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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **FOR THE COUNTY OF SACRAMENTO**

16 ANNABEL DAVALOS, individually and on
17 behalf of other members of the general public
18 similarly situated;

19 Plaintiff,

20 vs.

21 LA SUPERIOR CENTRAL OFFICE, INC., an
22 unknown business entity; LA SUPERIOR
23 NORTHGATE, INC. an unknown business
24 entity; LA SUPERIOR SUPER MERCADOS,
25 an unknown business entity; and DOES 1
26 through 100, inclusive,

27 Defendants.

Case No.: 34-2021-00305182-CU-OE-
GDS

**STIPULATION OF CLASS ACTION
SETTLEMENT**

Complaint Filed: July 29, 2021

28 **I. INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

This stipulation sets forth the terms of the settlement of a class action filed on behalf of current and former non-exempt employees who worked for Defendants LA SUPERIOR CENTRAL OFFICE, INC.; LA SUPERIOR NORTHGATE, INC.; and LA SUPERIOR SUPER MERCADOS, in California during the Class Period, as defined below. The Complaint alleges causes of action against Defendant for (1) Violation of California Labor Code sections 510 and 1198 (unpaid overtime); (2) Violation of California Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) Violation of California Labor

Code section 226.7 (unpaid rest period premiums); (4) Violation of California Labor Code sections 1194, 1197 and 1197.1 (unpaid minimum wages); (5) Violation of California Labor Code sections 201 and 202 (final wages not timely paid); (6) Violation of California Labor Code section 204 (wages not timely paid during employment); (7) Violation of California Labor Code section 226(a) (non-compliant wage statements); (8) Violation of California Labor Code section 1174(d) (failure to keep requisite employment records); (9) Violation of California Labor Code sections 2800 and 2802 (unreimbursed business expenses); and (10) Violation of California Business & Professions Code sections 17200, et seq.

Under the terms of the parties' Settlement and after final approval and entry of judgment pursuant to California Rule of Court 3.769, Defendants will pay a gross settlement amount of nine hundred and thirty thousand dollars (\$930,000) (the "Gross Settlement Amount"). The Settlement will be administered by a third-party settlement administrator with experience administering class action settlements of this type. Until distribution, the Gross Settlement Amount will be held in a Qualified Settlement Fund established by the Settlement Administrator. This is an opt-out settlement, and Class Members (as defined in Section II) will receive a settlement payment unless they timely submit a Request for Exclusion. Settlement Class Members shall not be required to submit a claim form.

The Parties agree and propose that the following disbursements will be made from the Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval Hearing:

A. Settlement Administration Costs, estimated to be \$8,950.00.

B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount not to exceed three hundred and twenty-five thousand, five hundred dollars (\$325,500), which is 35% of the Gross Settlement Amount;

C. Class Counsel's Costs, as approved by the Court, not to exceed \$25,000.

D. Service and Release Award to Plaintiff Annabel Davalos in the amount of \$7,500 as payment for her time and efforts in pursuing this Action, and for the broader release and other covenants that she will be providing to Defendants; and

1 E. The remainder of the Gross Settlement Amount (the “Net Settlement Amount”)
2 will be distributed to Settlement Class Members based on the methodology discussed in
3 section IV.L.1, below. It is estimated that the Net Settlement Amount will be approximately
4 \$563,050 after deductions for Class Counsel’s Attorneys’ Fees, Class Counsel’s Costs,
5 Settlement Administration Costs and the Service and Release Award.

6 **II. DEFINITIONS**

7 As used in this Stipulation, the following terms shall have the meanings set forth
8 below:

9 A. “Action” means this putative class action currently pending in Sacramento
10 County Superior Court titled *Davalos v. LA Superior Central Office, Inc., et al.*, Case No. 34-
11 2021-00305182-CU-OE-GDS.

12 B. “Agreement” or “Stipulation” means this Stipulation of Class Action
13 Settlement.

14 C. “Class” means all individuals who were employed by Defendants in California
15 as non-exempt employees during the Class Period (as defined below). Defendants have
16 represented that the Class has about 550 members.

17 D. “Class Counsel” means:

18 a. Arby Aiwazian and Joanna Ghosh of Lawyers for Justice, PC, 410
19 West Arden Avenue, Suite 203, Glendale, California 91203, (818)
20 265-1020; and

21 b. Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik
22 Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA
23 91423, (818) 290-7461.

24 E. “Class Counsel’s Attorneys’ Fees” means the amount to be awarded to Class
25 Counsel from the Gross Settlement Amount for their attorneys’ fees for their work in this
26 Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel’s
27 Attorneys’ Fees will not exceed 35% of the Gross Settlement Amount.

28 //

1 F. "Class Counsel's Costs" means the amount to be awarded to Class Counsel
2 from the Gross Settlement Amount to reimburse Class Counsel for their actual reasonable
3 costs and expenses incurred in the Action, subject to Court approval at the Final Fairness and
4 Approval Hearing. Class Counsel's Costs will not exceed \$25,000.

5 G. "Class Data" means each Class Member's full name, social security number,
6 last known address, email address and telephone number(s), along with the Class Member's
7 number of Qualifying Workweeks during the Class Period.

8 H. "Class Member" is a person who is a member of the Class.

9 I. "Class Period" means the period from July 29, 2017, through February 29,
10 2024.

11 J. "Complaint" means the Complaint on file in the Action.

12 K. "Court" means the Superior Court of the State of California, in and for the
13 County of Sacramento, where the Action is currently pending.

14 L. "Defendants" means LA Superior Central Office, Inc.; LA Superior Northgate,
15 Inc.; and LA Superior Super Mercados,

16 M. "Defendants' Counsel" means Michael Farbstein of Farbstein & Blackman, A
17 Professional Corporation, 411 Borel Avenue, Suite 425, San Mateo, CA 94402; Tel.: (650)
18 554-6200.

19 N. "Effective Date" means the date of entry of the "Final Approval Order" if no
20 objection is filed. If a timely objection to the settlement is filed, the "Effective Date" will be
21 the later of (1) 65 days after entry of judgment, provided that no appeal has been filed or (2)
22 7 days after any appeal opposing the Final Approval Order has finally and conclusively been
23 dismissed with no right to pursue further remedies or relief.

24 O. "Employer's Withholding Share" means Defendants' share of all federal, state,
25 and local taxes and required withholdings, including without limitation, FICA, Medicare tax,
26 FUTA, and state unemployment taxes. Defendants will separately pay no less than \$20,000 to
27 cover the Employer's Withholding Share. If the actual Employer's Share is less than \$20,000,
28 the difference will be added to the Net Settlement Amount and distributed to the Class. If the

1 actual Employer's Withholding Share is greater than \$20,000, Defendants will separately pay
2 such difference.

3 P. "Final Approval Order" means the Order Granting Final Approval of Class
4 Action Settlement and Judgment entered by the Court.

5 Q. "Final Fairness and Approval Hearing" means the hearing on Plaintiff's
6 Motion for Final Approval of Class Action Settlement at which the Court will be asked to give
7 final approval to the settlement terms set forth herein and to enter judgment.

8 R. "Gross Settlement Amount" means the nine hundred and thirty thousand
9 dollars (\$930,000) which Defendants will pay under this Settlement, plus any additional
10 amount owed pursuant to the escalator clause in section IV.I of this Settlement Agreement.

11 S. "Net Settlement Amount" means the amount remaining from the Gross
12 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and
13 Class Counsel's Costs, the Service and Release Award to the Representative Plaintiff and
14 Settlement Administration Costs. It is estimated that the Net Settlement Amount will be at
15 least \$563,050.

16 T. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement
17 and Hearing Date for Approval," substantially in the form attached hereto as Exhibit A, or
18 any subsequent version of Exhibit A, as approved by the Court.

19 U. "Notice of Objection" means a written objection to this Settlement sent by a
20 Settlement Class Member to the Settlement Administrator that complies with the criteria
21 specified herein and in the Notice of Settlement.

22 V. "Parties" means the Representative Plaintiff, on behalf of herself and all
23 Settlement Class Members, and Defendants.

24 W. "Preliminary Approval Date" is the date that the Court grants preliminary
25 approval of this Settlement pursuant to California Rule of Court 3.769(c).

26 X. "Qualified Settlement Fund" or "QSF" means a federally insured bank account
27 to be established by the Settlement Administrator into which all payments from Defendants
28 related to this Settlement will be deposited and from which all payments authorized by the

1 Court will be made. The QSF will be established prior to Defendants' deposit of the Gross
2 Settlement Amount.

3 Y. "Qualifying Workweek" means a workweek in the Class Period during which
4 a Class Member actually worked for one or more of Defendants in a Class position for at least
5 one day. A week during which a Class Member was entirely absent from work, such as a week
6 during which a Class Member was on leave or vacation, is not a Qualifying Workweek.

7 Z. "Released Claims," means all claims under state, federal, or local law, arising
8 during the class period out of the claims expressly pleaded in the Action and all other
9 claims, such as those under the California Labor Code, Wage Orders, regulations, and/or
10 other provisions of law, that could have been asserted based on the facts pleaded in the
11 Action for: (1) failure to pay overtime wages under Labor Code Sec. 510, 1198; (2) failure
12 to provide meal periods and/or pay meal period premiums under Labor Code Sec. 226.7,
13 512; (3) failure to provide rest periods and/or pay rest period premiums under Labor Code
14 Sec. 226.7; (4) failure to pay minimum wages under Labor Code Sec. 1194, et seq.; (5)
15 failure to timely pay wages upon termination under Labor Code Sec. 203; (6) failure to
16 timely pay wages during employment under Labor Code Sec. 204, 210; (7) failure to
17 provide accurate, itemized wage statements under Labor Code Sec. 226; (8) failure to keep
18 requisite payroll records under Labor Code Sec. 1174(d); (9) failure to reimburse business
19 expenses under Labor Code Sec. 2800, 2802; and (10) violation of California's unfair
20 competition law under Business and Professions Code Sec. 17200, based on the afore
21 referenced claims. Class Members shall not waive section 1542 of the California Civil Code.

22 AA. "Released Parties" means Defendants La Superior Central Office, Inc., La
23 Superior Northgate, Inc., and La Superior Super Mercados and any of their former and/or
24 current parents, subsidiaries, affiliates, and any other entities that could be considered to
25 have jointly employed the Class Members as well as each of their officers, directors,
26 managers, owners, executives, partners, executive-level employees, shareholders, agents,
27 attorneys, and any other predecessors, successors, assigns or legal representatives, but only
28 as to the Released Claims.

1 BB. "Representative Plaintiff" means Plaintiff Annabel Davalos.

2 CC. "Request for Exclusion" means a signed request by a Class Member to be
3 excluded from the Settlement Class that is submitted in accordance with the procedure set
4 forth herein, also known as an "opt-out request."

5 DD. "Response Deadline" means the date that is sixty (60) calendar days after the
6 mailing of the Notices of Settlement. Provided, for Notices of Settlement that are re-mailed to
7 a different address, the Response Deadline will be the earlier of: (1) sixty (60) calendar days
8 after re-mailing, and (2) ten (10) days before the initial date set by the Court for the Final
9 Fairness and Approval Hearing.

10 EE. "Service and Release Award" means the payment to be made to the
11 Representative Plaintiff for her service to the Class and for the broader general release that
12 she is providing to Defendants, which is in addition to whatever payment she otherwise will
13 be entitled to receive as a Settlement Class Member. The Service and Release Award will not
14 exceed \$7,500.

15 FF. "Settlement" means the disposition of the Action and all related claims
16 effectuated by this Agreement.

17 GG. "Settlement Administration Costs" means the fees and costs incurred or
18 charged by the Settlement Administrator in connection with the execution of its duties under
19 this Agreement including, but not limited to fees and costs associated with: (1) establishing
20 and maintaining the QSF; (2) preparing, translating (as necessary) issuing and/or monitoring
21 reports, filings, and notices (including the cost of printing and mailing all notices and other
22 documents to the Class Members) required to be prepared in the course of administering the
23 Settlement; (3) computing the amount of the settlement payments, taxes, and any other
24 payments to be made under this Agreement; (4) calculating and handling inquiries about the
25 calculation of individual settlement payments; (5) establishing and operating a settlement
26 payment center website, address, and phone number to receive Class Members' inquiries
27 about the Settlement; (6) providing a due diligence declaration for submission to the Court
28 prior to the final approval hearing; (7) printing and providing Settlement Class Members and

1 Plaintiff with W-2 and 1099 forms as required under this Agreement and applicable law; (8)
2 preparing, issuing, and filing any tax returns and information returns and any other filings
3 required by any governmental taxing authority or other governmental agency; and (9) for such
4 other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to
5 perform. The Settlement Administration Costs will not exceed \$8,950. Settlement
6 Administration Costs will be paid out of the Gross Settlement Amount.

7 HH. "Settlement Administrator" refers to ILYM Group, Inc.

8 II. "Settlement Class" means all Class Members who have not submitted a timely
9 and complete Request for Exclusion.

10 JJ. "Settlement Class Member" is a person who is a member of the Settlement
11 Class.

12 **III. BACKGROUND**

13 During the Class Period, Defendants operated businesses in California that employed
14 Class Members. Plaintiff contends that during the Class Period, Defendants did not always
15 comply with California law in its payment of employees. Plaintiff contends that, among other
16 things, employees of Defendants were not paid for all of their work, were not provided with
17 compliant meal and rest breaks, were not paid for all of their overtime work at overtime rates
18 of pay, were not provided compliant wage statements, were not paid all amounts due at
19 separation and were not reimbursed for all of their necessary expenses.

20 The Parties have undertaken significant investigation and informal discovery during
21 the prosecution of this Action. Such discovery and investigation include Defendants'
22 production and Class Counsel's review of personnel records, policies, and time and pay
23 records and other detailed information relevant to the Class Members' claims. Counsel for
24 the Parties have investigated the law as applied to the facts discovered regarding the alleged
25 claims of the Class and potential defenses thereto, and the potential damages claimed by the
26 Class.

27 On September 21, 2023, the Parties attended a mediation before an experienced and
28 well-regarded mediator, Hon. Raul Ramirez (ret.). The mediation was not successful though

1 the parties continued to negotiate. The Defendants voluntarily shared financial information
2 pertaining to their ability to respond to a judgment in the event of liability. The defendants
3 also voluntarily shared data regarding the putative class, including class numbers, payroll and
4 time records. Each of the parties utilized forensic experts for analysis. Through the mediation
5 and the processes that followed, the Parties reached an agreement regarding the resolution of
6 this Action which is embodied in the terms of this Agreement. A memorandum of
7 understanding was fully executed on June 10, 2024.

8 Plaintiff and Class Counsel have concluded, after considering the sharply disputed
9 factual and legal issues involved in this Action, the risks attending further prosecution, and
10 the substantial benefits to be received pursuant to the compromise and settlement of the Action
11 as set forth in this Agreement, that this Settlement is in the best interests of the Representative
12 Plaintiff and the Settlement Class and is fair and reasonable.

13 This Settlement contemplates: (i) entry of an order preliminarily approving the
14 Settlement and approving certification of a Class for settlement purposes only; (ii)
15 dissemination of a notice to Class Members about the settlement; (iii) entry of a Final
16 Approval Order granting final approval of the Settlement; (iv) Defendants' payment of the
17 Gross Settlement Amount; and (iv) entry of a final judgment.

18 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

19 **A. Preliminary Approval of Settlement**

20 Following the execution of this Stipulation by all Parties or at such other time specified
21 by the Court, Class Counsel will submit this Stipulation to the Court as part of Plaintiff's
22 motion for preliminary approval of the settlement. Plaintiff's motion will include such briefing
23 and evidence as may be required for the Court to determine that this Agreement is fair and
24 reasonable, as required by California Code of Civil Procedure section 382 and California Rule
25 of Court 3.769. Class Counsel will provide Defendants' counsel with the opportunity to
26 review and comment on all drafts of all papers to be filed in connection with the motion for
27 preliminary approval (notice of motion, memorandum of points and authorities and
28 declarations) at least three court days before filing such motion with the Court. Plaintiff's

1 motion for preliminary approval will also include a proposed order that is mutually agreed-
2 upon by the Parties. Defendants shall not oppose Plaintiff's motion for preliminary approval
3 of the settlement to the extent it is consistent with the terms and conditions of this Agreement.
4 Defendants may, however, provide a written response to any characterization of the law or
5 facts contained in the motion for preliminary approval.

6 The Parties have agreed to the certification of the Class for the sole purposes of
7 effectuating this Settlement. Should the Settlement be terminated for any reason, or should
8 the Settlement not be approved by the Court, the fact that the Parties were willing to stipulate
9 to class certification as part of the Settlement will have no bearing on, and will not be
10 admissible in connection with, the issue of whether a class should be certified in a non-
11 settlement context in this Action, and in any of those events, Defendants expressly reserve the
12 right to oppose class certification. Additionally, if the Settlement does not become final, this
13 Agreement and all negotiations, court orders, and proceedings related thereto shall be without
14 prejudice to the rights of all Parties hereto, and evidence relating to the Agreement and all
15 negotiations shall not be admissible in the Action or otherwise. The Parties further agree that
16 if, for any reason, the Settlement is not approved, the certification for purposes of this
17 Settlement will have no force or effect and will be immediately revoked, and that all settlement
18 funds provided to the Class Administrator pending preliminary approval shall be returned to
19 the Defendants.

20 **B. Cooperation**

21 The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Agreement, including but not limited to, execution of such documents and to take such other
23 reasonably necessary actions to implement the terms of this Agreement. No party, nor any of
24 its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object to
25 the Settlement.

26 **C. Notice of Settlement**

27 Within ten (10) calendar days following the Court's order granting preliminary
28 approval of the Settlement, Defendants will provide the Settlement Administrator with the

1 Class Data in an electronic format acceptable to the Settlement Administrator. At the same
2 time, Defendants will provide the Class Data, without Class Member names, contact
3 information and social security numbers, to Class Counsel. This information will remain
4 confidential and will not be disclosed to anyone, except as required to applicable taxing
5 authorities, pursuant to Defendants' express written authorization, by order of the Court, or as
6 otherwise provided for in this Agreement.

7 Using the Class Data, the Settlement Administrator will: (1) confirm the number of
8 Class Members and Qualifying Workweeks, (2) finalize and print the Notice of Settlement;
9 (3) check all addresses against the National Change of Address database; and (4) within ten
10 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class
11 United States mail an English and Spanish version of the Notice of Settlement to the most
12 recent address known for each Class Member.

13 **D. Re-Sending Class Notices**

14 If Defendants, Defendants' Counsel or Class Counsel become aware of new addresses
15 for any Class Member, prior to the filing of the motion for final approval, such information
16 must immediately be communicated to the Settlement Administrator. The Settlement
17 Administrator will then re-send a Notice of Settlement to the Class Member(s) at the new
18 address.

19 For any Notice of Settlement that is returned as undeliverable, the Settlement
20 Administrator will perform a utility database search or other skip trace. The returned Notices
21 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such
22 searching and re-mailing will be completed within ten (10) calendar days of the date that
23 Notices of Settlement were originally returned as undeliverable.

24 **E. Requests for Exclusion (Opt-Outs)**

25 Any Class Member who wishes to be excluded from the Settlement must notify the
26 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her
27 own Request for Exclusion to the Settlement Administrator that clearly expresses such desire
28 and is signed by such Class Member. Any such Request for Exclusion shall include the name

1 of the Action, Class Member's name, current address, telephone number, and last four
2 numbers of the Class Member's social security number. To be valid, the Request for Exclusion
3 must be postmarked (if mailed) or received (if faxed or sent electronically) no later than the
4 Response Deadline.

5 Any Class Member who submits a valid and timely Request for Exclusion shall be
6 barred from participating in this Settlement, shall be barred from objecting to this Settlement,
7 and shall receive no benefit from the Class Settlement.

8 Any Class Member who fails to submit a timely, complete, and valid Request for
9 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively presumed
10 that if a Request for Exclusion is not postmarked or received on or before the Response
11 Deadline, the Class Member did not make the request in a timely manner. Under no
12 circumstances shall the Settlement Administrator have the authority to extend the deadline for
13 Class Members to submit a Request for Exclusion.

14 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,
15 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and
16 conditions of this Agreement. The releases provided for in this Agreement shall conclusively
17 preclude any Settlement Class Member from asserting any of the Released Claims against any
18 of the Released Parties in any judicial, administrative, or arbitral forum.

19 The Settlement Administrator shall promptly provide Class Counsel and Defendants'
20 Counsel with copies of all Requests for Exclusion that it receives.

21 **F. Declaration of Compliance**

22 At the time determined by Class Counsel, the Settlement Administrator shall provide
23 Class Counsel and Defendants' Counsel with a declaration attesting to completion of the
24 notice process set forth in this Section IV, including the number of notices sent and returned,
25 an explanation of efforts to resend undeliverable notices, and copies of all Requests for
26 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their
27 papers requesting final approval of the Settlement.

28 //

1 **G. Sufficient Notice**

2 Compliance with the procedures described in this Section IV shall constitute due and
3 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval
4 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of
5 the Representative Plaintiff, Class Counsel, Defendants, Defendants' Counsel, or the
6 Settlement Administrator to provide notice of the Settlement and the Final Fairness and
7 Approval Hearing.

8 **H. Objections to Settlement**

9 **1. Procedure and Deadline for Objections**

10 A Class Member may object to the Settlement by submitting a written Notice of
11 Objection to the Settlement Administrator, postmarked (if mailed) or received (if faxed or
12 emailed) no later than the Response Deadline, signed by the objecting Class Member or his
13 or her attorney, along with all supporting papers (if any). The date the signed Notice of
14 Objection was postmarked or received shall be conclusively determined according to the
15 records of the Settlement Administrator. The Settlement Administrator shall send any Notices
16 of Objection it receives to Defendants' counsel and Class Counsel within three (3) business
17 days of receipt. A Class Member may also object to the settlement by appearing at the Final
18 Approval Hearing. The Court retains final authority with respect to the consideration and
19 admissibility of any Notice of Objection.

20 If a Class Member submits both an objection and an opt-out request, the Settlement
21 Administrator shall make reasonable attempts to clarify the intentions of the Class Member.
22 If the Class Member fails to clarify their position, the opt-out request shall be disregarded, the
23 Settlement Administrator shall send the objection to Defendants' Counsel and Class Counsel
24 the claim will be paid, and the Class Member will become a Settlement Class Member and be
25 bound by the judgment.

26 **2. Responses to Objections**

27 Class Counsel and Defendants' counsel shall file any written objections from Class
28 Members submitted to the Settlement Administrator, and Class Counsel's and Defendants'

1 Counsel's responses to such objections, at least five (5) court days before the Final Fairness
2 and Approval Hearing.

3 **I. Pro-Rata Increase in Settlement Fund**

4 The Parties agree that there are approximately 35,594 Qualifying Workweeks during
5 the Class Period. Should the Qualifying Workweeks, as reported by Defendants after
6 preliminary approval, increase beyond 39,153 (which is 110% of the agreed upon number),
7 Defendants shall increase the Gross Settlement Amount on a pro-rata basis equal to the
8 percentage increase in the number of workweeks worked by the Class Members above 39,153
9 (e.g., if the number of workweeks increases by 11% to 39,509 workweeks, the Gross
10 Settlement Amount will increase by 1%)

11 **J. Defendants' Production of Financial Information**

12 Defendants contend that they do not have the financial resources to pay the Gross
13 Settlement Amount in a single payment. After being apprised of certain information, Class
14 Counsel has accepted Defendants' contention concerning its financial condition. However, if
15 necessary to secure approval of the settlement, Defendants will provide Class Counsel with a
16 declaration, to be filed in Court, from a person with knowledge attesting to Defendants'
17 financial condition and need for a payment plan.

18 **K. Final Fairness and Approval Hearing**

19 On or before the date set by the Court, Class Counsel will file a motion for final
20 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will
21 provide Defendants' counsel with the opportunity to review and comment on drafts of all
22 papers to be filed in connection with the motion for final approval (notice of motion,
23 memorandum of points and authorities and declarations) at least three court days before filing
24 such motion with the Court. Plaintiff's motion for final approval will also include a proposed
25 order that is mutually agreed-upon by the Parties. Defendants shall not oppose Class Counsel's
26 motion for final approval of the settlement to the extent it is consistent with the terms and
27 conditions of this Agreement. Defendants may, however, provide a written response to any
28 characterization of the law or facts contained in the motion for final approval.

1 On the date set by the Court, the Final Fairness and Approval Hearing shall be held
2 before the Court in order to: (1) determine whether the Court should give this Settlement final
3 approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and
4 request for the Service and Release Award to the Representative Plaintiff, should be granted;
5 and (3) consider any timely Objections to Settlement, including Class Counsel's and
6 Defendants' counsel's responses thereto. Upon final approval, the Court shall enter a Final
7 Approval Order (in a form submitted by Class Counsel and approved by Defendants' counsel)
8 which has the effect of adjudicating all claims set forth in the Complaint and implementing
9 the release of Released Claims, as set forth in this Agreement. The Final Approval Order will
10 be posted on the Settlement Administrator's website. The posting of the Final Approval Order
11 on the Settlement Administrator's website will constitute notice of entry of the judgment, as
12 required by California Rule of Court 3.771(b).

13 **L. Settlement Payments to Settlement Class Members**

14 **1. Calculation of Class Settlement Payments**

15 The Net Settlement Amount shall be divided among and distributed to individual
16 Settlement Class Members using the following formula:

17 **(Individual Settlement Class Member's Qualifying Workweeks ÷ All**
18 **Settlement Class Members' Qualifying Workweeks) x (Net Settlement**
19 **Amount)**

20 The Settlement Administrator shall have the authority and obligation to make
21 payments, credits, and disbursements, including payments and credits in the manner set forth
22 herein, to Settlement Class Members calculated in accordance with the methodology set out
23 in this Agreement and orders of the Court.

24 The Parties acknowledge and agree that the formula used to calculate individual
25 settlement payments does not imply that all the elements of damages alleged in the Action are
26 not being considered. The above formula was devised as a practical and logistical tool to
27 simplify the settlement process.

1 **2. Inclusion of Qualifying Workweeks and Estimated Settlement**
2 **Payment Information in Notice of Settlement**

3 The Notice of Settlement sent to each Class Member shall state the amount of the Class
4 Member's Qualifying Workweeks, as reflected in the Class Data. The Notice of Settlement
5 shall provide an estimate of each Class Member's share of the Class settlement, as calculated
6 by the Settlement Administrator. The estimated settlement payment included in the Notice of
7 Settlement will be calculated by assuming that no Class Members will be excluded from the
8 Settlement.

9 **4. Eligibility**

10 Settlement Class Members (but not Class Members who exclude themselves from the
11 Settlement), will receive a settlement payment from the Net Settlement Amount, distributed
12 through the Settlement Administrator.

13 If the Parties become aware after settlement checks are mailed that a Class Member
14 was not sent a Notice of Settlement because of an error in the Class Data as provided by
15 Defendants, Defendants may arrange to separately pay the Class Member the amount that the
16 Class Member would have received had they participated in the settlement, as long as the
17 Class Member agrees in writing to be bound by the Judgment and Class releases.

18 **5. Disputes about Qualifying Workweeks**

19 If a Class Member disagrees with the number of Qualifying Workweeks, as stated in
20 their Notice of Settlement, they may dispute that figure by informing the Settlement
21 Administrator of the number of Qualifying Workweeks that they claim to have worked during
22 the Class Period and provide any supporting documentation (such as, without limitation,
23 payroll or time keeping records, and paycheck stubs) on or before the Response Deadline. If
24 there is a dispute, the Settlement Administrator will consult with Class Counsel and
25 Defendants' counsel to determine whether an adjustment is warranted. The Settlement
26 Administrator shall determine any such disputes, subject to Court approval. The Settlement
27 Administrator shall be obligated to resolve any such disputes within ten (10) calendar days,
28 but by no later than the date of the Final Approval Hearing.

1 **6. Allocation of Settlement Payments**

2 Payment to each Settlement Class Member shall be allocated as follows: fifteen
3 percent (15%) shall be attributed to wages, to be reported on a W-2 form; eighty percent (85%)
4 shall be reported as penalties and interest. The amount of penalties and interest will be reported
5 on an IRS Form 1099.

6 **7. Payment of Payroll Taxes**

7 The amount paid to each Settlement Class Member attributable to wages shall be
8 subject to all applicable taxes and other withholdings and shall be net of the Settlement Class
9 Member's share of all federal, state, and local taxes and required withholdings, including
10 without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. Defendant
11 will separately pay at least \$20,000 to cover the Employer's Withholding Share. If the
12 Employer's Withholding Share is less than \$20,000, the difference between \$20,000 and the
13 Employer's Withholding Share will be added to the Net Settlement Amount. If the Employer's
14 Withholding Share is more than \$20,000, Defendant will separately pay such difference.

15 **8. Payments to Settlement Class Members**

16 Within ten (10) calendar days of Defendants' deposit of the full Gross Settlement
17 Amount and Employer's Withholding Share with the Settlement Administrator, the
18 Settlement Administrator will make the settlement payments to Settlement Class Members
19 based on the payment formulae set forth herein.

20 **M. The Settlement Administrator**

21 The Settlement Administrator will perform the duties specified in this Agreement and
22 any other duties incidental to such obligations. The Settlement Administrator's duties shall
23 include, without limitation: establishing the QSF, preparing, translating and distributing the
24 Notice of Settlement; calculating and directing the disbursement of payments to Settlement
25 Class Members, Class Counsel, the Class Representative and the LWDA; calculating and
26 timely paying any and all payroll taxes from the wages portion of the Net Settlement Amount
27 to the appropriate tax authorities, as required under this Agreement and applicable law;
28 handling inquiries about the calculation of individual settlement payments; preparing and

1 filing any tax returns and information returns and any other filings required by any
2 governmental taxing authority or other governmental agency; providing weekly status reports
3 to the Parties' counsel; advising Defendants' counsel and Class Counsel of any Class
4 Members who submit Notices of Objections and/or Requests for Exclusion; providing a due
5 diligence declaration for submission to the Court prior to the final approval hearing; printing
6 and providing Settlement Class Members and Representative Plaintiff with W-2 and 1099
7 forms as required under this Agreement and applicable law; arranging for and remitting funds
8 from any uncashed settlement payment to the designated recipient, as determined by the
9 Court; and for such other tasks as the Parties mutually agree or the Court orders the Settlement
10 Administrator to perform.

11 The Settlement Administrator shall establish a settlement payment center address,
12 telephone number and email address to receive Class Members' inquiries about the Notice of
13 Settlement, requests to be excluded from the Settlement and settlement payments.

14 In addition, the Settlement Administrator shall establish a static website and, on the
15 website, post this stipulation, any preliminary approval order and the Final Approval Order
16 and Judgment. Posting of the Final Approval Order and Judgment on such website shall
17 constitute notice of judgment to the Settlement Class, as required by California Rule of Court
18 3.771(b).

19 The Parties confirm, and Class Counsel and Defendants' Counsel confirm that they do
20 not have any financial interest in the Settlement Administrator or otherwise have a relationship
21 with the Settlement Administrator that could create a conflict of interest.

22 **N. Time for Payment by Defendants**

23 The Total Settlement Amount shall be paid in accordance with the following payment
24 schedule:

- 25 1. Payment 1: \$316,666.67 shall be paid on the earlier of 12 months from the date of
26 preliminary approval or June 30, 2024. The Parties acknowledge that the
27 Defendants have already deposited this payment, subject to the court's approval of
28 the settlement. In the event the court does not approve the settlement and the

1 releases provided for in this agreement are not effective, the payments made shall
2 be returned to the Defendants.

3 2. Payment 2: \$306,666.67 shall be paid on or before June 30, 2025.

4 3. Payment 3: \$306,666.66 shall be paid on or before June 30, 2026.

5 If, after the Court enters a Final Approval Order, Defendants fail to timely pay the
6 amount required to satisfy their payment obligations under this Stipulation, the Representative
7 Plaintiff, at her option, may either (1) declare the Settlement terminated, in which case, the
8 Parties agree that the Court will nullify the Final Approval Order and Judgment and Plaintiff
9 may continue to prosecute her claims against Defendants, or (2) seek to collect all amounts
10 owed under the Final Approval Order and Judgment against Defendants. In the event that the
11 Representative Plaintiff chooses option (1), all funds previously paid pursuant to the
12 Settlement shall be returned to the Defendants.

13 **O. Payments to Class Counsel, the Representative Plaintiff and the**
14 **Settlement Administrator**

15 Subject to Court approval, within ten (10) calendar days of Defendants' deposit of the
16 full Gross Settlement Amount and Employer's Withholding Share with the Settlement
17 Administrator, the Settlement Administrator shall make payment from the QSF to: (1) Class
18 Counsel, for Class Counsel's Attorneys' Fees and Class Counsel's Costs, as approved by the
19 Court; (2) the Representative Plaintiff for the Service and Release Award, as approved by the
20 Court; and (3) to the Settlement Administrator for the Settlement Administration Costs, as
21 approved by the Court. These payments will be reported on an IRS Form 1099.

22 **P. Un-cashed/Un-deposited Settlement Payment Checks**

23 If any Settlement Class Member's settlement payment check has not been cashed or
24 deposited within sixty (60) calendar days after disbursement, the Settlement Administrator
25 shall attempt to contact each individual to advise them to cash their checks, and to offer to
26 replace any checks reported as either lost or stolen. In attempting to contact such persons, the
27 Settlement Administrator will send notices (1) by mail to the individuals' last known
28 addresses (as provided by Defendants) after first checking those addresses against the NCOA

1 database and skip tracing and (2) by telephoning or emailing such persons, in the event that
2 Defendants have provided telephone numbers and/or email addresses for such persons.

3 If a Class Member's check is not cashed within 180 calendar days, the check will be
4 void and a stop payment order may be placed on the check. In such event, the Settlement
5 nevertheless will be binding upon the Settlement Class Member. The funds represented by all
6 uncashed settlement checks will be transmitted by the Settlement Administrator to the
7 California State Controller as unclaimed property in the name of the individual Settlement
8 Class Member. The Parties agree that such disposition results in no "unpaid residue" under
9 California Code of Civil Procedure section 384, as all payments to the Settlement Class will
10 be paid out, whether or not these individuals cash their Settlement checks. Therefore,
11 Defendants will not be required to pay any interest on such amounts.

12 **Q. Class Counsel Attorneys' Fees and Costs**

13 Defendants will not oppose Class Counsel's application for an award of attorneys' fees
14 of up to 35% of the Gross Settlement Amount. Assuming the escalator clause is not triggered,
15 the maximum amount sought will be three hundred and thirty-two thousand and five hundred
16 dollars (\$325,500).

17 Defendants will not oppose Class Counsel's application for an award of their
18 reasonable litigation expenses and costs in an amount not to exceed \$25,000.

19 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the Court,
20 shall be paid from the Gross Settlement Amount.

21 To the extent the Court does not approve any or the entire amount of Class Counsel's
22 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties'
23 settlement, and any such unapproved amounts shall remain part of the Net Settlement Amount
24 and shall be distributed in accordance with the provisions of this Stipulation. Approval of the
25 Settlement by the Court shall not be contingent on approval of the amounts of Class Counsel's
26 Attorney's Fees or Class Counsel's Costs requested by Class Counsel.

27 Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees
28 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class

Counsel waives any claim to costs and attorneys' fees and expenses against Defendants arising from or related to the Action, including but not limited to claims based on the California Labor Code, the California Code of Civil Procedure, or any other statute or law. Provided, however, nothing in this Agreement shall prevent Class Counsel from seeking additional fees for enforcing the terms of this Stipulation.

R. Service and Release Award to Representative Plaintiff

The Representative Plaintiff's Service and Release Award as approved by the Court, shall be paid from the Gross Settlement Amount.

The Representative Plaintiff shall be responsible for all portions of federal, state, and local tax liabilities that may result from the payment of the Service and Release Award and agrees that Defendants shall bear no responsibility for any such tax liabilities.

To the extent the Court does not approve any or all of the amount of the Service and Release Award sought by the Representative Plaintiff, any amounts not awarded by the Court will remain part of the Net Settlement Amount and will be distributed in accordance with the terms of this Stipulation and the Parties agree that the Settlement shall remain binding with such modification(s) and its terms will otherwise be unchanged.

S. Taxes

1. Withholding and Reporting Requirements

The Settlement Administrator shall be responsible for ensuring that all taxes required to be withheld from the wage portions of each Settlement Class Member's individual settlement payment, along with the Employer's Withholding Share, are timely paid to the appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will also include the following: (a) filing all Federal, state, and local employment tax returns, tax withholding returns, and any other tax returns associated with the taxes, (b) timely and proper filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with the appropriate taxing authorities, and (c) completion of any other steps necessary for compliance with any tax obligations of the settlement fund under Federal, state and/or local law. To verify the Settlement Administrator's compliance with the foregoing withholding and

1 reporting requirements, as soon as administratively practicable, the Settlement Administrator
2 shall, upon request, furnish Class Counsel and Defendants' Counsel with copies of all filed
3 tax returns and information returns (including all 1099 and W-2 information returns), and a
4 final accounting adequate to demonstrate full compliance with all tax withholding, payment
5 and reporting obligations.

6 **2. Circular 230 Disclaimer**

7 Each party to this Agreement (for purposes of this section, the "Acknowledging
8 Party"; and each party to this Agreement other than the Acknowledging Party, and "Other
9 Party") acknowledges and agrees that: (1) no provision of this Agreement, and no written
10 communication or disclosure between or among the Parties or their attorneys and other
11 advisers, is or was intended to be, nor shall any such communication or disclosure constitute
12 or be construed or be relied upon as, tax advice within the meaning of United States Treasury
13 Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has
14 relied exclusively upon his, her, or its own, independent legal and tax advisers for advice
15 (including tax advice) in connection with this Agreement, (b) has not entered into this
16 Agreement based upon the recommendation of any other party or any attorney or advisor to
17 any other party, and (c) is not entitled to rely upon any communication or disclosure by any
18 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the
19 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any
20 limitation that protects the confidentiality of any such attorney's or adviser's tax strategies
21 (regardless of whether such limitation is legally binding) upon disclosure by the
22 Acknowledging Party of the tax treatment or tax structure of any transaction, including any
23 transaction contemplated by this Agreement.

24 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

25 **A. No Admission of Liability**

26 Neither the acceptance nor the performance by Defendants of the terms of this
27 Stipulation nor any of the related negotiations or proceedings is or shall be claimed to be,
28 construed as, or deemed a precedent or an admission by Defendants of the truth or merit of

1 any allegations in the original Complaint or First Amended Complaint, or that they have any
2 liability to the Representative Plaintiff or the Class Members on their claims. Defendants
3 denies that they have engaged in any unlawful activity, have failed to comply with the law in
4 any respect, or have any liability to anyone under the claims asserted in the Action. This
5 Agreement is entered into solely for the purpose of compromising highly disputed claims.

6 **B. Nullification**

7 In the event that the Court does not approve the Settlement in accordance with this
8 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the
9 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,
10 after a good faith effort to resolve any issues, the Court for any reason does not approve this
11 Settlement, this Stipulation shall be null and void and all Parties to this Settlement shall stand
12 in the same position, without prejudice, as if the Settlement had been neither entered into nor
13 filed with the Court.

14 **VI. SETTLEMENT CLASS MEMBER RELEASE**

15 Upon entry of the Final Approval Order and Judgment and Defendants' payment of
16 the Gross Settlement Amount and Employer's Withholding Share, and except as to such rights
17 or claims as may be created by this Settlement Agreement, the Settlement Class Members, on
18 behalf of themselves, and each of their heirs, representatives, successors, assigns, and
19 attorneys, shall be deemed to have, and by operation of the final judgment shall have, fully
20 released and discharged the Released Parties from any and all Released Claims that accrued
21 during the Class Period.

22 **VII. REPRESENTATIVE PLAINTIFF RELEASE**

23 Pursuant to this Agreement and upon entry of the Final Approval Order and Judgment,
24 and Defendant's Payment of the Gross Settlement Amount and Employer's Withholding
25 Share, the Representative Plaintiff for herself only (including her heirs, successors and
26 assignees), and not the Settlement Class Members, shall and hereby does release the Released
27 Parties of and from all claims, demands, liens, actions and/or causes of action which (1) the
28 Representative Plaintiff may presently have, may in the past have had, or may in the future

1 have against Released Parties by reason of any damages or injuries of any kind arising out of
2 or related in any way to the Action, and the facts related thereto, whether described or not, (2)
3 in any way related to or arising from the Representative Plaintiff's employment, recruitment
4 or relationship with Released Parties, or any of them, or (3) arising for any reason from events
5 occurring up to and included the date of execution of this Agreement (the "Released Matters").
6 To this end of a complete release of all known and unknown claims, the Representative
7 Plaintiff agrees to waive the provisions of California Civil Code Section 1542, which states:

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

13 **VII. MISCELLANEOUS PROVISIONS**

14 **A. Amendments**

15 This Settlement Agreement may only be modified or changed by a writing signed by
16 the Parties hereto or by their counsel and approved by the Court.

17 **B. Integrated Agreement**

18 After this Stipulation is signed and delivered by all Parties to the Action and their
19 counsel, this Stipulation and its exhibits will constitute the entire agreement between the
20 Parties to the Action relating to the Settlement, and it will then be deemed that no oral
21 representations, warranties, covenants, or inducements have been made to any Party
22 concerning this Stipulation or its exhibits other than the representations, warranties,
23 covenants, and inducements expressly stated in this Stipulation and its exhibits.

24 **C. No Inducements**

25 The Parties acknowledge that they are entering into this Agreement as a free and
26 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever
27 and that neither Plaintiff nor Defendants have relied on any promises, representations, or
28 warranties regarding the subject matter hereof other than as set forth in this Stipulation.

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1 **D. No Prior Assignment**

2 The Parties hereto represent, covenant, and warrant that they have not directly or
3 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
4 any person or entity any portion of any liability, claim, demand, action, cause of action, or
5 rights herein released and discharged except as set forth herein.

6 **E. No Retaliation or Advice**

7 Defendants agrees not to retaliate against any Class Member for participating in the
8 Settlement or cooperating with Class Counsel, and Defendants will not induce or offer any
9 advice to any current or former employee to opt out of, or object to, the Settlement.

10 **F. Attorney's Fees**

11 To the extent that any Party institutes any legal action, arbitration, or other proceeding
12 to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their
13 reasonable attorneys' fees and costs from the other Party or Parties.

14 **G. Applicable Law**

15 All terms and conditions of this Stipulation and its exhibits will be governed by and
16 interpreted according to the laws of the State of California, without giving effect to any
17 conflict of law principles or choice of law principles.

18 **H. Entry of Judgment Pursuant to Terms of Settlement**

19 The Parties agree that upon the Settlement of this case, the Court may enter judgment
20 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The
21 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in
22 full of the terms of the Settlement.

23 **I. Notices**

24 All notices, requests, demands and other communications required or permitted to be
25 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by
26 first class mail to Class Counsel or Defendants' Counsel at their respective addresses as set
27 forth at the beginning of this Agreement or at any new address as to which counsel have
28 advised the Court and the other Parties.

1 **J. Binding on Successors**

2 This Agreement shall be binding and shall inure to the benefit of the Parties to the
3 Action and their respective successors, assigns, executors, administrators, heirs, and legal
4 representatives.

5 **K. Counterparts**

6 This Stipulation, and any amendments hereto, may be executed in any number of
7 counterparts, each of which when executed and delivered shall be deemed to be an original
8 and all of which taken together shall constitute the same instrument.

9 **L. Warranties and Representations**

10 With respect to themselves, each of the Parties to this Action and or their agent or
11 counsel represents, covenants, and warrants that they have full power and authority to enter
12 into and consummate all transactions contemplated by this Stipulation and have duly
13 authorized the execution, delivery, and performance of this Stipulation.

14 **M. Representation by Counsel**

15 The Parties to this Action acknowledge that they have been represented by counsel
16 throughout all negotiations that preceded the execution of this Stipulation, and that this
17 Stipulation has been executed with the consent and advice of counsel.

18 **N. Signatories**

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

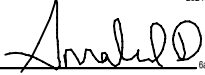
24 **O. Resolution of Disputes**

25 Any post-mediation disputes will be submitted to the mediator Hon. Raul Ramirez
26 (ret.) for resolution

27 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS
28 TERMS:

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Plaintiff Annabel Davalos

Dated: _____

Defendant LA Superior Central Office, Inc.

By: _____

Its: _____

Dated: _____

Defendant LA Superior Northgate, Inc.

By: _____

Its: _____

Dated: _____

Defendant LA Superior Mercados

By: _____

Its: _____

Approved as to form:


FARBSTEIN & BLACKMAN

Dated: _____

By: _____
Michael Farbstein
Attorneys for Defendants

Dated: 10/07/2024

GUNDZIK GUNDZIK HEEGER LLP

By:  _____
Aaron Gundzik
Attorney for Plaintiff

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Dated: October 7, 2024

LAWYERS FOR JUSTICE, PC



By: _____

Elizabeth Parker-Fawley
Attorney for Plaintiff

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Dated: _____

Plaintiff Annabel Davalos

Dated: 10-7-2024

[Signature]
Defendant LA Superior Central Office, Inc.

By: Uriel Barajas

Its: CEO

Dated: 10-7-2024

[Signature]
Defendant LA Superior Northgate, Inc.

By: Uriel Barajas

Its: CEO

Dated: 10-7-2024

[Signature]
Defendant LA Superior Mercados

By: Uriel Barajas

Its: CEO

Approved as to form:

FARBSTEIN & BLACKMAN

Dated: 10/7/2024

By: Michael Farbstein

Michael Farbstein
Attorneys for Defendants

Dated: _____

GUNDZIK GUNDZIK HEEGER LLP

By: _____

Aaron Gundzik
Attorney for Plaintiff