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25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
26 **FOR THE COUNTY OF YOLO**

27 **Rafael Lopez**, individually and on behalf of all  
28 similarly situated individuals,

Plaintiff,

vs.

**Bay State Milling Company**, a Minnesota  
corporation; **Peter F. Levangie**, an individual;  
and **Does 1-100**;

Defendants,

CASE NO. CV2023-0742

[Assigned to Judge David Rosenberg,  
Department 14]

**CLASS ACTION**

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

Complaint Filed: April 10, 2023  
Trial Date: Not Set

1 This Joint Stipulation of Settlement and Release of Class and PAGA Action (“Agreement” or  
2 “Settlement Agreement”) is made and entered into by and between Plaintiff Rafael Lopez (“Plaintiff”  
3 or “Class Representative”), as an individual and on behalf of all others similarly situated, and  
4 Defendants Bay State Milling Company and Peter Levangie (collectively, “Defendants”). Plaintiff and  
5 Defendants may be referred to herein as the “Parties,” singularly as a “Party,” or by their designated  
6 names.

7 This Agreement is subject to the approval of the Court, pursuant to California Rules of Court,  
8 Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate settlement of  
9 the Action on a class-wide basis subject to the following terms and conditions.

10 This Settlement Agreement shall be binding on Plaintiff, the Settlement Class, and the Aggrieved  
11 Employees, on the one hand, and Defendants, on the other hand, subject to the terms and conditions  
12 hereof and the approval of the Court.

13 **RECITALS**

14 1. Plaintiff Rafael Lopez filed a Class Action Complaint on April 10, 2023 against Defendants  
15 in the Yolo County Superior Court. Plaintiff’s lawsuit, entitled *Rafael Lopez v. Bay State Milling Company,*  
16 *et al.* Case Number No. CV2023-0742 (“Action”), sets forth the following class-wide causes of action:  
17 (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods  
18 or premium pay in lieu thereof; (4) failure to provide rest periods or premium pay in lieu thereof; (5)  
19 failure to reimburse necessary business expenses; (6) failure to provide and maintain complete and  
20 accurate records; (7) failure to timely pay wages during and after employment; (8) civil penalties under  
21 the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”); and  
22 (9) Unlawful Business Practices, Cal. Bus. & Prof. Code §§ 17200, *et seq.*

23 2. Defendants deny any liability or wrongdoing of any kind associated with the claims  
24 alleged in the Action under state or federal law and further deny that, for any purpose other than settling  
25 the Action, this Action is appropriate for class treatment. Defendants contend, among other things, that  
26 they have complied at all times with the California Labor Code, the California Business & Professions  
27 Code, the applicable IWC Wage Orders, and all other applicable California and federal law.  
28 Nonetheless, Defendants have concluded that further litigation would be protracted and expensive and

1 would also divert Defendants’ resources. Defendants have taken into account the uncertainty and risks  
2 inherent in litigation. Defendants have therefore concluded that it is desirable that the Litigation be fully  
3 and finally settled in the manner and upon the terms and conditions set forth in this Stipulation.

4 3. Notwithstanding the foregoing and in the interest of avoiding further litigation, the  
5 Parties desire to fully and finally settle all actual or potential class, and PAGA claims as pleaded in the  
6 operative Complaint or that could have been pleaded in the operative Complaint and this Action.

7 4. This Settlement Agreement is made and entered into by and between Plaintiff  
8 individually and on behalf of all other allegedly similarly situated and Aggrieved Employees and  
9 Settlement Class Members on the one hand, and Defendants on the other hand. This Settlement  
10 Agreement is subject to the terms and conditions hereof, as well as the Court’s approval. The Parties  
11 expressly acknowledge that this Agreement is entered into solely for the purpose of compromising  
12 disputed claims and that nothing herein is an admission of any liability or wrongdoing by Defendants. If,  
13 for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties  
14 shall be returned to their original respective positions.

15 5. The Parties agree to abide by the terms of the Settlement Agreement in good faith and to  
16 support the Settlement Agreement fully and to use their best efforts to defend this Settlement  
17 Agreement from any legal challenge, whether by appeal or collateral attack.

18 6. On October 9, 2023, the Parties participated in a full-day mediation before Brandon  
19 McKelvey of McKelvey Resolutions (the “Mediator”), a well-respected mediator in the field of  
20 employment law and wage-and-hour class actions. At the mediation, the Parties agreed to the principal  
21 terms of a class action and PAGA settlement and entered into a Memorandum of Agreement (“MOA”)  
22 setting forth those terms.

23 7. The settlement discussions before, during, and after mediation were conducted at arm’s  
24 length and the settlement of the Action is the result of an informed and detailed analysis of Defendants’  
25 potential liability in relation to the costs and risks associated with continued litigation and potential  
26 appeals.

27 8. Class Counsel conducted a significant investigation during the prosecution of the Action.  
28 This investigation included, among other things, (a) numerous telephonic and Zoom conferences with

1 Plaintiff; (b) inspection and analysis of numerous payroll and policy documents and other information  
2 produced by Plaintiff and Defendants; (c) analysis of the legal positions taken by Defendant; (d)  
3 investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis of  
4 potential class-wide damages, including information sufficient to understand Defendants' potential  
5 defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in the  
6 Action and the potential defenses thereto; (g) assembling and analyzing of data for calculating damages;  
7 (h) conducted telephonic conferences with potential witnesses and obtained declarations from Class  
8 Members, and (i) hired the services of an expert to analyse and prepare Defendants' exposure.

9 9. The extensive informal discovery conducted in this matter, as well as discussions between  
10 counsel, have been adequate to give the Class Representative and Class Counsel a sound understanding  
11 of the merits of their positions and to evaluate the risks of continued litigation and the value of the  
12 Settlement Class' claims. The informal discovery and investigation conducted in this Action and the  
13 information exchanged by the Parties through discovery and settlement discussions are sufficient to  
14 reliably assess the merits of the Parties' respective positions and to compromise the issues on a fair and  
15 equitable basis.

16 10. Plaintiff and Class Counsel believe that the claims, causes of action, allegations, and  
17 contentions asserted in the Action have merit. However, Plaintiff and Class Counsel recognize and  
18 acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the Action  
19 against Defendants through trial and appeals. Class Counsel has taken into account: 1) the uncertain  
20 outcome of the litigation; 2) the risk of continued litigation in complex actions such as this lawsuit; 3)  
21 the difficulties and delays inherent in such litigation; and 4) the potential risk of trying the claims of the  
22 class. Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the  
23 claims alleged in the Action and litigation of those claims on a class-wide basis.

24 11. Class Counsel believes that the Settlement set forth in this Settlement Agreement confers  
25 substantial benefits upon Plaintiff and the Class Members, and that an independent review of this  
26 Settlement Agreement by the Court in the approval process will confirm this conclusion. Based on their  
27 own independent investigation and evaluation, Class Counsel has determined that the Settlement set  
28 forth in the Stipulation is in the best interests of Plaintiff and the Class Members.



1 Class Counsel’s request for fees and reimbursement of costs as set forth above.

2 3. “**Settlement Administrator**” means a third-party class action settlement claims  
3 administrator selected by the Parties and approved by the Court for purposes of administering this  
4 Settlement. The Parties each represent that they will not select a Settlement Administrator in which  
5 either Party has any financial interest or other relationship that could create a conflict of interest.

6 4. “**Settlement Administration Costs**” means the costs payable from the Maximum  
7 Settlement Amount to the Settlement Administrator for administering this Settlement, including, but  
8 not limited to, printing, distributing, and tracking documents for this Settlement, calculating estimated  
9 amounts per Class Member, tax reporting, distributing the appropriate settlement amounts, and  
10 providing necessary reports and declarations, and other duties and responsibilities set forth herein to  
11 process this Settlement, and as requested by the Parties. The Settlement Administration Costs will be  
12 paid from the Maximum Settlement Amount and shall not exceed \$25,000.

13 5. “**Class Counsel**” means Elliot J. Siegel, Julian Burns King of King & Siegel LLP, and  
14 Xavier Villegas of Law Office of Xavier Villegas, APC.

15 6. “**Class List**” means a complete list of all Class Members that Defendants will diligently  
16 and in good faith compile from their records and provide to the Settlement Administrator within ten  
17 (10) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a  
18 readable Microsoft Office Excel spreadsheet and will include, to the extent in the possession of  
19 Defendants or their agents, Class Members’ names; last-known addresses; last-known telephone  
20 numbers; last-known email address; social security numbers; start dates of employment; end dates of  
21 employment; number of weeks worked by each Class Member during the Class Period; and the total  
22 number of work weeks of all Class Members during the Class Period.

23 7. “**Class Member(s)**” or “**Settlement Class**” or the “**Class**” refer to “*All persons who*  
24 *worked for Defendants at least one shift as a non-exempt direct hire or agency employee in the State of California*  
25 *from April 10, 2019 through the earlier of 90 days after October 9, 2023 or preliminary approval.*” Defendants  
26 represented that there are 105 direct employee Class Members who worked during the Class Period.  
27 Defendants’ representation is a material term for Plaintiff entering into this Stipulation. “**Aggrieved**  
28 **Employees**” means those Class Members who worked during the period of April 3, 2022 through 90

1 days after October 9, 2023 or the date of preliminary approval, whichever date occurs first.

2 8. “**Class Period**” means the period from April 10, 2019 through the earlier of 90 days  
3 after October 9, 2023 or the date of preliminary approval.

4 9. “**Class Representative**” or “**Plaintiff**” means Plaintiff Rafael Lopez who serves as  
5 representative for the Settlement Class.

6 10. “**Class Representative Enhancement Payment**” means the amount to be paid to  
7 Plaintiff in recognition of his efforts and work in prosecuting the Action on behalf of Class Members and  
8 negotiating the Settlement. Defendants agree not to dispute that the Class Representative will be paid,  
9 subject to Court approval, up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) from the  
10 Maximum Settlement Amount for his services on behalf of the class, subject to the Court granting Final  
11 Approval of this Settlement Agreement and subject to the exhaustion of any and all appeals. Should the  
12 Court reduce the Class Representative Enhancement Payment, any such reduction shall revert to the  
13 Net Settlement distributed to Participating Class Members.

14 11. “**Court**” means the Superior Court of California, County of Yolo.

15 12. “**Defendants**” means Bay State Milling Company and Peter Levangie.

16 13. “**Effective Date**” means the date on which the settlement embodied in this Settlement  
17 Agreement shall become effective and is the date after all of the following events have occurred: (i) this  
18 Settlement Agreement has been executed by Plaintiff and Defendants; (ii) the Court has given  
19 Preliminary Approval to the Settlement, including approving a provisional Settlement Class; (iii) notice  
20 has been given to the putative members of the Settlement Class, providing them with an opportunity to  
21 object to the terms of the Settlement or to opt-out of the Settlement; and (iv) *either* (1) the Court has  
22 held a formal fairness hearing and, having heard no objections to the Settlement, has given Final  
23 Approval to the Settlement, including entering a final order and judgment certifying the Class and  
24 approving this Settlement Agreement; or (2) in the event there are oral or written objections filed prior  
25 to or at the formal fairness hearing which are not later withdrawn or denied, the later of the following  
26 events: (a) five (5) business days after the period for filing any appeal, writ, or other appellate proceeding  
27 opposing the Court’s Final Approval of the Settlement have elapsed without any appeal, writ, or other  
28 appellate proceeding having been filed; or (b) five (5) business days have elapsed following the final and

1 conclusive dismissal or resolution of any appeal, writ, or other appellate proceeding opposing the  
2 Settlement, with no right to pursue further appellate remedies or relief.

3 14. **“Individual Settlement Payment”** means each Participating Class Member’s share of  
4 the Net Settlement Amount, to be distributed to the Class Members who do not submit a valid Request  
5 for Exclusion, to be paid without the need to submit a claim.

6 15. **“Labor and Workforce Development Agency Payment”** means the amount that the  
7 Parties have agreed that Defendants will pay in connection with Plaintiff’s Labor Code Private Attorneys  
8 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.* (“PAGA”)) cause of action. The Parties have  
9 agreed that One-Hundred Twenty-Five Thousand Dollars and Zero Cents (\$125,000.00) of the  
10 Maximum Settlement Amount will be allocated to the resolution of the Aggrieved Employees’ claims  
11 arising under PAGA (“PAGA Settlement Amount”). Pursuant to PAGA, Seventy-Five Percent (75%),  
12 or Ninety-Three Thousand Seven-Hundred Fifty Dollars and Zero Cents (\$93,750.00), of the PAGA  
13 Settlement Amount will be paid to the California Labor and Workforce Development Agency  
14 (“LWDA”), and Twenty-Five Percent (25%), or Thirty-One Thousand Two-Hundred Fifty Dollars and  
15 Zero Cents (\$31,250.00), of the PAGA Settlement Amount will be paid to the Class Members, as  
16 allegedly Aggrieved Employees, as part of the Net Settlement Amount.

17 16. **“Maximum Settlement Amount”** means the maximum settlement amount of Eight-  
18 Hundred Thirty-Seven Thousand Five-Hundred Dollars and Zero Cents (\$837,500.00) to be paid by  
19 Defendants in full satisfaction of all claims arising from the Action. The Maximum Settlement Amount  
20 shall include all Individual Settlement Payments to Participating Class Members, the Class  
21 Representative Enhancement Payment, Settlement Administration Costs to the Settlement  
22 Administrator, the Labor and Workforce Development Agency Payment, and the Class Counsel’s Fees  
23 and Costs. Defendants agree that it is responsible for employer-side payroll taxes, which are not included  
24 in the Maximum Settlement Amount and are to be paid in addition to the Maximum Settlement Amount.  
25 The Maximum Settlement Amount is non-reversionary.

26 17. **“Net Settlement Amount”** means the portion of the Maximum Settlement Amount  
27 remaining after deduction of the approved Class Representative Enhancement Payment, Settlement  
28 Administration Costs, Labor and Workforce Development Agency Payment, and Class Counsel’s Fees



1 and Costs. The Net Settlement Amount will be distributed to Participating Class Members.

2 18. **“Notice of Objection”** means a Class Member’s valid and timely written objection to  
3 the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector’s  
4 full name, signature, address, telephone number, and the last four digits of the objector’s social security  
5 number, (b) the dates the objector was employed by Defendants in California or worked for Defendants  
6 in California through a staffing agency, (c) a written statement of all grounds for the objection  
7 accompanied by any legal support for such objection, and (d) copies of any papers, briefs, or other  
8 documents upon which the objection is based.

9 19. **“Notice Packet”** or **“Notice”** means the Notice of Class Action Settlement and Share  
10 Form, substantially in the form attached as **Exhibit A**.

11 20. **“PAGA Released Claims”** means those claims for civil penalties asserted in the  
12 Complaint or Plaintiff’s LWDA letter under the Private Attorneys General Act, Labor Code section  
13 2698 et seq. (“PAGA”) based on predicate violations of California Labor Code sections 200, 201, 202,  
14 203, 204, 206, 210, 226, 226.3, 226.7, 233, 245, 246, 248, 248.2, 510, 512, 558, 1174, 1174.5, 1182.12,  
15 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1401, 2802, and 2698, et seq., California Industrial Commission  
16 Wage Orders, Cal. Code Regs., Title. 8, section 11040, et seq., during the PAGA Release Period.

17 21. **“PAGA Release Period”** shall run from April 3, 2022 through 90 days after October 9,  
18 2023 or the date of preliminary approval, whichever date occurs first.

19 22. **“Parties”** means Plaintiff and Defendants, collectively.

20 23. **“Participating Class Members”** means all Class Members who do not submit valid and  
21 timely Requests for Exclusion.

22 24. **“Preliminary Approval”** means the Court order granting preliminary approval of the  
23 Settlement Agreement, in substantively the same form as **Exhibit B**.

24 25. **“Final Approval”** means the Court granting final approval of this Settlement  
25 Agreement, in substantively the same form as **Exhibit C**.

26 26. **“Released Claims”** means those claims made in the Complaint or that reasonably could  
27 have been alleged based on the facts and allegations contained in the operative complaint and LWDA  
28 letters, including but not limited to California Labor Code sections 200, 201, 202, 203, 204, 206, 210,

1 226, 226.3, 226.7, 233, 245, 246, 248, 248.2, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,  
2 1197.1, 1198, 1199, 1401, 2802, and 2698, et seq., California Industrial Commission Wage Orders, Cal.  
3 Code Regs., Title. 8, section 11040, et seq., Business and Professions Code sections 17200, et seq., and  
4 California Code of Civil Procedure section 1021.5 during the Release Period.

5 27. **“Release Period”** means the period from April 10, 2019 through 90 days after October  
6 9, 2023 or the date of preliminary approval, whichever date occurs first.

7 28. **“Released Parties”** shall mean (i) Defendants; (ii) each of Defendants’ respective past,  
8 present and future parents, subsidiaries, and affiliates including, without limitation, any corporation,  
9 limited liability company, or partnership; (iii) the past, present and future shareholders, directors,  
10 officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents,  
11 consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors,  
12 successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly  
13 liable with any of the foregoing, including, but not limited to, temporary staffing agencies.

14 29. **“Request for Exclusion”** means a timely letter submitted by a Class Member indicating  
15 a request to be excluded from the Settlement. The Request for Exclusion must: (a) be signed by the  
16 Class Member; (b) contain the name, address, telephone number, and the last four digits of the Social  
17 Security Number of the Class Member requesting exclusion; (c) clearly state that the Class Member  
18 received the Notice, does not wish to participate in the Settlement, and wants to be excluded from the  
19 Settlement; (d) be returned by first class mail or equivalent to the Settlement Administrator at the  
20 specified address; and, (e) be postmarked on or before the Response Deadline. The date of the postmark  
21 on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion  
22 has been timely submitted. A Class Member who does not request exclusion from the Settlement will be  
23 deemed a Participating Class Member and will be bound by all terms of the Settlement, if the Settlement  
24 is granted Final Approval by the Court.

25 30. **“Response Deadline”** means the deadline by which Class Members must postmark to  
26 the Settlement Administrator valid Share Forms, Requests for Exclusion, or file and serve objections to  
27 the Settlement. The Response Deadline will be thirty (30) calendar days from the initial mailing of the  
28 Notice Packet by the Settlement Administrator, unless the 30th day falls on a Sunday or federal holiday,

1 in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service  
2 is open. The Response Deadline for Objections or Requests for Exclusion will be extended fifteen (15)  
3 calendar days for any Class Member who is re-mailed a Notice Packet by the Settlement Administrator,  
4 unless the 15<sup>th</sup> day falls on a Sunday or federal holiday, in which case the Response Deadline will be  
5 extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be  
6 extended by express agreement between Class Counsel and Defendants. Under no circumstances,  
7 however, will the Settlement Administrator have the authority to extend the deadline for Class Members  
8 to submit a Request for Exclusion, or objection to the Settlement other than as provided herein.

9 31. “**Settlement**” means the agreement to resolve the Action on terms and conditions as set  
10 forth in this Settlement Agreement.

11 32. “**Workweeks**” means the number of weeks worked by each Class Member as a non-  
12 exempt employee during the Class Period. Workweeks are determined by calculating the number of days  
13 each Class Member worked during the Class Period and dividing by seven (7). Partial workweeks will  
14 not be counted, meaning incomplete workweeks will be rounded down; however, a Class Member who  
15 worked only one day during the Class Period will be credited with having worked one Workweek for  
16 purposes of the Settlement. In calculating Workweeks, the Settlement Administrator will weight all  
17 Workweeks worked by direct hire employees at 2.5 times the weight of Workweeks worked by agency  
18 employees to account for the difference in their legal claims and the impact of putative arbitration  
19 agreements governing agency employees.

20 **CLASS CERTIFICATION FOR PURPOSES OF SETTLEMENT ONLY**

21 33. Solely purposes of settling the Action, the Parties stipulate and agree that the requisites  
22 for establishing class certification with respect to the Settlement Class have been met and are met. If the  
23 Settlement is not approved by the Court, Defendant retains all rights and opportunities to contest class  
24 certification on all issues in the Action. More specifically, the Parties stipulate and agree for purposes of  
25 this Settlement only that:

26 a. The Settlement Class is ascertainable and so numerous as to make it impracticable to join  
27 all Class Members;

28 b. There are common questions of law and fact including, but not limited to, the following:

1           i.       Whether Defendant had a common policy and/or practice of rounding  
2 non-exempt employees' time records to the detriment of those employees;

3           ii.       Whether Defendant unlawfully and/or willfully failed to compensate  
4 Plaintiff and Class Members at a minimum wage for all hours worked as a result of its rounding  
5 policies;

6           iii.       Whether Defendant unlawfully and/or willfully failed to compensate  
7 Plaintiff and Class Members required overtime wages as a result of its rounding policies;

8           iv.       Whether Defendant's auto-deduct policy and practice unlawfully  
9 deprives employees of wages earned;

10          v.       Whether Defendant had a common policy and/or practice of depriving  
11 Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;

12          vi.       Whether Defendant unlawfully and/or willfully deprived Plaintiff and  
13 Class Members of compliant, off-duty meal and/or rest periods;

14          vii.       Whether Defendant paid Plaintiff and Class Members all required  
15 premium wages for non-compliant meal and/or rest periods;

16          viii.       Whether Defendant had a common policy and/or practice of failing to  
17 reimburse necessary business expenses to the detriment of employees;

18          ix.       Whether Defendant unlawfully and/or willfully failed to reimburse  
19 necessary business expenses to Plaintiff and Class Members as a result of its policies;

20          x.       Whether Defendant had a common policy and/or practice of failing to  
21 maintain accurate payroll records in the State of California;

22          xi.       Whether Defendant unlawfully and/or willfully failed to maintain  
23 accurate payroll records in the State of California;

24          xii.       Whether Defendant had a policy and/or practice of failing to provide  
25 accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

26          xiii.       Whether Defendants unlawfully and/or willfully failed to provide  
27 accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;

28



1           34.    Funding of the Maximum Settlement Amount. Within 7 calendar days of the Effective  
2 Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be  
3 paid by Defendants pursuant to the terms of the Settlement. Within 15 calendar days of being provided  
4 the final accounting, Defendants will pay the entire Maximum Settlement Amount *plus* all required  
5 employer-side payroll taxes to the Settlement Administrator. Payment will be deposited into a Qualified  
6 Settlement Account to be established by the Settlement Administrator. Within five (5) calendar days of  
7 the funding of the Maximum Settlement Amount, the Settlement Administrator will issue payments to:  
8 (a) the Settlement Administrator; (b) the Labor and Workforce Development Agency; (c) Class  
9 Representative; (d) Class Counsel; and (e) Participating Class Members.

10           35.    Class Counsel's Fees and Costs. Defendants agree not to oppose or impede any  
11 application or motion by Class Counsel for Class Counsel's Fees and Costs of up to one-third of the  
12 Maximum Settlement Amount, i.e., \$279,166.67, plus the reimbursement of actual reasonable costs and  
13 expenses incurred in connection with Class Counsel's litigation and settlement of the Action, up to  
14 \$25,000, both of which will be paid from the Maximum Settlement Amount.

15           36.    Class Representative Enhancement Payment. In exchange for a general release, and in  
16 recognition of his efforts and work in prosecuting the Action on behalf of Class Members and negotiating  
17 the Settlement, Defendants agree not to oppose or impede any application or motion for a Class  
18 Representative Enhancement Payment of up to a total of \$15,000.00 to the Class Representative, subject  
19 to the Court's approval. The Class Representative Enhancement Payment, which will be paid from the  
20 Maximum Settlement Amount, is in addition to the payment to which he is entitled as Settlement Class  
21 Member. The Class Representative agrees to execute a general release of all claims, including a waiver  
22 of California Civil Code § 1542, against Defendants in exchange for his Enhancement Payment, which  
23 this Stipulation includes. The Settlement Administrator will issue an IRS Form 1099 for the  
24 Enhancement Payment to the Class Representative, and the Class Representative shall be solely and  
25 legally responsible for correctly characterizing this compensation for tax purposes and for paying any  
26 taxes on the amount received. Should the Court reduce the Class Representative Enhancement  
27 Payment, any such reduction shall revert to the Net Settlement Amount distributed to Participating  
28 Class Members.

1           37.    Settlement Administration Costs. The Settlement Administrator will be paid for the  
2 reasonable costs of administration of the Settlement and distribution of payments from the Maximum  
3 Settlement Amount, which is capped at no more than \$25,000.00. These costs, which will be paid from  
4 the Maximum Settlement Amount, will include, for instance, costs incurred for the required tax  
5 reporting on the Individual Settlement Payments, the issuing of W-2 and 1099 IRS Forms, distributing  
6 the Notice Packet, calculating Class Members' workweeks, and calculating and distributing the  
7 Maximum Settlement Amount and Class Counsel's Fees and Costs, and providing necessary reports  
8 and declarations.

9           38.    Labor and Workforce Development Agency Payment. Subject to Court approval, the  
10 Parties agree that \$125,000.00 of the Maximum Settlement Amount will be designated for satisfaction  
11 of Plaintiff's and Class Members' PAGA claims. Pursuant to PAGA, Seventy-Five Percent (75%), or  
12 Ninety-Three Thousand Seven-Hundred Fifty Dollars and Zero Cents (\$93,750.00), will be paid to the  
13 LWDA, and Twenty-Five Percent (25%), or Thirty-One Thousand Two-Hundred Fifty Dollars and  
14 Zero Cents (\$31,250.00), will be distributed to the Aggrieved Employees as part of the Net Settlement  
15 Amount. Class Counsel shall be responsible for giving any required notice of this Settlement to the  
16 LWDA.

17           39.    Net Settlement Amount. "Net Settlement Amount" shall mean the Maximum  
18 Settlement Amount *minus* Settlement Administration Costs, Class Counsel's Fees and Costs, Class  
19 Representative Enhancement Payment, and the Labor and Workforce Development Agency Payment.

20           40.    Settlement Administration Cost Decreases. Any portion of the estimated or designated  
21 Settlement Administration Costs which are not required to fulfill the total Settlement Administration  
22 Costs will become part of the Net Settlement Amount.

23           41.    Individual Settlement Payment Calculations. Individual Settlement Payments will be  
24 calculated and apportioned from the Net Settlement Amount based on the Workweeks a Participating  
25 Class Member worked during the Class Period. Specific calculations of Individual Settlement Payments  
26 will be made as follows:

27           a.     The Settlement Administrator will calculate the number of Workweeks per  
28 Participating Class Member during the Class Period based on records in Defendants' possession,

1 custody, or control.<sup>1</sup> Workweeks are determined by calculating the number of days each Class  
2 Member worked during the Class Period, dividing by seven (7). Partial workweeks will not be  
3 counted, meaning incomplete workweeks will be rounded down; however, a Class Member who  
4 worked only one day during the Class Period will be credited with having worked one Workweek  
5 for purposes of the Settlement.

6 b. In calculating Workweeks, the Settlement Administrator will weight all  
7 Workweeks worked by direct hire employees at 2.5 times the weight of Workweeks worked by  
8 agency employees to account for the difference in their legal claims and the impact of putative  
9 arbitration agreements governing agency employees.

10 c. The Settlement Administrator will calculate the total Workweeks for all  
11 Settlement Class Members by adding the number of Workweeks worked by each Settlement  
12 Class Member during the Class Period.

13 d. The respective Workweeks for each Settlement Class Member will be divided by  
14 the total Workweeks for each Settlement Class Member, resulting in the Payment Ratio for each  
15 Settlement Class Member.

16 e. Each Settlement Class Member's Payment Ratio will then be multiplied by the  
17 Net Settlement Amount to calculate each Settlement Class Member's estimated Individual  
18 Settlement Payments.

19 f. Using the Class Data, the Settlement Administrator will calculate the total  
20 number of pay periods in the PAGA Period and will divide each Aggrieved Employees' individual  
21 number of eligible pay periods in the PAGA Period to determine their pro rata portion of the  
22 portion of the PAGA payment allocated to Aggrieved Employees. Partial pay periods will not be  
23 counted, meaning incomplete pay periods will be rounded down; however, an Aggrieved  
24 Employee who worked only one day during the PAGA Period will be credited with having worked  
25

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26 <sup>1</sup> Defendants' Workweek data will be presumed to be correct unless a particular Class Member  
27 proves otherwise to the Settlement Administrator by credible written evidence (including copies of pay  
28 stubs or other records). All Workweek disputes will be resolved and decided by the Settlement  
Administrator in consultation with Class Counsel and counsel for Defendants. The Settlement  
Administrator's decision on all Workweek disputes will be final and non-appealable.



1 one pay period for purposes of the Settlement.

2 42. Limited Confidentiality. The Parties agree not to issue press releases, communicate with,  
3 or respond to, any media or publication entities concerning the Settlement, including the fact of the  
4 Settlement, its terms or contents, and the negotiations underlying the Settlement prior to final approval  
5 and Entry of Judgment, except as required by law or as shall be contractually required to effectuate the  
6 terms of the Settlement as set forth herein. Nothing stated herein shall prohibit Class Counsel from  
7 discussing the Settlement, the fact of Settlement, and its terms and conditions: (i) with Class Members;  
8 (ii) in court filings, including in their respective firm resumes; and/or (iii) in all necessary motions and  
9 supporting memoranda related to preliminary and final approval of the Settlement or for other class  
10 action settlements. This provision also does not limit Class Counsel (i) from complying with ethical  
11 obligations; or (ii) from posting a neutral description of publicly available facts regarding the Settlement,  
12 provided that such posting does not expressly identify Defendant by name. Class Counsel agrees not to  
13 publicize the Settlement in any manner that would identify Defendants as the defendants in this Action.

14 43. Class Member Communications. Defendants will instruct Defendants' officers,  
15 directors, and exempt managers that that, should they be contacted by Class Members or persons who  
16 believe they may be Class Members in relation to this Agreement, such officers, directors, and exempt  
17 managers should make no comment except by directing the employees to Defendants' Human  
18 Resources Department, who will be instructed to direct such Class Members to the Settlement  
19 Administrator and the Class Notice, or Class Counsel, and to provide such Class Members with contact  
20 information for the Settlement Administrator and Class Counsel. Defendants agree not to discourage or  
21 prevent Class Members from exercising any of their rights or obligations pursuant to this Agreement.  
22 At no time will any of the Parties or their counsel take any action to encourage, support, require, or  
23 induce Class Members to object to the Settlement Agreement, opt-out from the Settlement, or appeal  
24 from the Order and Judgment.

25 44. Settlement Awards Do Not Trigger Additional Benefits. All Individual Settlement  
26 Payments to Participating Class Members shall be deemed to be paid to such Participating Class  
27 Members solely in the year in which such payments are received by the Participating Class Members. It  
28 is expressly understood and agreed that the receipt of such Individual Settlement Payments will not

1 entitle any Participating Class Member to additional compensation or benefits under any company  
2 bonus, commission, or other compensation or benefit plan or agreement in place during the period  
3 covered by the Settlement, nor will it entitle any Participating Class Member to any increased  
4 retirement, 401K benefits or matching benefits, or deferred compensation benefits. It is the intent of the  
5 Parties to this Settlement that the Individual Settlement Payments provided for in this Settlement are  
6 the sole payments to be made by Defendants to the Participating Class Members, and that the  
7 Participating Class Members are not entitled to any new or additional compensation or benefits as a  
8 result of having received the Individual Settlement Payments (notwithstanding any contrary language  
9 or agreement in any benefit or compensation plan document that might have been in effect during the  
10 period covered by this Settlement).

11 45. Settlement Administration Process. The Parties agree to cooperate in the administration  
12 of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses  
13 incurred in administration of the Settlement.

14 46. Delivery of the Class List. Within five (5) calendar days of Preliminary Approval,  
15 Defendants will provide the Class List to the Settlement Administrator.

16 47. Notice by First-Class U.S. Mail. Within ten (10) calendar days following receipt of the  
17 Class List, the Settlement Administrator will mail a Notice Packet, substantially in the form attached  
18 hereto as **Exhibit A**, to all Class Members via regular First-Class U.S. Mail, using the most current,  
19 known mailing addresses identified in the Class List. Each Notice Packet will provide: (a) information  
20 regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Settlement  
21 Class definition; (d) each Class Member's estimated Individual Settlement Payment and the formula  
22 for calculating Individual Settlement Payments; (e) the dates which comprise the Class Period; (f)  
23 instructions on how to submit valid Requests for Exclusion or objections; (g) the deadlines by which the  
24 Class Member must fax or postmark Requests for Exclusions or file and serve objections to the  
25 Settlement; (h) the claims to be released, as set forth herein; and (i) the date for the Final Approval  
26 Hearing.

27 48. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement  
28 Administrator will perform a search based on the National Change of Address Database for information

1 to update and correct for any known or identifiable address changes. Any Notice Packets returned to the  
2 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly  
3 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement  
4 Administrator will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is  
5 provided, the Settlement Administrator will promptly attempt to determine the correct address using a  
6 skip-trace, or other search using the name, address and/or Social Security number of the Class Member  
7 involved and will then perform a single re-mailing. Those Class Members who receive a re-mailed Notice  
8 Packet, whether by skip-trace or by request, will have between the later of: (a) an additional fifteen (15)  
9 calendar days; or (b) the Response Deadline to fax or postmark a Request for Exclusion, or file and serve  
10 an objection to the Settlement.

11 49. The Settlement Administrator shall exercise its best judgment to determine the current  
12 mailing address for each Class Member. The address identified by the Settlement Administrator as the  
13 current mailing address shall be presumed to be the best mailing address for each Class Member.

14 50. Disputed Information on Notice Packets. Class Members will have an opportunity to  
15 dispute the information provided in their Notice Packets. To the extent Class Members dispute the  
16 number of weeks he/she worked during the Class Period, or the amount of their Individual Settlement  
17 Payment, Class Members may produce evidence to the Settlement Administrator showing that such  
18 information is inaccurate. Any disputes, along with supporting documentation, must be postmarked on  
19 or before the Response Deadline. Absent evidence rebutting Defendants' records, Defendants' records  
20 will be presumed determinative. However, if a Class Member produces evidence to the contrary, the  
21 Settlement Administrator will evaluate the evidence submitted by the Class Member in consultation  
22 with Class Counsel and counsel for Defendants and will make the final decision as to the Individual  
23 Settlement Payment to which the Class Member may be entitled with input from Class and Defense  
24 Counsel. This determination shall be binding on the Class Member.

25 51. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the  
26 Settlement Agreement must sign and postmark a written Request for Exclusion to the Settlement  
27 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope  
28 will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.

1 All Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly to  
2 Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted. Any  
3 Class Member who submits a Request for Exclusion shall be prohibited from objecting to the Settlement  
4 Agreement.

5 52. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member  
6 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid  
7 Request for Exclusion will be bound by all of the terms of the Settlement Agreement, including those  
8 pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if it grants  
9 Final Approval to the Settlement.

10 53. Objection Procedures. To object to the Settlement Agreement, a Class Member must file  
11 a valid Notice of Objection with the Settlement Administrator on or before the Response Deadline. The  
12 Settlement Administrator shall serve all objections as received on Class Counsel and Defendants'  
13 Counsel. It shall not be a breach of this Agreement for Class Counsel to file the Objections with the  
14 Court per the Court's instruction, local rules, or as otherwise required for approval of this Settlement  
15 Agreement. The Notice of Objection shall be signed by the Class Member and contain all information  
16 required by this Settlement Agreement. The postmark date of the filing and service will be deemed the  
17 exclusive means for determining that the Notice of Objection is timely. Class Members may also raise  
18 objections orally at the Final Fairness and Approval hearing, whether or not they previously submitted  
19 a valid Notice of Objection. At no time will any of the Parties or their counsel take any action to  
20 encourage, support, or induce Class Members to object to the Settlement Agreement, opt-out from the  
21 Settlement, or appeal from the Order and Judgment. Class Counsel will not represent any Class  
22 Members with respect to any such objections to this Settlement.

23 54. Certification Reports Regarding Individual Settlement Payment Calculations. The  
24 Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report which  
25 certifies: (a) the number of Class Members who have submitted valid Requests for Exclusion; and (b)  
26 whether any Class Member has submitted a challenge to any information contained in their Claim Form  
27 or Notice Packet. Additionally, the Settlement Administrator will provide to counsel for both Parties  
28 any updated reports regarding the administration of the Settlement Agreement as needed or requested.

1 No later than 30 days prior to the deadline for Class Counsel to file its motion in support of the Final  
2 Approval and Fairness Hearing, the Settlement Administrator will compile and deliver to Class Counsel  
3 and Defense Counsel a declaration with summary information of the Notice process, including but not  
4 limited to: (a) the total amount of final Individual Settlement Payments of each Settlement Class  
5 Member; (b) the number of Settlement Class Members to receive such payments; (c) the final number  
6 of requests for exclusion/Opt-Outs and objections; (d) the Settlement Administrator's qualifications for  
7 administration; and (e) an explanation of the steps taken to implement the Notice process as set forth in  
8 this Agreement.

9       55.    Uncashed Settlement Checks. Any checks issued by the Settlement Administrator to  
10 Participating Class Members will be negotiable for 120 calendar days from the date the check was issued  
11 (the "Void Date"). For any Class Member whose Individual Class Payment check or Individual PAGA  
12 Payment check is uncashed and cancelled after the Void Date, the Administrator shall transmit the funds  
13 represented by such checks to the California Controller's Unclaimed Property Fund in the name of the  
14 Participating Class Members.

15       56.    Certification of Completion. Upon completion of administration of the Settlement, the  
16 Settlement Administrator will provide a written declaration under oath to certify such completion to the  
17 Court and counsel for all Parties.

18       57.    Treatment of Individual Settlement Payments. All Individual Settlement Payments will  
19 be allocated as follows: of each Individual Settlement Payment, 33% will be allocated as alleged unpaid  
20 wages, 33% will be allocated as alleged unpaid civil penalties, and 34% will be allocated as alleged unpaid  
21 interest, and expense reimbursement. The percentage of each Individual Settlement Payment allocated  
22 as wages will be reported on an IRS Form W-2 by the Settlement Administrator. The remaining  
23 percentage of each Individual Settlement Payment shall be allocated as interest, penalties, and  
24 reimbursement, and will be reported on an IRS Form-1099 by the Settlement Administrator.

25       58.    Administration of Taxes by the Settlement Administrator. The Settlement Administrator  
26 will be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any W-2,  
27 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement.  
28 Within five (5) business days after the Effective Date, the Settlement Administrator will provide the

1 Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the  
2 Settlement, including the amount of the employer contribution for payroll taxes to be paid by  
3 Defendants.

4 59. Tax Liability. The Parties acknowledge that no tax advice has been offered or given by  
5 any other Party, their attorneys, agents, or any other representatives, in the course of these negotiations,  
6 and that each Party is relying upon the advice of his/her/its own tax consultant with regard to any tax  
7 consequences that may arise as a result of the execution of this Agreement. The Class Representatives  
8 and Class Counsel acknowledge that they may be required to submit a Form W-9, and the Class  
9 Representative, Class Members, and Class Counsel acknowledge that the Settlement Administrator may  
10 be required to issue a Form 1099 or other tax form reporting the consideration flowing to the Class  
11 Representative, Class Members, and Class Counsel under this agreement to the Internal Revenue  
12 Services and/or other taxing authority. Nothing herein shall obligate the Class Representative, Class  
13 Members, and Class Counsel to pay, indemnify, or otherwise assume responsibility for any taxes that  
14 would be owed by Defendants in the first instance or as a result of any re-classification of the treatment  
15 of the payments, such as, for example, employer-side payroll contributions.

16 60. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES  
17 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS  
18 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)  
19 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO  
20 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR  
21 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL  
22 ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR  
23 BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
24 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE  
25 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN,  
26 INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN  
27 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS  
28 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY

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

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

15 62. Release of Claims by Class Members. Upon the Effective Date, the Settlement Class and  
16 each Participating Class Member, fully releases and discharges, to the maximum extent permitted by  
17 the law, the Released Parties for the Released Claims for the Class Period. Participating Class Members  
18 will be deemed to have acknowledged and agreed that their claims for wages and penalties in the Action  
19 are disputed, and that their Individual Settlement Payment constitutes payment of all sums allegedly  
20 due to them. Participating Class Members will be deemed to have acknowledged and agreed that  
21 California Labor Code Section 206.5 is not applicable to the Individual Settlement Payment.

22 63. Plaintiff's Released Claims. In addition to the Participating Class Members' Released  
23 Claims described above, in exchange for the consideration recited in this Stipulation, including but not  
24 limited to the Class Representative Enhancement Award, Plaintiff Rafael Lopez releases, acquits, and  
25 discharges and covenants not to sue any of the Released Parties for any claim, whether known or  
26 unknown, which he or it has ever had, or hereafter may claim to have, arising on or before the date he  
27 signs this Stipulation, including without limitation to, any claims relating to or arising out of any aspect  
28 of his relationship with Defendants, or the termination of that relationship, including any claims for

1 unlawful retaliation, any claims for unpaid compensation, wages, reimbursement for business expenses,  
2 penalties, or waiting time penalties under the California Labor Code, the California Business and  
3 Professions Code, the federal Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.*, or any state,  
4 county, or city law or ordinance regarding wages or compensation; any claims for employee benefits  
5 including without limitation, any claims under the Employment Retirement Income Security Act of  
6 1974; any claims of employment discrimination on any basis, including without limitation, any claims  
7 under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 42 U.S.C. section 1981, the  
8 Civil Rights Act of 1991, the Americans with Disabilities Act of 1991, the Family and Medical Leave Act  
9 of 1993, the California Government Code, or any other state, county, or city law or ordinance regarding  
10 employment discrimination. Plaintiff acknowledges and agrees that the foregoing general release is given  
11 in exchange for the consideration provided to him under this Stipulation by Defendants. However, this  
12 release shall not apply to any claim for workers' compensation benefits, unemployment insurance  
13 benefits, pension or retirement benefits, or any other claim or right that as a matter of law cannot be  
14 waived or released.

15 Plaintiff expressly waives any rights or benefits available to him under the provisions of Section  
16 1542 of the California Civil Code, which provides as follows:

17 *A general release does not extend to claims that the creditor or releasing party does not know or*  
18 *suspect to exist in his or her favor at the time of executing the release and that, if known by him*  
19 *or her, would have materially affected his or her settlement with the debtor or released party.*

20 Plaintiff understands fully the statutory language of Civil Code Section 1542 and, with this  
21 understanding, nevertheless elects to, and does, assume all risks for claims that have arisen, whether  
22 known or unknown, which he had, or hereafter may claim to have, arising on or before the date of his  
23 signature to this Stipulation, and specifically waives all rights he may have under the California Civil  
24 Code section 1542.

25 64. Duties of the Parties Prior to Court Approval. The Parties shall promptly submit this  
26 Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval and  
27 determination by the Court as to the fairness, adequacy, and reasonableness of the Settlement  
28 Agreement. Promptly upon execution of this Settlement Agreement, the Parties shall apply to the Court



1 for the entry of an order for:

2 a. Scheduling a fairness hearing on the question of whether the proposed Settlement,  
3 including but not limited to, payment of Class Counsel's fees and costs, and the Class Representative  
4 Enhancement Payment, should be finally approved as fair, reasonable, and adequate as to the members  
5 of the Settlement Class;

6 b. Approving, as to form and content, the proposed Notice;

7 c. Approving the manner and method for Class Members to request exclusion from the  
8 Settlement as contained herein and within the Notice;

9 d. Directing the mailing of the Notice, by first class mail to the Class Members; and

10 e. Giving Preliminary Approval to Settlement subject to final review by the Court.

11 65. Duties of the Parties Following Preliminary Court Approval. Following Preliminary  
12 Approval by the Court of the Settlement provided for in this Settlement Agreement and Notice to the  
13 Class, Class Counsel will submit a proposed final order of approval and judgment for:

14 a. Approval of the Settlement, adjudging the terms thereof to be fair, reasonable, and  
15 adequate, and directing consummation of its terms and provisions;

16 b. Approval of Class Counsel's application for an award of attorneys' fees and costs;

17 c. Approval of the Class Representative Enhancement Payment to the Class  
18 Representative;

19 d. Approval of the Settlement Administration Costs of the Settlement Administrator; and

20 e. That judgment be entered in this Action.

21 66. Rescission of Settlement Agreement (by Defendants). If more than 7% of the Class  
22 Members opt-out of the Settlement by submitting Requests for Exclusion, Defendants may, at their  
23 option, rescind and void the Settlement and all actions taken in furtherance of it will thereby be null and  
24 void. Defendants must exercise this right of rescission, in writing, to Class Counsel within fourteen (14)  
25 calendar days after the Settlement Administrator notifies the Parties of the total number of Requests for  
26 Exclusion received by the Response Deadline. If the option to rescind is exercised, Defendants shall be  
27 solely responsible for all costs of the Settlement Administrator accrued to that point.

28 67. Additional Confirmatory Discovery. Defendants agree to provide Plaintiff with

1 reasonable confirmatory discovery to allow Plaintiff to verify the information relied upon in agreeing to  
2 settle. Defendants will provide Plaintiff with the transcribed data from the sample of paper timecards  
3 provided to Plaintiff prior to the mediation. Defendants will also request a reasonable sampling of  
4 electronic timekeeping data from the staffing agencies. Defendants shall take reasonable steps to obtain  
5 exemplar or actual policy documents and/or and employment agreements covering Class Members  
6 solely employed by a third-party staffing agency and provide them to Plaintiff's Counsel.

7       68.   Escalator Clause. Defendants have represented that there are 105 direct hire Class  
8 Members who worked during the Class Period of April 10, 2019 through September 17, 2023 who  
9 worked a combined 7,589 workweeks during that period. Defendants have further represented that there  
10 are 667 agency hire Settlement Class Members during the period from April 10, 2019 through September  
11 17, 2023, who worked a combined 4,066 workweeks during that period. Defendants have represented  
12 that 64 of the agency hire Settlement Class Members were also direct hire Settlement Class Members.  
13 Plaintiff has relied upon these material representations in entering into this Settlement. Should the total  
14 number of workweeks worked by direct hire Settlement Class Members exceed 8,348 (10% more than  
15 7,589 workweeks), Defendants, in their sole discretion, may elect to shorten the Class Period for the  
16 direct hire Settlement Class Members to the date that the total workweeks meets but does not exceed  
17 8,348 or Defendant may choose to pay the pro rata percentage increase in excess of 10% to the Maximum  
18 Settlement Amount to include the additional workweeks; e.g. a 12% increase in workweeks would result  
19 in a 2% increase in the Maximum Settlement Amount. Should the total number of workweeks worked by  
20 agency hire Settlement Class Members exceed 4,473 (10% more than 4,066 workweeks), Defendants, in  
21 their sole discretion, may elect to shorten the Class Period for the agency hire Settlement Class Members  
22 to the date that the total workweeks meets but does not exceed 4,473 or Defendant may choose to pay  
23 the pro rata percentage increase of 0.5% for workweeks in excess of 10% to the Maximum Settlement  
24 Amount to include the additional workweeks or class members; e.g. a 12% increase in workweeks would  
25 result in a 1% increase in the Maximum Settlement Amount. For the avoidance of doubt, any increase to  
26 the Maximum Settlement Amount caused by this Paragraph shall apply to Class Counsel's fees such  
27 that they shall be equal to one-third of the amount of the escalated Maximum Settlement Amount.

28       69.   Adjustments to Components of Maximum Settlement Amount. This Agreement

1 contemplates those future adjustments to the amounts of components of the Maximum Settlement  
2 Amount listed above may be necessary and/or may be ordered by the Court. Any such future  
3 adjustments shall be made only by written stipulation of the Parties or by an order of the Court. For the  
4 avoidance of doubt, this Paragraph does not apply to the Escalator Clause above, and modifications to  
5 this Settlement and the Notice shall be implemented upon the Escalator Clause triggering without the  
6 need for a written stipulation or Court Order.

7 70. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally  
8 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other  
9 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null  
10 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will  
11 likewise be treated as void from the beginning. In such event, if the Court rejects the Settlement despite  
12 the Parties' best efforts, Defendants shall be liable for all Settlement Administration costs incurred.

13 71. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request  
14 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order  
15 for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary  
16 Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement  
17 Fairness Hearing. The Preliminary Approval Order will provide for the Notice Packet to be sent to all  
18 Class Members as specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will  
19 submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include the  
20 proposed Notice Packet; *i.e.*, the proposed Notice of Class Action Settlement document, attached as  
21 **Exhibit A**. Class Counsel will be responsible for drafting all documents necessary to obtain Preliminary  
22 Approval. Defendants agree not to oppose the Motion for Preliminary Approval.

23 72. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the  
24 deadlines for Class Members to submit Requests for Exclusion, or objections to the Settlement  
25 Agreement, and with the Court's permission, a Final Approval/Settlement Fairness Hearing will be  
26 conducted to determine the Final Approval of the Settlement Agreement along with the amounts  
27 properly payable for: (a) Individual Settlement Payments; (b) the Labor and Workforce Development  
28 Agency Payment; (c) the Class Counsel's Fees and Costs; (d) the Class Representative Enhancement

1 Payment; (e) all Settlement Administration Costs; and (f) the Defendants' share of payroll taxes for  
2 wages paid in connection with the Individual Settlement Payments. Class Counsel will be responsible  
3 for drafting all documents necessary to obtain Final Approval, including responding to any objections  
4 and appeals arising therefrom. Class Counsel will also draft the attorneys' fees and costs application to  
5 be heard at the Final Approval hearing. Class Counsel agrees to provide drafts of all documents  
6 necessary to obtain Final Approval to Defendants at least five (5) days prior to submitting the drafts to  
7 the Court. Defendants agree not to oppose the Motion for Final Approval.

8       73.     Termination of Settlement. Subject to the obligation(s) of cooperation set forth herein,  
9 any Party may terminate this Settlement if the Court declines to enter the Preliminary Approval Order,  
10 the Final Approval Order, or final judgment in substantially the form submitted by the Parties, or the  
11 Settlement Agreement as agreed does not become final because of appellate court action. The  
12 Terminating Party shall give to all other Parties (through his/its counsel) written notice of his/its  
13 decision to terminate this Agreement no later than ten (10) business days after receiving notice that one  
14 of the enumerated events has occurred. Termination of this Agreement shall have the following effects:

15       a.     The Settlement Agreement shall be terminated and shall have no force or effect, and no  
16 Party shall be bound by any of its terms;

17       b.     In the event the Settlement is terminated, Defendants shall have no obligation to make  
18 any payments to any Party, Class Member or Class Counsel. The Terminating Party shall pay the  
19 Settlement Administrator for services rendered up to the date the Settlement Administrator is notified  
20 that the Settlement has been terminated;

21       c.     The Preliminary Approval Order, Final Approval Order, and Judgment, including any  
22 order of class certification, shall be vacated;

23       d.     The Settlement Agreement and all negotiations, statements, and proceedings relating  
24 thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their  
25 respective positions in the Action prior to the Settlement;

26       e.     Neither this Stipulated Settlement, nor any ancillary documents, actions, statements, or  
27 filings in furtherance of settlement (including all matters associated with the mediation) shall be  
28 admissible or offered into evidence in the Action or any other action for any purpose whatsoever.

1           74.    Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by the  
2 Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the Judgment  
3 pursuant to California Code of Civil Procedure section 664.6 to the Court for its approval. After entry  
4 of the Judgment, the Court will have continuing jurisdiction for purposes of addressing: (a) the  
5 interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters,  
6 and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this  
7 Agreement.

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

11           76.    Entire Agreement. This Settlement Agreement, the general release of all claims by the  
12 Class Representative, and any attached Exhibits constitute the entirety of the Parties' settlement terms.  
13 No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.  
14 The Parties expressly recognize California Civil Code section 1625 and California Code of Civil  
15 Procedure section 1856(a), which provide that a written agreement is to be construed according to its  
16 terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such  
17 extrinsic oral or written representations or terms will modify, vary, or contradict the terms of this  
18 Agreement.

19           77.    Amendment or Modification. This Settlement Agreement may be amended or modified  
20 only by a written instrument signed by the named Parties or their successors-in-interest.

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

1 this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

2 79. Signatories. It is agreed for the purposes of this Settlement Agreement only that because  
3 the members of the Class are so numerous, it is impossible or impractical to have each member of the  
4 Class execute this Settlement Agreement. The Notice, attached hereto as Exhibit A, will advise all Class  
5 Members of the binding nature of the release, and the release shall have the same force and effect as if  
6 this Settlement Agreement were executed by each member of the Class.

7 80. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,  
8 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

9 81. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will  
10 be governed by and interpreted according to the laws of the State of California.

11 82. Execution and Counterparts. This Settlement Agreement is subject only to the execution  
12 of all Parties. The Agreement may be executed in one or more counterparts either by ink or electronic  
13 signature. All executed counterparts and each of them, including electronic, facsimile, and scanned  
14 copies of the signature page, will be deemed to be one and the same instrument.

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

21 84. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement  
22 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible  
23 consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid  
24 and enforceable.

25 85. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this  
26 Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms herein.  
27 For good and valuable consideration, Plaintiff further agrees that he will not request to be excluded from  
28 the Settlement Agreement, nor object to any terms herein. Any such request for exclusion or objection

1 by Plaintiff will be void and of no force or effect. Any efforts by Plaintiff to circumvent the terms of this  
2 paragraph will be void and of no force or effect.

3 86. Waiver of Certain Appeals. Provided the Judgment is consistent with the terms and  
4 conditions of this Agreement, the Parties, their respective counsel, and all Class Members who did not  
5 object to the Settlement as provided in this Agreement, agree to waive appeals and to stipulate to class  
6 certification for purposes of this Settlement only (and to the extent the Court has given final approval of  
7 the Settlement); except, however, that Plaintiff or Class Counsel may appeal any reduction in the Class  
8 Counsel's Fees and Costs below the amount requested from the Court but must inform Defense Counsel  
9 and the Class Administrator of any intent to appeal prior to the distribution of any funds from the Class  
10 Administrator to any Settlement Class Members or any other Parties. If an objector appeals the  
11 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time  
12 as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect  
13 the amount of the Net Settlement Amount. Any Party may terminate this Settlement or appeal any  
14 Court order which is not in substantially the form submitted by the Parties.

15 87. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute  
16 that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In  
17 entering into this Agreement, Defendants do not admit, and specifically deny, they have violated any  
18 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or  
19 any other applicable laws, regulations, or legal requirements; breached any contract; violated or  
20 breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful  
21 conduct with respect to Plaintiff, Class Members, and its employees. Neither this Agreement, nor any  
22 of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an  
23 admission or concession by Defendants of any such violations or failures to comply with any applicable  
24 law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its  
25 terms and provisions shall not be offered or received as evidence in any action or proceeding to establish  
26 any liability or admission on the part of Defendants or to establish the existence of any condition  
27 constituting a violation of, or a non-compliance with, federal, state, local, or other applicable law.

28 88. Captions. The captions and section numbers in this Agreement are inserted for the

1 reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the  
2 provisions of this Agreement.

3 89. Waiver. No waiver of any condition or covenant contained in this Agreement or failure  
4 to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a  
5 further waiver by such Party of the same or any other condition, covenant, right, or remedy.

6 90. Enforcement Actions. In the event that one or more of the Parties institute any legal  
7 action, motion, petition, or other proceeding against any other Party or Parties to enforce the provisions  
8 of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or  
9 Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and  
10 costs, including expert witness fees incurred.

11 91. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and  
12 conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against  
13 one Party than another merely by virtue of the fact that it may have been prepared by counsel for one of  
14 the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all  
15 Parties have contributed to the preparation of this Agreement.

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

20 93. All Terms Subject to Final Court Approval. All amounts and procedures described in this  
21 Settlement Agreement herein will be subject to the Court's Final Approval.

22 94. Notices. Unless otherwise specifically provided herein, all notices, demands, or other  
23 communications given hereunder shall be in writing and shall be transmitted to a Party via email:

24 To Plaintiff and the Settlement Class:

25 Elliot J. Siegel  
26 elliot@kingsiegel.com  
27 Julian Burns King  
28 julian@kingsiegel.com  
**KING & SIEGEL LLP**



1 724 S. Spring Street, Suite 201  
2 Los Angeles, California 90014

3 Xavier Villegas  
4 xavier@xaviervillegas.com  
5 **LAW OFFICE OF XAVIER VILLEGAS, APC**  
6 2390 Las Posas Road, C168  
7 Camarillo, CA 93010

8 To Defendants:

9 Nathan W. Austin (Bar No. 219672)  
10 nathan.austin@jacksonlewis.com  
11 Erika M. Barbara (Bar No. 215702)  
12 erika.barbara@jacksonlewis.com  
13 Keelia K. Lee (Bar No. 346549)  
14 keelia.lee@jacksonlewis.com  
15 **JACKSON LEWIS P.C.**  
16 400 Capitol Mall, Suite 1600  
17 Sacramento, CA 95814

18 95. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good  
19 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this  
20 Settlement Agreement.

21 96. Binding Agreement. The Parties warrant that: 1) they understand and have full authority  
22 to enter into this Agreement; 2) they intend that this Agreement will be fully enforceable and binding  
23 on all Parties; and 3) agree that it will be admissible and subject to disclosure in any proceeding to enforce  
24 its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under  
25 federal or state law.

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

28 **SIGNATURES**

**READ CAREFULLY BEFORE SIGNING**

**PLAINTIFF: Rafael Lopez**

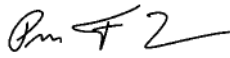
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Dated: 30/11/2023 \_\_\_\_\_

Rafael Lopez  
Rafael Lopez (Nov 30, 2023 19:34 PST)  
\_\_\_\_\_  
Rafael Lopez


**DEFENDANT:** Bay State Milling Company

Dated: 12/10/2023 \_\_\_\_\_

  
\_\_\_\_\_  
Bay State Milling Company  
Peter Levangie, President and Chief Executive Officer

**DEFENDANT:** Peter Levangie

Dated: 12/10/2023 \_\_\_\_\_

  
\_\_\_\_\_  
Peter Levangie

# **Exhibit A**

**NOTICE OF PROPOSED CLASS AND PAGA ACTION SETTLEMENT AND HEARING DATE FOR  
COURT APPROVAL**

*Rafael Lopez v. Bay State Milling Company, et. al.,*  
Superior Court of the State of California, Yolo County  
Case No. CV2023-0742

*You are **not** being sued. This is **not** an advertisement. This notice affects your rights.*

**YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT.**

**PLEASE READ THIS NOTICE CAREFULLY.**

You have received this Notice of Class and PAGA Action Settlement because Bay State Milling Company's records show you are what is called a "Class Member," and are entitled to a payment from this class action settlement ("Settlement"). Class Members are all current and former direct or agency employees of Bay State Milling Company who worked at least one shift in California from April 10, 2019 through [the earlier of 90 days after October 9, 2023 or preliminary approval].

On [REDACTED], the Honorable David Rosenberg of the Superior Court of California for the County of Yolo granted preliminary approval of this Class and PAGA Action Settlement and ordered that all Class Members be notified of the Settlement.

**Unless you choose not to participate in the Settlement (in other words, should you choose to "opt out") by following the procedures described below, you will be considered a Participating Class Member. If the Court grants final approval of the Settlement, you will be mailed a check for your share of the Settlement fund, which is estimated to be <estAmount>.**

**IF YOU STILL WORK FOR BAY STATE MILLING COMPANY, PARTICIPATION IN THIS SETTLEMENT WILL NOT AFFECT OR DISRUPT YOUR WORK IN ANY MANNER. YOU WILL NOT BE RETALIATED AGAINST BY DEFENDANTS FOR YOUR PARTICIPATION.**

**California law strictly prohibits retaliation.** Defendants are prohibited by law from taking any adverse action against any Class Member or otherwise targeting, retaliating, or discriminating against any Class Member because of the Class Member's participation in or decision not to participate in this Settlement.

You can view the proposed Final Approval Order, Final Judgment, and payment schedule at [www.\[REDACTED\]](#).

Questions? Contact the Settlement Administrator toll free at [REDACTED]

### What Is This Case About?

Rafael Lopez was an employee of Defendants. He is the “Plaintiff” in this case and has filed a lawsuit against Bay State Milling Company and Peter Levangie (“Defendants”) on behalf of himself and all Class Members, alleging they (1) failed to pay minimum wages; (2) failed to pay overtime wages; (3) failed to provide meal periods or premium pay in lieu thereof; (4) failed to provide rest periods or premium pay in lieu thereof; (5) failed to reimburse necessary business expenses; (6) failed to provide and maintain complete and accurate records; (7) failed to timely pay wages during and after employment; (8) violated California’s Unfair Competition Law, codified at California Business and Professions Code sections 17200, *et seq.* and (9) are subject to associated penalties under the California Labor Code and California Private Attorneys General Act (“PAGA”).

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations raised in the Action or the merits of the claims or defenses asserted. The Court has made no ruling on the merits of Plaintiff’s claims or Defendants’ defenses thereto.

Defendants are not admitting to any allegations or wrongdoing in this case, and in fact expressly deny that any practices at issue in this lawsuit were or are unlawful. Specifically, Defendants assert that the Class Members were properly compensated at all times during the Class Period. Defendants further assert that Bay State Milling Company has and had during the Class Period lawful wage-and-hour policies, practices, and procedures, including legally compliant timekeeping policies.

Plaintiff entered into settlement discussions with Defendants in an attempt to resolve the disputed claims in this case. On October 9, 2023, the Parties negotiated a settlement on behalf of themselves and the Class Members with the assistance of a third-party mediator. The Parties’ agreement has been documented in a Joint Stipulation of Settlement and Release of Class and PAGA Action (“Joint Stipulation”).

The Court has preliminarily approved the Joint Stipulation. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing. The Final Fairness and Approval Hearing (“Hearing”) on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED] on [REDACTED], in Department 14 of the Superior Court of California for the County of Yolo, 1000 Main Street, Woodland, CA 95695. You are not required to attend the Hearing.

Attorneys for Plaintiff and the Class Members (“Class Counsel”) are:

Elliot J. Siegel  
Julian Burns King  
**KING & SIEGEL LLP**  
(213) 465-4802  
724 S. Spring Street, Ste. 201

Questions? Contact the Settlement Administrator toll free at [REDACTED]

Los Angeles, California 90014

*and*

Xavier Villegas

**LAW OFFICE OF XAVIER VILLEGAS, APC**

(805) 250-7488

2390 Las Posas Road, C168

Camarillo, CA 93010

Class Counsel has investigated and researched the facts and circumstances underlying the issues raised in this case and the applicable law. While Class Counsel believes Plaintiff's claims in this lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement. Because of this, Class Counsel believes the proposed Settlement is fair, adequate, reasonable, and in the best interests of the Class Members.

### **Summary of the Settlement Terms**

Plaintiff and Defendants have agreed to settle this case on behalf of themselves and the Class Members for \$837,500.00 ("Maximum Settlement Amount").

The Maximum Settlement Amount includes: (1) Individual Settlement Payments to Participating Class Members; (2) a \$15,000 service payment to the Representative Plaintiff for his time and effort in pursuing this case and in exchange for a general release of claims against Defendants, subject to Court approval; (3) Settlement Administration Costs not to exceed \$25,000; (4) \$93,750 to the California Labor & Workforce Development Agency, representing the State of California's portion of civil penalties under PAGA (or 75% of the \$125,000 allocated to PAGA penalties); and (5) subject to Court approval of an application for fees and costs, an award of up to \$279,166.67 in attorneys' fees and up to \$25,000 in litigation costs and expenses to Class Counsel.

After deducting the service payments to Plaintiff, the Settlement Administration Costs, the portion of the PAGA payment to be paid to the California Labor and Workforce Development Agency, and attorneys' fees and costs/expenses, a total of approximately \$399,583.33 will be available to Class Members who do not opt out of the Settlement ("Net Settlement Amount"). Employer-side payroll taxes will be paid by Bay State Milling Company *outside* of the Maximum Settlement Amount.

### **Plan of Distribution to Class Members**

Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of weeks a Participating Class Member worked during the Class Period ("Workweeks"). Specific calculations of Individual Settlement Payments will be made as follows:

- a. The Settlement Administrator will calculate the number of Workweeks per Participating Class Member during the Class Period based on records in

Questions? Contact the Settlement Administrator toll free at \_\_\_\_\_

Defendants' possession, custody or control.<sup>1</sup> Workweeks are determined by calculating the number of days each Class Member actually worked during the Class Period, dividing by seven (7). Partial workweeks will not be counted, meaning incomplete workweeks will be rounded down; however, a Class Member who worked only one day during the Class Period will be credited with having worked one Workweek for purposes of the Settlement.

- b. Using the Class Data, the Settlement Administrator will calculate the total Workweeks for all Settlement Class Members by adding the number of Workweeks worked by each Settlement Class Member during the Class Period. The respective Workweeks for each Settlement Class Member will be divided by the total Workweeks for all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member.
- c. In calculating Workweeks, the Settlement Administrator will weight Workweeks worked by direct hire employees at 2.5 times the weight of Workweeks worked by agency employees to account for the difference in their legal claims and the impact of putative arbitration agreements governing agency employees.
- d. Each Settlement Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member's estimated Individual Settlement Payments.
- e. Using the Class Data, the Settlement Administrator will calculate the total number of pay periods in the PAGA Period and will divide each Class Member's individual number of eligible pay periods in the PAGA Period to determine their pro rata portion of the portion of the PAGA Payment allocated to each Aggrieved Employees. Partial pay periods will not be counted, meaning incomplete pay periods will be rounded down; however, a Class Member who worked only one day during the PAGA Period will be credited with having worked one pay period for purposes of the Settlement.
- f. According to Defendants' records, you worked <<Workweeks>> Workweeks during the Class Period. Accordingly, your estimated payment pursuant to the terms of the Settlement is approximately <<estAmount>>.

If you believe the information provided above as to the number of your Individual Workweeks is incorrect and you wish to dispute it, please submit the Challenge Form attached to your Share Form to the Settlement Administrator at *Lopez v. Bay State Milling Company Settlement*

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<sup>1</sup> Defendants' Workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Settlement Administrator by credible written evidence. All Workweek disputes will be resolved and decided by the Settlement Administrator in consultation with Class Counsel and counsel for Defendants. The Settlement Administrator's decision on all Workweek disputes will be final and non-appealable.

Administrator, c/o \_\_\_\_\_ no later than 30 days after the date this Notice of Class Action Settlement was mailed to you. If you dispute the information stated above, the information provided to the Settlement Administrator will control unless you are able to provide documentation that establishes otherwise. Any disputes, along with supporting documentation (“Disputes”), must be postmarked no later than \_\_\_\_\_. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

### **Class Member Tax Matters**

IRS Forms W-2 and 1099-MISC will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments Class Members receive under the Settlement. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this Settlement, 33% of each Individual Settlement Payment will be allocated to alleged unpaid wages, 33% will be allocated as alleged unpaid civil penalties, and 34% will be allocated to interest. Again, please consult with a tax advisor regarding the significance of how each Individual Settlement Payment is allocated between wages, penalties, and interest. This notice is not intended to provide legal or tax advice. To the extent this notice or any of its attachments is interpreted to contain or constitute advice regarding any United States or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code.

### **Your Options Under the Settlement**

#### ***Option 1 – Automatically Receive a Payment from the Settlement***

If you want to receive your payment from the Settlement, then no further action is required on your part. You will automatically receive your Individual Settlement Payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1** and the Court grants final approval of the Settlement, you will be mailed a check for your share of the Settlement funds. In addition, you will be deemed to have released or waived the following claims (“Released Claims”) against the Released Parties for the Release Period

The Released Class Claims include:

All claims made in the Complaint or all claims that reasonably could have been alleged based on the facts and allegations contained in the operative complaint and LWDA letters, including but not limited to California Labor Code sections 200, 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 233, 245, 246, 248, 248.2, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1401, 2802, and 2698, et seq., California Industrial Commission Wage Orders, Cal. Code Regs., Title. 8, section 11040, et seq., Business and Professions Code sections 17200, et seq., and California Code of Civil Procedure section 1021.5

Questions? Contact the Settlement Administrator toll free at \_\_\_\_\_



The Released PAGA Claims include:

All claims for civil penalties asserted in the Complaint or Plaintiff's LWDA letter under the Private Attorneys General Act, Labor Code section 2698 et seq. ("PAGA") based on predicate violations of California Labor Code sections 200, 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 233, 245, 246, 248, 248.2, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 1401, 2802, and 2698, et seq., California Industrial Commission Wage Orders, Cal. Code Regs., Title. 8, section 11040, et seq.

Released Parties means: (i) Defendants Bay State Milling Company and Peter Levangie; (ii) each of Defendants' respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, or partnership; (iii) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing, including, but not limited to, temporary staffing agencies.

The Class Release Period means the period from April 10, 2019 through [90 days after October 9, 2023 or the date of preliminary approval, whichever date occurs first]. The PAGA Release Period means the period from April 3, 2022 through [90 days after October 9, 2023 or the date of preliminary approval, whichever date occurs first].

### **Option 2 - Opt-Out of the Settlement**

You will be treated as a participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator, in writing, not later than [date], that you wish to opt-out.

If you do not wish to participate in the Settlement, you may exclude yourself from participating by submitting a written "Request for Exclusion from The Class Action Settlement" letter or card to the Settlement Administrator postmarked no later than [redacted]. Your written request must expressly and clearly state:

**"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *LOPEZ V. BAY STATE MILLING COMPANY, ET. AL.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT."**

The written request for exclusion must include your name, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail or equivalent, to the address below.

**Lopez v. Bay State Milling Company Settlement Administrator**  
c/o [redacted]

Questions? Contact the Settlement Administrator toll free at [redacted]

Telephone: \_\_\_\_\_

The written request to be excluded from the Settlement must be postmarked to the Settlement Administrator not later than \_\_\_\_\_ [30 days from mailing]. If you submit a request for exclusion which is not postmarked by \_\_\_\_\_, your request for exclusion will be rejected, and you will be included in the Settlement Class.

If you choose **Option 2**, you will no longer be a Class Member. Therefore, you (1) will **not** receive any payment from the Settlement, with the exception of your pro-rata portion of the employee portion of the civil penalties allocated to PAGA; (2) will not be deemed to have released any claims due to this Settlement with the exception of the PAGA cause of action, and (3) will be barred from filing an objection to the Settlement.

**Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

**Option 3 – File an Objection to the Settlement**

If you wish to object to the Settlement, you can mail a written objection to the Settlement Administrator. Your objection should provide: your full name, address and telephone number, the last four digits of your Social Security Number, the dates you were employed by Bay State Milling Company in California, and your objections to the Settlement, including each specific reason in support of each objection and any legal support for each objection together with any evidence in support of your objection. Your objection should be mailed to the Settlement Administrator on or before \_\_\_\_\_.

You may also appear at the Final Fairness and Approval Hearing set for \_\_\_\_\_ at \_\_\_\_\_ in Department 14 of the Superior Court of California for the County of Yolo located at 1000 Main Street, Woodland, CA 95695, and discuss your objections with the Court and the Parties at your own expense. You may appear at the Hearing regardless of whether you submitted a written objection. You may also retain an attorney to represent you at the Hearing at your own expense. All objections or other correspondence must state the name and number of the case, which is *Rafael Lopez v. Bay State Milling Company, et. al.*, Yolo County Case Number No. CV2023-0742.

If you choose **Option 3**, you will still be entitled to the money from the Settlement. You will remain a member of the Settlement Class, and if the Court overrules your objections and approves the Settlement, you will receive your Individual Settlement Payment and will be bound by the terms of the Settlement in the same way as Class Members who do not object, including being deemed to have released the Released Claims. You cannot both object to the settlement and exclude yourself. You must choose one option only.

Questions? Contact the Settlement Administrator toll free at \_\_\_\_\_

**Additional Information**

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may refer to the pleadings, the Joint Stipulation of Settlement, and other papers filed in this case, which may be inspected at the Office of the Clerk of the Superior Court of California for the County of Yolo, during regular business hours of each court day.

All questions by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

You can view the final approval order and final judgment and payment schedule at [www.](http://www.) [REDACTED].

**PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS NOTICE.**

## Share Form

*Rafael Lopez v. Bay State Milling Company, et al.*  
*Superior Court of the State of California, Yolo County*  
*Case No. CV2023-0742*

For all persons who are or previously were employed by Bay State Milling Company in the State of California as a non-exempt direct hire or agency employee in the State of California from April 10, 2019 [through the earlier of 90 days after October 9, 2023 or preliminary approval] (“Class Period”).

### **Your Estimated Payment**

Your total Individual Settlement Payment is currently estimated at \$ [REDACTED]. Your estimated pro-rata share of the Net Settlement Amount, as defined in the accompanying Notice of Proposed Class Action Settlement and Hearing Date for Court Approval (“Notice”), may increase depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement. The Net Settlement Amount to be distributed to all Class Members who do not opt-out of the settlement is currently estimated to be \$ [REDACTED].

Your estimated award is based on your pro-rata percentage of the Net Settlement Amount. Your award is calculated based on your Workweeks as a non-exempt employee in California during the Class Period, as a percentage of all of Class Members’ Workweeks in California during the Class Period, as adjusted per the allocation method set forth in the Joint Stipulation of Settlement and Release of Class and PAGA Action and the accompanying Notice. “Workweeks” means the number of weeks actually worked by each Class Member as a non-exempt employee during the Class Period. Workweeks are determined by calculating the number of days each Class Member actually worked during the Class Period and dividing by seven (7). Partial workweeks will not be counted, meaning incomplete workweeks will be rounded down; however, a Class Member who worked only one day during the Class Period will be credited with having worked one Workweek for purposes of the Settlement. Defendant’s payroll records show that during the Class Period, you worked a total of [REDACTED] Workweeks.

**YOU DO NOT NEED TO DO ANYTHING IN ORDER TO RECEIVE MONEY UNDER THE SETTLEMENT.**

**If you believe the total number of your Workweeks during the Class Period (listed above) is accurate, you do not need to take any further action in order to receive your payment.**

**TO CHALLENGE THE NUMBER OF YOUR WORKWEEKS DURING THE CLASS PERIOD, THE SHARE FORM AND THE CHALLENGE PORTION OF THE FORM BELOW MUST BE SIGNED AND POSTMARKED NO LATER THAN [DATE].**

## CHALLENGE FORM

### Important:

1. You do NOT have to complete this part of the Share Form if the total number of your Workweeks during the Class Period as stated above is accurate.
2. If you do submit this form, it is strongly recommended that you keep proof of timely mailing of this form until receipt of your settlement payment.
3. If you change your mailing address, please provide your new mailing address to the Settlement Administrator. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.

***Check the box below ONLY if you wish to challenge the total number of your Workweeks as stated above. All fields on this Challenge Form must be complete for your challenge to be accepted:***

- I wish to challenge the total number of my Workweeks. I have included a written statement detailing what I believe to be the correct number of weeks I was employed as an hourly, non-exempt employee in California during the Class Period. I have also included information and/or documentary evidence that support my challenge. I understand that by submitting this challenge I authorize the Settlement Administrator to review Defendant's records and determine the validity of my challenge.

\_\_\_\_\_  
Signature

Name of Class Member \_\_\_\_\_ [preprinted]

Class Member ID Number (from address label): \_\_\_\_\_ [preprinted]

I believe that the correct number of Workweeks I was employed by Defendant as an hourly, non-exempt employee in California during the Class Period is: \_\_\_\_\_

The following is a statement of my reasons and documentation to support this number of Workweeks:

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**[Attach documentation and use separate page(s) as necessary]**

Mail to: insert address
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# **Exhibit B**

1 Elliot J. Siegel (Bar No. 286798)  
2 elliot@kingsiegel.com  
3 **KING & SIEGEL LLP**  
4 724 S. Spring Street, Ste. 201  
5 Los Angeles, California 90014  
6 Tel: (213) 465-4802 / Fax: (213) 465-4803

7 Xavier Villegas (Bar No. 293232)  
8 xavier@xaviervillegaslaw.com  
9 **LAW OFFICE OF XAVIER VILLEGAS, APC**  
10 2390 Las Posas Road, C168  
11 Camarillo, CA 93010  
12 Tel: (805) 250-7488 / Fax: (805) 250-7499

13 Attorneys for Plaintiff and the Settlement Class

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF YOLO**

16 **Rafael Lopez**, individually and on behalf of all  
17 similarly situated individuals,

18 Plaintiff,

19 vs.

20 **Bay State Milling Company**, a Minnesota  
21 corporation; **Peter F. Levangie**, an individual;  
22 and **Does 1-100**;

23 Defendants,

CASE NO. CV2023-0742

[Assigned to Judge David Rosenberg,  
Department 14]

**CLASS ACTION**

**[PROPOSED] ORDER PRELIMINARILY  
APPROVING CLASS ACTION  
SETTLEMENT PURSUANT TO THE  
TERMS OF JOINT STIPULATION RE:  
CLASS AND PAGA ACTION  
SETTLEMENT**

Date: \_\_\_\_\_ [Reserved]

Time: \_\_\_\_\_

Dept.: \_\_\_\_\_



1 Plaintiff's Unopposed Motion for Preliminary Approval of the proposed settlement of this  
2 action on the terms set forth in the Joint Stipulation of Settlement and Release of Class and PAGA  
3 Action (the "Settlement" or "Stipulation") came on for hearing on \_\_\_\_\_, 2023.

4 Having considered the Settlement, all papers and proceedings held herein, and having  
5 reviewed the entire record in this action, Case No. CV2023-0742, entitled *Rafael Lopez v. Bay State*  
6 *Milling Company, et. al.* (the "Action"), and good cause appearing, the Court finds that:

7 WHEREAS, Plaintiff Rafael Lopez ("Plaintiff" or "Class Representative"), has alleged  
8 claims against Defendants Bay State Milling Company and Peter Levangie ("Defendants") as an  
9 individual and on behalf of all others similarly situated, comprising: "*All persons who worked for*  
10 *Defendants at least one shift as a non-exempt direct hire or agency employee in the State of California from*  
11 *April 10, 2019 through the earlier of 90 days after October 9, 2023 or preliminary approval*" ("Class  
12 Members"); and

13 WHEREAS, Plaintiff asserts class and PAGA claims in the Action against Defendants for:  
14 (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal  
15 periods or premium pay in lieu thereof; (4) failure to provide rest periods or premium pay in lieu  
16 thereof; (5) failure to reimburse necessary business expenses; (6) failure to provide and maintain  
17 complete and accurate records; (7) failure to timely pay wages during and after employment; (8)  
18 civil penalties under the Labor Code Private Attorneys General Act of 2004, Cal. Lab. Code §§  
19 2698, *et seq.* ("PAGA"); and (9) Unlawful Business Practices, Cal. Bus. & Prof. Code §§ 17200, *et*  
20 *seq.*

21 WHEREAS, Defendants expressly deny the allegations of wrongdoing and violations of law  
22 alleged in this Action, and further deny any liability whatsoever to Plaintiff or to the Class Members;  
23 and

24 WHEREAS, without admitting any liability, claim, or defense, Plaintiff and Defendants  
25 (collectively, the "Parties") determined that it was mutually advantageous to settle this Action and  
26 to avoid the costs, delay, uncertainty, and business disruption of ongoing litigation; and

27 WHEREAS, the Parties agreed to resolve the Action and entered into the Joint Stipulation  
28 re: Class Action Settlement on \_\_\_\_\_, 2023, which provides for the final resolution of all class and

1 PAGA claims asserted by Plaintiff against Defendants in the Action, on the terms and conditions  
2 set forth in the Stipulation, subject to the approval of this Court;

3 NOW, therefore, the Court grants preliminary approval of the Settlement, and

4 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

5 1. To the extent defined in the Stipulation, incorporated herein by reference, the terms  
6 in this Order shall have the meanings set forth therein.

7 2. The Court has jurisdiction over the subject matter of this Action, Defendants, and  
8 the Class.

9 3. The Class is defined as follows: *“All persons who worked for Defendants at least one  
10 shift as a non-exempt direct hire or agency employee in the State of California from April 10, 2019 through  
11 the earlier of 90 days after October 9, 2023 or preliminary approval.”*

12 4. The Court has determined that the Class Notice, attached to the Joint Stipulation as  
13 Ex. A, fully and accurately informs all persons in the Class of all material elements of the proposed  
14 Settlement, constitutes the best notice practicable under the circumstances, and constitutes valid,  
15 due, and sufficient notice to all Class Members.

16 5. The Court hereby grants preliminary approval of the Settlement and Stipulation as  
17 fair, reasonable, and adequate in all respects to the Class Members, and orders the parties to  
18 consummate the Settlement in accordance with the terms of the Stipulation.

19 6. The plan of distribution as set forth in the Stipulation providing for the distribution  
20 of the Net Settlement Amount to Settlement Class Members is preliminarily approved as being fair,  
21 reasonable, and adequate.

22 7. The Court preliminarily appoints as Class Counsel the following attorneys: Elliot J.  
23 Siegel and Julian Burns King of King & Siegel LLP, 724 S. Spring Street, Suite 201, Los Angeles,  
24 California 90014 and Xavier Villegas of Law Office of Xavier Villegas, APC, 2390 Las Posas Road,  
25 C168, Camarillo, CA 93010.

26 8. The Court preliminarily approves the payment of attorneys’ fees in the amount of  
27 \$279,166.67 (or one-third of the Maximum Settlement Amount) to Class Counsel, which shall be  
28 paid from the Maximum Settlement Amount.



1	b.	Deadline for the Settlement Administrator to mail Notice of the Settlement to the Class Members	_____ [10 calendar days following the Settlement Administrator's receipt of Class data]
2			
3	c.	Deadline for Class Members to postmark Requests for Exclusion from the Settlement	_____ [30 calendar days after the Settlement Administrator mails the Notice]
4			
5	d.	Deadline for Class Members to submit objections to the Settlement	_____ [30 calendar days after the Settlement Administrator mails the Notice, unless the Settlement Administrator is required to re-mail the notice, in which case the deadline shall be extended by 15 calendar days]
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7			
8	e.	Settlement Administrator to provide update to Class Counsel regarding Requests for Exclusion and disputed amounts	_____ [30 days prior to the Final Approval Hearing]
9			
10			
11	f.	Deadline for Class Counsel to file the Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	_____ [16 Court days prior to the Final Settlement Approval Hearing]
12			
13			
14	g.	<b>Final Settlement Approval Hearing</b>	_____, 2023 at _____ a.m./p.m.
15			
16	h.	Settlement Administrator to Provide an Accounting of Funds	_____ [7 calendar days following the Effective Date of the Settlement]
17			
18	i.	Deadline for Defendants to deposit the entire Maximum Settlement Amount under the Settlement, plus all employer-side payroll taxes to the Settlement Administrator	_____ [15 calendar days following the Effective Date of the Settlement]
19			
20			
21	j.	Deadline for Settlement Administrator to distribute payments to: (a) the Settlement Administrator; (b) the Labor and Workforce Development Agency; (c) Class Representative; and (d) Class Counsel, in the amount approved by the Court in the Final Approval. The Settlement Administrator shall also send to Participating Class Members their Individual Settlement Payments	_____ [5 calendar days following receipt by the Settlement Administrator of the Maximum Settlement Amount]
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**IT IS SO ORDERED, ADJUDGED, AND DECREED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. David Rosenberg  
Yolo County Superior Court Judge

# **Exhibit C**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF YOLO**

**Rafael Lopez**, individually and on behalf of all  
similarly situated individuals,

Plaintiff,

vs.

**Bay State Milling Company**, a Minnesota  
corporation; **Peter F. Levangie**, an individual;  
and **Does 1-100**;

Defendants,

CASE NO. CV2023-0742

[Assigned to Judge David Rosenberg,  
Department 14]

**CLASS ACTION**

**[PROPOSED] ORDER FINALLY  
APPROVING CLASS AND PAGA  
ACTION SETTLEMENT PURSUANT TO  
THE TERMS OF JOINT STIPULATION  
RE: CLASS AND PAGA ACTION  
SETTLEMENT**

Date: \_\_\_\_\_ [Reserved]

Time: \_\_\_\_\_

Dept.: \_\_\_\_\_

1 **[PROPOSED] ORDER**

2 Plaintiffs' Unopposed Motion for Final Approval of the proposed Settlement of this action  
3 on the terms set forth in the Joint Stipulation of Settlement and Release of Class and PAGA Action  
4 (the "Settlement" or "Stipulation") came on for hearing on [REDACTED], 2023.

5 In conformity with California Rules of Court, rule 3.769, with due and adequate notice  
6 having been given to Class Members (as defined in the Settlement Agreement), and having  
7 considered the supplemental declaration of the Settlement Administrator, Settlement Agreement,  
8 all of the legal authorities and documents submitted in support thereof, all papers filed and  
9 proceedings had herein, all oral and written comments received regarding the Settlement  
10 Agreement, and having reviewed the record in this litigation, and good cause appearing, the Court  
11 **GRANTS** final approval of the Settlement Agreement and orders and makes the following findings  
12 and determinations and enters final judgment as follows:

13 1. All terms used in this order shall have the same meanings given as those terms are  
14 used and/or defined in the parties' Settlement Agreement and Plaintiffs' Motion for Order  
15 Granting Final Approval of Class and PAGA Action Settlement. A copy of the Joint Stipulation of  
16 Settlement is attached to the Declaration of Elliot J. Siegel in Support of Plaintiff's Motion for  
17 Preliminary Approval of Class Action Settlement as **Exhibit 1** and is made a part of this Order.<sup>1</sup>

18 2. The Court has personal jurisdiction over the Parties to this litigation and subject  
19 matter jurisdiction to approve the Settlement Agreement and all exhibits thereto.

20 3. The previously certified Class, as further defined in the Settlement is as follows:  
21 *"All persons who worked for Defendants at least one shift as a non-exempt direct hire or agency*  
22 *employee in the State of California from April 10, 2019 through the earlier of 90 days after October*  
23 *9, 2023 or preliminary approval."*

24 4. The Court deems this definition sufficient for the purpose of rule 3.765(a) of the  
25 California Rules of Court for the purpose of effectuating the Settlement.

26 5. The Court finds that an ascertainable class of [REDACTED] Participating Class  
27 Members exists and a well-defined community of interest exists on the questions of law and fact

28 <sup>1</sup> The Court previously granted preliminary approval of the Settlement on [REDACTED].



1 involved because in the context of the Settlement: (i) all related matters, predominate over any  
2 individual questions; (ii) the claims of the Plaintiff are typical of claims of the Class Members; and  
3 (iii) in negotiating, entering into and implementing the Settlement, Plaintiff and Class Counsel have  
4 fairly and adequately represented and protected the interest of the Class Members.

5 6. The Court finds that the Settlement Agreement has been reached as a result of  
6 informed and non-collusive arm's-length negotiations. The Court further finds that the Parties have  
7 conducted extensive litigation, investigation, and research, and their attorneys were able to  
8 reasonably evaluate their respective positions over the course of this litigation.

9 7. The Court finds that the Settlement constitutes a fair, adequate, and reasonable  
10 compromise of the Class' claims and will avoid additional and potentially substantial litigation costs,  
11 as well as the delay and risks of the Parties if they were to continue to litigate the case. After  
12 considering the monetary recovery provided as part of the Settlement in light of the challenges  
13 posed by continued litigation, trial, and appeals, the Court concludes that Class Counsel secured  
14 significant relief for Class Members.

15 8. The Court hereby approves the terms set forth in the Settlement Agreement and  
16 finds that the Settlement is, in all respects, fair, adequate, and reasonable, consistent with all  
17 applicable requirements of the California Code of Civil Procedure, the California and United States  
18 Constitutions, including the Due Process clauses, the California Rules of Court, and any other  
19 applicable law, and in the best interests of each of the Parties and Class Members.

20 9. The Court appoints Elliot J. Siegel and Julian Burns King of King & Siegel LLP and  
21 Xavier Villegas of Law Office of Xavier Villegas, APC as Class Counsel, and finds each of them to  
22 be adequate, experienced, and well-versed in class action litigation.

23 10. The Court appoints Plaintiff as Class Representative and finds him to be adequate.

24 11. The Court is satisfied that [REDACTED], which functioned as the Settlement  
25 Administrator, completed the distribution of Class Notice to the Class in a manner that comports  
26 with California Rule of Court 3.766.

27 12. The Class Notice informed the prospective Class Members of the Settlement terms,  
28 their right to do nothing and receive their settlement share, their right to submit a request for

1 exclusion, their rights to comment on or object to the Settlement, and their right to appear at the  
2 Final Approval and Fairness Hearing, and be heard regarding approval of the Settlement. Adequate  
3 periods of time to respond and to act were provided by each of these procedures.

4 13. As part of administration, the Court notes that [REDACTED] Class Members filed written  
5 objections to the Settlement as part of this notice process, and [REDACTED] Class Members filed a written  
6 statement of intention to appear at the Final Approval and Fairness Hearing, and [REDACTED] Class  
7 Member submitted a request for exclusion. The Class Member(s) who requested exclusion,  
8 specifically [REDACTED], will not be bound by the Settlement and will not receive any portion of  
9 the Net Settlement Amount, but will be bound by the PAGA Release to the extent they are  
10 Aggrieved Employees under the Settlement.

11 14. The terms of the Settlement Agreement, including the Maximum Settlement  
12 Amount of \$837,500 and the allocation for determining Individual Settlement Payments, are fair,  
13 adequate, and reasonable to the Class and to each Class Member, and the Courts grants final  
14 approval of the Settlement set forth in the Settlement Agreement, subject to this Order.

15 15. The Court further approves the following distributions from the Maximum  
16 Settlement Amount, which fall within the ranges stipulated by and through the Settlement  
17 Agreement:

18 a. The \$279,166.67 amount, representing one-third of the Maximum  
19 Settlement Amount, requested by Plaintiff and Class Counsel for the Class Counsel's  
20 attorneys' fees is fair and reasonable in light of the benefit obtained for the Class. Class  
21 Counsel's fee request is also supported by its lodestar cross-check, and the Court finds that  
22 Class Counsel's time spent on the matter and hourly rates charged as part of the lodestar  
23 are fair and reasonable. The Court grants final approval of, awards, and orders the Class  
24 Counsel fees payment to be made in accordance with the Settlement Agreement.

25 b. The Court awards Class Counsel \$ [REDACTED] in litigation costs, which is an  
26 amount which the Court finds to be reflective of the actual and reasonable costs incurred.  
27 The Court grants final approval of Class Counsel's litigation expenses payment and orders  
28 payment of this amount to be made in accordance with the Settlement Agreement.

1 c. The \$15,000 class representative incentive payment requested for Plaintiff is  
2 fair and reasonable. The Court grants final approval of the payment and orders the payment  
3 to be made in accordance with the Settlement Agreement.

4 d. The amount of \$ [REDACTED] designated for payment to the Settlement  
5 Administrator is fair and reasonable. The Court grants final approval of it and orders the  
6 Parties to make the payment to the Settlement Administrator in accordance with the  
7 Settlement Agreement.

8 e. The Court approves of the \$125,000.00 allocation assigned for claims under  
9 the Labor Code Private Attorneys General Act of 2004, and orders 75% thereof (*i.e.*,  
10 \$93,750.00) to be paid to the California Labor and Workforce Development Agency in  
11 accordance with the terms of the Settlement Agreement. The remainder is to be paid to the  
12 Aggrieved Employees per the Settlement Agreement.

13 16. The Court orders the Parties to otherwise comply with, effectuate, and carry out all  
14 terms and provisions of the Settlement Agreement, to the extent that the terms thereunder do not  
15 contradict with this order, in which case the provisions of this order shall take precedence and  
16 supersede the Settlement Agreement.

17 17. All Participating Class Members shall be bound by the Settlement and this order,  
18 including the release of claims as set forth in the Settlement Agreement.

19 18. The Parties shall bear their own respective attorneys' fees and costs except as  
20 otherwise provided in this order and the Settlement Agreement.

21 19. All checks mailed to the Class Members must be cashed within one hundred and  
22 twenty (120) days after mailing.

23 20. Plaintiff shall file with the Court a report regarding the status of distribution no later  
24 than fifty (50) days after all funds have been distributed.

25 21. All checks mailed to the Class Members must be cashed within 120 days of issuance  
26 and will be negotiable through that date (the "Void Date"). Any envelope transmitting a settlement  
27 distribution to a class member shall bear the notation, "YOUR CLASS ACTION SETTLEMENT  
28 CHECK IS ENCLOSED." The Settlement Administrator shall mail a reminder postcard to any

1 class member whose settlement distribution check has not been negotiated within 60 days after the  
2 date of mailing.

3 22. Any checks that are not cashed by the Void Date will be void, and the uncashed funds  
4 shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for  
5 whom the funds are designated.

6 23. No later than 10 days from this order, the Settlement Administrator shall give notice  
7 of judgment to Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy  
8 of this Order and Final Judgment on its website assigned to this matter.

9 24. The Court retains continuing jurisdiction over the Action and the Settlement,  
10 including jurisdiction pursuant to rule 3.769(h) of the California Rules of Court and Code of Civil  
11 Procedure section 664.6, solely for purposes of (a) enforcing the Settlement Agreement,  
12 (b) addressing settlement administration matters, and (c) addressing such post-judgment matters  
13 as may be appropriate under court rules or applicable law.

14 25. This Final Judgment is intended to be a final disposition of the above-captioned  
15 action in its entirety and is intended to be immediately appealable. This final judgment resolves all  
16 claims released by the Settlement Agreement against Defendants.

17 26. The Court hereby sets a hearing date of [REDACTED], 2024 at [REDACTED] for a hearing  
18 on the final accounting and distribution of the settlement funds. Counsel shall file with the Court a  
19 report regarding the status of distribution at least five days before the hearing and not more than 21  
20 days after the Void Date.<sup>2</sup> Class Counsel shall also file with the report a proposed amended  
21 judgment that complies with C.C.P. § 384.5.

22

23

**IT IS SO ORDERED, ADJUDGED, AND DECREED.**

24

25

26 <sup>2</sup> The report shall be in the form of a declaration from the Settlement Administrator and shall  
27 describe (i) the date the checks were mailed, (ii) the total number of checks mailed to class members,  
28 (iii) the average amount of those checks, (iv) the number of checks that remain uncashed, (v) the  
total value of those uncashed checks, (vi) the average amount of the uncashed checks, and (vii) the  
nature and date of the disposition of those unclaimed funds.

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DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. David Rosenberg  
Yolo County Superior Court Judge