No rights under this Joint
12 Stipulation may be waived except in writing. However, if there is a conflict between the terms of
13 this Joint Stipulation and the Memorandum of Understanding entered into between the Parties, the
14 latter shall control.

15 **I. Successors and Assigns**

16 This Joint Stipulation will be binding upon and inure to the benefit of the Parties and their
17 respective heirs, trustees, executors, administrators, successors, and assigns.

18 **J. Class Counsel Signatories**

19 Because the Class Members are so numerous, the Parties agree it is impossible or
20 impractical to have each Class Member sign this Joint Stipulation. This Joint Stipulation may be
21 executed on behalf of the Class by Class Counsel and Plaintiff.

22 **K. Plaintiff's Waiver of Right to be Excluded or Object**

23 Plaintiff agrees not to Opt-Out of the Class and agrees not to object to any terms of this
24 Joint Stipulation. Non-compliance by Plaintiff with this paragraph will be void and of no force or
25 effect. Any such request for exclusion or objection by Plaintiff will therefore be void and of no
26 force or effect.

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L. Execution in Counterparts

 This Joint Stipulation will become effective upon its execution by all of the undersigned.
The Parties may execute this Joint Stipulation in counterparts, and execution of counterparts will
have the same force and effect as if all Parties signed the same instrument.

[Signatures on Next Page]

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PLAINTIFF AND CLASS COUNSEL


Dated: 12/05, 2024


Miguel Valles (Dec 5, 2024 16:39 PST)

Miguel Valles

Dated: December 6, 2024

MATERN LAW GROUP, PC

By: 
Matthew J. Matern
Matthew W. Gordon
Attorneys for Plaintiff
MIGUEL VALLES, individually, and on behalf
of other persons similarly situated

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DEFENDANT AND DEFENDANT'S COUNSEL

Dated: 12/6/2024, 2024

Angelica Talbert

ID Bh5gQTBfPbS1ukCCQefwxzoq

Authorized to sign on behalf of Defendant

Dated: 12/6/2024, 2024

ANDREA PARIS LAW, PC

Andrea Paris

ID gTfqVnfhQ9zSdhhzXTJBhFc

By: Andrea W. S. Paris
Attorneys for Defendant