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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN**

CHRISTOPHER STARKS, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

CON-FAB CALIFORNIA CORPORATION, a
California corporation, CON-FAB
CALIFORNIA, LLC, a limited liability company
and DOES 1 through 10, inclusive,

Defendants.

Case No. STK-CV-UOE-2019-15008

CLASS ACTION

*[Assigned for all purposes to Hon. Carter
Holly, Dept. 10B]*

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

PRELIMINARY APPROVAL HEARING

Date: November 10, 2020

Time: 9:00 a.m.

Dept: 10B

I, Justin F. Marquez, declare as follows:

CASE BACKGROUND

3. Plaintiff alleges that Defendants' payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiff alleges that Defendants failed to pay for all hours worked due to time rounding. Plaintiff further alleges that Defendants required him to sign an illegal blanket meal period waiver for shifts between 5-6 hours long and shifts between 10-12 hours long that applies prospectively, and that Defendants failed to provide employees with legally compliant meal and rest periods. Based on these allegations, Plaintiff has claims for failure to pay overtime wages, failure to pay minimum and straight time wages, failure to provide meal periods, failure to authorize and permit rest periods, inaccurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA.

4. On November 12, 2019, Plaintiff filed a putative wage-and-hour class action

complaint against Defendants for: (1) Failure to Pay Minimum and Straight Time Wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay Overtime Wages (Labor Code §§ 1194, and 1198); (3) Failure to Provide Meal Periods (Labor Code §§ 226.7 and 512); (4) Failure to Authorize and Permit Rest Periods (Labor Code §§ 226.7); (5) Failure to Timely Pay Final Wages at Termination (Labor Code §§ 201-203); (6) Failure to Provide Accurate Itemized Wage Statements (Labor Code § 226); (7) Unfair Business Practices (Business and Professions Code 17200 et seq.); and (8) Civil Penalties Under the Private Attorneys General Act (Labor Code § 2698 et seq.).

DISCOVERY AND INVESTIGATION

5. Following the filing of the Complaint, the parties exchanged documents and information before mediating this action. Defendants produced a sample of time and pay records for class members. Defendants also provided documents of its wage and hour policies and practices during the class period, and information regarding the total number of current and former employees in its informal discovery responses.

6. After reviewing documents regarding Defendants' wage and hour policies and practices, analyzing Defendants' time and pay records, and interviewing Class Members, Class Counsel was able to evaluate the probability of class certification, success on the merits, and Defendants' maximum monetary exposure for all claims. Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation. Class Counsel reviewed these records and prepared a damage analysis prior to mediation.

SETTLEMENT NEGOTIATIONS

7. On July 29, 2020, the parties participated in private mediation with professional mediator Francis "Tripper" Ortman, Esq. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff's claims and Defendants' defenses, Mr. Ortman issued a mediator's proposal that was accepted by all parties, the material terms of which are encompassed within the Settlement. Attached as **Exhibit 1** is a true and correct copy of the Joint Stipulation for Class Action Settlement.

8. \$10,000 shall be allocated as a settlement of Plaintiff's claims under PAGA, with

75% of which (\$7,500) will be paid to the LWDA and 25% (\$2,500) will be paid to Class Members. (Settlement, § XVI.) Class Counsel submitted the proposed settlement to the LWDA before filing this Motion for Preliminary Approval. Attached as **Exhibit 2** is a true and correct copy of the online form submitted to the LWDA regarding this proposed settlement of PAGA claims.

9. The Settlement provides that Defendants will not oppose a fee application of up to 33 1/3% (\$209,997.90) of the Settlement Amount, plus out-of-pocket costs not to exceed \$25,000. (Settlement, § XIII.) At this time, Class Counsel's costs are approximately \$13,870.74. A true and correct copy of Plaintiff's costs to the date is attached to this declaration as **Exhibit 3**.

THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

10. Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendants both to certification and on the merits, trial risk, and appellate risk.

11. Based on an analysis of the facts and legal contentions in this case, documents and information from Defendants, and witness interviews, I evaluated Defendants' maximum exposure. I took into account the risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are certified. After using the data Defendants provided regarding the number of class members, workweeks, and average total compensation of the class, with the assistance of a statistics expert I created a damages model to evaluate the realistic range of potential recovery for the class. The damages model is based on the following benchmarks:

Total Class Members: 260
Terminated Class Members during 3-year statute: 145
Avg. number of active employees per year: 134
Total Workweeks: 23,446
PAGA Pay Periods: 10,024

1 Avg. Hourly Rate: \$18.16

2 Class period of 4.9 years (November 12, 2015 to October 29, 2020)

3 12. Plaintiff also alleges that Con-Fab failed to pay for all hours worked, including
4 minimum wages, straight time wages, and overtime wages, due to time rounding. My expert
5 analyzed Con-Fab's timekeeping and payroll records and found that Con-Fab's rounding
6 practices resulted in, 90% of employees being underpaid due to rounding and 66% of all shifts
7 resulted in an underpayment due to rounding; in contrast, only 7% of employees were overpaid
8 due to rounding, and only 7% of shifts resulted in an overpayment due to rounding. My expert
9 estimated that Defendants' maximum liability for the rounding claim is \$356,981.00, including
10 interest. In a best case scenario where instances of rounding benefitting class members are
11 completely ignored, my expert analyzed the timekeeping and payroll data and estimated that
12 rounding resulted in underpaying class members 11,013 hours total, which is equivalent to a
13 maximum potential liability of **\$356,981.00**.

14 13. With respect to the meal period claim, Plaintiff alleges that Defendants required
15 him and similarly situated class members to work in lieu of taking meal periods, and Defendants
16 lacked legally compliant policies and practices providing meal periods. Plaintiff also alleges that
17 Defendants required him and similarly situated class members to sign an illegal blanket meal
18 period waiver for shifts between 5-6 hours long and shift between 10-12 hours long that applies
19 prospectively. My expert analyzed Con-Fab's timekeeping records and found that approximately
20 71% of shifts (80,189 / 112,942) worked had a potential meal period violation (no meal period,
21 meal period less than 30 minutes long, a first meal period recorded after more than five hours of
22 work, or a second meal period recorded after more than 10 hours of work), which translates into
23 \$1,456,228.00 in potential liability to Defendants. However, because around half of these meal
24 period violations are instances when an employee recorded a meal period that was less than 30
25 minutes long, only between 20-29 minutes long (39,638 / 80,189), there is a significant risk that
26 if class certification and liability are contested, Defendants can plausibly argue that it provided
27 employees with meal periods, but for reasons unrelated to the employer's instructions the
28 employees chose not to take a full 30-minutes. Nonetheless, for purposes of calculating

1 Defendants' liability based on a best case scenario for Plaintiff and the Class, I used my expert's
2 figure for Defendants' maximum potential exposure of \$1,456,228.00, and I discounted this
3 figure by 80% to account for the difficulty of certifying and proving meal period claims, and to
4 account for the possibility of class members voluntarily choosing to forego a meal period,
5 yielding a realistic damage estimate of **\$291,246.00.**¹

6 14. With respect to the rest period claim, Plaintiff alleges that Defendants required
7 him and similarly situated class members to work in lieu of taking rest periods. For purposes of
8 calculating Defendants' liability based on a best case scenario for Plaintiff and the Class, I
9 estimated a maximum potential exposure of \$851,559.00 (2 rest period violation per week *
10 \$18.16 regular rate * 23,446 workweeks); however, I discounted this figure by 80% to account
11 for the difficulty of certifying and proving rest period claims, particularly because rest periods do
12 not have to be recorded, and to account for the possibility of class members voluntarily choosing
13 to forego a rest period, yielding a realistic damage estimate of **\$170,312.00.**

14 15. In sum, Plaintiff's maximum recovery for the overtime, unpaid wages due to
15 rounding, meal period, and rest period claims is \$2,664,768.00, but, **after factoring in the risk**
16 **and uncertainty of prevailing at certification and trial, Plaintiff's realistic estimated**
17 **recovery for the non-penalty claims is \$818,539.00.**

18 16. With respect to Plaintiff's derivative claims for statutory and civil penalties,
19 Plaintiff estimated that Defendants realistic potential liability is **\$100,000.00.** While Defendants'
20 maximum potential liability for waiting time penalties is \$664,667.00 based on approximately
21 145 terminated class members during the 3-year statute,² \$502,250.00 for inaccurate wage
22 statements based on approximately 177 class members who worked 8,949 pay periods on average
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24 ¹ An 80% discount for risk at certification and trial is reasonable because the Judicial
25 Council of California found that only 21.4% of all class actions were certified either as part of a
26 settlement *or* as part of a contested certification motion. See Findings of the Study of California
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-](http://www.courts.ca.gov/documents/class-action-lit-study.pdf)
action-lit-study.pdf.

27 ²Plaintiff arrived at this amount by: (145 employees that fall within the three-year statute
28 of limitations for Labor Code § 203 penalties) * (an average hourly rate of \$18.16 per hour) *
(8.3 hours in a workday) * (30 days), yielding \$655,666.80.

1 within the 1-year statute,³ and \$102,400.00 for PAGA rest, meal and rounding violations based
2 on the Court assessing a \$100 penalty for initial violations for all 10,024 pay periods within the
3 1-year statute, I believe that it would be unrealistic to expect the Court to award the full
4 \$1,269,317.00 in penalties given Defendants' defenses and the discretionary nature of penalties.
5 Considering that the underlying claims are realistically estimated to be \$818,539.00, such a
6 disproportionate award would also raise due process concerns. Weighing these factors, and
7 applying a discount to account for the risk and uncertainty of prevailing at trial, I arrived at
8 \$200,000.00 for statutory and civil penalties.

9 17. **Using these estimated figures, Plaintiff predicted that the realistic maximum**
10 **recovery for all claims, including penalties, would be \$918,539.00. This means that the**
11 **\$630,000 settlement figure represents approximately 61.9% of the realistic maximum**
12 **recovery (\$630,000 / \$918,539 = 68.6%).** This is an excellent result for the Class. Indeed,
13 because of the proposed Settlement, class members will receive timely, guaranteed relief and will
14 avoid the risk of an unfavorable judgment.

15 18. While Plaintiff is confident in the merits of his claims, a legitimate controversy
16 exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due
17 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

18 19. I am also of the opinion that because the issues here are fairly contested, there is a
19 possibility of the Court not awarding PAGA penalties even if Plaintiff prevailed on the merits.
20 For example, I worked on *Jon N. Shields v. Security Paving Company, Inc.*, Los Angeles
21 Superior Court Case No. BC492828 for over four years before leaving in April 2017. I spent
22 over 1,000 hours on the *Shields* case and took around 15 depositions. The *Shields* case was later
23 tried in September 19, 2017, before Judge Ann I. Jones as a PAGA representative action for
24 failure to authorize and permit rest periods. Although Judge Jones found that the defendant was

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26 ³Based on the data, Plaintiff estimated that there are 177 Class Members who fall within
27 the 1-year statute of limitations period for Labor Code § 226 penalties, and they worked
28 approximately 8,949 pay periods. Because Labor Code § 226 assesses a \$50 penalty for initial
violations and \$100 for subsequent violations, Defendants' potential liability is: 177 pay periods
multiplied by \$50 (177 * \$50 = \$8,850), plus 8,772 pay periods multiplied by \$100 (8,772 * \$100
= \$877,200), yielding a total of \$886,050.00.

1 liable on the rest period claim, the court only awarded \$50 in nominal damages because Judge
2 Jones also found that plaintiff could not prove damages to the aggrieved employees.

3 20. The settlement obviates the significant risk that this Court may deny certification
4 of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or
5 some of the claims, continued litigation would be expensive, involving a trial and possible
6 appeals, and would substantially delay and reduce any recovery by the Settlement Class
7 Members. For instance, I drafted the class certification and expert briefs in *ABM Industries*
8 *Overtime Cases* (2017) 19 Cal.App.5th 277, a wage-and-hour class action for over 40,000 class
9 members for off-the-clock, meal period, split shift, and reimbursement claims. Although the trial
10 court denied class certification on September 1, 2011, that decision was reversed unanimously on
11 appeal more than 6 years later on December 11, 2017.

12 21. This settlement avoids the risks and the accompanying expense of further
13 litigation. Although the parties had engaged in a significant amount of investigation, informal
14 discovery and class-wide data analysis, the parties had not yet completed formal written
15 discovery. Plaintiff intended to depose corporate officers and managers of Defendants.
16 Moreover, preparation for class certification and a trial remained for the parties as well as the
17 prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or adverse
18 summary judgment ruling. Had the Court certified any claims, Defendants could move to
19 decertify the claims. As a result, the parties would incur considerably more attorneys' fees and
20 costs through trial.

21 22. The Net Settlement Amount available for Class Member settlement payments is
22 estimated to be \$378,631.36, for a class of 260 persons.⁴ **As a result, each Settlement Class**
23 **Member is eligible to receive an average net benefit of approximately \$1,456.27.**

24 23. The proposed settlement of \$630,000.00 therefore represents a substantial
25 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the

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27 ⁴ The Net Settlement Amount is: \$630,000.00 minus \$10,000.00 for class representative
28 service award, minus \$10,000.00 in administration costs, minus \$7,500.00 for PAGA portion sent
to the LWDA, minus \$209,997.90 for Class Counsel's attorneys' fees, and minus \$13,870.74 for
Class Counsel's litigation expenses.

1 risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof
2 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that
3 the settlement amount of \$630,000.00 is within the “ballpark” of reasonableness, and preliminary
4 settlement approval is appropriate.

5 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

6 24. Class Counsel represent that Plaintiff devoted a great deal of time and work
7 assisting counsel in the case, communicated with counsel very frequently for litigation and to
8 prepare for mediation, and was frequently in contact with Class Counsel during the mediation.
9 Plaintiff’s requested enhancement award is reasonable particularly in light of the substantial
10 benefits Plaintiff generated for all class members.

11 25. Throughout this litigation, Plaintiff, who is a former employee of Defendants, has
12 cooperated immensely with my office and has taken many actions to protect the interests of the
13 class. Plaintiff provided valuable information regarding overtime and missed meal and rest
14 periods. Plaintiff also informed my office of developments and information relevant to this
15 action, participated in decisions concerning this action, made himself available to answer
16 questions during the mediation, and provided my office with the names and contact information
17 of potential witnesses in this action. Before we filed this case, Plaintiff provided my office with
18 several documents, including policy documents, and communications from Defendants regarding
19 the claims alleged in this action. The information and documentation provided by Plaintiff was
20 instrumental in establishing the wage and hour violations alleged in this action, and the recovery
21 provided for in the Settlement Agreement would have been impossible to obtain without
22 Plaintiff’s participation.

23 26. At the same time, Plaintiff faced many risks in adding himself as the class
24 representative in this matter. Plaintiff faced actual risks with his future employment, as putting
25 himself on public record in an employment lawsuit could also very well affect his likelihood for
26 future employment. Furthermore, as part of this settlement, Plaintiff is executing a general
27 release of all claims against Defendants.

28 ///

1 27. In turn, class members will now have the opportunity to participate in a settlement,
2 reimbursing them for alleged wage violations they may have never known about on their own or
3 been willing to pursue on their own. If these class members would have each tried to pursue
4 their legal remedies on their own, that would have resulted in each having to expend a significant
5 amount of their own monetary resources and time, which were obviated by Plaintiff putting
6 himself on the line on behalf of these other class members.

7 28. In the final analysis, this class action would not have been possible without the aid
8 of Plaintiff, who put his own time and effort into this litigation, sacrificed the value of his own
9 individual claims, and placed himself at risk for the sake of the class members. The requested
10 enhancement award for Plaintiff for his service as the class representative and for his general
11 release of all individual claims is a relatively small amount of money when the time and effort
12 put into the litigation are considered and in comparison to enhancements granted in other class
13 actions. The requested incentive award is therefore reasonable to compensate Plaintiff for his
14 active participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation*,
15 et al., No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members
16 were misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped
17 negotiate a \$2.5 million class action settlement for 339 class members, and the court approved a
18 \$25,000 class representative incentive award for each named plaintiff.

19 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

20 29. The Settlement provides for attorney's fees payable to Class Counsel in an amount
21 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$209,997.90,
22 plus actual costs and expenses not to exceed \$25,000. The proposed award of attorneys' fees to
23 Class Counsel in this case can be justified under either method – lodestar or percentage recovery.
24 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the
25 percentage method as many of the entries in the time records will have to be redacted to preserve
26 attorney-client and attorney work product privileges.

27 30. I am informed and believe that the fee and costs provision is reasonable. The fee
28 percentage requested is less than that charged by my office for most employment cases. My

1 office invested significant time and resources into the case, with payment deferred to the end of
2 the case, and then, of course, contingent on the outcome.

3 31. It is further estimated that my office will need to expend at least another 50 to 100
4 hours to monitor the process leading up to the final approval and payments made to the class.
5 My office also bears the risk of taking whatever actions are necessary if Defendants fail to pay.

6 32. The risk to my office has been very significant, particularly if we would not be
7 successful in pursuing this class action. In that case, we would have been left with no
8 compensation for all the time taken in litigating this case. Indeed, I have taken on a number of
9 class action cases that have resulted in thousands of attorney hours being expended and
10 ultimately having certification denied or the defendant company going bankrupt. The contingent
11 risk in these types of cases is very real and they do occur regularly. Furthermore, we were
12 precluded from focusing on, or taking on, other cases which could have resulted in a larger, and
13 less risky, monetary gain.

14 33. Because most individuals cannot afford to pay for representation in litigation on
15 an hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on
16 a contingency fee basis. Pursuant to this arrangement, we are not compensated for our time
17 unless we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm,
18 PLC is taking the risk that we will not be reimbursed for our time unless our client settles or wins
19 his or her case, we cannot afford to represent an individual employee on a contingency basis if, at
20 the end of our representation, all we are to receive is our regular hourly rate for services. It is
21 essential that we recover more than our regular hourly rate when we win if we are to remain in
22 practice so as to be able to continue representing other individuals in civil rights employment
23 disputes.

24 34. As of the drafting of this motion, my office has incurred around \$13,870.74 in
25 expenses litigating this action, and we anticipate accruing additional costs up to Final Approval
26 of the Settlement. These expenses were reasonably necessary to the litigation and were actually
27 incurred by my office. They should be reimbursed in full, up to the maximum amount allowed in
28 the Settlement Agreement.

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36. Wilshire Law Firm is qualified to handle this litigation because its attorneys are experienced in litigating Labor Code violations in both individual, class action, and representative action cases. Wilshire Law Firm has handled, and is currently handling, numerous wage and hour class action lawsuits, as well as class actions involving consumer rights and data privacy litigation.

37. I graduated from the University of California, Los Angeles's College Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in 2008.

38. My practice is focused on advocating for the rights of consumers and employees in class action litigation and appellate litigation. I am currently the primary attorney in charge of litigating several class action cases in state court, federal court, and the Ninth Circuit Court of Appeals.

39. I have received numerous awards for my legal work. From 2017 to 2020, Super Lawyers selected me as a “Southern California Rising Star.” In 2016 and 2017, the National Trial Lawyers selected me as a “Top 40 Under 40” attorney. I am also rated 10.0 (“Superb”) by Avvo.com in the areas of employment, wrongful termination, consumer protection, and privacy laws.

40. I am on the California Employment Lawyers Association (CELA)'s Wage and Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively mentored young attorneys through CELA's mentorship program.

41. I am also an active member of the Consumer Attorneys of California (CAOC). In

2020, I was selected for a position on CAOC's Board of Directors. I am also a member of CAOC's Diversity Committee, and I help assist the CAOC in defeating bills that harm employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC, in defeating AB 443, which proposed legislation that sought to limit the enforceability of California Labor Code § 226.

42. As the attorney responsible for day-to-day management of this matter at the Wilshire Law Firm, I have over ten years of experience with litigating wage and hour class actions. Over the last nine years, I have managed and assisted with the litigation and settlement of several wage and hour class actions. In those class actions, I performed similar tasks as those performed in the course of prosecuting this action. My litigation experience includes:

- a. I served as lead or co-lead in negotiating class action settlements worth over \$10.5 million in gross recovery to class members in 2018, and over \$5 million in gross recovery to class members in 2017.
- b. To my knowledge, I am the only attorney to appear on each of the following *Top Verdict* lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- c. As lead counsel, I prevailed against Bank of America by: winning class certification on behalf of thousands of employees for California Labor Code violations; defeating appellate review of the court's order certifying the class; defeating summary judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2, 2018).). The decision certifying the class in *Frausto* is also discussed in *Class Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules*, 35 A.L.R. Fed. 3d Art. 8.
- d. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class

1 action for over 40,000 class members for off-the-clock, meal period, split shift,
2 and reimbursement claims. *ABM Industries Overtime Cases* is the first published
3 California appellate authority to hold that an employer’s “auto-deduct policy for
4 meal breaks in light of the recordkeeping requirements for California employers is
5 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁵ Notably, the
6 Court of Appeal also held that expert analysis of timekeeping records can also
7 support the predominance requirement for class certification. (*Id.* at p. 310-311.)

8 e. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d
9 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims
10 under California’s Private Attorney Generals Act (“PAGA”) cannot be used to
11 calculate the amount in controversy under the Class Action Fairness Act
12 (“CAFA”). This case is cited in several leading treatises such as *Wright &*
13 *Miller’s Federal Practice & Procedure*, and *Newberg on Class Actions*. In
14 October 2016, the U.S. Supreme Court denied review of a case that primarily
15 concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought
16 the cert petition, with amicus support from a brief authored by Andrew J. Pincus.⁶
17 Considering that leading Supreme Court practitioners from the class action
18 defense bar were very motivated in undermining *Yocupicio* case, but failed, this
19 demonstrates the national importance of the *Yocupicio* decision.

20 f. On December 13, 2018, the United States District Court granted final approval of
21 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global*
22 *Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL
23 6616659 in which I served as lead counsel. In doing so, the Court found: “Class
24 Counsel’s declarations show that the attorneys are experienced and successful

25
26 ⁵ As a California district court observed before the *ABM Industries Overtime* decision,
27 “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE*
Connectivity Networks, Inc. (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL
1758048, *7.)

28 ⁶ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>

litigators.” (Id. at p. *10.)

g. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a reported decision permitting class-wide discovery even though the employer has a lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered defendant to pay for the cost of *Belaire-West* notice.

h. In 2013, I represented a whistleblower that reported that his former employer was defrauding the State of California with the help of bribes to public employees. The case, a false claims (*qui tam*) action, resulted in the arrest and criminal prosecution of State of California employees by the California Attorney General’s Office.

i. In 2013, I was part of a team of attorneys that obtained conditional certification for over 2,000,000 class members in a federal labor law case for misclassification of independent contractors that did crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-plaintiff reported decisions:

- 1) 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting plaintiff’s motion to strike defendant’s affirmative defenses based on *Twombly/Iqbal*).
- 2) 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
- 3) 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the magistrate judge’s discovery ruling which held that “evidence of other sources of income is irrelevant to the question of whether a plaintiff is an employee within the meaning of the FLSA”).
- 4) 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because “an FLSA plaintiff is entitled to discovery

from locations where he never worked if he can provide some evidence to indicate company-wide violations”).

f. From 2012 to 2013, I was part of a team of attorneys that obtained class certification for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

g. During 2012, I helped negotiate class action settlements worth approximately \$2,750,000 in gross recovery to class members. One of these cases was *Luna v. Cotti Foods Corp.*, Orange County Superior Court No. JCCP 4599, a \$2,000,000 settlement.

43. Bobby Saadian is the Founding President and Managing Attorney at Wilshire Law Firm. He graduated from California State University, Northridge, Pepperdine University Graziadio Business School and Pepperdine University School of Law. He is listed in both The Best Lawyers in America and Super Lawyers. Through his work with the CAOC, Bobby meets with state attorney generals and legislators to help shape policies designed to protect vulnerable consumers from large corporations. He frequently speaks at trial advocacy, litigation seminars, and other continuing legal education events, including the annual Consumer Attorneys Association of Los Angeles (CAALA) Las Vegas Convention, the National Trial Lawyers Summit and the Association of Plaintiff Interstate Trucking Lawyers of America (APITLA) National Interstate Trucking Supper Summit. He has been named one of the “Most Influential Minority Lawyers” by the Los Angeles Business Journal. The Streets Are For Everyone (SAFE). In 2017, Mr. Saadian started Wilshire Law Firm’s Academic Scholarship Program, which is “committed to helping the next generation of lawyers succeed.” He is also an Executive Board Member of the Los Angeles Trial Lawyers’ Charities (LATLC). He is also rated 10.0 (“Superb”) by Avvo.com and he has been awarded “Client’s Choice Award Winner.” He also holds Martindale-Hubbell AV Preeminent Peer Review Rating, the highest possible rating in both legal ability and ethical standards. In 2014 and 2015, he was awarded the “Litigator Award Winner”,

1 which is awarded to the Top 1% of lawyers nationwide. He is admitted to practice in the State of
2 California, State of Texas and District of Columbia.

3 44. Nicol E. Hajjar is an Attorney at Wilshire Law Firm. She graduated from
4 California State University Los Angeles and Western State College of Law. The National
5 Trial Attorneys selected her as a “Top 10 Wage and Hour Trial Lawyer”, and a “Top 40 under
6 40” attorney. Super Lawyers selected her as one of their “Rising Stars.” She is also an active
7 member of CAALA, CELA, National Employment Lawyers Association (NELA), and the
8 Women Lawyers Association of Los Angeles. She has extensively litigated employment cases
9 for the past four years, including a successful wage and hour trial wherein the jury awarded
10 her wage and hour damages and she was awarded PAGA penalties.

11 45. My current contingent billing rate of \$700 per hour is consistent with my practice
12 area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received,
13 legal market and accepted hourly rates:

14 a. In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town
15 Anymore,” *NATIONAL LAW JOURNAL*, the following hourly billing rates were
16 reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense
17 of wage-and-hour class actions that I opposed when litigating wage-and-hour class
18 actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd
19 Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435,
20 8th Year - \$455. I am a 9th year attorney, with most of my experience in class
21 action litigation as a primary practice area. Having successfully briefed and
22 argued a published appeal in the Ninth Circuit Court of Appeals involving CAFA
23 and PAGA, having experience certifying large class actions (including *ABM*
24 *Industries Overtime Cases*, which was decided on appeal), and having received
25 numerous awards for my legal work, my hourly rate should be adjusted upward.

26 b. In the wage and hour class action *Savaglio, et al, v. WalMart*, Alameda County
27 Superior Court No. C-835687-7, Order Granting Class Counsel’s Motion for
28 Attorneys’ Fees, filed September 10, 2010, the Court approved hourly rates from

1 \$435 per hour for four years of experience to \$875 per hour for 51 years of
2 experience.

- 3 c. On December 13, 2018, the United States District Court granted final approval of
4 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global*
5 *Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL
6 6616659 in which I served as lead counsel. In doing so, the Court approved my
7 then \$600 hourly rate and found: “Class Counsel’s declarations show that the
8 attorneys are experienced and successful litigators.” (Id. at p. *10.)
- 9 d. On September 17, 2018, the Los Angeles Superior Court approved my \$600
10 hourly rate when it granted final approval of the class action settlement in *Rosillo*
11 *v. Fashion Nova, Inc.*, No. BC659644.
- 12 e. On July 9, 2018, the Los Angeles Superior Court approved my \$600 hourly rate
13 when it granted final approval of the class action settlement in *Rivera v. Complete*
14 *Landscape Care, Inc.*, No. BC663463.
- 15 f. On August 31, 2017, the United States District Court, Eastern District of
16 California approved my then \$500 hourly rate when it granted final approval of
17 the \$2,500,000 class action settlement in *Karl Adams, III, et al. v. MarketStar*
18 *Corporation, et al.*, No. 2:14-cv-02509-TLN-DB. The Court found that my
19 requested hourly rate “reflect[s] typical hourly rates in this area of practice and
20 geographic region.”
- 21 g. On February 8, 2017, the Los Angeles Superior Court found that my then hourly
22 rate of \$450 was “reasonable and consistent with prevailing rates in the
23 community” when it granted final approval of the \$2,350,000 class action
24 settlement in *Munoz v. Dependable Highway Express, Inc.*, Case No. BC535931
25 for work I mostly performed through 2016.
- 26 h. On August 12, 2015, the Los Angeles Superior Court approved my then hourly
27 rate of \$400 per hour when it granted final approval of the class action settlement
28 in *Perez-Contreras v. 1334 Partners, L.P.*, No. BC525313 for work I performed

1 mostly through 2014.

- 2 i. The United States District Court, Northern District of California approved my then
3 \$375 hourly rate in *DeMira v. Heartland Employment Services, LLC*, U.S. District
4 Court, Northern District of California Case No. 5:12-cv-04092-LHK, 2014 WL
5 1026282 (N.D. Cal. Mar. 13, 2014) when it granted final approval of a \$1,453,500
6 class action settlement and plaintiff's request for attorney's fees for work I
7 performed mostly through 2013.
- 8 j. The Los Angeles Superior Court approved my then \$375 hourly rate in *Martinez v.*
9 *Stater Bros. Markets*, Los Angeles Superior Court Case No. BC448938, when it
10 granted final approval of a \$10 million class action settlement and plaintiff's
11 request for attorney's fees in that case on July 6, 2012.
- 12 k. The United States District Court, Central District of California approved my then
13 \$375 hourly rate in *Jaime v. Standard Parking Corp.*, U.S. District Court, Central
14 District of California Case No. 2:08-cv-04407-AHM-RZ, when it granted final
15 approval of a \$4.2 million class action settlement and plaintiffs' request for
16 attorney's fees in that case on June 20, 2011.

17 I declare under penalty of perjury under the laws of the State of California and the
18 United States that the foregoing is true and correct.

19 Executed on October 16, 2020, at Los Angeles, California.

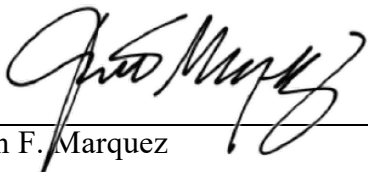
20 
21 _____
22 Justin F. Marquez

Exhibit 1

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
 Bobby Saadian (SBN 250377)
classaction@wilshirelawfirm.com
 Nicol E. Hajjar (SBN 303102)
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Attorneys for Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

CHRISTOPHER STARKS, individually, and on
 behalf of all others similarly situated,

Plaintiff,

v.

CON-FAB CALIFORNIA CORPORATION, a
 California corporation, CON-FAB
 CALIFORNIA, LLC, a limited liability company
 and DOES 1 through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2019-15008

CLASS ACTION

[Hon. Carter Holly, Dept. 10B]

STIPULATION OF SETTLEMENT

Complaint filed: November 12, 2019
 Trial date: Not set

1 This Stipulation of Settlement is made by and between the Named Plaintiff,
2 CHRISTOPHER STARKS (“PLAINTIFF”), on his own behalf and on behalf of all members of
3 the Settlement Class, as defined below, on the one hand, and Defendants CON-FAB
4 CALIFORNIA CORPORATION and CON-FAB CALIFORNIA, LLC (both Defendants are
5 referred to as “CON-FAB”) on the other hand (collectively the “Parties”), in the lawsuit entitled
6 *Christopher Starks v. Con-Fab California Corporation, et al.*, filed in San Joaquin County
7 Superior Court, Case No. STK-CV-UOE-2019-15008. This Stipulation of Settlement resolves
8 all claims that were asserted or could have been asserted against Defendants pertaining to the
9 claims in the Litigation.

10 **I. DEFINITIONS**

11 **A. Administrative Costs.** All administrative costs of settlement, including cost of
12 notice to the Settlement Class, claims administration, and any fees and costs incurred or charged by
13 the Settlement Administrator in connection with the execution of its duties under this Stipulation of
14 Settlement.

15 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
16 synonymously herein to mean this Stipulation of Settlement.

17 **C. Class Counsel.** The term “Class Counsel” as used herein means: WILSHIRE LAW
18 FIRM, PLC and all the lawyers of the firm acting on behalf of Named Plaintiff and the Settlement
19 Class. The term Class Counsel shall be used synonymously with the term Plaintiff’s Counsel.

20 **D. Court.** The term “Court” as used herein means the Superior Court of the State of
21 California for the County of San Joaquin.

22 **E. Final.** The term “Final” means: (1) the date of final affirmation of the Final Approval
23 Order from any appeal, the expiration of the time for, or the denial of, a petition to review the Final
24 Approval Order, or if review is granted, the date of final affirmation of the Final Approval Order
25 following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final
26 Approval Order or the final dismissal of any proceeding to review the Final Approval Order,
27 provided that the Final Approval Order is affirmed and/or not reversed in any part; or (3) if no appeal
28 is filed, the expiration date of the time for the filing or noticing of any appeal from the Court’s Final

1 Approval Order, as determined under Rule 8.104(a)(3) of the California Rules of Court.

2 **F. Date of Final Approval.** The terms “Date of Final Approval” or “Final Approval
3 Order” as used herein mean the final formal judgment entered by the Court at the Final Fairness and
4 Approval Hearing in accordance with the terms herein, approving this Agreement.

5 **G. Defendants.** The term “Defendants” as used herein means CON-FAB
6 CALIFORNIA CORPORATION, a California corporation, and CON-FAB CALIFORNIA, LLC, a
7 limited liability company.

8 **H. Employer Taxes.** Employer-funded taxes and contributions imposed on the wage
9 portions of the Settlement Payment under the Federal Insurance Contributions Act, the Federal
10 Unemployment Tax Act, and any similar state taxes and contributions required of employers, such
11 as for unemployment insurance.

12 **I. Litigation.** The term “Litigation” as used herein means the action entitled filed in
13 San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-15008.

14 **J. Named Plaintiff.** The term “Named Plaintiff” as used herein means Christopher
15 Starks.

16 **K. Net Settlement Fund.** The term “Net Settlement Amount” or “Net Settlement Fund”
17 as used herein means the Settlement Amount minus any award of attorneys’ fees and Litigation costs,
18 Administrative Costs, enhancement to the Named Plaintiff, and penalties recoverable pursuant to
19 California’s Private Attorney General Act (“PAGA”) (the “PAGA Settlement”), and as provided in
20 Sections VIII, XIII, XIV, XV, and XVI, respectively.

21 **L. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
22 payments made to the Settlement Class as part of the Settlement, including wages, penalties and
23 interest.

24 **M. Settlement.** The term “Settlement” as used herein means this Agreement to resolve
25 the Litigation.

26 **N. Settlement Administrator.** The term “Settlement Administrator” as used herein
27 means CPT Group, Inc., which will be responsible for the administration of the Settlement Amount,
28 as defined below, and all related matters.

1 **O. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are
2 used synonymously herein to mean this Stipulation of Settlement.

3 **P. Settlement Amount.** The terms “Settlement Amount” as used herein means the sum
4 of Six Hundred and Thirty Thousand Dollars and Zero Cents (\$630,000.00), which shall be paid by
5 Defendants, and from which all Net Settlement Payments, Court-approved attorneys’ fees and
6 Litigation costs pursuant to Section XIII, Administrative Costs pursuant to Section VIII,
7 enhancement to Named Plaintiff pursuant to Section XIV, statutory penalties, interest, and PAGA
8 Settlement pursuant to Section XVI shall be paid, except as provided herein.

9 **Q. Settlement Class.** For settlement purposes only, the Parties agree to the certification
10 of a class pursuant to California *Code of Civil Procedure* § 382 defined as:

11 All persons who worked for any Defendant in California as an hourly-paid or
12 non-exempt employee during the Settlement Period (together, collectively
13 referred to as the "Class Members").

14 **R. Settlement Period.** The term “Settlement Period” as used herein means the
15 period from November 12, 2015 through October 29, 2020.

16 **II. BACKGROUND**

17 **A.** In the Litigation, the Named Plaintiff alleges, *inter alia*, on behalf of himself and all
18 others similarly situated, that Defendants violated California state wage and hour laws, the California
19 *Business and Professions Code* Section 17200 *et seq.*, and PAGA, as a result of Defendants’
20 California wage and hour policies and practices. Specifically, Plaintiff alleges that Defendants failed
21 to pay its employees at or above the applicable minimum wage rates, failed to provide regular,
22 overtime, and double time pay, failed to pay all wages earned due to time rounding, failed to provide
23 meal breaks (including first and second meal breaks), and failed to authorize and permit legally
24 compliant rest breaks each day based on the hours worked by each employee. Plaintiff further
25 alleged that the aforementioned resulted in the employees receiving inaccurate wage statements, and
26 the underpayment of wages to employees upon termination and/or resignation.

27 Class Counsel conducted informal discovery concerning the claims set forth in the Litigation,
28 such as a sample of class member timekeeping and payroll records, Defendants’ policies and

1 procedures concerning the payment of wages, the provision of meal and rest breaks, issuance of
2 wage statements, and providing all wages at separation, as well as information regarding the number
3 of putative class members and the mix of current versus former employees, the wage rates in effect,
4 and the amount of meal and rest period premium wages paid to class members.

5 **B.** Named Plaintiff and Class Counsel have engaged in good faith, arms-length
6 negotiations with Defendants concerning possible settlement of the claims asserted in the Litigation.
7 The Parties participated in a full day of mediation before Frances “Tripper” Ortman, Esq., a well
8 respected wage and hour class action mediator, that resulted in a tentative settlement of the Litigation,
9 subject to the approval of the Court, and finalization of a formal Stipulation of Settlement. The
10 Parties have engaged in extensive negotiations about the terms and conditions of the Settlement at
11 the mediation and subsequent thereto. The Parties have now formalized the Settlement Agreement
12 for submission to the Court for preliminary and Final Approval.

13 **C.** Class Counsel has conducted an investigation of the law and facts relating to the
14 claims asserted in the Litigation and has concluded, taking into account the sharply contested issues
15 involved, the defenses asserted by Defendants, the expense and time necessary to pursue the
16 Litigation through trial and any appeals, the risks and costs of further prosecution of the Litigation,
17 the risk of an adverse outcome, the uncertainties of complex litigation, and the substantial benefits
18 to be received by the Named Plaintiff and the members of the Settlement Class pursuant to this
19 Agreement, that a settlement with Defendants on the terms and conditions set forth herein is fair,
20 reasonable, adequate, and in the best interests of the Settlement Class. Named Plaintiff, on his own
21 behalf and on behalf of the Settlement Class, has agreed to settle the Litigation with Defendants on
22 the terms set forth herein.

23 **D.** Defendants have concluded that, because of the substantial expense of defending
24 against the Litigation, the length of time necessary to resolve the issues presented herein, the
25 inconvenience involved, and the concomitant disruption to their business operations, it is in
26 Defendants’ best interests to accept the terms of this Agreement. Defendants deny each of the
27 allegations and claims asserted against them in the Litigation. However, Defendants nevertheless
28 desire to settle the Litigation for the purpose of avoiding the burden, expense and uncertainty of

continuing litigation and for the purpose of putting to rest the controversies engendered by the Litigation.

E. This Agreement is intended to and does effectuate the full, final and complete settlement of all allegations and claims that were asserted, or could have been asserted, in the Litigation by Named Plaintiff and members of the Settlement Class as set forth in Section II.A.

III. JURISDICTION

The Court has jurisdiction over the Parties and the subject matter of this Litigation. The Litigation includes claims that, while Defendants deny them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Final Approval of the Settlement and after the Court has ordered the entry of Judgment, pursuant to California *Code of Civil Procedure* Section 664.6 the Court shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and enforcing this Settlement consistent with the terms set forth herein.

IV. STIPULATION OF CLASS CERTIFICATION

The Parties stipulate to the certification of this Settlement Class for purposes of Settlement only. This Stipulation is contingent upon the Preliminary and Final approval and certification of the Settlement Class only for purposes of Settlement. Should the Settlement not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether a class should be certified in a non-settlement context in the Litigation. Defendants expressly reserve the right to oppose class certification and/or proactively move to deny certification should this Settlement be modified or reversed on appeal or otherwise not become final.

V. MOTION FOR PRELIMINARY APPROVAL

Named Plaintiff will bring a motion before the Court for an order preliminarily approving the Settlement including the Notice of Proposed Class Action Settlement, and Workweek Dispute Form, which are attached hereto as **Exhibits “A”** and **“B,”** respectively, and including certification of the Settlement Class for settlement purposes only.

The date that the Court grants Preliminary Approval of this Agreement will be the

1 “Preliminary Approval Date.” Class Counsel will prepare the Motion for Preliminary Approval and
2 will provide Defendants’ counsel the opportunity to review it and provide input before it is filed. On
3 the same date on which it is filed with the Court, Class Counsel shall concurrently submit the Motion
4 for Preliminary Approval to the Labor & Workforce Development Agency in compliance with Labor
5 Code § 2698 *et seq.*, the Private Attorneys General Act.

6 **VI. STATEMENT OF NO ADMISSION**

7 **A.** Defendants deny liability to Named Plaintiff and to the Settlement Class upon any
8 claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an
9 admission by Defendants as to the merits, validity, or accuracy of any of the allegations or claims
10 made against them in the Litigation.

11 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor any
12 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
13 during the course of the negotiations leading to this Agreement or the Settlement, is intended by the
14 Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible
15 in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or
16 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
17 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
18 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or
19 any other judicial, arbitral, administrative, investigative, or other forum or proceeding, as purported
20 evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or
21 executive order, or any obligation or duty at law or in equity, or for any other purpose.
22 Notwithstanding the foregoing, this Agreement may be used and filed in any proceeding before the
23 Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement
24 or any orders or judgments of the Court entered in connection with implementation of the Settlement.

25 **C.** None of the documents produced or created by Named Plaintiff or the Settlement
26 Class in connection with the claims procedures or claims settlement procedures constitute, and they
27 are not intended to constitute, an admission by Defendants of any violation of any federal, state, or
28 local law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or

1 in equity.

2 **D.** The Parties agree that class certification pursuant to California *Code of Civil*
3 *Procedure* Section 382 under the terms of this Agreement is for settlement purposes only. Nothing
4 in this Agreement will be construed as an admission or acknowledgement of any kind that any class
5 should be certified or given collective treatment in the Litigation or in any other action or proceeding.
6 Further, neither this Agreement nor the Court's actions with regard to this Agreement will be
7 admissible in any court or other tribunal regarding the propriety of class certification or collective
8 treatment. In the event that this Agreement is not approved by the Court or any appellate court, is
9 terminated, or otherwise fails to be enforceable, Named Plaintiff will not be deemed to have waived,
10 limited, or affected in any way any claims, rights, or remedies in the Litigation, and Defendants will
11 not be deemed to have waived, limited, or affected in any way any of their objections or defenses in
12 the Litigation.

13 **VII. WAIVER, RELEASE AND CONFIDENTIALITY**

14 **A. Release as to All Settlement Class Members.**

15 Upon the date the Court's Final Approval Order becomes "Final" (as that term is defined in
16 Section I(E) above), Named Plaintiff and all members of the Settlement Class, except those that make
17 a valid and timely request to be excluded from the Settlement Class and Settlement, waive, release,
18 discharge, and promise never to assert in any forum any and all wage-related claims that were alleged
19 in the Litigation or which could have been alleged in the Litigation based on the facts asserted in the
20 Litigation arising during the Settlement Period against Defendants, and their divisions, affiliates,
21 predecessors, successors, shareholders, officers, directors, employees, agents, trustees,
22 representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents,
23 subsidiaries, joint employers, insurers, and related corporations, including the following claims: 1)
24 all claims, under any legal theory of liability, for the failure to pay overtime or double time wages
25 owed pursuant to California Labor Code §§ 204, 510, 1194, and 1198, the IWC Wage Orders or any
26 comparable federal statute under any theory of liability; 2) all claims, under any legal theory of
27 liability, for the failure to pay all wages of any kind, including any minimum wage or straight time
28 wages, owed pursuant to California Labor Code §§ 204, 510, 1194, 1194.2, and 1198, the IWC Wage

1 Orders, or any comparable federal statute under any theory of liability; 3) all claims, under any legal
2 theory of liability, for failure to provide meal periods pursuant to California Labor Code §§ 226.7
3 and 512, and the IWC Wage Orders; 4) all claims, under any legal theory of liability, for the failure
4 to provide rest periods pursuant to California Labor Code § 226.7 and the IWC Wage Orders; 5) all
5 claims, under any legal theory of liability, for the failure to properly calculate any premiums owed
6 and/or paid pursuant to California Labor Code § 226.7(b); 6) all claims, under any legal theory of
7 liability, for violation of Business & Professions Code §§ 17200, *et seq.*; 7) all claims, under any
8 legal theory of liability, for penalties pursuant to PAGA (Labor Code §§ 2698 *et seq.*); 8) all claims,
9 under any legal theory of liability, for any penalties of any kind arising from an alleged failure to
10 pay final wages or other amounts allegedly owed to Class Members pursuant to California Labor
11 Code §§ 201-203; 9) all claims, under any legal theory of liability, for any penalties of any kind
12 arising from an alleged wage statement violations pursuant to California Labor Code §§ 226 and
13 1174.5; and 10) all claims, under any legal theory of liability, for any penalties or any another
14 amounts that could be potentially owed to Class Members arising out of and/or related to the
15 allegations in the Lawsuit arising during the Settlement Period, including penalties owed pursuant
16 to California Labor Code §§ 210, 226.3, 558, and 1197.1.

17 **B. General Release by Named Plaintiff Only.**

18 In addition to the release made in Section VII (A), Named Plaintiff makes the additional
19 following general release of all claims, known or unknown. Named Plaintiff releases Defendants,
20 and each of its respective subsidiaries, affiliates, predecessors or successors in interest, officers,
21 directors, shareholders, employees, attorneys, agents, assigns, insurers, and re-insurers of any of
22 them, from all claims, demands, rights, liabilities and causes of action of every nature and description
23 whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract,
24 or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in
25 connection with Named Plaintiff's employment with Defendants as well as any and all acts or
26 omissions by or on the part of Defendants. (The release set forth in this Paragraph B shall be referred
27 to hereinafter as the "General Release.")
28

1 With respect to the General Release, Named Plaintiff stipulates and agrees that, upon the
2 Date of Final Approval, Named Plaintiff shall be deemed to have expressly waived and relinquished,
3 to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the
4 California Civil Code, or any other similar provision under federal or state law, which provides:

5
6 **"SECTION 1542. [CERTAIN CLAIMS NOT AFFECTED BY**
7 **GENERAL RELEASE.] A GENERAL RELEASE DOES NOT**
8 **EXTEND TO CLAIMS THAT THE CREDITOR OR**
9 **RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**
10 **EXIST IN HIS OR HER FAVOR AT THE TIME OF**
11 **EXECUTING THE RELEASE AND THAT, IF KNOWN BY**
12 **HIM OR HER WOULD HAVE MATERIALLY AFFECTED**
13 **HIS OR HER SETTLEMENT WITH THE DEBTOR OR**
14 **RELEASED PARTY."**

15 Accordingly, if the facts relating in any manner to this Settlement are found hereafter to be other
16 than or different from the facts now believed to be true, the release of claims contained herein shall
17 be effective as to all unknown claims.

18 **VIII. SETTLEMENT ADMINISTRATOR**

19 Named Plaintiff and Defendants, through their respective counsel, have selected CPT Group,
20 Inc. as the Settlement Administrator to administer the Settlement, which includes but is not limited
21 to distributing and responding to inquiries about the Notice of Proposed Class Action Settlement and
22 Workweek Dispute Form, determining the validity of any disputes and opt-outs, and calculating all
23 amounts to be paid from the Net Settlement Amount. Charges and expenses of the Settlement
24 Administrator, estimated to be no more \$10,000.00, will be paid from the Settlement Amount. Any
25 charges and expenses of the Settlement Administrator greater than the allocated \$10,000.00 will
26 come from the Settlement Amount. If the actual Settlement Administrator fees are less than the
27 Parties' estimation, the difference between the actual and estimated Settlement Administrator fees
28 will revert to the participating Settlement Class members. The Parties agree that this Agreement
may be provided to the Settlement Administrator to effectuate its implementation of the settlement
procedures herein.

1 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

2 **A. Notice.**

3 Named Plaintiff and Defendants, through their respective attorneys, have jointly prepared a
4 Notice of Class Action and Proposed Settlement (the “Notice”) and a Workweek Dispute Form,
5 which in substance will be provided to the members of the Settlement Class as follows:

6 As soon as practicable following Preliminary Approval of the Settlement, but no later than
7 thirty (30) calendar days after the Court’s Preliminary Approval order, Defendants will provide to
8 the Settlement Administrator the following information about each Settlement Class member (“Class
9 List”): (1) name; (2) last known home address; (3) number of workweeks as a class member during
10 the Settlement Period or the dates of employment for each Settlement Class member; and (4) Social
11 Security number. Defendants further agree to consult with the Settlement Administrator prior to the
12 production date to ensure that the format will be acceptable to the Settlement Administrator.
13 Plaintiff’s Counsel shall also receive a redacted Class List that shall only disclose an identification
14 number attributed to each class member and the number of workweeks each class member worked
15 during the Settlement Period.

16 The Settlement Administrator shall run all the addresses provided through the United States
17 Postal Service NCOA database (which provides updated addresses for any individual who has moved
18 in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain
19 current address information, and shall mail the Notice and Workweek Dispute Form to the members
20 of the Settlement Class via first-class regular U.S. Mail using the most current mailing address
21 information available, within ten (10) calendar days of the receipt of the Class List from Defendants.
22 The Notice shall provide the members of the Settlement Class forty five (45) days’ notice of all
23 applicable dates and deadlines.

24 The Notice will also include information regarding the nature of the Litigation; a summary
25 of the terms of the Settlement; the definition of the Settlement Class; a statement that the Court has
26 preliminarily approved the Settlement; the nature and scope of the claims being released; the
27 procedure and time period for objecting to the Settlement, the date and location of the Final Approval
28 hearing; information regarding the opt-out procedure; Defendants’ calculation of the number of

1 Eligible Workweeks that each Settlement Class member has worked as an employee in California at
2 any time during the Settlement Period, and the estimated potential recovery for the proposed
3 Settlement Class Member. The Notice shall enclose the Workweek Dispute Form for Settlement
4 Class members.

5 For each Settlement Class member the Workweek Dispute Form will identify the number of
6 Eligible Workweeks that s/he was employed and inform the employee of his or her right to dispute
7 this number by completing and returning the form within forty five (45) days of the postmark date
8 of the Workweek Dispute Form. A Settlement Class member's receipt of his or her share of the Net
9 Settlement Payments is not conditional on the submission of the Workweek Dispute Form. Absent
10 the receipt of a Workweek Dispute Form the number of workweeks identified in the Workweek
11 Dispute Form shall be deemed accurate. The settlement of any disputes concerning the number of
12 Eligible Workweeks is discussed in Section X, below.

13 If a Notice is returned from the initial notice mailing, the Settlement Administrator will
14 perform a skip trace in an attempt to locate a more current address. If the Settlement Administrator
15 is successful in locating a new address, it will re-mail the Notice to the Settlement Class member.
16 Further, any Notices returned with a forwarding address to the Settlement Administrator, as non-
17 deliverable before the deadline date, shall be sent to the forwarding address affixed thereto.

18 Should any member of the Settlement Class timely submit a Workweek Dispute Form with
19 a deficiency, the Settlement Administrator shall, within five (5) calendar days of receipt by the
20 Settlement Administrator of each timely submitted Workweek Dispute Form, send a deficiency
21 notice. The deficiency notice will provide the member of the Settlement Class no more than fourteen
22 (14) days from the mailing of the deficiency notice to postmark a written response to cure all
23 deficiencies. The failure of a member of Settlement Class to timely submit a Workweek Dispute or
24 timely respond to a notice of deficiency shall invalidate the dispute unless all Parties' counsel agree
25 to allow the dispute.

26 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
27 Administrator shall provide counsel for Defendants and Class Counsel with a declaration attesting
28 to the completion of the Notice process, including the number of attempts to obtain valid mailing

addresses for and re-sending of any returned Notices, as well as the number of valid Workweek Dispute Forms, opt-outs and deficiencies that the Settlement Administrator received.

B. Objections.

In order for any Settlement Class member to object to this Settlement, or any term of it, the person making the objection must not submit a request for exclusion (i.e., must not opt out). To object to the Settlement in writing, a Class Member may send the objection to the Settlement Administrator. A Settlement Class member making an objection may appear at the Final Approval Hearing with or without submitting any written objection. The Settlement Class member may appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her objection directly to the Court. However, any attorney who will represent an individual objecting to this Settlement must file a notice of appearance with the Court and serve Class Counsel and Defendants' Counsel no later than forty five (45) days after the Notice of Proposed Class Action Settlement was initially mailed to the Settlement Class members. If a Settlement Class member objects to the Settlement, the Settlement Class member will remain a member of the Settlement Class and if the Court approves this Agreement, the Settlement Class member will be bound by the terms of the Settlement and Final Approval Order in the same way and to the same extent as a Settlement Class member who does not object. The date of mailing of the Notice to the objecting Settlement Class member shall be conclusively determined according to the records of the Settlement Administrator. The Court retains final authority with respect to the consideration and admissibility of any Settlement Class member objections. Any Settlement Class member who submits an objection may also participate in the settlement.

Named Plaintiff hereby endorses the Settlement as fair, reasonable and adequate and in the best interests of the Settlement Class.

C. Opportunity to be Excluded and Defendants' Opt-Out Threshold.

In order for any Settlement Class member to validly exclude himself or herself from the Settlement Class and the Settlement (i.e., to validly opt out), a written request for exclusion ("Request to be Excluded") must be signed by the Settlement Class member or his or her authorized representative and must be sent to the Settlement Administrator, postmarked by no later than forty

1 five (45) days after the date the Settlement Administrator initially mails the Notice to the Settlement
2 Class members. The Notice shall contain instructions on how to opt out.

3 The date of the initial mailing of the Notice, and the date the signed Request to be Excluded
4 was postmarked, shall be conclusively determined according to the records of the Settlement
5 Administrator. Any Settlement Class member who timely and validly submits a Request to be
6 Excluded from the Settlement Class and the Settlement will not be entitled to any portion of the Net
7 Settlement Payments, will not be bound by the terms and conditions of the Settlement, and will not
8 have any right to object, appeal, or comment thereon.

9 Any member of the Settlement Class who does not timely file and mail a Request to be
10 Excluded from the Settlement Class will be deemed included in the Settlement Class in accordance
11 with this Settlement.

12 In the event that five percent (5%) or more of the Class Members exercise their right to
13 exclude themselves and opt out of the Settlement and Settlement Agreement, Defendants retain the
14 exclusive right, but not the obligation, to withdraw from and terminate the Settlement and the
15 Settlement Agreement and return all parties back to their same position before the Settlement was
16 reached and the Settlement Agreement was entered into. In the event that Defendants exercise such
17 rights under this paragraph, the Plaintiff and Defendants shall resume the Litigation through and until
18 there is a final settlement of the Litigation. Defendants must notify Class Counsel and the Court of
19 such a decision to withdraw and terminate the Settlement no later than five (5) days prior to the date
20 of the Final Approval Hearing. In the event of Defendants' withdrawal, no party may use the fact
21 that the Parties agreed to the Settlement for any reason, and Defendants shall pay all administration
22 expenses incurred through the date of its termination of the Settlement.

23 **D. Cooperation**

24 The Parties and their respective counsel agree not to encourage members of the Settlement
25 Class to refrain from participating in the Settlement, to opt out of the Settlement, or to object to the
26 Settlement, directly or indirectly, through any means. However, if a Settlement Class member
27 contacts Class Counsel, Class Counsel may discuss the terms of the Settlement and the Settlement
28 Class member's options.

1 **X. DISPUTES PROCEDURE**

2 Named Plaintiff and Defendants have agreed upon the following payment formula to resolve
3 all disputes submitted by Settlement Class members during the Settlement Period.

4 The Settlement Administrator will calculate the total number of workweeks for all Class
5 Members who were employed by any Defendants during the Settlement Class Period ("Total
6 Workweeks"). The value of each Workweek shall be determined by the Settlement Administrator by
7 dividing the Net Settlement Fund by the total number of Workweeks available to the Class Members
8 who do not opt out in accordance with Section IX(C) above during the Settlement Class Period
9 ("Workweek Point Value").

10 An "Individual Settlement Payment" for each Class Member will then be determined by
11 multiplying a Class Member's workweeks worked during the Class Period ("Eligible Workweeks")
12 by the Workweek Point Value. The Individual Settlement Payment will be reduced by any required
13 legal deductions, for each participating Class Member.

14 If a member of the Settlement Class does not dispute the number of Eligible Workweeks set
15 forth in the Workweek Dispute Form, such person need not take further action to participate in the
16 Settlement. If the member of the Settlement Class disputes the number of Eligible Workweeks set
17 forth in the Workweek Dispute Form, such person must follow the directions in the Workweek
18 Dispute Form and in the Notice, including preparing a statement setting forth the number of Eligible
19 Workweeks that such person believes in good faith is correct, and stating that the member of the
20 Settlement Class authorizes the Settlement Administrator to review the Settlement Class member's
21 personnel file and leave management records to determine such information, and attaching any
22 relevant documentation in support thereof. The member of the Settlement Class must mail the signed
23 and completed statement no later than forty five (45) days after the date of the mailing of the
24 Workweek Dispute Form, or the number of Eligible Workweeks set forth in the Notice and
25 Workweek Dispute Form will govern the Net Settlement Payment to the member of the Settlement
26 Class.

27 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation with
28 Class Counsel and counsel for Defendants, will review the pertinent payroll records showing the

1 dates the Settlement Class member was employed and the pertinent leave(s) taken, which records
2 Defendants agree to make available to the Settlement Administrator and Class Counsel.

3 After consulting with Class Counsel and counsel for Defendants, the Settlement
4 Administrator shall compute the number of Eligible Workweeks to be used in computing the
5 Settlement Class member's pro rata share of the Net Settlement Amount. In the event there is a
6 disparity between the dates a Settlement Class member claims he or she worked during the
7 Settlement Period and the dates indicated by Defendants' records, Defendants' records will control
8 unless inconsistent with paycheck stub(s) (or bona fide copies thereof) provided by the Settlement
9 Class member, in which case the paycheck stub(s) will control. The Settlement Administrator's
10 decision as to the total number of Eligible Workweeks shall be final and non-appealable. The
11 Settlement Administrator shall send written notice of the decision on any such claim to the Settlement
12 Class member, to Class Counsel, and counsel for Defendants within ten (10) calendar days of receipt
13 of the dispute.

14 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

15 **A. Distribution Formula.**

16 Members of the Settlement Class not opting out will receive a lump sum payment as good
17 and valuable consideration for the waiver and release of claims set forth in Section VII(A), above,
18 in an amount determined by the Settlement Administrator in accordance with the provisions of this
19 Agreement.

20 The lump sum payment to each member of the Settlement Class not excluding him/ herself
21 will be determined in accordance with the procedure set forth in Section X.

22 **B. Funding of Settlement.**

23 Within fourteen (14) calendar days following the date on which the Court grants Final
24 Approval of the Settlement and a determination of the pro-rata share of the settlement amount to
25 which each member of the Settlement Class is entitled, Defendants will deposit the Settlement
26 Amount and the Employer Taxes into an interest-bearing trust account for the benefit of the
27 participating Settlement Class members and Class Counsel, through the Settlement Administrator.
28 At no time prior to Final Approval of the Settlement shall Defendants be required to escrow any

1 portion of the Settlement Amount.

2 **C. Time for Distribution.**

3 The Settlement Administrator shall cause the Settlement Amount (inclusive of the Net
4 Settlement Amount, the Court approved attorney's fees and Litigation costs, Court approved
5 enhancement to Named Plaintiff, and PAGA Settlement) and the Employer Taxes to be mailed within
6 twenty one (21) calendar days following the Date of Final Approval. At no time will Defendants be
7 required to escrow any portion of the Settlement Amount.

8 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
9 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
10 search and, if another address is identified, shall mail the check to the newly identified address. Any
11 settlement checks remaining uncashed after one hundred and eighty (180) days shall be deemed
12 unpaid residue pursuant Code of Civil Procedure Section 384(a). In accordance with Code of Civil
13 Procedure Section 384, the parties shall follow the procedure set for in (1) – (5) below in regard to
14 unpaid residue:

- 15 (1) Unpaid residue (uncashed or returned checks) will be paid, *with interest*, to Legal Aid at
16 Work, 180 Montgomery Street, Suite 600, San Francisco, CA 94104;
- 17 (2) The attorneys for the parties shall file, with the Motion for Final Approval, a stand-alone
18 Stipulation to Amend Judgment and Proposed Stipulated Amended Judgment (Section
19 384) memorializing the parties' agreement to amend the judgment to adopt the
20 administrator's determination of amount of unpaid residue, plus interest at the legal rate
21 of 10% from the date of entry of the initial judgment, to be paid to the *cy pres*;
- 22 (3) The parties shall attach to the Stipulation a [Proposed] Stipulated Amended Judgment
23 form with a signature line for the court and blanks for the amount of residue plus interest
24 to be added to the judgment and the total amount of the amended judgment;
- 25 (4) Along with the Final Report, the administrator shall file, with the court, a photocopy of
26 the attorneys' Stipulation to Amend Judgment along with a [Proposed] Stipulated
27 Amended Judgment form with the amount of residue plus interest to be added to the
28 judgment and the total amount of the judgment, plus interest, filled in;

(5) The court signs and enters the Stipulated Amended Judgment.

XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy, or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendants, policies or bonus programs. Any payments made under the terms of this Settlement shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendants' benefit plan, policy or bonus program. Defendants retain the right to modify the language of their benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement.

XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS

Defendants shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$209,997.90, which represents 33 1/3% of the Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this Settlement. Additionally, Defendants shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$25,000.00, which represents all past and future Litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this Settlement. Any attorneys' fees or Litigation costs awarded to Class Counsel by the Court as part of the Settlement Amount shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. The "future" aspect of these amounts include, without limitation, all time and expenses expended by Class Counsel in defending the Settlement and securing preliminary and Final Approval (including any appeals therein). There will be no additional charge of any kind to either the members of the Settlement Class or request for additional consideration from Defendants for such work. This amount shall include all attorneys'

1 fees, Litigation costs, and expenses for which Named Plaintiff and Class Counsel could claim under
2 any legal theory whatsoever. Within twenty one (21) calendar days following the Date of Final
3 Approval, the Settlement Administrator shall disburse payment from the Settlement Amount for the
4 amount of attorneys' fees and Litigation costs approved by the Court to Class Counsel. Should the
5 Court approve a lesser percentage or amount of fees and/or Litigation costs than the amount that
6 Class Counsel ultimately seeks, then any such unapproved portion or portions shall revert into the
7 Net Settlement Amount to be distributed between the participating Settlement Class Members on a
8 pro-rata basis.

9 **XIV. ENHANCEMENT TO NAMED PLAINTIFF**

10 Defendants shall not oppose an application by Named Plaintiff, and Named Plaintiff shall not
11 seek or receive an amount in excess of \$10,000.00 for his participation in and assistance with the
12 Litigation (*i.e.*, Named Plaintiff's class representative enhancement / service award). Any
13 enhancement awarded to Named Plaintiff by the Court as part of the Settlement Amount shall be
14 deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount,
15 and shall be reported on IRS Form 1099. If the Court approves an enhancement of less than
16 \$10,000.00 to Named Plaintiff, then the unapproved portion or portions shall revert into the Net
17 Settlement Amount to be distributed between the participating Settlement Class Members on a pro-
18 rata basis.

19 **XV. TAXATION AND ALLOCATION**

20 The Parties agree that all employment taxes and other legally required withholdings will be
21 withheld from payments to the members of the Settlement Class and Named Plaintiff based on the
22 Parties stipulated allocation of the Net Settlement Amount as provided for in this Section.

23 In Defendants' sole discretion, and to which Named Plaintiff and Class Counsel do not object,
24 the amount of federal income tax withholding will be based upon a flat withholding rate for
25 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
26 supplemented. Income tax withholding will also be made pursuant to applicable state and/or local
27 withholding codes or regulations.
28

1 For withholding tax characterization purposes and payment of taxes, the Net Settlement
2 Amount shall be deemed and is allocated by the Parties as follows (“Net Settlement Allocation”):

- 3 (1) 33% as wages; and
4 (2) 67% as penalties and interest.

5 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the
6 Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement, by the Settlement
7 Administrator. If the Code, the regulations promulgated thereunder, or other applicable tax law, is
8 changed after the date of this Agreement, the processes set forth in this Section may be modified in
9 a manner to bring Defendants into compliance with any such changes.

10 Finally, any and all Employer Taxes which Defendants normally would be responsible for
11 paying based on the Net Settlement Payments made to the individual Class Members will be paid by
12 Defendants in addition to and not as a deduction from the Settlement Amount based on the stipulated
13 Net Settlement Allocation.

14 **XVI. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

15 In order to implement the terms of this Settlement and to settle claims alleged under the
16 Private Attorneys’ General Act, California *Labor Code* section 2698 *et seq.*, the Parties agree to
17 allocate \$10,000.00 from the Settlement Amount as penalties authorized by the California Labor
18 Code Private Attorneys General Act of 2004 (PAGA). Seventy-five percent (75%) of this amount
19 will be paid to the Labor and Workforce Development Agency and 25% of this amount will be
20 distributed to the participating Class Members, through the Settlement Administrator and at no
21 additional cost to Defendants. Within twenty one (21) calendar days following the Date of Final
22 Approval, the Settlement Administrator shall disburse the PAGA Settlement to the California Labor
23 and Workforce Development Agency (“LWDA”) and will provide notice to the LWDA of the fact
24 that the settlement has been approved by the court along with a copy of the settlement agreement and
25 the court order confirming the approval of the settlement through the appropriate LWDA/DIR
26 website.

27 **XVII. COURT APPROVAL**

28 This Agreement and the Settlement is contingent upon Final Approval by the Court and the

entry of judgment. Named Plaintiff and Defendants agree to take all steps as may be reasonably necessary to secure both Preliminary Approval and Final Approval of the Settlement, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining court approval, and, if necessary, appellate approval, of the Settlement in all respects. Named Plaintiff and Defendants expressly agree that they will not file any objection to the terms of the Settlement or assist or encourage any person or entity to file any such objection.

In the event it becomes impossible to secure approval of the Settlement, the Parties shall be restored to their respective positions in the Litigation, as of the date of the hearing on the Motion for Preliminary Approval, except as otherwise provided in Section XVIII, below.

XVIII. MISCELLANEOUS PROVISIONS

A. Stay of Litigation.

Named Plaintiff and Defendants agree to the stay of all discovery in the Litigation, pending Final Approval of the Settlement by the Court.

B. Interpretation of the Agreement.

This Agreement constitutes the entire agreement between Named Plaintiff and Defendants. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of laws provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of San Joaquin, and Named Plaintiff and Defendants hereby consent to the personal jurisdiction of the Court over them solely in connection therewith. Named Plaintiff, on his own behalf and on behalf of the Settlement Class, and Defendants participated in the negotiation and drafting of this Agreement and had available to them the advice and assistance of independent counsel. As such, neither Named Plaintiff nor Defendants may claim that any ambiguity in this Agreement should be

1 construed against the other.

2 The terms and conditions of this Agreement constitute the exclusive and final understanding
3 and expression of all agreements between Named Plaintiff and Defendants with respect to the
4 Settlement of the Litigation. The Agreement may be modified only by a writing signed by the
5 original signatories and approved by the Court.

6 **C. Further Cooperation.**

7 Named Plaintiff and Defendants and their respective attorneys shall proceed diligently to
8 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
9 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
10 possible.

11 **D. Confidentiality of Documents.**

12 After the expiration of any appeals period, Named Plaintiff, the Settlement Administrator,
13 and Class Counsel shall maintain the confidentiality of all documents, deposition transcripts,
14 declarations and other information obtained in the lawsuit, unless necessary for appeal or such
15 documents are ordered to be disclosed by the Court or by a subpoena.

16 **E. Counterparts.**

17 The Agreement may be executed in one or more actual or non-original counterparts, all of
18 which will be considered one and the same instrument and all of which will be considered duplicate
19 originals.

20 **F. Authority.**

21 Each individual signing below warrants that he or she has the authority to execute this
22 Agreement on behalf of the party for whom or which that individual signs.

23 **G. No Third-Party Beneficiaries.**

24 Named Plaintiff, members of the Settlement Class, and Defendants are direct beneficiaries of
25 this Agreement, but there are no third-party beneficiaries.

26 **H. Modification.**

27 This Agreement may not be changed, altered, or modified, except in a writing signed by the
28 Parties, and approved by the Court. Notwithstanding the forgoing, the Parties agree that any dates

contained in this Agreement may be modified by agreement of the Parties in writing without Court approval if the Parties agree and cause exists for such modification. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

In addition to the above, this Agreement may be modified based on the final size of the Settlement Class. Defendants' best estimate of the Settlement Class size is 260 persons as of the date of mediation. If the actual class size as of the date of mediation is more than 10% of this estimate (i.e., 287 or more Class Members), the Parties shall have the option of renegotiating the settlement.

I. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

J. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

APPROVED AS TO FORM AND CONTENT:

Date: 09/01/2020, 2020

CHRISTOPHER STARKS, on behalf of himself
and all others similarly situated

By: 
CHRISTOPHER STARKS, *Plaintiff*

Date: _____, 2020

CON-FAB CALIFORNIA CORPORATION

By: _____
Name: Michael H. Hein
Position: President
For CON-FAB CALIFORNIA
CORPORATION

WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010-1137

1 Date: _____, 2020

CON-FAB CALIFORNIA, LLC

2
3 By: _____

Name: Michael H. Hein

Position: President

For CON-FAB CALIFORNIA, LLC

4
5 APPROVED AS TO FORM:

6 Date: September 1, 2020

7 WILSHIRE LAW FIRM

8 By:  _____

9 JUSTIN F. MARQUEZ

Attorneys for Plaintiff

10 Date: September 3, 2020

11 MEDINA MCKELVEY LLP

12 By:  _____

13 Brandon R. McKelvey

Allison S. Hyatt

14 Timothy B. Nelson

Attorneys for Defendants

1 contained in this Agreement may be modified by agreement of the Parties in writing without Court
2 approval if the Parties agree and cause exists for such modification. This Agreement may not be
3 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

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5 Settlement Class. Defendants' best estimate of the Settlement Class size is 260 persons as of the
6 date of mediation. If the actual class size as of the date of mediation is more than 10% of this estimate
7 (i.e., 287 or more Class Members), the Parties shall have the option of renegotiating the settlement.

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10 legal holiday, that deadline shall be continued until the following business day.

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12 In the event that any one or more of the provisions contained in this Agreement shall for any
13 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
14 unenforceability shall in no way effect any other provision if Defendants' Counsel and Class
15 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if
16 such invalid, illegal, or unenforceable provision had never been included in this Agreement.

17 APPROVED AS TO FORM AND CONTENT:

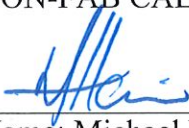
18 Date: _____, 2020

CHRISTOPHER STARKS, on behalf of himself
and all others similarly situated

19
20 By: _____
21 CHRISTOPHER STARKS, *Plaintiff*

22 Date: SEPTEMBER 1, 2020

CON-FAB CALIFORNIA CORPORATION

23 By:  _____
24 Name: Michael H. Hein
25 Position: President
26 For CON-FAB CALIFORNIA
27 CORPORATION
28

1 Date: SEPTEMBER 1, 2020

CON-FAB CALIFORNIA, LLC

2
3 By: 

Name: Michael H. Hein

Position: President

For CON-FAB CALIFORNIA, LLC

4
5 APPROVED AS TO FORM:

6 Date: _____, 2020

WILSHIRE LAW FIRM

7
8 By: _____

JUSTIN F. MARQUEZ

Attorneys for Plaintiff

9
10 Date: _____, 2020

MEDINA MCKELVEY LLP

11
12 By: _____

Brandon R. McKelvey

Allison S. Hyatt

Timothy B. Nelson

Attorneys for Defendants

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

Christopher Starks v. Con-Fab California Corporation and Con-Fab California, LLC
Case No. STK-CV-UOE-2019-15008

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX -

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT.

**CON-FAB CALIFORNIA CORPORATION AND CON-FAB CALIFORNIA, LLC WILL NOT
RETALIATE AGAINST YOU FOR PARTICIPATING IN THIS SETTLEMENT.**

THIS NOTICE AFFECTS YOUR RIGHTS. PLEASE READ IT CAREFULLY.

A California court authorized this notice. This is not a solicitation from a lawyer.

YOU ARE HEREBY NOTIFIED that a proposed settlement (“the Settlement”) of the above-captioned class action (“the Action”) filed in the San Joaquin County Superior Court has been reached by Con-Fab California Corporation and Con-Fab California, LLC (both companies are referred in this notice as “Con-Fab”) and Christopher Starks (“Plaintiff”), an individual, on behalf of himself and all others similarly situated and has been granted Preliminary Approval by the Court supervising the Action. The San Joaquin County Superior Court has ordered that this Class Notice be sent to you because you may be a Settlement Class member. The purpose of this Class Notice is to inform you of the Settlement of this class action and your legal rights under the Settlement as follows:

- Con-Fab has agreed to settle a lawsuit brought on behalf of all persons who worked for Con-Fab in California as an hourly-paid or non-exempt employee during the period from November 12, 2015 through October 29, 2020 (the “Settlement Period”) (hereafter, “Settlement Class”).
- The proposed Settlement resolves all alleged claims regarding the following wage and hour policies and/or practices of Con-Fab: overtime and/or double time wage, minimum wage, straight time wage, failure to pay for all hours worked, meal and rest breaks and any premiums thereon, wage statement violations, waiting time penalties, or other penalties of any kind arising from an alleged failure to pay wages. Finally, the settlement resolves claims for unfair competition and penalties under California’s Private Attorney General Act (“PAGA”) arising out of the alleged wage and hour policies and practices of Con-Fab. The settlement avoids costs and risks to you from continuing the lawsuit, pays money to employees, and releases Con-Fab from liability for these claims.
- The parties in the lawsuit disagree on whether Con-Fab is liable for the allegations raised in this case and how much money could have been won if the employees won at trial. Con-Fab denies that it did anything wrong and believes that it paid you and other employees properly and fairly.
- **Your legal rights may be affected. Read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Get a Payment	If you are a member of the Settlement Class, you will automatically receive a payment if you do not exclude yourself. If you accept a payment and do not exclude yourself you will give up certain rights as set forth on page 4 below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below.
Exclude Yourself	Get no payment. Send a letter to the Settlement Administrator as provided below. This is the only option that allows you to bring your own claim against Con-Fab about the legal claims in this case. The Settlement will bind all Settlement Class Members who do not request exclusion.
Object	Write to the Court about why you do not like the settlement. Directions are provided below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a lawsuit and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of a class on whose behalf this lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed this lawsuit in San Joaquin County Superior Court on behalf of the Settlement Class. The lawsuit alleges that members of the Settlement Class were not paid for or properly provided meal and rest breaks, were not issued accurate wage statements, were not paid all minimum, straight time, and overtime wages, were not paid all wages due at termination and/or resignation, and were subjected to unfair competition. The lawsuit seeks recovery of wages, restitution, statutory and civil penalties, interest, and attorneys' fees and costs.

Con-Fab denies any liability or wrongdoing of any kind associated with the claims alleged in the lawsuit. Con-Fab contends, among other things, that they complied at all times with the California Labor Code, the California Business and Professions Code, and all other applicable law. Con-Fab further denies that the lawsuit is appropriate for class treatment for any purpose other than settling this lawsuit.

The Court has made no ruling and will make no ruling on the merits of the Litigation and its allegations and claims.

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did **not** decide in favor of the Plaintiff or Con-Fab. Plaintiff thinks he would have prevailed on his claims at a trial. Con-Fab does not think that Plaintiff would have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they avoid the costs, risks, and uncertainty of a trial, and the class members will get compensation. Plaintiff and Plaintiff's attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all class members.

B. Who is in the Class?

The Settlement Class consists of all persons who worked for Con-Fab in California as an hourly-paid or non-exempt employee during the Settlement Period.

C. What does the Settlement provide?

1. Settlement Amount.

Con-Fab will pay a total of Six Hundred Thirty Thousand Dollars and Zero Cents (\$630,000.00) (the "Settlement Amount") to settle the lawsuit.

The following sums will be paid from the Settlement Amount: all Net Settlement Payments (inclusive of all employment taxes and all other legally required withholdings that would otherwise be due from the individual class members) to the Settlement Class, Attorneys' Fees (not to exceed 33 ⅓ % of the Settlement Amount, or \$209,997.90), Litigation Expenses not to exceed \$25,000.00, Settlement Administrative Costs estimated in an amount not to exceed \$10,000.00, the PAGA Settlement Payment in the amount of \$10,000.00, and an enhancement payment to the Named Plaintiff not to exceed \$10,000.00. Any and all Employer Taxes which Con-Fab normally would be responsible for paying on the Net Settlement Payments made to individual Class Members will be paid by Con-Fab separate and apart from the Settlement Amount.

The funds used for the Settlement Amount shall be paid to the Settlement Administrator. The Settlement Administrator shall disburse the Court-approved enhancement to the Named Plaintiff, Court-approved Attorneys' Fees and Litigation Expenses, Settlement Administration Costs, and the PAGA Settlement Payment at the same time and manner as the Net Settlement Payments to the Settlement Class members.

2. Net Settlement Amount

"Net Settlement Amount" means the Settlement Amount minus the Attorneys' Fees, Litigation Expenses, Settlement Administrative Costs, the portion of the PAGA Settlement payment payable to the Labor and Workforce Development Agency, and the enhancement payment to the Named Plaintiff.

3. Your Individual Payment Amount.

The Claims Administrator will calculate the total number of workweeks for all Class Members who were employed by Defendants Con-Fab California Corporation or Con-Fab California, LLC during the Settlement Period ("Total Workweeks"). The value of each Workweek shall be determined by the Claims Administrator by dividing the Net Settlement Amount by the total number of Workweeks available to the Class Members who do not "opt out" (as defined on page 5 below) during the Settlement Period ("Workweek Point Value").

An "Individual Settlement Payment" for each Class Member will then be determined by multiplying a Class Member's workweeks ("Eligible Workweeks") by the Workweek Point Value. The Individual Settlement Payment will be reduced by any required legal deductions, for each participating Class Member.

4. Tax Matters.

The Settlement Administrator will distribute IRS Forms W-2 and 1099 (and the equivalent California forms) to Settlement Class members reflecting the payments each Settlement Class member receives under the Settlement. For tax purposes, Net Settlement Payments will be allocated as follows: 33 % as wages and 67 % as penalties and interest. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code and the California Franchise Tax Board.

Interest and penalties paid under this Settlement shall not be subject to federal, state and local payroll withholding taxes. The Settlement Administrator shall issue an IRS form 1099 for payments of interest and penalties. The usual and customary deductions will be taken out of the amounts attributable to unpaid wages. Settlement Class members should consult with their tax advisors concerning the tax consequences of the payment they receive under the Settlement.

D. What are you giving up to get a payment and stay in the Class?

Upon the date the Court's Final Approval Order becomes "Final" (as that term is defined in Section I(E) in the Settlement Agreement), Named Plaintiff and all members of the Settlement Class, except those that make a valid and timely request to be excluded from the Settlement Class and Settlement, waive, release, discharge, and promise never to assert in any forum any and all wage-related claims that were alleged in the Litigation or which could have been alleged in the Litigation based on the facts asserted in the Litigation arising during the Settlement Period against Defendants, and their respective divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, related corporations, and privies, both individually and collectively, including but not limited to: 1) all claims, under any legal theory of liability, for the failure to pay overtime or double time wages owed pursuant to California Labor Code §§ 204, 510, 1194, and 1198, the IWC Wage Orders or any comparable federal statute under any theory of liability; 2) all claims, under any legal theory of liability, for the failure to pay all wages of any kind, including any minimum wage or straight time wages, owed pursuant to California Labor Code §§ 204, 510, 1194, 1194.2, and 1198, the IWC Wage Orders, or any comparable federal statute under any theory of liability; 3) all claims, under any legal theory of liability, for failure to provide meal breaks pursuant to California Labor Code §§ 226.7 and 512, and the IWC Wage Orders; 4) all claims, under any legal theory of liability, for the failure to provide rest periods pursuant to California Labor Code § 226.7 and the IWC Wage Orders; 5) all claims, under any legal theory of liability, for the failure to properly calculate any premiums owed and/or paid pursuant to California Labor Code § 226.7(b); 6) all claims, under any legal theory of liability, for violation of Business & Professions Code §§ 17200, *et seq.*; 7) all claims, under any legal theory of liability, for penalties pursuant to PAGA (Labor Code §§ 2698 *et seq.*); 8) all claims, under any legal theory of liability, for any penalties of any kind arising from an alleged failure to pay final wages or other amounts allegedly owed to Class Members pursuant to California Labor Code §§ 201-203; 9) all claims, under any legal theory of liability, for any penalties of any kind arising from an alleged wage statement violations pursuant to California Labor Code §§ 226 and 1174.5; and 10) all claims, under any legal theory of liability, for any penalties or any another amounts that could be potentially owed to Class Members arising out of and/or related to the allegations in the Lawsuit arising during the Settlement Period, including penalties owed pursuant to California Labor Code §§ 210, 226.3, 558, and 1197.1.

THE FINAL APPROVAL HEARING

The Court will conduct a Final Approval Hearing regarding the proposed settlement (the "Final Approval Hearing") on , 2020, at 180 E. Weber Ave., Stockton, CA 95202, in Department 10B of the San

Joaquin County Superior Court. The Court will determine: (i) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Settlement Class members; (ii) whether the Settlement Class members should be bound by the terms of the settlement; (iii) the amount of the attorneys' fees and costs to Plaintiff's counsel; (iv) the amount that should be provided to the Settlement Administrator for the costs of administering the Settlement; and (v) the amount that should be awarded to the Plaintiff as an enhancement payment. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed Settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

The Final Approval Hearing may be continued without further notice to the Class. You may contact Plaintiff's counsel, listed in this Notice, to inquire into the date and time of the Final Approval Hearing.

Condition of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – GET A PAYMENT**

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS AND WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT, THEN YOU DO NOT HAVE TO DO ANYTHING AND YOU WILL AUTOMATICALLY RECEIVE A SETTLEMENT PAYMENT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE.

The estimated amount of your Settlement Payment is set forth on the Workweek Dispute Form which accompanies this Notice.

The amount of the Settlement Payment paid to each Settlement Class member is based upon the number of workweeks you worked between November 12, 2015 and October 29, 2020. The number of workweeks applicable to your claim is also set forth on the accompanying Workweek Dispute Form. If you believe that the number of workweeks stated is incorrect, you may dispute the number of workweeks by following the instructions on the Workweek Dispute Form. If you believe that the number of workweeks stated is correct, you do not have to do anything.

The Settlement Payment you will receive will be a full and final settlement of your released claims described in Section D above.

- **OPTION 2 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement. You will **not** be bound by a judgment in this case and you will have the right to file your own lawsuit against Con-Fab, subject to time limits called statute of limitations and other potential defenses that Con-Fab may assert, and to pursue your own claims in a separate suit.

You can opt out of the Settlement Class by sending a letter to the Settlement Administrator by first class U.S. mail which must: (1) state your name, address, telephone number, and the last four digits of your Social Security number; (2) be dated; (3) state that you do not wish to be bound by the Settlement and you

wish to opt-out of the Settlement; and (4) be signed by you. To be valid, your request for exclusion must be postmarked no later than [redacted] [45 days after mailing].

• **OPTION 3 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Approval Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense.

Any written objection may be mailed to the Settlement Administrator at [redacted] (Address).

PLAINTIFF’S/CLASS COUNSEL

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CHANGE OF ADDRESS

If you move after receiving this Notice, if it was misaddressed, or if for any reason you want your Settlement Award or future correspondence concerning this Action to be sent to a different address, you must supply your preferred address to the Settlement Administrator at [redacted] (Address).

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed “Stipulation of Settlement” which is available for viewing online on the following website:

URL: [Insert website provided by Settlement Administrator]

The pleadings and other records in the lawsuit are available on the website for the Superior Court, County of San Joaquin, at the following web address: <https://cms.sjcourts.org/fullcourtweb/mainMenu.do>

To access the pleadings and other records, enter case number STK-CV-UOE-2019-15008.

ANY INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF’S COUNSEL LISTED ABOVE OR TO THE SETTLEMENT ADMINISTRATOR, [Administrator], [address] [telephone]. Please refer to the *Christopher Starks v. Con-Fab* Class Action Settlement.

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR
INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS**

EXHIBIT B

CLASS WORKWEEK DISPUTE FORM

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

Christopher Starks v. Con-Fab California Corporation and Con-Fab California, LLC
Case No. STK-CV-UOE-2019-15008

Indicate Name/Address Changes, if any:

<<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX -

INSTRUCTIONS

IF YOU WERE EMPLOYED BY CON-FAB CALIFORNIA CORPORATION OR CON-FAB CALIFORNIA, LLC ("CON-FAB") IN CALIFORNIA AS AN HOURLY-PAID OR NONEXEMPT EMPLOYEE BETWEEN NOVEMBER 12, 2015 TO OCTOBER 29, 2020, THEN YOU ARE A SETTLEMENT CLASS MEMBER.

The amount of your estimated Settlement Payment is based upon the Eligible Workweeks you worked for Con-Fab in California from November 12, 2015 to October 29, 2020.

"Eligible Workweeks" are defined as any week in which you worked at least one (1) day during the calendar week. The number of Eligible Workweeks applicable to your claim is set forth in Section I below. If you believe that the number of workweeks stated is incorrect, you may dispute the number of workweeks by submitting this completed Workweek Dispute Form with supporting documents on or before [redacted] [45 days after initial mailing]. **If you believe that the number of workweeks stated below is correct, you do not have to do anything.**

If you have moved or may move in the future, you must immediately send your new address to the Settlement Administrator at the address listed above; otherwise, your individual settlement payment may not reach you. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.

I. YOUR COMPENSABLE WORKWEEKS

You worked as an hourly-paid or non-exempt employee for Con-Fab California Corporation or Con-Fab California, LLC in California, which qualifies you as a Settlement Class Member, and your total number of Eligible Workweeks in this position are: <<NUMBER OF WORKWEEKS>> .

II. YOUR ESTIMATED SETTLEMENT PAYMENT

Based upon the number of workweeks stated above, your estimated pre-tax Settlement Payment is <<INSERT>>.

III. CHALLENGE TO WORKWEEKS

If you wish to dispute the Eligible Workweeks data listed, you must postmark your dispute and provide all supporting information and/or documentation to the Settlement Administrator by **<<NOTICE PERIOD DEADLINE>>**.

*Check the box below **ONLY** if you wish to dispute the data listed in Section I:*

☐ I wish to dispute the number of Eligible Workweeks listed in Section I. I believe the correct amount of my workweeks is _____. I have also included information and/or documentary evidence that support my dispute. I understand that, by submitting this dispute, I hereby authorize the Settlement Administrator to review Con-Fab's records and make a determination as to the validity of my dispute based upon Con-Fab's records as well as the records and information that I submit to the Settlement Administrator.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the information I provided in this Workweek Dispute Form is true and correct.

Dated: _____

Signature: _____

Print or Type Name: _____

MAIL TO:

CHRISTOPHER STARKS v. CON-FAB CLASS ACTION SETTLEMENT

c/o

**[Insert]
address**

IF YOU ARE CONTESTING THE AMOUNT OF YOUR ELIGIBLE WORKWEEKS, YOU MUST SIGN, POSTMARK, AND RETURN THIS FORM TO THE SETTLEMENT ADMINISTRATOR ON OR BEFORE «OPT-OUT DEADLINE**».**

Exhibit 2

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Friday, October 16, 2020 1:12 PM
To: Min Jee Kim
Subject: Thank you for your Proposed Settlement Submission

10/16/2020 01:11:55 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=04%7C01%7Cminjee%40wilshirelawfirm.com%7C2c698ec2ea61469944f108d8720fbf5e%7C9ada260a4f194da187b814d372333753%7C1%7C0%7C637384759253127672%7CUnknown%7CTWFpbGZsb3d8eyJWlloiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C1000&sdata=qPh5tJjb3Xhs9v6MoNEMcAfAZ%2BmiO3NoPXGQ6mX10Zw%3D&reserved=0



Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : *

Please enter only the eight digit number after "LWDA-CM-" in the following format, "XXXXXX-XX".

[Search for PAGA Case number](#)

Your Information (Person Who is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Number

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Court and Hearing Information

Court *

Court Case Number *

Hearing Date (if any)

Hearing Time

Hearing Location

Number of aggrieved employees *

Gross settlement amount *

Gross penalty amount *

Penalties to LWDA *

Date of proposed settlement *

Proposed Settlement and Other Documents

Proposed Settlement *

2020 09-01 C...xecuted).pdf

Other Attachment (if any)

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

Exhibit 3

09/16/20

Accrual Basis

Wilshire Law Firm, PLC
Transaction Detail By Account
All Transactions

Type	Date	Num	Class	Source Name	Memo	Amount	Balance
COS							
Legal Expenses-533821							
Check	08/13/2019	59419	Con-Fab.WageHour	Department of Industrial ...	PAGA Complaint-Con-Fab.Wage...	75.00	75.00
Check	11/14/2019	61156	Con-Fab.WageHour	Department of Industrial ...	PAGA Complaint-Con-Fab.Wage...	75.00	150.00
Check	01/17/2020	62423	Con-Fab.WageHour	Ortman Mediation	2234-Con-Fab.WageHour	9,000.00	9,150.00
Check	08/12/2020	66176	Con-Fab.WageHour	Thomson Reuters - West	Legal Research	205.37	9,355.37
Total Legal Expenses-533821						9,355.37	9,355.37
Process Service Fees-533803							
Bill	12/04/2019	25859	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	55.85	55.85
Bill	12/04/2019	25950	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	85.00	140.85
Bill	12/04/2019	25860	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	135.85	276.70
Bill	01/07/2020	25712	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	1,708.50	1,985.20
Bill	05/18/2020	28696	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	290.00	2,275.20
Bill	06/18/2020	29383	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	109.95	2,385.15
Bill	07/16/2020	29972	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	85.00	2,470.15
Bill	08/19/2020	30566	Con-Fab.WageHour	Valpro Attorney Services	Con-Fab.WageHour	125.00	2,595.15
Total Process Service Fees-533803						2,595.15	2,595.15
Professional Fees-534500-1							
Check	08/29/2020	66529	Con-Fab.WageHour	Berger Consulting Group,...	3326-Con-Fab.WageHour	1,890.00	1,890.00
Total Professional Fees-534500-1						1,890.00	1,890.00
Total COS						13,840.52	13,840.52
Meals and Entertainment-5336							
Credit...	07/29/2020		Con-Fab.WageHour	Postmates.com	Starks, Christopher v. Con-Fab - ...	5.04	5.04
Credit...	07/29/2020		Con-Fab.WageHour	Postmates.com	Starks, Christopher v. Con-Fab - ...	25.18	30.22
Total Meals and Entertainment-5336						30.22	30.22
TOTAL						13,870.74	13,870.74


Christopher Starks, et. al. v. CON-FAB California Corporation, et al.
STK-CV-UOE-2019-15008

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

Brandon R. McKelvey (SBN 217002)
brandon@medinamckelvey.com
 Allison S. Hyatt (SBN 217567)
allison@medinamckelvey.com
 Timothy B. Nelson (SBN 235279)
tim@medinamckelvey.com
MEDINA McKELVEY LLP
 983 Reserve Drive
 Roseville, California 95678
 Telephone: (916) 960-2211
 Facsimile: (916) 742-5488

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

Executed on **October 16, 2020**, at Los Angeles, California.


Min Jee Kim