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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

DAVID EZELL, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

DIAB LEASING, INC., a California
Corporation; and DOES 1-50, Inclusive.

Defendants.

Case No. 34-2021-00305329

**DECLARATION OF JEAN-CLAUDE
LAPUYADE, ESQ. IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: January 5, 2024

Time: 9:00 a.m.

Judge: Hon. Lauri A. Damrell

Dept.: 21

1 I, Jean-Claude Lapuyade, Esq., declare as follows:

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter “Class Counsel”). I am counsel of record for
5 Plaintiff DAVID EZELL (hereafter “Plaintiff” or “Class Representative”) in this wage and hour class
6 action filed against Defendant DIAB LEASING, INC., (hereinafter, “Defendant”).

7 2. This declaration is being submitted in support of Plaintiff’s Motion for Final Approval of
8 Class Action and PAGA Action Settlement.

9 3. Attached hereto as **Exhibit “1”** is a true and correct copy of the fully executed First
10 Amended Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims
11 (hereinafter “Amended Settlement Agreement” or “Amended Agreement”), which was approved by the
12 Court in its August 25, 2023, Order Granting Preliminary Approval of Class and PAGA Action
13 Settlement. Attached as **Exhibit “A”** to the Amended Agreement is a true and correct copy of the Notice
14 Packet.

15 4. Attached hereto as **Exhibit “2”** is a true and correct copy of the fully executed Class
16 Action and PAGA Settlement Agreement and Class Notice, which is the original settlement agreement
17 submitted to the Court with Plaintiff’s Motion for Preliminary Approval

18 5. Attached hereto as **Exhibit “3”** is a true and correct copy of the conformed August 25,
19 2023, Preliminary Approval Order.¹

20 6. Attached hereto as **Exhibit “4”** is a true and correct copy of the August 28, 2023, proof
21 of filing the proposed Settlement with the LWDA.

22 7. Attached hereto as **Exhibit “5”** is true and correct copy of the December 12, 2023, proof
23 of filing this motion seeking final approval of this Settlement with the LWDA.

24 8. Attached hereto as **Exhibit “6”** is a true and correct copy of the JCL Law Firm, APC’s
25 “Firm Resume” detailing the credentials and a summary of cases on which Counsel has been appointed
26 Class Counsel.

27 ¹ On September 29, 2023, the Court signed the Proposed Order that was initially filed based on the terms of the Stipulation
28 of Settlement of Class Action Claims and Release of Claims (“Original Agreement”). On October 12, 2023, Plaintiff filed
an Amended Proposed Order based on the terms of the Amended Agreement. As of the filing of this Motion, Plaintiff has
not yet received the signed Amended Order from the Court.

1 I. INTRODUCTION

2 9. An objective evaluation of the proposed settlement of One Million Six Hundred
3 Thousand Dollars and Zero Cents (\$1,600,000.00) ("Maximum Settlement Amount") confirms that the
4 relief negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement is
5 a product of informed, adversarial, and non-collusive negotiations, between experienced counsel, and
6 presided over by Tripper Ortman, an experienced mediator of wage and hour class and representative
7 actions. After deducting any Court-approved Class Counsel Award, Class Representative's Payment,
8 PAGA Payment, and Settlement Administration Costs, the Net Settlement Amount shall be distributed
9 to the Settlement Class based on the number of Workweeks they worked while employed by Defendants
10 during the Class Period. *The Class greeted news of the Settlement with unanimous approval as, at the*
11 *time of the filing of this motion, all 1,258 Class Members chose to participate in the Settlement.²*
12 There are zero objections and zero opt-outs to the Settlement. The unanimous approval by the Class
13 evidences the clear fairness and reasonableness of the Settlement.

14 10. This Settlement provides substantial recovery to Class Members. Plaintiff estimates that
15 the Settlement, if approved, would result in a Net Settlement Amount of approximately **\$934,416.67**.
16 This will result in an average Individual Settlement Payment of **\$742.78**, with the estimated highest
17 gross payment being **\$4,522.41** and the lowest gross payment being **\$16.22**. Aggrieved Employees will
18 receive an estimated average gross payment of **\$25.91**, with the estimated highest gross payment being
19 **\$89.54** and the lowest gross payment being **\$1.44**.

20 11. The relief offered by the Settlement is immediate and is particularly impressive when
21 viewed against the difficulties encountered by plaintiffs pursuing similar wage and hour cases (*see*
22 *infra*). Indeed, by settling now rather than proceeding to trial, the Settlement Class will not have to wait
23 (possibly years) for relief, nor will they have to bear the risks associated with prolonged and uncertain
24 litigation.

25 12. As discussed below, the proposed Settlement satisfies all criteria for final settlement
26 approval under California law and falls well within the range of reasonableness. Accordingly, the Class
27
28

² As of the filing date of this Motion, 72 Notices were deemed undeliverable.

Representative and Class Counsel respectfully request this Court grant final approval of the Agreement and entry of the proposed Final Approval Order and Judgment.

II. OVERVIEW OF THE LITIGATION

13. On May 25, 2021, Plaintiff filed a Notice of Violations with the LWDA and served the same on Defendant Diab Leasing, Inc. On July 30, 2021, Plaintiff filed the class action complaint in this Court, asserting claims for: (1) unfair competition; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide required meal breaks; (5) failure to provide required rest breaks; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse employees for required expenses; (8) failure to provide wages when due; and (9) violation of the Private Attorneys General Act.

14. Plaintiff seeks to represent a putative class of all individuals who are or previously were employed by Defendants in California and classified as a non-exempt employee during the period of July 30, 2017, up to and including December 2, 2022 (the “Class Members”). The Complaint generally alleges the causes of action listed above. The Action seeks unpaid wages, statutory and PAGA penalties, attorneys’ fees, and litigation costs.

15. Prior to mediation, the Parties engaged in investigation and the exchange of documents and information in connection with the Action. As part of this process, Defendants provided a significant sample of time records and payroll records, as well as other documents and information, to Class Counsel to review and analyze. On July 18, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., a mediator of wage and hour class actions. The mediation concluded without a settlement. The Parties and Mediator Ortman subsequently requested the assistance of Judge Mitchell Goldberg (Ret.), a retired Federal Bankruptcy Judge after Defendant raised an inability to pay defense. Judge Goldberg reviewed Defendant’s financial documents, evaluated Defendant’s financial standing, and conferred with Mediator Ortman. Subsequently, Mediator Ortman made a mediator’s proposal based on Judge Goldberg’s evaluation. The Parties agreed to the mediator’s proposal. The Parties documented the agreement in the Original Agreement.

16. On April 13, 2023, Plaintiff filed his unopposed motion for preliminary approval of Class and PAGA Action Settlement, which was set to be heard on May 5, 2023. Before the May 5, 2023,

1 preliminary approval hearing date, Defendants represented to Class Counsel that it would now be able
2 to pay the entire Maximum Settlement Amount in one lumpsum but would need to negotiate a lesser
3 overall settlement amount. Based on Defendant's representations, the Parties requested, and were
4 granted, a short continuance on Plaintiff's Motion hearing for May 12, 2023.

5 17. Class Counsel sought assistance from Kenneth L. Creal, a Certified Public Accountant,
6 to review the amended terms. Mr. Creal compared the economic differences of the original and amended
7 terms to the putative Class Members and Aggrieved Employees. Based on his review, Mr. Creal
8 determined that the amended Maximum Settlement Amount of \$1,600,000, to be paid within 30 days
9 of the Effective Date was substantially more valuable when considering the present value of \$1,700,000
10 paid in installments over thirty-three (33) months as provided by the Original Agreement. The Parties
11 subsequently negotiated the Amended Agreement, which is the subject of the instant motion.

12 18. The Court preliminarily approved an initial Maximum Settlement Amount of One Million
13 Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00) based on a total of an estimated 56,669
14 workweeks worked by the Class during the Class Period. The Maximum Settlement Amount shall be
15 used: (1) to satisfy Individual Settlement Payments; (2) to satisfy the Class Representative's Payment;
16 (3) to satisfy the Class Counsel Award; (4) to satisfy the PAGA Payment; and (5) to satisfy the
17 Settlement Administration Costs incurred in this action.

18 19. Defendants will fund the Settlement by transferring the Maximum Settlement Amount
19 into a Qualified Settlement Fund within thirty (30) days after the Effective Date. Agreement, ¶ I(M).
20 Individual Settlement Payments and individual shares of the PAGA Payment shall be mailed by regular
21 First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees' last known mailing
22 address no later than fifteen (15) business days after the Maximum Settlement Amount is funded.
23 Amended Agreement, ¶ III(L)(7). The Settlement Administrator will calculate Individual Settlement
24 Payments by adding up the total number of Workweeks for all Class Members. The Settlement
25 Administrator will then divide the respective Workweeks for each Class Member by the total
26 Workweeks for all Class Members, resulting in a Payment Ratio for each Class Member. Each Class
27 Member's Payment Ratio is then multiplied by the Net Settlement Amount to calculate each estimated
28

1 Individual Settlement Payment. Amended Agreement, ¶ III(L)(1). The estimated average Individual
2 Settlement Payment is approximately **\$742.78**.

3 20. As explained in further detail below, the Settlement is fair, adequate, and reasonable to
4 the class and should be granted final approval. This is evidenced by the unanimous approval of the
5 Settlement by the Settlement Class and absence of any objections to the Settlement and the average
6 Individual Settlement Payment of **\$742.48**.

7 **III. THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

8 **A. Adequate Investigation**

9 21. Months before filing the Action, Class Counsel began its pre-filing investigation into
10 Plaintiff's complaints. Class Counsel's investigation started with several lengthy interviews with
11 Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment,
12 including time and payroll records. At the conclusion of the interviews, Class Counsel determined that
13 Plaintiff's complaints and records appeared to substantiate Plaintiff's claim that Defendants failed to,
14 among other things, pay for all time worked and to provide compliant meal and rest periods.

15 22. Considering the many anticipated factual disputes, the Parties agreed that it would be in
16 the best interest of both Parties to mediate the matter. To prepare for mediation, Class Counsel
17 requested documents and data points to further evaluate Plaintiff's claims and Defendants' liability
18 exposure to the Class Members. In response to Class Counsel's request, Defendants produced a sample
19 of time and payroll records for the Class Members, aggregate workweek and pay period data for the
20 Class Members, and wage statements and time records for the Class Members. In total, Defendant a
21 sample of time records for Class Members, and a sample of payroll data for Class Counsel to analyze.
22 Further, Class Counsel obtained the class list, distributed a *Belaire-West* notice to the Class Members,
23 and subsequently, reached out to nearly 700 Class Members.

24 23. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
25 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
26 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
27 and experienced experts in their fields and have provided their expertise on thousands of cases. Stated
28 differently, the BCG is uniquely qualified to analyze Defendant's time and payroll data.

1 24. BCG analyzed Defendants' time and payroll data to assist in the development of various
2 damage models. Among other things, BCG determined the approximate number of work shifts,
3 workweeks, pay periods, average length of shift and average number of hours worked per week and pay
4 periods during the Class Period. BCG also estimated the number of missed, late or truncated meal and
5 rest periods, the amount of paid missed meal period premiums paid during the Class Period, the amount
6 of underpayment of overtime, premiums, and sick time resulting from miscalculation of the regular rate
7 of pay, and the amount of off-the-clock work performed by the Class Members during the Class Period.

8 25. In advance of mediation, Class Counsel created a damage model predicated on the BCG
9 analysis. Class Counsel's model calculated Defendant's potential liability exposure while accounting
10 for the uncertainties of continued litigation. This damage model informed and guided Class Counsel
11 during the mediated settlement discussions.

12 26. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
13 determining Plaintiff's suitability as putative class representatives through interviews, background
14 investigations, and analysis of his employment files; (2) evaluating all of Plaintiff's potential claims;
15 (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions,
16 and the type of employer; (4) analyzing the Class Members' time and payroll records; (5) analyzing
17 Defendant's labor policies and practices; (6) researching settlements in similar cases as well as
18 outstanding issues which could affect settlement approval; (7) evaluating Plaintiff's claims and
19 estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9)
20 participating in the mediation. This investigation allowed Class Counsel to fully assess the nature and
21 magnitude of the claims being settled, as well as the impediments to recovery, such as to make an
22 independent assessment of the reasonableness of the terms to which the Parties have agreed.

23 27. Class Counsel only agreed to enter the Settlement following this thorough investigation
24 and evaluation of Plaintiff's claims. Based on their investigation of the facts, applicable law, and
25 marketplace for similar settlements, and considering the risk of significant delay, uncertainty associated
26 with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believes this
27 Agreement to be in the best interests of the Class Members. Because the Settlement's terms are fair,
28 reasonable, and adequate, the Court should grant final approval of the Settlement.

1 **B. The Parties Settled Shortly After Mediation**

2 28. On July 18, 2022, the Parties conducted a full-day mediation with Tripper Ortman, an
3 experienced mediator of wage and hour class and representative actions. Mediator Ortman helped to
4 manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both
5 sides. The Parties made substantial progress with Mediator Ortman's assistance. Namely, the Parties
6 exchanged information regarding their respective claims and defenses, including their respective
7 evaluations of the damages. After arm's length and adversarial negotiations, the mediation concluded
8 without a settlement. Subsequently, The Parties and Mediator Ortman subsequently requested the
9 assistance of Judge Mitchell Goldberg (Ret.), a retired Federal Bankruptcy Judge after Defendant raised
10 an inability to pay defense. Judge Goldberg reviewed Defendant's financial documents, evaluated
11 Defendant's financial standing, and conferred with Mediator Ortman. Subsequently, Mediator Ortman
12 made a mediator's proposal based on Judge Goldberg's evaluation. The Parties agreed to the mediator's
13 proposal, resulting in the Original Agreement.

14 29. As discussed above, the Parties subsequently negotiated the terms of the Amended
15 Agreement based on Defendant's representations and Mr. Creal's evaluation of the economic value of
16 the Maximum Settlement Amount and benefits to the Class. No action would likely have been taken by
17 Class Members individually, and no compensation would have been recovered for them, but for
18 Plaintiff's services on behalf of the Class.

19 **C. Class Counsel is Experienced in Similar Litigation**

20 30. Plaintiff is represented by competent and experienced counsel to pursue his claims. I
21 established the JCL Law Firm, APC ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing
22 aggrieved employees and consumers throughout California in wage and hour class actions and complex
23 multi-party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade,
24 Esq. (Partner/Owner), Sydney Castillo-Johnson, Esq. (Associate Attorney), Monnett De La Torre, Esq.
25 (Associate Attorney), Perssia Razma, Esq. (Associate Attorney), Tesla Stone (Paralegal), Jennifer
26 Heming (Paralegal), Laura Gonzalez Mendez (Paralegal), Sara Christensen (Legal Assistant), and
27 Madelyn Uchiyama (Legal Assistant).

28 ///

1 31. I am qualified to represent the Plaintiff, the Class Members, the State of California, and
2 the Aggrieved Employees. I have extensive experience with wage and hour class and representative
3 actions litigation like this matter, and employment matters in general. Additionally, I have extensive
4 complex mass tort litigation experience and complex construction product liability experience. I can,
5 will and have adequately represented the interests of the Plaintiff, the Class Members, the State of
6 California, and the Aggrieved Employees throughout this action.

7 32. I have represented consumers and employees in California class actions, and complex
8 multi-party product liability actions exclusively for more than 14 years. I have been in practice as a
9 plaintiffs' civil litigation attorney since April 2007.

10 33. I am qualified to represent the Plaintiff, the State of California, and the Aggrieved
11 Employees. I have extensive experience with wage and hour class and representative actions litigation
12 like this matter, and employment matters in general. My credentials are reflected in the JCL Law Firm,
13 APC, Firm Resume, a true and correct copy of which is attached hereto as **Exhibit "6."** Some of the
14 major cases the Firm has undertaken are also set forth in **Exhibit "6."**

15 34. Since 2010, I have successfully tried two (2) cases to conclusion, each resulting in a
16 favorable verdict for the firm's clients.

17 35. Finally, I have published appellate experience in *William Blanchette et al., v. The*
18 *Superior Court of Imperial County, (GHA Enterprises)*, 8 Cal.App.5th 521.

19 36. Consequently, I have been named to the prestigious Thomson Reuters, Super Lawyers,
20 Rising Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers,
21 Rising Star list recognizes the top 2.5% of eligible attorneys. (see
22 https://www.superlawyers.com/about/selection_process.html.)

23 **D. Strength of Plaintiff's Case**

24 37. Here, the Settlement is clearly within the "ballpark" of reasonableness because the
25 Settlement provides a sizeable recovery to the Settlement Class Members and need not necessarily
26 obtain 100 percent of the damages sought to be fair, reasonable, and ultimately, meaningful. *Wershba*,
27 91 Cal.App.4th at 250. While the Maximum Settlement Amount of One Million Six Hundred Thousand
28 Dollars and Zero Cents (\$1,600,000.00) represents a discount on Defendants' potential exposure if

1 Plaintiff established liability on all claims and was awarded the full amount of the estimated damages
2 at trial, this compromise is reasonable because (1) the formidable defenses raised by Defendants
3 presented a risk that could award significantly less in damages than Plaintiff's estimate and (2) any
4 theoretical post-trial recovery may require many more years of litigation, resulting in added fees and
5 costs without any guarantee of recovery for the Class.

6 38. As detailed at the time of preliminary approval, the Maximum Settlement Amount is fair
7 and reasonable considering the nature and magnitude of the claims being settled and the various
8 potential impediments to recovery. Class Counsel developed varied economic damages models
9 measuring Defendants' liability exposure while accounting for the uncertainties of continued litigation.
10 The various models were informed by Class Counsel's investigation, including the analysis of a
11 significant sample of time and payroll data. As detailed in greater depth during the preliminary approval
12 process, Class Counsel projected a range of Defendants' liability exposure for the claims asserted on
13 behalf of the Settlement Class. The Maximum Settlement Amount represents approximately 39.7% of
14 the maximum estimated *damages*, and 23.3% of the maximum combination of damages and penalties
15 to the Class.

16 39. In *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at * 12, the
17 District Court for the Northern District of California granted final approval in a wage and hour
18 misclassification action and found that the Gross Settlement Amount representing 10% of the estimated
19 trial award was within the "range of reasonableness." In *Dunleavy v. Nadler (In re Mego Fin. Corp.*
20 *Sec. Litig.)* (9th Cir. 2000) 213 F.3d 454, 459, the Ninth Circuit approved a settlement representing
21 "roughly one-sixth of the potential recovery." Given the amount of the settlement here as compared to
22 potential value of the claims, particularly the strength of Plaintiff's action, the settlement is clearly fair
23 and reasonable.³

24
25 ³ See also *Viceral v. Mistras Grp., Inc.* (N.D. Cal. Oct. 11, 2016, No. 15-CV-02198) 2016 WL 5907869, at *3, 7 (approving
26 a California wage and hour settlement where the class received 11.6% of the estimated total liability, or approximately \$29
27 per work week); *Leverage v. Traeger Pellet Grills, LLC* (N.D. Cal. June 28, 2017, No. 16-CV-00784) 2017 WL 2797811,
28 at *7 (Approving a California wage and hour settlement where the class received 18% of the estimated total liability); see
also *In re Newbridge Networks Sec. Litig.* (D.D.C. Oct. 23, 1998) 1998 WL 765724, at *2 ("Courts have not identified a
precise numerical range within which a settlement must fall in order to be deemed reasonable; but an agreement that secures
roughly six to twelve percent of a potential trial recovery, while preventing further expenditures and delays and eliminating
the risk that no recovery at all will be won, seems to be within the targeted range of reasonableness.").

1 40. The calculation methodology used to compensate the Settlement Class Members for the
2 alleged damages was negotiated at the time of the Settlement. More importantly, the methodology is
3 fair, objective, and impartial. The calculation methodology is based on the number of Workweeks each
4 Settlement Class Member worked for Defendants during the Class Period. The number of Workweeks
5 for the Settlement Class Members is established through Defendants' data and documented
6 compensation records. The Settlement Administrator is responsible for calculating the Individual
7 Settlement Payments by multiplying the Payment Ratio for each Class Member by the Net Settlement
8 Amount. The Settlement Administrator will calculate the Payment Ratio by dividing the total number
9 of Workweeks for each Class Member by the total number of Workweeks for all Class Members. This
10 process establishes an objectively fair and reasonable procedure to compensate the Settlement Class.
11 Agreement at ¶ III(L)(1).

12 41. The Settlement also provides significant relief to the Settlement Class Members. After
13 deductions for the Class Counsel Award, Settlement Administration Costs, the PAGA Payment, and
14 the Class Representative's Payment, the Net Settlement Amount is currently estimated to be
15 **\$934,416.67**. The average settlement payment is approximately **\$742.78**. This average net recovery is
16 on par with many wage and hour class action settlements approved by California state and federal
17 courts. *See, e.g., Palencia v. 99 Cents Only Stores*, No. 34-2010-00079619 (Sacramento County Super.
18 Ct.) (average net recovery of approximately \$80); *Ressler v. Federated Department Stores, Inc.*, Case
19 No. BC335018 (L.A. County Super. Ct.) (average net recovery of approximately \$90); *Doty v. Costco*
20 *Wholesale Corp.*, Case No. CV05-3241 FMC-JWJx (C.D. Cal. May 14, 2007) (average net recovery of
21 approximately \$65); *Sorenson v. PetSmart, Inc.*, Case No. 2:06-CV-02674-JAM-DAD (ED. Cal.)
22 (average net recovery of approximately \$60); *Lim v. Victoria's Secret Stores, Inc.*, Case No.
23 04CC00213 (Orange County Super. Ct.) (average net recovery of approximately \$35); and *Gomez v.*
24 *Amadeus Salon, Inc.*, Case No. BC392297 (L.A. Super. Ct.) (average net recovery of approximately
25 \$20). Additionally, Defendant must separately fund its share of any employer side payroll taxes.
26 Agreement, ¶ III(L).

27 42. Clearly the goal of this litigation to obtain redress for the class has been met by this
28 Settlement. Given the amount of the Settlement, the risks of litigation and the arm's length negotiations

1 between experienced counsel, the settlement is fair and reasonable, and is therefore entitled to final
2 approval.

3 **E. The Strength of Plaintiff’s Case and Risks of Continued Litigation**

4 43. With respect to the most immediate challenge, i.e., class certification, the risks attendant
5 to the certification of similar wage and hour claims are demonstrated by *Magadia v. Wal-Mart*
6 *Associates, Inc.* (9th Cir. 2021) 999 F.3d 668. There, the Ninth Circuit, vacated reversed and remanded
7 a \$110 million judgement against an employer for, *inter alia*, inaccurately paying overtime, and directed
8 the trial court to enter judgement in favor of the employer. *See also O’Conner v. Uber Technologies,*
9 *Inc.* (9th Cir. 2018) 904 F.3d 1087 (decertification of wage and hour misclassification action); *see also*
10 *Duran v. U.S. Bank National Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor
11 plaintiffs in a wage and hour class action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th
12 1077, 1088 (“[T]he reason, if any, that employees might not take their breaks were predominantly
13 individualized questions of fact not susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176
14 Cal.App.4th 1333, 1341 (affirming denial of certification because employees’ declarations attesting to
15 having taken meal and rest breaks demonstrated that individualized inquiries were required to show
16 harm); *Campbell v. Best Buy Stores, L.P.,* (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following
17 *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack
18 of uniform policy); *Brown v. Fed Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying
19 certification of driver meal and rest period claims based on the predominance of individual issues).
20 Collectively, the examples cited above illustrate the uncertain nature of class litigation. Consequently,
21 the uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
22 settlement.

23 44. Although Class Counsel believes strongly in Plaintiff’s claims, it would be misguided to
24 ignore the asserted defenses. If successful on any one of its defenses, Defendant could defend the action
25 or, at least, drastically undercut Plaintiffs’ claims. Legally, the fast-changing landscape of wage and
26 hour litigation can drastically affect the value of Plaintiffs’ claims and, in fact, already has.

27 45. As demonstrated by the decisions in *Magadia, supra*, 999 F.3d 668, *O’Conner v. Uber*
28 *Technologies* (N.D. Cal. 2018) 82 F.Supp.3d 1133 and *Duran v. U.S. Bank National Assn.* (2014) 59

1 Cal.4th 1, the complexities and duration of further litigation cannot be overstated. There is little doubt
2 that if Defendant faced a large adverse judgement, Defendant undoubtedly have the resources to post a
3 bond and appeal. A post-judgment appeal by Defendant would have required many more years to
4 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
5 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
6 an uncertain result three or more years in the future.

7 46. Class Representative and Class Counsel recognize the expense and length of a trial
8 against Defendants through possible appeals which could take another three years. In arriving at their
9 informed belief that the present settlement is fair and adequate, Class Counsel accounted for the
10 uncertain outcome and risk inherent in complex actions such as this one. Class Counsel is also mindful
11 of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in
12 the litigation. Moreover, post-trial motions and appeals would have been inevitable. Costs would have
13 mounted, and recovery would have been delayed if not denied, thereby reducing the benefits of an
14 ultimate victory. Class Representative and Class Counsel believe that the Settlement confers substantial
15 monetary and non-monetary benefits upon the Class. Based upon their evaluation, Class Representative
16 and Class Counsel have determined that the Settlement set forth in the Agreement is in the best interest
17 of the Class, is fair, reasonable, and adequate, and should be granted final approval.

18 **IV. THE PENALTIES UNDER THE PRIVATE ATTORNEY GENERAL ACT OF 2004 ARE**
19 **REASONABLE**

20 47. Here, the Parties negotiated a good faith PAGA Payment in the amount of \$80,000.00
21 which is approximately 5% of the Maximum Settlement Amount. As illustrated above, this amount
22 falls well within the range of approved PAGA Settlements. Seventy-five percent (75%) of the PAGA
23 Payment (\$60,000.00) will be paid to the LWDA ("LWDA Payment") with the remaining twenty-five
24 percent (25%) of the PAGA Payment (\$20,000.00) to be distributed to the Aggrieved Employees, which
25 is within the range of PAGA penalties approved by courts and should be approved.

26 48. Class Counsel gave the LWDA notice of this Settlement and proposed allocation by filing
27 a copy of the Settlement, the Motion for Preliminary Approval, and this motion seeking final approval
28

1 with the LWDA. On December 12, 2023, Plaintiff gave the LWDA notice of this motion seeking final
2 approval of this settlement.

3 49. I declare under the penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed this 12th day of December 2023, at San Diego, California.

5
6 **JCL LAW FIRM, APC**

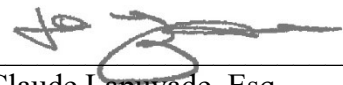
7 By: 
8 Jean-Claude Lapuyade, Esq.

EXHIBIT 1

ZAKAY LAW GROUP, APLC

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SUPERIOR COURT OF CALIFORNIA**COUNTY OF SACRAMENTO**

DAVID EZELL, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

DIAB LEASING, INC., a California
Corporation; and DOES 1-50, Inclusive;

Defendants.

Case No. 34-2021-00305329

[Action Filed: July 30, 2021]

**FIRST AMENDED STIPULATION OF
SETTLEMENT OF CLASS ACTION
CLAIMS AND RELEASE OF CLAIMS**

Judge: Honorable Lauri A. Damrell
Dept.: 28

1 This First Amended Stipulation of Class Action Settlement and Release of Claims is entered
2 into by and between plaintiff DAVID EZELL (hereinafter "Plaintiff"), individually and on behalf of
3 the putative class and the State of California as a private attorney general, and Defendants DIAB
4 LEASING, INC. and FAROUK DIAB (hereinafter, collectively "Defendants");

5 **I. DEFINITIONS**

- 6 A. "Action" shall mean the putative class action lawsuit designated *David Ezell v. Diab*
7 *Leasing, Inc., et al.*, Sacramento County Superior Court Case No. 34-2021-00305329,
8 filed July 30, 2021 (hereinafter "the Action").
- 9 B. "Aggrieved Employees" shall mean each of the Class Members who was employed
10 by Defendants at any time during the PAGA Period.
- 11 C. "Agreement" or "Settlement Agreement" means this First Amended Stipulation of
12 Settlement of Class Action and Release of Claims.
- 13 D. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
14 Shani Zakay of Zakay Law Group, APLC.
- 15 E. "Class Counsel Award" means the award of fees and expenses that the Court
16 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
17 and the Class in the Action, consisting of attorneys' fees currently not to exceed one-
18 third of the Maximum Settlement Amount currently estimated to be Five Hundred
19 Thirty-Three Thousand, Three Hundred Thirty-Three Dollars And Thirty-Three
20 Cents (\$533,333.33) plus costs and expenses in the amount of \$25,000. Class
21 Counsel's award for attorneys' fees will be divided equally between Class Counsel
22 (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC). A reduction of
23 the Class Counsel Award shall not be grounds to nullify this Agreement.
- 24 F. "Class Data" means information regarding Class Members that Diab Leasing, Inc.
25 will in good faith compile from its records and provide to the Settlement
26 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall
27 include: each Class Member's full name; last known address; Social Security
28 Number; and start dates and end dates (if applicable) of employment.

- 1 G. "Class Members" or the "Class" means all individuals who are or previously were
2 employed by Defendants in California and classified as a non-exempt employee at
3 any time during the Class Period.
- 4 H. "Class Period" means the period from July 30, 2017, up to and including December
5 2, 2022.
- 6 I. "Class Representative's Payment" means the amount that the Court authorizes to be
7 paid to the Class Representative, in addition to his Individual Settlement Payment and
8 his pro-rata share of the PAGA Payment, in recognition of his efforts and risks in
9 assisting with the prosecution of the Action and in exchange for executing a general
10 release of all known and unknown claims he may have against Defendants and
11 Released Parties, based on his employment with any one or more of the Released
12 Parties. The Class Representative will be issued an IRS Form 1099 and its state and
13 local equivalents for any service payment amount received under the settlement.
14 Should the Class Representative's Payment not be approved or reduced by the Court,
15 any amount not approved and/or reduced by the Court will be returned to the Net
16 Settlement Amount pursuant to the remaining terms herein. A reduction of the Class
17 Representative's Payment shall not be grounds to nullify this Agreement.
- 18 J. "Class Representative" shall mean plaintiff DAVID EZELL.
- 19 K. "Court" shall mean the Superior Court for the State of California, County of
20 Sacramento currently presiding over the Action.
- 21 L. "Effective Date" shall mean the earliest date, following entry by the Court of an order
22 and judgment finally approving this Settlement, upon which one of the following have
23 occurred: (i) if no objection is filed to the settlement and no objector appears at the
24 hearing on final approval, the date of the Court's entry of the order granting final
25 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
26 hearing on final approval, then the earlier of the following: (a) the expiration of all
27 potential appeal periods without a filing of a notice of appeal of the final approval
28 order or judgment; (b) final affirmance of the final approval order and judgment by

an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review.

M. "Funding Date" shall mean the date that the Maximum Settlement Amount is fully funded by Defendants into the QSF in accordance with the terms of this Agreement. Defendants will fund the Gross Settlement Amount thirty (30) calendar days after the Effective Date.

N. "Individual Settlement Payment" shall mean the amount payable from the Net Settlement Amount to each Settlement Class Member and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

O. "LWDA" shall mean the Labor and Workforce Development Agency.

P. "Maximum Settlement Amount" shall mean One Million Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00) that Defendants must pay into the QSF, inclusive of the sum of the Individual Settlement Payments, the Class Representative's Payment, the Class Counsel Award, PAGA Payment and the Settlement Administration Costs and *exclusive* of the employer's share of payroll tax, if any, triggered by any payment under this Settlement.

Q. "Net Settlement Amount" or "NSA" shall mean the Maximum Settlement Amount, less Class Counsel Award, Class Representative's Payment, PAGA Payment, and Settlement Administration Costs.

R. "Notice Packet" shall mean the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).

S. "PAGA" shall mean the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698 *et seq.*

T. "PAGA Pay Periods" shall mean, for purposes of calculating the distribution of the Aggrieved Employee Payment, the number of pay periods of employment during the PAGA Period that each Aggrieved Employee worked in California.

- 1 U. "PAGA Payment Ratio" shall mean the respective number of pay periods during the
2 PAGA Period for each Aggrieved Employee divided by the sum total of the pay
3 periods for all Aggrieved Employees during the PAGA Period.
- 4 V. "PAGA Period" shall mean the period between May 25, 2020, and continuing through
5 up to and including December 2, 2022.
- 6 W. "PAGA Payment" shall mean Eighty Thousand Dollars and Zero Cents (\$80,000.00)
7 to be allocated from the Maximum Settlement Amount.
- 8 X. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
9 Plaintiff or Defendants, individually.
- 10 Y. "Payment Ratio" shall mean the respective number of Workweeks for each Class
11 Member divided by the sum total Workweeks for all Class Members.
- 12 Z. "Plaintiff" shall mean DAVID EZELL.
- 13 AA. "QSF" shall mean the qualified settlement fund established, designated, and
14 maintained by the Settlement Administrator to fund the Maximum Settlement
15 Amount. The QSF shall be established in federally insured bank accounts (i.e., FDIC).
- 16 BB. "Released Class Claims" shall mean all claims that were alleged, or reasonably could
17 have been alleged, based on the facts alleged in the complaint, including, but not
18 limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204,
19 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197,
20 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382,
21 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203,
22 and the requirement for the Industrial Welfare Commission Wage Order, as well as
23 claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194,
24 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510,
25 et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7
26 & 512 and the applicable IWC Wage Order; failure to provide required rest periods
27 in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order;
28 failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226,

226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof. Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period.

CC. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

DD. “Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOON AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL

ASPIRAS; DIAB AND BAWAB, INC; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

EE. “Response Deadline” shall mean the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

FF. “Settlement” means the disposition of the Action pursuant to this Agreement.

GG. “Settlement Administrator” shall mean ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. ***All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.***

HH. “Settlement Class Members” or “Settlement Class” shall mean all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

1 II. "Workweeks" shall mean, for purposes of calculating the distribution of the Net
2 Settlement Amount, the number of weeks of employment during the Class Period that
3 each Class Member was employed by Defendants in California.

4 **II. RECITALS**

5 A. On May 25, 2021, Plaintiff submitted a notice of violations to the LWDA and Diab
6 Leasing, Inc.

7 B. On July 30, 2021, Plaintiff filed the Action alleging causes of action for:

8 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

9 2. Failure to Pay Minimum Wages in Violation of California Labor Code
10 sections 1194, 1197, and 1197.1;

11 3. Failure to Pay Overtime Wages in Violation of California Labor Code sections
12 510, *et seq*;

13 4. Failure to Provide Required Meal Periods in Violation of California Labor
14 Code sections 226.7 & 512 and the applicable IWC Wage Order;

15 5. Failure to Provide Required Rest Periods in Violation of California Labor
16 Code sections 226.7 & 512 and the applicable IWC Wage Order;

17 6. Failure to Provide Accurate Itemized Wage Statements in Violation of
18 California Labor Code sections 226 and 226.2;

19 7. Failure to Reimburse for Required Expenses in Violation of California Labor
20 Code section 2802;

21 8. Failure to Provide Wages When Due in Violation of California Labor Code
22 sections 201, 202 and 203;

23 9. Violation of the Private Attorneys General Act [Labor Code section 2698]
24 ("PAGA").

25 C. The Class Representative believes he has meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Welfare Commission
27 Wage Orders, and that class certification is appropriate because the prerequisites for
28

1 class certification can be satisfied in the Action, and this action is manageable as a
2 PAGA representative action.

3 D. Defendants deny any liability or wrongdoing of any kind associated with the claims
4 alleged in the Action, dispute any wages, damages and penalties claimed by the Class
5 Representative are owed, and further contend that, for any purpose other than
6 settlement, the Action is not appropriate for class or representative action treatment.
7 Defendants contend, among other things, that at all times they complied with the
8 California Labor Code and the Industrial Welfare Commission Wage Orders.

9 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
10 an investigation into the facts relevant to the Action, including conducting an
11 independent investigation as to the allegations, reviewing documents and information
12 exchanged through informal discovery, and reviewing documents and information
13 provided by Defendants pursuant to informal requests for information to prepare for
14 mediation. Defendants produced for the purpose of settlement negotiations certain
15 employment data concerning the Settlement Class, which Class Counsel reviewed
16 and analyzed. Based on their own independent investigation and evaluation, Class
17 Counsel is of the opinion that the Settlement with Defendants is fair, reasonable, and
18 adequate, and is in the best interest of the Settlement Class in light of all known facts
19 and circumstances, including the risks of significant delay, defenses asserted by
20 Defendants, uncertainties regarding class certification, and numerous potential
21 appellate issues. Although they deny any liability, Defendants are agreeing to this
22 Settlement solely to avoid the inconveniences and cost of further litigation. The
23 Parties have agreed to settle the claims on the terms set forth in this Agreement.

24 F. On July 18, 2022, the Parties participated in mediation presided over by Tripper
25 Ortman, an experienced mediator of wage and hour class actions. The Parties and
26 Mediator Ortman subsequently requested the assistance of Judge Mitchell Goldberg
27 (Ret.), a retired Federal Bankruptcy Judge after Defendant raised an inability to pay
28 defense. As a part of the mediation, Judge Goldberg reviewed Defendant's financial

documents, evaluated Defendant's financial standing, and conferred with Mediator Ortman. Subsequently, Mediator Ortman made a mediator's proposal based on Judge Goldberg's evaluation. The Parties agreed to the mediator's proposal which was subsequently memorialized in the form of a Memorandum of Understanding ("MOU").

G. This Agreement replaces and supersedes the MOU, the Stipulation of Class Action Settlement and Release of Claims, and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants or Released Parties that the claims in the Action of Plaintiff or the Class Members have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action have merit.

H. The Parties believe that the Settlement is fair, reasonable and adequate. The Settlement was arrived at through arm's-length negotiations and with the assistance of Mediator Ortman and Judge Goldberg, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action. In addition, mediator Tripper Ortman, may, at the Parties' discretion, execute a declaration supporting the settlement, and the Court may, in its discretion, contact Tripper Ortman to discuss the settlement, and whether the settlement is fair and reasonable.

I. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action.

1 J. Plaintiff represents and warrants that he is younger than 40 years old as of the date
2 that he signs this Settlement Agreement.

3 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

4 **III. TERMS OF AGREEMENT**

5 A. Settlement Consideration and Settlement Payments by Defendants.

6 1. Settlement Consideration. In full and complete settlement of the Action, and
7 in exchange for the releases set forth below, Defendants will pay the
8 Maximum Settlement Amount of One Million Six Hundred Thousand Dollars
9 and Zero Cents (\$1,600,000.00). The Parties agree that this is a non-
10 reversionary Settlement and that no portion of the Maximum Settlement
11 Amount shall revert to Defendants. Other than the Defendants' share of
12 employer payroll taxes, Defendants shall not be required to pay more than the
13 Maximum Settlement Amount, except as provided for hereinbelow.
14 Defendants are jointly and severally liable for payment of the Maximum
15 Settlement Amount.

16 2. Class Size. Defendants estimate the number of work weeks during the Class
17 Period to be approximately 56,669. If the actual number of work weeks during
18 the Class Period exceeds 56,669 by more than 10%, Defendants at their
19 exclusive discretion shall either increase the Maximum Settlement Amount
20 proportionately for any excess increase beyond 62,335 in the total number of
21 work weeks during the Class Period, or in the alternative, Defendants shall
22 have the exclusive option to modify the end date of the applicable Class
23 Period to a date to avoid incurring the pro rata increase. Under the second
24 option, no additional payment is necessary. For example, if the number of
25 work weeks during the Class Period increases by 12%, the Maximum
26 Settlement Amount will increase by 2% (actual increase minus the 10%
27 tolerated increase).
28

- 1 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
2 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members,
3 on behalf of themselves and their respective former and present representatives,
4 agents, attorneys, heirs, administrators, successors, and assigns, release and discharge
5 the Released Parties from the Released Class Claims for the Class Period.
- 6 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
7 consideration set forth in this Agreement, each of the Aggrieved Employees, the
8 Plaintiff, the LWDA and the State of California, on behalf of themselves and their
9 respective former and present representatives, agents, attorneys, heirs, administrators,
10 successors, and assigns, release and discharge the Released Parties from the Released
11 PAGA Claims for the PAGA Period.
- 12 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
13 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
14 Released Parties from any and all claims, including but not limited to: Any and all
15 wage-and-hour claims arising under the laws of the State of California, including,
16 without limitation, statutory, constitutional, contractual, and/or common law claims
17 for wages, damages, restitution, unreimbursed expenses, equitable relief, penalties,
18 liquidated damages, interest, and/or punitive damages (including, without limitation,
19 claims under any applicable Industrial Welfare Commission Wage Order, the
20 California Private Attorneys General Act, or any other provision of the California
21 Labor Code); Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 1981; the
22 Americans With Disabilities Act; Sections 503 and 504 of the Rehabilitation Act of
23 1973; the Family Medical Leave Act; the Fair Labor Standards Act; the Employee
24 Retirement Income Security Act; the Occupational Safety and Health Act; the Worker
25 Adjustment and Retraining Notification Act, as amended; the California Unfair
26 Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*); the California Fair
27 Employment and Housing Act; any state, civil, or statutory laws, including any and all
28 human rights laws and laws against discrimination; any claims that could have been

1 alleged in the Lawsuit; and any other federal, state, or local statutes, codes, or
2 ordinances; any common law, contract law, or tort law cause of action; and any claims
3 for interest, attorneys' fees, and/or costs. This release does not extend to claims that
4 cannot be released as a matter of law, such as workers' compensation claims. Further,
5 in exchange for his Class Representative's Payment Plaintiff expressly waives the
6 protections of California Civil Code section 1542, and it is his intention in executing
7 this Agreement that the same shall be effective as a bar to each and every claim,
8 complaint, action, debts, promises, demand, cause of action, obligation, damage,
9 liability, charge, attorneys' fees and costs herein above released. Plaintiff also waives
10 and relinquishes any and all claims, rights or benefits, if any, arising under California
11 Civil Code § 1542, which provides as follows:

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

18 Thus, notwithstanding the provisions of section 1542, and to implement a full and
19 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges
20 this Settlement Agreement is intended to include in its effect, without limitation, all
21 claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of
22 signing this Settlement Agreement, and that this Settlement Agreement contemplates the
23 extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this
24 Settlement Agreement, including this waiver of California Civil Code section 1542, and
25 that Plaintiff has consulted with or had the opportunity to consult with counsel of
26 Plaintiff's choosing about this Settlement Agreement and specifically about the waiver
27 of section 1542, and that Plaintiff understands this Settlement Agreement and the section
28 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement

1 Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts
2 different from or in addition to those Plaintiff now knows or believes to be true regarding
3 the matters released or described in this Settlement Agreement, and even so Plaintiff
4 agrees that the releases and agreements contained in this Settlement Agreement shall
5 remain effective in all respects notwithstanding any later discovery of any different or
6 additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection
7 with the true facts involved in the matters, disputes, or controversies released or
8 described in this Settlement Agreement or with regard to any facts now unknown to
9 Plaintiff relating thereto.

10 Plaintiff expressly acknowledges Medicare's statutory right to recovery of conditional
11 payments for medical treatment and medical service rendered in connection with any
12 illness or injury suffered by Plaintiff in the course of Plaintiff's employment with
13 Defendants, and guarantees that Plaintiff is not a Medicare Beneficiary, and there are
14 no outstanding Medicare or Medicaid claims or rights of recovery of conditional
15 payments based on Plaintiff's application for, or receipt of, Medicare or Medicaid
16 benefits. This specifically includes benefits arising out of or in any way connected
17 with, directly or indirectly, the facts and/or allegations that form the basis of the
18 Action, the occurrences described herein, and any consequences thereof. Additionally,
19 Plaintiff warrants, represents, and guarantees that Plaintiff has no medical expenses
20 arising out of or in any way connected with, directly or indirectly, the facts and/or
21 allegations that form the basis of the Action, the occurrences described herein, and any
22 consequences thereof, including any of Plaintiff's released claims, nor does Plaintiff
23 anticipate any medical expenses arising out of or in any way connected with, directly
24 or indirectly, the facts and/or allegations that form the basis of the Action, the
25 occurrences described herein, and any consequences thereof, including any released
26 claims. In the event Medicare asserts such a claim or right of reimbursement now, or
27 at any point in the future, all such claims or rights of reimbursement shall be satisfied
28 from among the proceeds of this settlement, and no additional monies shall ever be

1 requested from or paid by the Released Parties. This settlement is based upon a good
2 faith determination of the Parties to resolve disputed claims. The Parties have not
3 shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C.
4 § 1395y(b). The Parties resolved this matter in compliance with both state and federal
5 law. The Parties made every effort to adequately protect Medicare's interest and
6 incorporate such into the settlement terms. The Parties acknowledge and understand
7 that any present or future action or decision by the Centers for Medicare & Medicaid
8 Services ("CMS") or Medicare on this Agreement, or Plaintiff's eligibility or
9 entitlement to Medicare or Medicare payments, will not render this release void or
10 ineffective, or in any way affect the finality of this Agreement.

11 E. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
12 not preliminarily or finally approved by the Court, or is reversed, withdrawn or
13 modified by the Court, or in any way prevents or prohibits Defendants from obtaining
14 a complete resolution of the Released Class Claims and Released PAGA Claims, or if
15 Defendants fail to fully fund the Maximum Settlement Amount:

- 16 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
17 and shall not be admissible in any judicial, administrative or arbitral
18 proceeding for any purpose or with respect to any issue, substantive or
19 procedural;
- 20 2. The conditional class certification (obtained for any purpose) shall be void *ab*
21 *initio* and of no force or effect, and shall not be admissible in any judicial,
22 administrative or arbitral proceeding for any purpose or with respect to any
23 issue, substantive or procedural; and
- 24 3. None of the Parties to this Settlement will be deemed to have waived any
25 claims, objections, defenses or arguments in the Action, including with respect
26 to the issue of class certification.
- 27 4. If Defendants fail to fully fund the Maximum Settlement Amount, Defendants
28 shall bear the sole responsibility for any cost to issue or reissue any curative

1 notice to the Settlement Class Members and all Settlement Administration
2 Costs incurred to the date of nullification.

3 F. Certification of the Settlement Class. The Parties stipulate to conditional class
4 certification of the Class for the Class Period for purposes of settlement only. In the
5 event that this Settlement is not approved by the Court, fails to become effective, or is
6 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
7 Defendants from obtaining a complete resolution of the Released Claims, the
8 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
9 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
10 proceeding for any purpose or with respect to any issue, substantive or procedural.

11 G. Tax Liability. The Parties make no representations as to the tax treatment or legal
12 effect of the payments called for, and Class Members and/or Aggrieved Employees
13 are not relying on any statement or representation by the Parties in this regard.
14 Class Members and/or Aggrieved Employees understand and agree that they will be
15 responsible for the payment of any taxes and penalties assessed on the Individual
16 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
17 Payment described and will be solely responsible for any penalties or other
18 obligations resulting from their personal tax reporting of Individual Settlement
19 Payments and/or Aggrieved Employees' individual shares of the PAGA Payment.
20 Plaintiff shall be solely and legally responsible for paying any and all applicable
21 taxes on these Class Representative's Payment and shall hold Defendants harmless
22 from any claim or liability for taxes, penalties or interest arising as a result of the
23 payment. Defendants made no representations as to the tax treatment or legal effect
24 of the payment called for herein, and Plaintiff is not relying on any statement or
25 representation by Defendants or Defendants' counsel in this regard. Neither
26 Defendants, nor its counsel shall have any liability for any tax implications related
27 to the receipt of settlement funds herein, including by the third-party settlement
28 administrator; any and all such liability and/or obligations shall be borne solely by

1 the recipients of any funds to be paid by Defendants herein. The Parties
2 acknowledge neither Defendants nor Plaintiffs' counsel have provided any tax-
3 related advice whatsoever. The Settlement Administrator shall have and use its own
4 Employer Identification Number for purposes of calculating payroll tax
5 withholdings and providing reports to state and federal tax authorities.

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

25 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
26 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
27 which shall include this Settlement Agreement. Plaintiff will provide Defendants
28 with a draft of the Motion at least three (3) business days prior to the filing of the

1 Motion to give Defendants an opportunity to propose changes or additions to the
2 Motion.

3 J. Settlement Administrator. The Settlement Administrator shall be responsible for:
4 establishing and administering the QSF; calculating, processing and mailing
5 payments to the Class Representative, Class Counsel, LWDA and Class Members;
6 printing and mailing the Notice Packets to the Class Members as directed by the
7 Court; receiving and reporting the objections and requests for exclusion; calculating,
8 deducting and remitting all legally required taxes from Individual Settlement
9 Payments and distributing tax forms for the Wage Portion and Non-Wage Portion of
10 the Individual Settlement Payments and/or Aggrieved Employees' individual shares
11 of the PAGA Payment; processing and mailing tax payments to the appropriate state
12 and federal taxing authorities; providing declaration(s) as necessary in support of
13 preliminary and/or final approval of this Settlement; and other tasks as the Parties
14 mutually agree or the Court orders the Settlement Administrator to perform. The
15 Settlement Administrator shall keep the Parties timely apprised of the performance of
16 all Settlement Administrator responsibilities by among other things, sending a weekly
17 status report to the Parties' counsel stating the date of the mailing, the of number of
18 Requests for Exclusion from the Settlement it receives (including the numbers of
19 valid and deficient), the full names of the Class Members who requested exclusion
20 from the Settlement, and number of objections received.

21 K. Notice Procedure.

22 1. Class Data. No later than ten (10) business days after the Preliminary
23 Approval Date, Defendants shall provide the Settlement Administrator with
24 the Class Data for purposes of preparing and mailing Notice Packets to the
25 Class Members. To protect Class Members' privacy rights, the Settlement
26 Administrator must maintain the Class Data in confidence, use the Class Data
27 only for purposes of this Settlement and for no other purpose, and restrict
28

1 access to the Class Data to Settlement Administrator employees who need
2 access to the Class Data to effect and perform under this Agreement.

3 2. Notice Packets.

4 a) The Notice Packet shall contain the Notice of Class Action Settlement
5 in a form substantially similar to the form attached as Exhibit A. The
6 Notice of Class Action Settlement shall inform Class Members and
7 Aggrieved Employees that they need not do anything in order to
8 receive an Individual Settlement Payment and/or Aggrieved
9 Employees' individual shares of the PAGA Payment and to keep the
10 Settlement Administrator apprised of their current mailing address, to
11 which the Individual Settlement Payments and/or Aggrieved
12 Employees' individual shares of the PAGA Payment will be mailed
13 following the Funding Date. The Notice of Class Action Settlement
14 shall set forth the release to be given by all members of the Class who
15 do not request to be excluded from the Settlement Class and/or
16 Aggrieved Employees' in exchange for an Individual Settlement
17 Payment and/or Aggrieved Employees' individual shares of the PAGA
18 Payment, the number of Workweeks worked by each Class Member
19 during the Class Period and PAGA Period, if any, and the estimated
20 amount of their Individual Settlement Payment if they do not request
21 to be excluded from the Settlement and each Aggrieved Employee's
22 share of the PAGA Payment, if any. The Settlement Administrator
23 shall use the Class Data to determine Class Members' Workweeks and
24 PAGA Workweeks. The Notice will also advise the Aggrieved
25 Employees that they will release the Released PAGA Claims and will
26 receive their share of the PAGA Payment regardless of whether they
27 request to be excluded from the Settlement.
28

b) The Notice Packet's mailing envelope shall include the following language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE ENTITLED TO PARTICIPATE IN A CLASS ACTION SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED NOTICE."

3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. No later than fourteen (14) calendar days after receiving the Class Data from Defendants, the Settlement Administrator shall mail copies of the Notice Packet to all Class Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member.

4. Undeliverable Notices. Not later than three (3) business days after the Settlement Administrator's receipt of any Class Notice returned by the United States Postal Service ("USPS") as undelivered, the Settlement Administrator shall remail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Settlement Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Settlement Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time. Class Members who received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

- 1 5. Disputes Regarding Individual Settlement Payments. Class Members will
2 have the opportunity, should they disagree with Defendants' records regarding
3 the start and end dates of employment to provide documentation and/or an
4 explanation to show contrary dates. If there is a dispute, Defendants' records
5 will be presumed determinative. The Settlement Administrator shall
6 determine the eligibility for, and the amounts of, any Individual Settlement
7 Payments under the terms of this Agreement. The Settlement Administrator's
8 determination of the eligibility for and amount of any Individual Settlement
9 Payment shall be binding upon the Class Member and the Parties.
- 10 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
11 by the Settlement Administrator concerning the administration of the
12 Settlement will be resolved by the Court under the laws of the State of
13 California. Before any such involvement of the Court, counsel for the Parties
14 will confer in good faith to resolve the disputes without the necessity of
15 involving the Court.
- 16 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
17 Packet shall state that Class Members who wish to exclude themselves from
18 the Settlement must submit a written request for exclusion by the Response
19 Deadline. The written request for exclusion must state that the Class Member
20 wishes to exclude himself or herself from the Settlement and (1) must contain
21 the name, address, and the last four digits of the Social Security number of the
22 person requesting exclusion; (2) must be signed by the Class Member; (3)
23 must be postmarked or fax stamped by the Response Deadline and returned to
24 the Settlement Administrator at the specified address or fax telephone number;
25 and (4) contain a typewritten or handwritten notice stating in substance: "I
26 wish to opt out of the settlement of the class action lawsuit entitled *David Ezell*
27 *v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the
28 County of Sacramento, Case No. 34-2021-00305329. I understand that by

1 requesting to be excluded from the settlement, I will receive no money from
2 the Settlement described in this Notice.” The request for exclusion will not
3 be valid if it is not timely submitted, if it is not signed by the Class Member,
4 or if it does not contain the name and address and last four digits of the Social
5 Security number of the Class Member. The date of the postmark on the
6 mailing envelope or fax stamp on the request for exclusion shall be the
7 exclusive means used to determine whether the request for exclusion was
8 timely submitted. Any Class Member who requests to be excluded from the
9 Settlement Class will not be entitled to an Individual Settlement Payment and
10 will not be otherwise bound by the terms of the Settlement or have any right
11 to object, appeal or comment thereon. However, any Class Member that
12 submits a timely request for exclusion that is also a member of the Aggrieved
13 Employees will still receive his/her pro rata share of the PAGA Payment, as
14 specified below, and in consideration, will be bound by the Release by the
15 Aggrieved Employees as set forth herein. Settlement Class Members who fail
16 to submit a valid and timely written request for exclusion on or before the
17 Response Deadline shall be bound by all terms of the Settlement and any final
18 judgment entered in this Action if the Settlement is approved by the Court.
19 No later than fourteen (14) calendar days after the Response Deadline, the
20 Settlement Administrator shall provide counsel for the Parties with a final list
21 of the Class Members who have timely submitted written requests for
22 exclusion. At no time shall any of the Parties or their counsel seek to solicit
23 or otherwise encourage members of the Class to submit requests for exclusion
24 from the Settlement. If more than 10% of the Class Members request
25 exclusion from the Settlement, Defendants may rescind the Settlement within
26 ten (10) business days of learning this information. The Parties agree that, if
27 either Defendants rescinds, the Settlement shall be void *ab initio*, have no
28

1 force or effect whatsoever, and that neither Party will have any further
2 obligation to perform under this Agreement.

3 8. Objections. The Notice of Class Action Settlement contained in the Notice
4 Packet shall state that Class Members who wish to object to the Settlement
5 may submit to the Settlement Administrator a written statement of objection
6 (“Notice of Objection”) by the Response Deadline. The postmark date of
7 mailing shall be deemed the exclusive means for determining that a Notice of
8 Objection was served timely. The Notice of Objection must be signed by the
9 Settlement Class Member and state: (1) the case name and number; (2) the
10 name of the Settlement Class Member; (3) the address of the Settlement Class
11 Member; (4) the last four digits of the Settlement Class Member’s Social
12 Security number; (4) the basis for the objection; and (5) if the Settlement Class
13 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
14 Class Members who fail to make objections in writing in the manner specified
15 above may still make their objections orally at the Final Approval/Settlement
16 Fairness Hearing with the Court’s permission. Settlement Class Members will
17 have a right to appear at the Final Approval/Settlement Fairness Hearing to
18 have their objections heard by the Court. At no time shall any of the Parties
19 or their counsel seek to solicit or otherwise encourage Class Members to file
20 or serve written objections to the Settlement or appeal from the Order and
21 Final Judgment. Class Members who submit a written request for exclusion
22 may not object to the Settlement. Class Members may not object to the PAGA
23 Payment or Released PAGA Claims.

24 L. Funding and Allocation of the Maximum Settlement Amount. Defendant is required
25 to pay the Maximum Settlement Amount, plus any employer’s share of payroll taxes
26 as mandated by law on or before the Funding Date. The Settlement Administrator
27 shall deposit the Maximum Settlement Amount into federally insured bank accounts
28 (i.e., FDIC) so that all money held by the Settlement Administrator is federally insured.

To the extent that any payment required by this paragraph is due on a Saturday, Sunday, or legal holiday, the due date shall be continued to the following business day.

1. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. Each Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member's estimated Individual Settlement Payments. Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA pay periods for all Aggrieved Employees during the PAGA Period. The respective PAGA pay periods for each Aggrieved Employee will be divided by the total PAGA pay periods for all Aggrieved Employees, resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the Aggrieved Employee Payment to calculate each Aggrieved Employee's estimated share of the PAGA Payment.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as follows: 10% as wages ("Wage Portion"); 90% as penalties and interest ("Non-Wage Portion"). The

1 Wage Portion is subject to wage withholdings and shall be reported on IRS
2 Form W-2 and its state and local equivalents. The Non-Wage Portion shall not
3 be subject to wage withholdings and shall be reported on IRS Form 1099 and
4 its state and local equivalents.

5 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
6 Employee Settlement Payments shall be allocated and treated as 100%
7 penalties and shall be reported on IRS Form 1099 and its state and local
8 equivalents.

9 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
10 individual shares of the PAGA Payment made to Settlement Class Members
11 and/or Aggrieved Employees under this Settlement Agreement, as well as any
12 other payments made pursuant to this Settlement Agreement, will not be
13 utilized to calculate any additional benefits under any benefit plans to which
14 any Class Members may be eligible, including, but not limited to profit-
15 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
16 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
17 Parties' intention that this Settlement Agreement will not affect any rights,
18 contributions, or amounts to which any Class Members may be entitled under
19 any benefit plans.

20 6. All monies received by Settlement Class Members under the Settlement which
21 are attributable to wages shall constitute income to such Settlement Class
22 Members solely in the year in which such monies actually are received by the
23 Settlement Class Members. It is the intent of the Parties that Individual
24 Settlement Payments and individual shares of the PAGA Payment provided for
25 in this Settlement agreement are the sole payments to be made by Defendants to
26 Settlement Class Members and/or Aggrieved Employees in connection with this
27 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
28 Class Members and/or Aggrieved Employees are not entitled to any new or

1 additional compensation or benefits as a result of having received the Individual
2 Settlement Payments and/or their shares of the PAGA Payment.

3 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
4 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
5 and/or Aggrieved Employees last known mailing address no later than fifteen
6 (15) calendar days after the Maximum Settlement Amount is funded.

7 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
8 Employees shall remain valid and negotiable for one hundred and eighty (180)
9 days from the date of their issuance. If a Settlement Class Member and/or
10 Aggrieved Employee does not cash his or her settlement check within ninety
11 (90) days, the Settlement Administrator will send a letter to such persons,
12 advising that the check will expire after the 180th day, and invite that
13 Settlement Class Member and/or Aggrieved Employee to request reissuance
14 in the event the check was destroyed, lost or misplaced. In the event an
15 Individual Settlement Payment and/or Aggrieved Employee's individual
16 share of the PAGA Payment check has not been cashed within one hundred
17 and eighty (180) days, all funds represented by such uncashed checks, plus
18 any interest accrued thereon, shall be distributed consistent with California
19 Code of Civil Procedure Section 384 as follows: to Bet Tzedek. Class
20 Counsel, Defendants' counsel, nor any of the Parties, have any interest,
21 pecuniary or otherwise, in Bet Tzedek.

22 9. Class Representative's Payment. In addition to the Individual Settlement
23 Payment and his individual share of the PAGA Payment to be paid to Plaintiff,
24 Plaintiff will apply to the Court for an award of not more than Ten Thousand
25 Dollars and Zero Cents (\$10,000.00), as the Class Representative's Payment.
26 Defendants do not presently intend to oppose a Class Representative's
27 Payment of not more than \$10,000.00 for Plaintiff. The Settlement
28 Administrator shall pay the Class Representative's Payment, either in the

1 amount stated herein if approved by the Court or some other amount as
2 approved by the Court, to Plaintiff from the Maximum Settlement Amount no
3 later than ten (10) calendar days after the Funding Date. Any portion of the
4 requested Class Representative's Payment that are not awarded to the Class
5 Representative shall be part of the Net Settlement Amount and shall be
6 distributed to Settlement Class Members as provided in this Agreement. The
7 Settlement Administrator shall issue an IRS Form 1099 — MISC and its state
8 and local equivalents to Plaintiff for his Class Representative's Payment.
9 Plaintiff shall be solely and legally responsible to pay any and all applicable
10 taxes on his Class Representative's Payment and shall hold harmless the
11 Released Parties from any claim or liability for taxes, penalties, or interest
12 arising as a result of the Class Representative's Payment. The Class
13 Representative's Payment shall be in addition to Plaintiff's Individual
14 Settlement Payment as a Settlement Class Member. Approval of this
15 Settlement shall not be conditioned on Court approval of the requested amount
16 of the Class Representative's Payment. In the event that the Court reduces or
17 does not approve the requested Class Representative's Payment, Plaintiff shall
18 not have the right to revoke the Settlement, and it will remain binding.

- 19 10. Class Counsel Award. Defendants do not presently oppose or intend to object
20 to an application for attorneys' fees not to exceed one-third of the Maximum
21 Settlement Amount currently estimated to be Five Hundred Thirty-Three
22 Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents
23 (\$533,333.33) plus costs and expenses supported by declaration not to exceed
24 Twenty-Five Thousand Dollars (\$25,000.00), from the Maximum Settlement
25 Amount. Any portion of the requested Class Counsel Award that is not
26 awarded to Class Counsel shall be part of the Net Settlement Amount and shall
27 be distributed to Settlement Class Members as provided in this Agreement.
28 The Settlement Administrator shall allocate and pay the Class Counsel Award

1 to Class Counsel from the Maximum Settlement Amount no later than five (5)
2 calendar days after the Maximum Settlement Amount is funded in full. Class
3 Counsel shall be solely and legally responsible to pay all applicable taxes on
4 the payment made pursuant to this paragraph. The Settlement Administrator
5 shall issue an IRS Form 1099 — MISC and its state and local equivalents to
6 Class Counsel for the payments made pursuant to this paragraph. In the event
7 that the Court reduces or does not approve the requested Class Counsel
8 Award, Plaintiff and Class Counsel shall not have the right to revoke the
9 Settlement, or to appeal such order, and the Settlement will remain binding.

10 11. PAGA Payment. Eighty Thousand Dollars (\$80,000.00) shall be allocated
11 from the Maximum Settlement Amount for settlement of claims for civil
12 penalties under the Private Attorneys General Act of 2004 (“PAGA
13 Payment”). The Settlement Administrator shall pay seventy-five percent
14 (75%) of the PAGA Payment (\$60,000.00) to the California Labor and
15 Workforce Development Agency no later than twenty-five (25) calendar days
16 after the Maximum Settlement Amount is funded (hereinafter “LWDA
17 Payment”). Twenty-five percent (25%) of the PAGA Payment (\$20,000.00)
18 will be distributed to the Aggrieved Employees as described in this Agreement
19 (hereinafter “Aggrieved Employee Payment”). For purposes of distributing
20 the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee
21 shall receive their pro-rata share of the Aggrieved Employee Payment using
22 the PAGA Payment Ratio as defined above.

23 12. Settlement Administration Costs. The Settlement Administrator shall be paid
24 for the costs of administration of the Settlement from the Maximum
25 Settlement Amount. The estimate of the Settlement Administration Costs is
26 \$25,000.00. The Settlement Administrator shall be paid the Settlement
27 Administration Costs no later than twenty-five (25) calendar days after the
28 Maximum Settlement Amount is funded in full. If the actual Settlement

Administration Costs incurred is less than the estimate provided herein, the difference between the actual and estimated costs shall be returned to the Net Settlement Amount.

M. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative's Payment, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than twenty (20) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment, highest Individual Settlement Payment, and lowest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendants to review the Motions for Preliminary and

1 Final Approval, including the Order Granting Final Approval of Class Action
2 Settlement, and Judgment before filing with the Court. The Parties and their counsel
3 will cooperate with each other and use their best efforts to affect the Court's approval
4 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
5 Judgment.

6 O. Cooperation. The Parties and their counsel will cooperate with each other and use
7 their best efforts to implement the Settlement.

8 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
9 except such proceedings necessary to implement and complete the Settlement, pending
10 the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

11 Q. Amendment or Modification. This Agreement may be amended or modified only by
12 a written instrument signed by all Parties or their successors-in-interest.

13 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
14 Agreement among these Parties, and no oral or written representations, warranties or
15 inducements have been made to any Party concerning this Agreement or its Exhibit
16 other than the representations, warranties and covenants contained and memorialized
17 in this Agreement and its Exhibit. This Agreement replaces and supersedes the MOU,
18 the Stipulation of Class Action Settlement and Release of Claims, and any other
19 agreements, understandings, or representations between the Parties.

20 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
21 represent they are expressly authorized by the Parties whom they represent to negotiate
22 this Agreement and to take all appropriate Action required or permitted to be taken by
23 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
24 documents required to effectuate the terms of this Agreement. The persons signing
25 this Agreement on behalf of Defendants represent and warrant that he/she is authorized
26 to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that
27 he is authorized to sign this Agreement and that he has not assigned any claim, or part
28 of a claim, covered by this Settlement to a third-party.

- 1 T. No Public Comment: The Parties and their counsel agree that they will not issue any
2 press releases, initiate any contact with the press, respond to any press inquiry, or have
3 any communication with the press about the fact, amount or terms of the Settlement
4 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
5 of its terms for any marketing or promotional purposes. Nothing herein will restrict
6 Class Counsel from including publicly available information regarding this settlement
7 in future judicial submissions regarding Class Counsel's qualifications and experience.
8 Further, Class Counsel will not include, reference or use the Settlement Agreement for
9 any marketing or promotional purposes, either before or after the Motion for
10 Preliminary Approval is filed.
- 11 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
12 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 13 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
14 shall be governed by and interpreted according to the laws of the State of California.
- 15 W. Counterparts. This Agreement may be executed in one or more counterparts. All
16 executed counterparts and each of them shall be deemed to be one and the same
17 instrument provided that counsel for the Parties to this Agreement shall exchange
18 among themselves copies or originals of the signed counterparts. A facsimile signature
19 or electronic signature (including but not limited to PDF or DocuSign) shall be treated
20 as an original signature for all purposes.
- 21 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
22 is a fair, adequate and reasonable settlement of this Action and have arrived at this
23 Settlement after extensive arms-length negotiations, taking into account all relevant
24 factors, present and potential.
- 25 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
26 respect to the interpretation, implementation and enforcement of the terms of this
27 Agreement and all orders and judgments entered in connection therewith, and the
28 Parties and their counsel submit to the jurisdiction of the Court for purposes of

1 interpreting, implementing and enforcing the settlement and all orders and judgments
2 entered in connection with this Agreement.

3 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
4 the Court shall first attempt to construe the provisions valid to the fullest extent
5 possible consistent with applicable precedents so as to define all provisions of this
6 Agreement valid and enforceable.

7 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
8 intend to pursue any claims against the Released Parties, including, but not limited to,
9 any and all claims relating to or arising from Plaintiff's employment with Defendants,
10 regardless of whether Class Counsel is currently aware of any facts or legal theories
11 upon which any claims or causes of action could be brought against Released Parties,
12 including those facts or legal theories alleged in the operative complaint in this Action.
13 The Parties further acknowledge, understand and agree that this representation is
14 essential to the Agreement and that this Agreement would not have been entered into
15 were it not for this representation.

16 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
17 certification for purposes of this Settlement only.

18 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
19 Released Claims have merit and give rise to liability on the part of Defendants.
20 Defendants claim that the Released Claims have no merit and do not give rise to
21 liability. This Agreement is a compromise of disputed claims. Nothing contained in
22 this Agreement and no documents referred to and no action taken to carry out this
23 Agreement may be construed or used as an admission by or against the Defendants,
24 Released Parties, Plaintiff, or Class Counsel as to the merits or lack thereof of the
25 claims asserted. Other than as may be specifically set forth herein, each Party shall be
26 responsible for and shall bear its/his own attorney's fees and costs.

27 DD. Confidentiality. Class Counsel and the Class Representative agree that they will not
28 issue any press releases, initiate any contact with the press, respond to any press

1 inquiry, post on any internet websites, or have any communication with the press about
2 the Lawsuit, and/or the fact, amount or terms of the settlement. Before the date of the
3 filing of the motion for preliminary approval of the settlement, the Class
4 Representative and settlement class counsel will not initiate any contact with Class
5 Members or anyone else about the settlement, except that: (a) settlement class counsel,
6 if contacted by a Class Member, may respond that a settlement has been reached and
7 that the details will be communicated in a forthcoming Court-approved notice; and (b)
8 the Class Representative, if contacted by a Class Member, may respond only that the
9 Class Member should contact settlement class counsel.

10 EE. Headings. The section and paragraph headings contained in this Settlement
11 Agreement are for reference purposes only and shall not affect in any way the meaning
12 or interpretation of this Settlement Agreement.

13 FF. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
14 of this Agreement. This Agreement will not be construed against any Party on the basis
15 that the Party was the drafter or participated in the drafting.

16 GG. Waiver. No waiver of any condition or covenant contained in this Settlement
17 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be
18 considered to imply or constitute a further waiver by such party of the same or any
19 other condition, covenant, right or remedy.

20
21 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

22
23 DATED: May 24, 2023


David Ezell (May 24, 2023 19:04 PDT)

24 DAVID EZELL

1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

2

3 DATED: 6/16/2023

Farouk Diab
DIAB LEASING INC.

4

5

Farouk Diab
Printed Name

6

7

PRESIDENT
Title

8

9

10 DATED: 6/16/2023

Farouk Diab
FAROUK DIAB

11

12

Farouk Diab
Printed Name

13

14

15 IT IS SO AGREED AS TO FORM BY COUNSEL:

16

17 DATED: _____

JCL LAW FIRM, A.P.C.

18

19

By: _____

20

Attorneys for Plaintiff and the Settlement Class
Members

21

22

23 DATED: _____

ZAKAY LAW GROUP, APLC

24

25

By: _____

26

Attorneys for Plaintiff and the Settlement Class
Members

27

28

1 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

2
3 DATED: _____

DIAB LEASING INC.

4
5 _____
Printed Name

6
7 _____
Title

8
9
10 DATED: _____

FAROUK DIAB

11
12 _____
Printed Name

13
14 IT IS SO AGREED AS TO FORM BY COUNSEL:

15
16 DATED: May 25, 2023

JCL LAW FIRM, A.P.C.

17 By:  _____

18 Attorneys for Plaintiff and the Settlement Class
19 Members

20
21 DATED: May 25, 2023

ZAKAY LAW GROUP, APLC

22 By:  _____

23 Attorneys for Plaintiff and the Settlement Class
24 Members

Exhibit A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(David Ezell v. Diab Leasing, Inc., et al., Sacramento County Superior Court Case No. 34-2021-00305329)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation 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. In exchange for the settlement payment, you will release claims against the Released Parties as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement, except a portion of the PAGA payment, if applicable, in the estimated amount of \$<<[REDACTED]>>. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Sacramento (the “Court”) has been reached between Plaintiff David Ezell (“Plaintiff”), on the one hand, and Defendant Diab Leasing Inc. and Farouk Diab (collectively “Defendants”), on the other hand. The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are or previously were employed by Defendants in California and classified as a non-exempt employee at any time during the Class Period. The “Class Period” is the period from July 30, 2017, up to and including December 2, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 30, 2021, Plaintiff filed a Complaint against Defendant Diab Leasing, Inc. in the Superior Court of the State of California, County of Sacramento. Plaintiff alleged claims that Defendant Diab Leasing, Inc. (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse Plaintiff for required expenses in violation of California Labor Code § 2802; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (i) Violated the Private Attorney General Act at Labor Code Section 2698, *et seq.* Plaintiff subsequently amended the Complaint to name the following as defendants: Farouk Diab; DIAB AND ABED, INC.; FAROUK DIAB AND ZAHAR ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOON AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC.; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC.; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB (collectively “Doe Defendants”).

Defendants deny and dispute all claims alleged in the Action. Specifically, Defendants contended (and continue to contend) that the Action could not properly be maintained as a class action; members of the class were properly paid all wages and overtime that were due; members of the class were provided all legally required meal breaks and rest breaks; members of the class were paid all wages due them at the time of their terminations; members of the class were provided accurate, itemized wage statements; Defendants did not violate California Business and Professions Code section 17200 *et seq.*; class members were reimbursed for required business expenses, if any; and that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action. Further, Doe Defendants contend that they did not employ members of the class.

On July 18, 2022, the Plaintiff and Defendants (collectively “Parties”) participated in an all-day mediation with Tripper Ortman, Esq., an experienced mediator of wage and hour class actions. The mediation concluded without a settlement. After months of negotiations, Mediator Ortman made a mediator’s proposal, and the Parties accepted the proposal. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Maximum Settlement Amount. Defendant has agreed to pay an “all in” amount of One Million Six Hundred Thousand Dollars and Zero Cents (\$1,600,000.00) (the “Maximum Settlement Amount”) to fund the settlement. The Maximum Settlement Amount includes the payment of all Settlement Shares to Settlement Class Members,

Class Counsel's attorneys' fees and costs ("Class Counsel Award"), Settlement Administration Costs, the LWDA Payment, Aggrieved Employee Payment, and the Class Representative's Payment to the Plaintiff.

After the Judgment becomes Final, Defendants will pay the Maximum Settlement Amount by depositing the money into a Qualified Settlement Fund. "Final" means the earliest date, following entry by the Court of an order and judgment finally approving this Settlement, upon which one of the following have occurred: (i) if no objection is filed to the settlement and no objector appears at the hearing on final approval, the date of the Court's entry of the order granting final approval, (ii) if an objection is filed to the settlement and/or an objector appears at the hearing on final approval, then the earlier of the following: (a) the expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; (b) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review ("Effective Date").

Amounts to be Paid from the Maximum Settlement Amount. The Settlement provides for certain payments to be made from the Maximum Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Maximum Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$25,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel of Class Counsel Award consisting of attorneys' fees and litigation costs incurred of no more than 1/3 of the Maximum Settlement Amount (currently \$533,333.33) and litigation expenses of not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$80,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$60,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$20,000 will be distributed to Aggrieved Employees as part of the Aggrieved Employee Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Class Representative's Payment, the PAGA Payment, and the Settlement Administration Costs are deducted from the Maximum Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period ("Settlement Share"). A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant Diab Leasing Inc.'s records, a member of the class worked at least one-day during any such workweek.

- Calculation of Aggrieved Employee Payments to Aggrieved Employees. The Aggrieved Employee Payments shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The Aggrieved Employee Payments will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective PAGA Employee during the PAGA Period. “Aggrieved Employees” means each of the Class Members who was employed by Defendants at any time during the PAGA Period. The PAGA Period means the period between May 25, 2020, and continuing through up to and including December 2, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 10% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 90% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant’s counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Release by Settlement Class Members.

Funding Date shall mean the date that the Maximum Settlement Amount is fully funded by Defendants into the Qualified Settlement Fund. Defendants will fund the Gross Settlement Amount thirty (30) calendar days after the Effective Date.

“Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC; FAROUK DIAB AND FRAIDOOH AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

“Released Class Claims” shall mean all claims that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint, including, but not limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204, 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197, 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382, 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof. Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released Class Claims for the Class Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Released Parties about the legal issues resolved by this Settlement. It also means that all of the Court’s orders in this Action will apply to you and legally bind you.

Release by the Aggrieved Employees.

“Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, each of the Aggrieved Employees, the Plaintiff, the LWDA and the State of California, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released PAGA Claims for the PAGA Period.

5. How much will my payment be?

Defendant Diab Leasing, Inc.’s records reflect that you have << [REDACTED] >> Workweeks worked during the Class Period. Based on this information, your estimated Settlement Share is << _____ >>.

Defendants' records reflect that you have << [REDACTED] >> Pay Periods worked during the PAGA Period. Based on this information, your estimated Aggrieved Employee Payment is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than [REDACTED] [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: [REDACTED] (800) [REDACTED].

The Court will hold a hearing on [REDACTED] to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, Individual Settlement Payments and Aggrieved Employee Payments will be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees last known mailing address no later than fifteen (15) calendar days after the Maximum Settlement Amount is funded. If there are objections or appeals, resolving them can take time. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at [www.\[REDACTED\].com](http://www.[REDACTED].com)

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Aggrieved Employee Payments.

Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the [REDACTED]. The written request for exclusion must state that the Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number; and (4) contain a typewritten or handwritten notice stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *David Ezell v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the County of Sacramento, Case No. 34-2021-00305329. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by [REDACTED]. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of

Objection must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member's Social Security number; (4) the basis for the objection; and (5) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court's permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court. Class Members may not object to the PAGA Payment or Released PAGA Claims.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than [REDACTED]. The address for the Settlement Administrator is [REDACTED].

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
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Email: shani@zakaylaw.com

Counsel for Defendants:

Beth A. Kahn, Esq.
Ryan C. McKim, Esq.
Clark Hill LLP
555 Flower Street, 24th Floor
Los Angeles, CA 90071
Tel: (213) 891-9100
Fax: (213) 488-1178
Email: bkahn@clarkhill.com
rmckim@clarkhill.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on [REDACTED], at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280 before Judge Lauri A. Damrell. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at [REDACTED] or write to **David Ezell v. Diab Leasing, Inc., et al., Case No. 34-2021-00305329**, Settlement Administrator, c/o [REDACTED].

More details are in the First Amended Settlement Agreement. For more information, you may inspect the Court files and the First Amended Settlement Agreement at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280. You may also contact Class Counsel, the Settlement Administrator, and/or Defendants' Counsel for more information.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to Bet Tzedek. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com
julieann@zakaylaw.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
Monnett De La Torre (State Bar #272884)
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jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
mdelatorre@jcl-lawfirm.com

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DAVID EZELL, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

v.

DIAB LEASING, INC., a California
Corporation; and DOES 1-50, Inclusive;

Defendants.

Case No. 34-2021-00305329

[Action Filed: July 30, 2021]

**STIPULATION OF SETTLEMENT OF
CLASS ACTION CLAIMS AND
RELEASE OF CLAIMS**

Judge: Honorable Lauri A. Damrell
Dept.: 28

STIPULATION OF SETTLEMENT OF CLASS ACTION AND RELEASE OF CLAIMS

This Stipulation of Class Action Settlement and Release of Claims is entered into by and between plaintiff DAVID EZELL (hereinafter “Plaintiff”), individually and on behalf of the putative class and the State of California as a private attorney general, and Defendants DIAB LEASING, INC. and FAROUK DIAB (hereinafter, collectively “Defendants”):

I. DEFINITIONS

- A. “Action” shall mean the putative class action lawsuit designated *David Ezell v. Diab Leasing, Inc., et al.*, Sacramento County Superior Court Case No. 34-2021-00305329, filed July 30, 2021 (hereinafter “the Action”).
- B. “Aggrieved Employees” shall mean each of the Class Members who was employed by Defendants at any time during the PAGA Period.
- C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class Action and Release of Claims.
- D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and Shani Zakay of Zakay Law Group, APLC.
- E. “Class Counsel Award” means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Class in the Action, consisting of attorneys’ fees currently not to exceed one-third of the Maximum Settlement Amount currently estimated to be Five Hundred Sixty-Six Thousand, Six Hundred Sixty-Six Dollars And Sixty-Six Cents (\$566,666.66) plus costs and expenses in the amount of \$25,000. Class Counsel’s award for attorneys’ fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC). A reduction of the Class Counsel Award shall not be grounds to nullify this Agreement.
- F. “Class Data” means information regarding Class Members that Diab Leasing, Inc. will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall

1 include: each Class Member's full name; last known address; Social Security
2 Number; and start dates and end dates (if applicable) of employment.

3 G. "Class Members" or the "Class" means all individuals who are or previously were
4 employed by Defendants in California and classified as a non-exempt employee at
5 any time during the Class Period.

6 H. "Class Period" means the period from July 30, 2017, up to and including December
7 2, 2022.

8 I. "Class Representative's Payment" means the amount that the Court authorizes to be
9 paid to the Class Representative, in addition to his Individual Settlement Payment and
10 his pro-rata share of the PAGA Payment, in recognition of his efforts and risks in
11 assisting with the prosecution of the Action and in exchange for executing a general
12 release of all known and unknown claims he may have against Defendants and
13 Released Parties, based on his employment with any one or more of the Released
14 Parties. The Class Representative will be issued an IRS Form 1099 and its state and
15 local equivalents for any service payment amount received under the settlement.
16 Should the Class Representative's Payment not be approved or reduced by the Court,
17 any amount not approved and/or reduced by the Court will be returned to the Net
18 Settlement Amount pursuant to the remaining terms herein. A reduction of the Class
19 Representative's Payment shall not be grounds to nullify this Agreement.

20 J. "Class Representative" shall mean plaintiff DAVID EZELL.

21 K. "Court" shall mean the Superior Court for the State of California, County of
22 Sacramento currently presiding over the Action.

23 L. "Effective Date" shall mean the earliest date, following entry by the Court of an order
24 and judgment finally approving this Settlement, upon which one of the following have
25 occurred: (i) if no objection is filed to the settlement and no objector appears at the
26 hearing on final approval, the date of the Court's entry of the order granting final
27 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
28

1 hearing on final approval, then the earlier of the following: (a) the expiration of all
2 potential appeal periods without a filing of a notice of appeal of the final approval
3 order or judgment; (b) final affirmance of the final approval order and judgment by
4 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
5 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
6 the final approval order and judgment is no longer subject to further judicial review.

7 M. "Funding Date" shall mean the date that the Maximum Settlement Amount is fully
8 funded by Defendants into the QSF in accordance with the terms of this Agreement,
9 and which shall be in accordance with Paragraph III(M) below.

10 N. "Individual Settlement Payment" shall mean the amount payable from the Net
11 Settlement Amount to each Settlement Class Member and excludes any amounts
12 distributed to Aggrieved Employees pursuant to PAGA.

13 O. "LWDA" shall mean the Labor and Workforce Development Agency.

14 P. "Maximum Settlement Amount" shall mean One Million Seven Hundred Thousand
15 Dollars and Zero Cents (\$1,700,000.00) that Defendants must pay into the QSF,
16 inclusive of the sum of the Individual Settlement Payments, the Class
17 Representative's Payment, the Class Counsel Award, PAGA Payment and the
18 Settlement Administration Costs and *exclusive* of the employer's share of payroll tax,
19 if any, triggered by any payment under this Settlement.

20 Q. "Net Settlement Amount" or "NSA" shall mean the Maximum Settlement Amount,
21 less Class Counsel Award, Class Representative's Payment, PAGA Payment, and
22 Settlement Administration Costs.

23 R. "Notice Packet" shall mean the Class Notice to be provided to the Class Members by
24 the Settlement Administrator in the form set forth as Exhibit A to this Agreement
25 (other than formatting changes to facilitate printing by the Settlement Administrator).

26 S. "PAGA" shall mean the California Labor Code Private Attorneys General Act of
27 2004, Labor Code § 2698 *et seq.*

- 1 T. "PAGA Pay Periods" shall mean, for purposes of calculating the distribution of the
2 Aggrieved Employee Payment, the number of pay periods of employment during the
3 PAGA Period that each Aggrieved Employee worked in California.
- 4 U. "PAGA Payment Ratio" shall mean the respective number of pay periods during the
5 PAGA Period for each Aggrieved Employee divided by the sum total of the pay
6 periods for all Aggrieved Employees during the PAGA Period.
- 7 V. "PAGA Period" shall mean the period between May 25, 2020, and continuing through
8 up to and including December 2, 2022.
- 9 W. "PAGA Payment" shall mean Eighty Thousand Dollars and Zero Cents (\$80,000.00)
10 to be allocated from the Maximum Settlement Amount.
- 11 X. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean either
12 Plaintiff or Defendants, individually.
- 13 Y. "Payment Ratio" shall mean the respective number of Workweeks for each Class
14 Member divided by the sum total Workweeks for all Class Members.
- 15 Z. "Plaintiff" shall mean DAVID EZELL.
- 16 AA. "QSF" shall mean the qualified settlement fund established, designated, and
17 maintained by the Settlement Administrator to fund the Maximum Settlement
18 Amount. The QSF shall be established in federally insured bank accounts (i.e., FDIC).
- 19 BB. "Released Class Claims" shall mean all claims that were alleged, or reasonably could
20 have been alleged, based on the facts alleged in the complaint, including, but not
21 limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204,
22 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197,
23 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382,
24 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203,
25 and the requirement for the Industrial Welfare Commission Wage Order, as well as
26 claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194,
27 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510,
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1 et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7
2 & 512 and the applicable IWC Wage Order; failure to provide required rest periods
3 in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order;
4 failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226,
5 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202,
6 and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to
7 reimburse employees for required expenses in violation of Cal. Lab. Code § 2802;
8 and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof.
9 Code § 17200, et seq. arising from the Labor Code violations released herein, that
10 occurred during the Class Period.

11 CC. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or
12 reasonably could have been alleged, based on the facts alleged in the complaint and
13 PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd.
14 (a), including but not limited to, claims arising under Labor Code sections 200, 201,
15 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2,
16 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1,
17 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804,
18 and the requirement for the Industrial Welfare Commission Wage Order, as well as
19 claims involving failure to pay minimum wages in violation of Cal. Labor Code §§
20 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code
21 §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code
22 §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest
23 periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage
24 Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code
25 §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§
26 201, 202, and 203; failure to reimburse employees for required expenses in violation
27 of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

DD. “Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOON AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC.; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC.; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

EE. “Response Deadline” shall mean the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Class Members and the last date on which Class Members may submit requests for exclusion or objections to the Settlement.

FF. “Settlement” means the disposition of the Action pursuant to this Agreement.

GG. “Settlement Administrator” shall mean ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. ***All accrued interest***

HH. “Settlement Class Members” or “Settlement Class” shall mean all Class Members who have not submitted a timely and valid request for exclusion as provided in this Agreement.

II. “Workweeks” shall mean, for purposes of calculating the distribution of the Net Settlement Amount, the number of weeks of employment during the Class Period that each Class Member was employed by Defendants in California.

A. On May 25, 2021, Plaintiff submitted a notice of violations to the LWDA and Diab Leasing, Inc.

B. On July 30, 2021, Plaintiff filed the Action alleging causes of action for:

1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;
2. Failure to Pay Minimum Wages in Violation of California Labor Code sections 1194, 1197, and 1197.1;
3. Failure to Pay Overtime Wages in Violation of California Labor Code sections 510, *et seq*;
4. Failure to Provide Required Meal Periods in Violation of California Labor Code sections 226.7 & 512 and the applicable IWC Wage Order;
5. Failure to Provide Required Rest Periods in Violation of California Labor Code sections 226.7 & 512 and the applicable IWC Wage Order;
6. Failure to Provide Accurate Itemized Wage Statements in Violation of California Labor Code sections 226 and 226.2;
7. Failure to Reimburse for Required Expenses in Violation of California Labor Code section 2802;
8. Failure to Provide Wages When Due in Violation of California Labor Code sections 201, 202 and 203;

1 9. Violation of the Private Attorneys General Act [Labor Code section 2698]
2 ("PAGA").

3 C. The Class Representative believes he has meritorious claims based on alleged
4 violations of the California Labor Code, and the Industrial Welfare Commission
5 Wage Orders, and that class certification is appropriate because the prerequisites for
6 class certification can be satisfied in the Action, and this action is manageable as a
7 PAGA representative action.

8 D. Defendants deny any liability or wrongdoing of any kind associated with the claims
9 alleged in the Action, dispute any wages, damages and penalties claimed by the Class
10 Representative are owed, and further contend that, for any purpose other than
11 settlement, the Action is not appropriate for class or representative action treatment.
12 Defendants contend, among other things, that at all times they complied with the
13 California Labor Code and the Industrial Welfare Commission Wage Orders.

14 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
15 an investigation into the facts relevant to the Action, including conducting an
16 independent investigation as to the allegations, reviewing documents and information
17 exchanged through informal discovery, and reviewing documents and information
18 provided by Defendants pursuant to informal requests for information to prepare for
19 mediation. Defendants produced for the purpose of settlement negotiations certain
20 employment data concerning the Settlement Class, which Class Counsel reviewed
21 and analyzed. Based on their own independent investigation and evaluation, Class
22 Counsel is of the opinion that the Settlement with Defendants is fair, reasonable, and
23 adequate, and is in the best interest of the Settlement Class in light of all known facts
24 and circumstances, including the risks of significant delay, defenses asserted by
25 Defendants, uncertainties regarding class certification, and numerous potential
26 appellate issues. Although they deny any liability, Defendants are agreeing to this

1 Settlement solely to avoid the inconveniences and cost of further litigation. The
2 Parties have agreed to settle the claims on the terms set forth in this Agreement.

3 F. On July 18, 2022, the Parties participated in mediation presided over by Tripper
4 Ortman, an experienced mediator of wage and hour class actions. The Parties and
5 Mediator Ortman subsequently requested the assistance of Judge Mitchell Goldberg
6 (Ret.), a retired Federal Bankruptcy Judge after Defendant raised an inability to pay
7 defense. As a part of the mediation, Judge Goldberg reviewed Defendant's financial
8 documents, evaluated Defendant's financial standing, and conferred with Mediator
9 Ortman. Subsequently, Mediator Ortman made a mediator's proposal based on Judge
10 Goldberg's evaluation. The Parties agreed to the mediator's proposal which was
11 subsequently memorialized in the form of a Memorandum of Understanding
12 ("MOU").

13 G. This Agreement replaces and supersedes the MOU and any other agreements,
14 understandings, or representations between the Parties. This Agreement represents a
15 compromise and settlement of highly disputed claims. Nothing in this Agreement is
16 intended or will be construed as an admission by Defendants or Released Parties that
17 the claims in the Action of Plaintiff or the Class Members have merit or that
18 Defendants bear any liability to Plaintiff or the Class on those claims or any other
19 claims, or as an admission by Plaintiff that Defendants' defenses in the Action have
20 merit.

21 H. The Parties believe that the Settlement is fair, reasonable and adequate. The
22 Settlement was arrived at through arm's-length negotiations and with the assistance
23 of Mediator Ortman and Judge Goldberg, taking into account all relevant factors. The
24 Parties recognize the uncertainty, risk, expense and delay attendant to continuing the
25 Action through trial and any appeal. Accordingly, the Parties desire to fully, finally,
26 and forever settle, compromise and discharge all disputes and claims arising from or
27 relating to the Action. In addition, mediator Tripper Ortman, may, at the Parties'

discretion, execute a declaration supporting the settlement, and the Court may, in its discretion, contact Tripper Ortman to discuss the settlement, and whether the settlement is fair and reasonable.

I. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action.

J. Plaintiff represents and warrants that he is younger than 40 years old as of the date that he signs this Settlement Agreement.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants will pay the Maximum Settlement Amount of One Million Seven Hundred Thousand Dollars and Zero Cents (\$1,700,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Maximum Settlement Amount shall revert to Defendants. Other than the Defendants' share of employer payroll taxes, Defendants shall not be required to pay more than the Maximum Settlement Amount, except as provided for hereinbelow. Defendants are jointly and severally liable for payment of the Maximum Settlement Amount.

2. Class Size. Defendants estimate the number of work weeks during the Class Period to be approximately 56,669. If the actual number of work weeks during the Class Period exceeds 56,669 by more than 10%, Defendants at their exclusive discretion shall either increase the Maximum Settlement Amount proportionately for any excess increase beyond 62,335 in the total number of work weeks during the Class

1 Period, or in the alternative, Defendants shall have the exclusive option to modify the
2 end date of the applicable Class Period to a date to avoid incurring the pro rata
3 increase. Under the second option, no additional payment is necessary. For example,
4 if the number of work weeks during the Class Period increases by 12%, the Maximum
5 Settlement Amount will increase by 2% (actual increase minus the 10% tolerated
6 increase).

7 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
8 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members,
9 on behalf of themselves and their respective former and present representatives,
10 agents, attorneys, heirs, administrators, successors, and assigns, release and discharge
11 the Released Parties from the Released Class Claims for the Class Period.

12 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
13 consideration set forth in this Agreement, each of the Aggrieved Employees, the
14 Plaintiff, the LWDA and the State of California, on behalf of themselves and their
15 respective former and present representatives, agents, attorneys, heirs, administrators,
16 successors, and assigns, release and discharge the Released Parties from the Released
17 PAGA Claims for the PAGA Period.

18 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
19 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
20 Released Parties from any and all claims, including but not limited to: Any and all
21 wage-and-hour claims arising under the laws of the State of California, including,
22 without limitation, statutory, constitutional, contractual, and/or common law claims
23 for wages, damages, restitution, unreimbursed expenses, equitable relief, penalties,
24 liquidated damages, interest, and/or punitive damages (including, without limitation,
25 claims under any applicable Industrial Welfare Commission Wage Order, the
26 California Private Attorneys General Act, or any other provision of the California
27 Labor Code); Title VII of the Civil Rights Act of 1964; 42 U.S.C. § 1981; the
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1 Americans With Disabilities Act; Sections 503 and 504 of the Rehabilitation Act of
2 1973; the Family Medical Leave Act; the Fair Labor Standards Act; the Employee
3 Retirement Income Security Act; the Occupational Safety and Health Act; the Worker
4 Adjustment and Retraining Notification Act, as amended; the California Unfair
5 Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*); the California Fair
6 Employment and Housing Act; any state, civil, or statutory laws, including any and all
7 human rights laws and laws against discrimination; any claims that could have been
8 alleged in the Lawsuit; and any other federal, state, or local statutes, codes, or
9 ordinances; any common law, contract law, or tort law cause of action; and any claims
10 for interest, attorneys' fees, and/or costs. This release does not extend to claims that
11 cannot be released as a matter of law, such as workers' compensation claims. Further,
12 in exchange for his Class Representative's Payment Plaintiff expressly waives the
13 protections of California Civil Code section 1542, and it is his intention in executing
14 this Agreement that the same shall be effective as a bar to each and every claim,
15 complaint, action, debts, promises, demand, cause of action, obligation, damage,
16 liability, charge, attorneys' fees and costs herein above released. Plaintiff also waives
17 and relinquishes any and all claims, rights or benefits, if any, arising under California
18 Civil Code § 1542, which provides as follows:

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

25 Thus, notwithstanding the provisions of section 1542, and to implement a full and
26 complete release and discharge of the Released Parties, Plaintiff expressly
27 acknowledges this Settlement Agreement is intended to include in its effect, without
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1 limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at
2 the time of signing this Settlement Agreement, and that this Settlement Agreement
3 contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff
4 has read this Settlement Agreement, including this waiver of California Civil Code
5 section 1542, and that Plaintiff has consulted with or had the opportunity to consult
6 with counsel of Plaintiff's choosing about this Settlement Agreement and specifically
7 about the waiver of section 1542, and that Plaintiff understands this Settlement
8 Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters
9 into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may
10 discover facts different from or in addition to those Plaintiff now knows or believes to
11 be true regarding the matters released or described in this Settlement Agreement, and
12 even so Plaintiff agrees that the releases and agreements contained in this Settlement
13 Agreement shall remain effective in all respects notwithstanding any later discovery of
14 any different or additional facts. Plaintiff expressly assumes any and all risk of any
15 mistake in connection with the true facts involved in the matters, disputes, or
16 controversies released or described in this Settlement Agreement or with regard to any
17 facts now unknown to Plaintiff relating thereto.

18 1. Plaintiff expressly acknowledges Medicare's statutory right to recovery of
19 conditional payments for medical treatment and medical service rendered in
20 connection with any illness or injury suffered by Plaintiff in the course of Plaintiff's
21 employment with Defendants, and guarantees that Plaintiff is not a Medicare
22 Beneficiary, and there are no outstanding Medicare or Medicaid claims or rights of
23 recovery of conditional payments based on Plaintiff's application for, or receipt of,
24 Medicare or Medicaid benefits. This specifically includes benefits arising out of or in
25 any way connected with, directly or indirectly, the facts and/or allegations that form
26 the basis of the Action, the occurrences described herein, and any consequences
27 thereof. Additionally, Plaintiff warrants, represents, and guarantees that Plaintiff has
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1 no medical expenses arising out of or in any way connected with, directly or
2 indirectly, the facts and/or allegations that form the basis of the Action, the
3 occurrences described herein, and any consequences thereof, including any of
4 Plaintiff's released claims, nor does Plaintiff anticipate any medical expenses arising
5 out of or in any way connected with, directly or indirectly, the facts and/or allegations
6 that form the basis of the Action, the occurrences described herein, and any
7 consequences thereof, including any released claims. In the event Medicare asserts
8 such a claim or right of reimbursement now, or at any point in the future, all such
9 claims or rights of reimbursement shall be satisfied from among the proceeds of this
10 settlement, and no additional monies shall ever be requested from or paid by the
11 Released Parties. This settlement is based upon a good faith determination of the
12 Parties to resolve disputed claims. The Parties have not shifted responsibility of
13 medical treatment to Medicare in contravention of 42 U.S.C. § 1395y(b). The Parties
14 resolved this matter in compliance with both state and federal law. The Parties made
15 every effort to adequately protect Medicare's interest and incorporate such into the
16 settlement terms. The Parties acknowledge and understand that any present or future
17 action or decision by the Centers for Medicare & Medicaid Services ("CMS") or
18 Medicare on this Agreement, or Plaintiff's eligibility or entitlement to Medicare or
19 Medicare payments, will not render this release void or ineffective, or in any way
20 affect the finality of this Agreement.

21 E. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
22 not preliminarily or finally approved by the Court, or is reversed, withdrawn or
23 modified by the Court, or in any way prevents or prohibits Defendants from obtaining
24 a complete resolution of the Released Class Claims and Released PAGA Claims, or if
25 Defendants fail to fully fund the Maximum Settlement Amount:

- 26 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
27 and shall not be admissible in any judicial, administrative or arbitral

proceeding for any purpose or with respect to any issue, substantive or procedural;

2. The conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural; and

3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action, including with respect to the issue of class certification.

4. If Defendants fail to fully fund the Maximum Settlement Amount, Defendants shall bear the sole responsibility for any cost to issue or reissue any curative notice to the Settlement Class Members and all Settlement Administration Costs incurred to the date of nullification.

F. Certification of the Settlement Class. The Parties stipulate to conditional class certification of the Class for the Class Period for purposes of settlement only. In the event that this Settlement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendants from obtaining a complete resolution of the Released Claims, the conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural.

G. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for, and Class Members and/or Aggrieved Employees are not relying on any statement or representation by the Parties in this regard. Class Members and/or Aggrieved Employees understand and agree that they will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA Payment described and will be

1 solely responsible for any penalties or other obligations resulting from their personal tax
2 reporting of Individual Settlement Payments and/or Aggrieved Employees' individual
3 shares of the PAGA Payment. Plaintiff shall be solely and legally responsible for paying
4 any and all applicable taxes on these Class Representative's Payment and shall hold
5 Defendants harmless from any claim or liability for taxes, penalties or interest arising as a
6 result of the payment. Defendants made no representations as to the tax treatment or legal
7 effect of the payment called for herein, and Plaintiff is not relying on any statement or
8 representation by Defendants or Defendants' counsel in this regard. Neither Defendants,
9 nor its counsel shall have any liability for any tax implications related to the receipt of
10 settlement funds herein, including by the third-party settlement administrator; any and all
11 such liability and/or obligations shall be borne solely by the recipients of any funds to be
12 paid by Defendants herein. The Parties acknowledge neither Defendants nor Plaintiffs'
13 counsel have provided any tax-related advice whatsoever. The Settlement Administrator
14 shall have and use its own Employer Identification Number for purposes of calculating
15 payroll tax withholdings and providing reports to state and federal tax authorities.

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

7 I. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
8 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
9 which shall include this Settlement Agreement. Plaintiff will provide Defendants with
10 a draft of the Motion at least three (3) business days prior to the filing of the Motion
11 to give Defendants an opportunity to propose changes or additions to the Motion.

12 J. Settlement Administrator. The Settlement Administrator shall be responsible for:
13 establishing and administering the QSF; calculating, processing and mailing payments
14 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
15 mailing the Notice Packets to the Class Members as directed by the Court; receiving
16 and reporting the objections and requests for exclusion; calculating, deducting and
17 remitting all legally required taxes from Individual Settlement Payments and
18 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
19 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
20 Payment; processing and mailing tax payments to the appropriate state and federal
21 taxing authorities; providing declaration(s) as necessary in support of preliminary
22 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
23 or the Court orders the Settlement Administrator to perform. The Settlement
24 Administrator shall keep the Parties timely apprised of the performance of all
25 Settlement Administrator responsibilities by among other things, sending a weekly
26 status report to the Parties' counsel stating the date of the mailing, the of number of
27 Requests for Exclusion from the Settlement it receives (including the numbers of valid
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1 and deficient), the full names of the Class Members who requested exclusion from the
2 Settlement, and number of objections received.

3 K. Notice Procedure.

4 1. Class Data. No later than ten (10) business days after the Preliminary
5 Approval Date, Defendants shall provide the Settlement Administrator with
6 the Class Data for purposes of preparing and mailing Notice Packets to the
7 Class Members. To protect Class Members' privacy rights, the Settlement
8 Administrator must maintain the Class Data in confidence, use the Class Data
9 only for purposes of this Settlement and for no other purpose, and restrict
10 access to the Class Data to Settlement Administrator employees who need
11 access to the Class Data to effect and perform under this Agreement.

12 2. Notice Packets.

13 a) The Notice Packet shall contain the Notice of Class Action Settlement
14 in a form substantially similar to the form attached as Exhibit A. The
15 Notice of Class Action Settlement shall inform Class Members and
16 Aggrieved Employees that they need not do anything in order to
17 receive an Individual Settlement Payment and/or Aggrieved
18 Employees' individual shares of the PAGA Payment and to keep the
19 Settlement Administrator apprised of their current mailing address, to
20 which the Individual Settlement Payments and/or Aggrieved
21 Employees' individual shares of the PAGA Payment will be mailed
22 following the Funding Date. The Notice of Class Action Settlement
23 shall set forth the release to be given by all members of the Class who
24 do not request to be excluded from the Settlement Class and/or
25 Aggrieved Employees' in exchange for an Individual Settlement
26 Payment and/or Aggrieved Employees' individual shares of the PAGA
27 Payment, the number of Workweeks worked by each Class Member

1 during the Class Period and PAGA Period, if any, and the estimated
2 amount of their Individual Settlement Payment if they do not request
3 to be excluded from the Settlement and each Aggrieved Employee's
4 share of the PAGA Payment, if any. The Settlement Administrator
5 shall use the Class Data to determine Class Members' Workweeks and
6 PAGA Workweeks. The Notice will also advise the Aggrieved
7 Employees that they will release the Released PAGA Claims and will
8 receive their share of the PAGA Payment regardless of whether they
9 request to be excluded from the Settlement.

10 b) The Notice Packet's mailing envelope shall include the following
11 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
12 ENTITLED TO PARTICIPATE IN A CLASS ACTION
13 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
14 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
15 NOTICE."

16 3. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
17 Settlement Administrator will perform a search based on the National Change
18 of Address Database to update and correct any known or identifiable address
19 changes. No later than fourteen (14) calendar days after receiving the Class
20 Data from Defendants, the Settlement Administrator shall mail copies of the
21 Notice Packet to all Class Members via regular First-Class U.S. Mail. The
22 Settlement Administrator shall exercise its best judgment to determine the
23 current mailing address for each Class Member. The address identified by the
24 Settlement Administrator as the current mailing address shall be presumed to
25 be the best mailing address for each Class Member.

26 4. Undeliverable Notices. Not later than three (3) business days after the
27 Settlement Administrator's receipt of any Class Notice returned by the United
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1 States Postal Service (“USPS”) as undelivered, the Settlement Administrator
2 shall remain the Class Notice using any forwarding address provided by the
3 USPS. If the USPS does not provide a forwarding address, the Settlement
4 Administrator shall conduct a Class Member Address Search, and re-mail the
5 Class Notice to the most current address obtained. The Settlement
6 Administrator has no obligation to make further attempts to locate or send
7 Class Notice to Class Members whose Class Notice is returned by the USPS
8 a second time. Class Members who received a re-mailed Notice Packet shall
9 have their Response Deadline extended fifteen (15) days from the original
10 Response Deadline.

11 5. Disputes Regarding Individual Settlement Payments. Class Members will
12 have the opportunity, should they disagree with Defendants’ records regarding
13 the start and end dates of employment to provide documentation and/or an
14 explanation to show contrary dates. If there is a dispute, Defendants’ records
15 will be presumed determinative. The Settlement Administrator shall
16 determine the eligibility for, and the amounts of, any Individual Settlement
17 Payments under the terms of this Agreement. The Settlement Administrator’s
18 determination of the eligibility for and amount of any Individual Settlement
19 Payment shall be binding upon the Class Member and the Parties.

20 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
21 by the Settlement Administrator concerning the administration of the
22 Settlement will be resolved by the Court under the laws of the State of
23 California. Before any such involvement of the Court, counsel for the Parties
24 will confer in good faith to resolve the disputes without the necessity of
25 involving the Court.

26 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
27 Packet shall state that Class Members who wish to exclude themselves from
28

1 the Settlement must submit a written request for exclusion by the Response
2 Deadline. The written request for exclusion must state that the Class Member
3 wishes to exclude himself or herself from the Settlement and (1) must contain
4 the name, address, and the last four digits of the Social Security number of the
5 person requesting exclusion; (2) must be signed by the Class Member; (3)
6 must be postmarked or fax stamped by the Response Deadline and returned to
7 the Settlement Administrator at the specified address or fax telephone number;
8 and (4) contain a typewritten or handwritten notice stating in substance: "I
9 wish to opt out of the settlement of the class action lawsuit entitled *David Ezell*
10 *v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the
11 County of Sacramento, Case No. 34-2021-00305329. I understand that by
12 requesting to be excluded from the settlement, I will receive no money from
13 the Settlement described in this Notice." The request for exclusion will not
14 be valid if it is not timely submitted, if it is not signed by the Class Member,
15 or if it does not contain the name and address and last four digits of the Social
16 Security number of the Class Member. The date of the postmark on the
17 mailing envelope or fax stamp on the request for exclusion shall be the
18 exclusive means used to determine whether the request for exclusion was
19 timely submitted. Any Class Member who requests to be excluded from the
20 Settlement Class will not be entitled to an Individual Settlement Payment and
21 will not be otherwise bound by the terms of the Settlement or have any right
22 to object, appeal or comment thereon. However, any Class Member that
23 submits a timely request for exclusion that is also a member of the Aggrieved
24 Employees will still receive his/her pro rata share of the PAGA Payment, as
25 specified below, and in consideration, will be bound by the Release by the
26 Aggrieved Employees as set forth herein. Settlement Class Members who fail
27 to submit a valid and timely written request for exclusion on or before the
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1 Response Deadline shall be bound by all terms of the Settlement and any final
2 judgment entered in this Action if the Settlement is approved by the Court.
3 No later than fourteen (14) calendar days after the Response Deadline, the
4 Settlement Administrator shall provide counsel for the Parties with a final list
5 of the Class Members who have timely submitted written requests for
6 exclusion. At no time shall any of the Parties or their counsel seek to solicit
7 or otherwise encourage members of the Class to submit requests for exclusion
8 from the Settlement. If more than 10% of the Class Members request
9 exclusion from the Settlement, Defendants may rescind the Settlement within
10 ten (10) business days of learning this information. The Parties agree that, if
11 either Defendants rescinds, the Settlement shall be void *ab initio*, have no
12 force or effect whatsoever, and that neither Party will have any further
13 obligation to perform under this Agreement.

- 14 8. Objections. The Notice of Class Action Settlement contained in the Notice
15 Packet shall state that Class Members who wish to object to the Settlement
16 may submit to the Settlement Administrator a written statement of objection
17 (“Notice of Objection”) by the Response Deadline. The postmark date of
18 mailing shall be deemed the exclusive means for determining that a Notice of
19 Objection was served timely. The Notice of Objection must be signed by the
20 Settlement Class Member and state: (1) the case name and number; (2) the
21 name of the Settlement Class Member; (3) the address of the Settlement Class
22 Member; (4) the last four digits of the Settlement Class Member’s Social
23 Security number; (4) the basis for the objection; and (5) if the Settlement Class
24 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
25 Class Members who fail to make objections in writing in the manner specified
26 above may still make their objections orally at the Final Approval/Settlement
27 Fairness Hearing with the Court’s permission. Settlement Class Members will
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1 have a right to appear at the Final Approval/Settlement Fairness Hearing to
2 have their objections heard by the Court. At no time shall any of the Parties
3 or their counsel seek to solicit or otherwise encourage Class Members to file
4 or serve written objections to the Settlement or appeal from the Order and
5 Final Judgment. Class Members who submit a written request for exclusion
6 may not object to the Settlement. Class Members may not object to the PAGA
7 Payment or Released PAGA Claims.

8 L. Funding and Allocation of the Maximum Settlement Amount. Defendant is required
9 to pay the Maximum Settlement Amount, plus any employer's share of payroll taxes
10 as mandated by law within the time specified herein as follows: Via 33 equal monthly
11 payments of \$51,515.15 beginning 15 calendar days after the Court's final approval of
12 this settlement ("Installment Payments"). The Settlement Administrator shall deposit
13 the settlement payments into federally insured bank accounts (i.e., FDIC) so that all
14 money held by the Settlement Administrator is in federally insured bank accounts.
15 Any interest on the earned money in said bank accounts shall be remitted to the Net
16 Settlement Amount for distribution to Class Members. To the extent that any payment
17 required by this paragraph is due on a Saturday, Sunday, or legal holiday, the due date
18 shall be continued to the following business day. No money shall be distributed until
19 the last of: (i) if no appeal is filed, the expiration date of the time for the filing or
20 noticing of any appeal from, or other challenge to, the order granting final approval
21 and/or judgment (this time period shall not be less than sixty (60) calendar days after
22 the order granting final approval and/or judgment is entered); (ii) the date of affirmance
23 of an appeal of the order granting final approval and/or judgment becomes final under
24 the California Rules of Court; or (iii) the date of final dismissal of any appeal from the
25 order granting final approval and/or judgment or the final dismissal of any proceeding
26 on review of any court of appeal decision relating to the order granting final approval
27 and/or judgment.

1. Cure Period. In the event that Defendants default and fail to make a timely Installment Payment, Defendant shall have fourteen (14) calendar days to cure the default (“Cure Period”). Plaintiff and Defendant shall meet and confer during the Cure Period to resolve Defendants’ default. If Defendants fail to cure the default within the Cure Period, Plaintiff shall be entitled to enter a stipulated judgment against Defendants for the unpaid balance of the Maximum Settlement Amount at the time of default plus interest, and reasonable attorneys’ fees and costs incurred enforcing the terms of this agreement.
2. Individual Settlement Payments. Individual Settlement Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein. Using the Class Data, the Settlement Administrator shall add up the total number of Workweeks for all Class Members. The respective Workweeks for each Class Member will be divided by the total Workweeks for all Class Members, resulting in the Payment Ratio for each Class Member. Each Class Member’s Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Class Member’s estimated Individual Settlement Payments. Each Individual Settlement Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class Members who submit valid and timely requests for exclusion will be redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.
3. Calculation of Individual Payments to the Aggrieved Employees. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA pay periods for all Aggrieved Employees during the PAGA Period. The respective PAGA pay periods for each Aggrieved Employee will be

1 divided by the total PAGA pay periods for all Aggrieved Employees, resulting
2 in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
3 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
4 Aggrieved Employee Payment to calculate each Aggrieved Employee's
5 estimated share of the PAGA Payment.

6 4. Allocation of Individual Settlement Payments. For tax purposes, Individual
7 Settlement Payments shall be allocated and treated as follows: 10% as wages
8 ("Wage Portion"); 90% as penalties and interest ("Non-Wage Portion"). The
9 Wage Portion is subject to wage withholdings and shall be reported on IRS
10 Form W-2 and its state and local equivalents. The Non-Wage Portion shall not
11 be subject to wage withholdings and shall be reported on IRS Form 1099 and
12 its state and local equivalents.

13 5. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
14 Employee Settlement Payments shall be allocated and treated as 100%
15 penalties and shall be reported on IRS Form 1099 and its state and local
16 equivalents.

17 6. No Credit Toward Benefit Plans. The Individual Settlement Payments and
18 individual shares of the PAGA Payment made to Settlement Class Members
19 and/or Aggrieved Employees under this Settlement Agreement, as well as any
20 other payments made pursuant to this Settlement Agreement, will not be
21 utilized to calculate any additional benefits under any benefit plans to which
22 any Class Members may be eligible, including, but not limited to profit-
23 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
24 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
25 Parties' intention that this Settlement Agreement will not affect any rights,
26 contributions, or amounts to which any Class Members may be entitled under
27 any benefit plans.

1 7. All monies received by Settlement Class Members under the Settlement which
2 are attributable to wages shall constitute income to such Settlement Class
3 Members solely in the year in which such monies actually are received by the
4 Settlement Class Members. It is the intent of the Parties that Individual
5 Settlement Payments and individual shares of the PAGA Payment provided for
6 in this Settlement agreement are the sole payments to be made by Defendants to
7 Settlement Class Members and/or Aggrieved Employees in connection with this
8 Settlement Agreement, with the exception of Plaintiff, and that the Settlement
9 Class Members and/or Aggrieved Employees are not entitled to any new or
10 additional compensation or benefits as a result of having received the Individual
11 Settlement Payments and/or their shares of the PAGA Payment.

12 8. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
13 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
14 and/or Aggrieved Employees last known mailing address no later than fifteen
15 (15) calendar days after the Maximum Settlement Amount is sufficiently
16 funded so as to cover the Individual Settlement Payments and Aggrieved
17 Employee Payments in their entirety (estimated to occur within 20 months of
18 the Effective Date).

19 9. Expiration. Any checks issued to Settlement Class Members and Aggrieved
20 Employees shall remain valid and negotiable for one hundred and eighty (180)
21 days from the date of their issuance. If a Settlement Class Member and/or
22 Aggrieved Employee does not cash his or her settlement check within ninety
23 (90) days, the Settlement Administrator will send a letter to such persons,
24 advising that the check will expire after the 180th day, and invite that
25 Settlement Class Member and/or Aggrieved Employee to request reissuance
26 in the event the check was destroyed, lost or misplaced. In the event an
27 Individual Settlement Payment and/or Aggrieved Employee's individual
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1 share of the PAGA Payment check has not been cashed within one hundred
2 and eighty (180) days, all funds represented by such uncashed checks, plus
3 any interest accrued thereon, shall be distributed consistent with California
4 Code of Civil Procedure Section 384 as follows: to Bet Tzedek. Class
5 Counsel, Defendants' counsel, nor any of the Parties, have any interest,
6 pecuniary or otherwise, in Bet Tzedek.

- 7 10. Class Representative's Payment. In addition to the Individual Settlement
8 Payment and his individual share of the PAGA Payment to be paid to Plaintiff,
9 Plaintiff will apply to the Court for an award of not more than Ten Thousand
10 Dollars and Zero Cents (\$10,000.00), as the Class Representative's Payment.
11 Defendants do not presently intend to oppose a Class Representative's
12 Payment of not more than \$10,000.00 for Plaintiff. The Settlement
13 Administrator shall pay the Class Representative's Payment, either in the
14 amount stated herein if approved by the Court or some other amount as
15 approved by the Court, to Plaintiff from the Maximum Settlement Amount no
16 later than ten (10) calendar days after the Funding Date. Any portion of the
17 requested Class Representative's Payment that are not awarded to the Class
18 Representative shall be part of the Net Settlement Amount and shall be
19 distributed to Settlement Class Members as provided in this Agreement. The
20 Settlement Administrator shall issue an IRS Form 1099 — MISC and its state
21 and local equivalents to Plaintiff for his Class Representative's Payment.
22 Plaintiff shall be solely and legally responsible to pay any and all applicable
23 taxes on his Class Representative's Payment and shall hold harmless the
24 Released Parties from any claim or liability for taxes, penalties, or interest
25 arising as a result of the Class Representative's Payment. The Class
26 Representative's Payment shall be in addition to Plaintiff's Individual
27 Settlement Payment as a Settlement Class Member. Approval of this
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1 Settlement shall not be conditioned on Court approval of the requested amount
2 of the Class Representative's Payment. In the event that the Court reduces or
3 does not approve the requested Class Representative's Payment, Plaintiff shall
4 not have the right to revoke the Settlement, and it will remain binding.

5 11. Class Counsel Award. Defendants do not presently oppose or intend to object
6 to an application for attorneys' fees not to exceed one-third of the Maximum
7 Settlement Amount currently estimated to be Five Hundred Sixty-Six
8 Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$566,666.66)
9 plus costs and expenses supported by declaration not to exceed Twenty-Five
10 Thousand Dollars (\$25,000.00), from the Maximum Settlement Amount. Any
11 portion of the requested Class Counsel Award that is not awarded to Class
12 Counsel shall be part of the Net Settlement Amount and shall be distributed
13 to Settlement Class Members as provided in this Agreement. The Settlement
14 Administrator shall allocate and pay the Class Counsel Award to Class
15 Counsel from the Maximum Settlement Amount no later than five (5) calendar
16 days after the Maximum Settlement Amount is funded in full. Class Counsel
17 shall be solely and legally responsible to pay all applicable taxes on the
18 payment made pursuant to this paragraph. The Settlement Administrator shall
19 issue an IRS Form 1099 — MISC and its state and local equivalents to Class
20 Counsel for the payments made pursuant to this paragraph. In the event that
21 the Court reduces or does not approve the requested Class Counsel Award,
22 Plaintiff and Class Counsel shall not have the right to revoke the Settlement,
23 or to appeal such order, and the Settlement will remain binding.

24 12. PAGA Payment. Eighty Thousand Dollars (\$80,000.00) shall be allocated
25 from the Maximum Settlement Amount for settlement of claims for civil
26 penalties under the Private Attorneys General Act of 2004 ("PAGA
27 Payment"). The Settlement Administrator shall pay seventy-five percent
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(75%) of the PAGA Payment (\$60,000.00) to the California Labor and Workforce Development Agency no later than twenty-five (25) calendar days after the Maximum Settlement Amount is funded in full (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Payment (\$20,000.00) will be distributed to the Aggrieved Employees as described in this Agreement (hereinafter "Aggrieved Employee Payment"). For purposes of distributing the PAGA Payment to the Aggrieved Employees, each Aggrieved Employee shall receive their pro-rata share of the Aggrieved Employee Payment using the PAGA Payment Ratio as defined above.

13. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Maximum Settlement Amount. The estimate of the Settlement Administration Costs is \$25,000.00. The Settlement Administrator shall be paid the Settlement Administration Costs no later than twenty-five (25) calendar days after the Maximum Settlement Amount is funded in full. If the actual Settlement Administration Costs incurred is less than the estimate provided herein, the difference between the actual and estimated costs shall be returned to the Net Settlement Amount.

M. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative's Payment, the Class Counsel Award, the PAGA Payment, and the Settlement Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least three (3) business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than twenty (20) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment, highest Individual Settlement Payment, and lowest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.
 2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.
- N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity for Counsel for Defendants to review the Motions for Preliminary and Final Approval, including the Order Granting Final Approval of Class Action Settlement, and Judgment before filing with the Court. The Parties and their counsel will cooperate with each other and use their best efforts to affect the Court's approval of the Motions for Preliminary and Final Approval of the Settlement, and entry of Judgment.
- O. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement.
- P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

- 1 Q. Amendment or Modification. This Agreement may be amended or modified only by
2 a written instrument signed by all Parties or their successors-in-interest.
- 3 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
4 Agreement among these Parties, and no oral or written representations, warranties or
5 inducements have been made to any Party concerning this Agreement or its Exhibit
6 other than the representations, warranties and covenants contained and memorialized
7 in this Agreement and its Exhibit.
- 8 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
9 represent they are expressly authorized by the Parties whom they represent to negotiate
10 this Agreement and to take all appropriate Action required or permitted to be taken by
11 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
12 documents required to effectuate the terms of this Agreement. The persons signing
13 this Agreement on behalf of Defendants represent and warrant that he/she is authorized
14 to sign this Agreement on behalf of Defendants. Plaintiff represents and warrants that
15 he is authorized to sign this Agreement and that he has not assigned any claim, or part
16 of a claim, covered by this Settlement to a third-party.
- 17 T. No Public Comment: The Parties and their counsel agree that they will not issue any
18 press releases, initiate any contact with the press, respond to any press inquiry, or have
19 any communication with the press about the fact, amount or terms of the Settlement
20 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
21 of its terms for any marketing or promotional purposes. Nothing herein will restrict
22 Class Counsel from including publicly available information regarding this settlement
23 in future judicial submissions regarding Class Counsel's qualifications and experience.
24 Further, Class Counsel will not include, reference or use the Settlement Agreement for
25 any marketing or promotional purposes, either before or after the Motion for
26 Preliminary Approval is filed.

- 1 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
2 to the benefit of, the successors or assigns of the Parties, as previously defined.
- 3 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
4 shall be governed by and interpreted according to the laws of the State of California.
- 5 W. Counterparts. This Agreement may be executed in one or more counterparts. All
6 executed counterparts and each of them shall be deemed to be one and the same
7 instrument provided that counsel for the Parties to this Agreement shall exchange
8 among themselves copies or originals of the signed counterparts. A facsimile signature
9 or electronic signature (including but not limited to PDF or DocuSign) shall be treated
10 as an original signature for all purposes.
- 11 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
12 is a fair, adequate and reasonable settlement of this Action and have arrived at this
13 Settlement after extensive arms-length negotiations, taking into account all relevant
14 factors, present and potential.
- 15 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
16 respect to the interpretation, implementation and enforcement of the terms of this
17 Agreement and all orders and judgments entered in connection therewith, and the
18 Parties and their counsel submit to the jurisdiction of the Court for purposes of
19 interpreting, implementing and enforcing the settlement and all orders and judgments
20 entered in connection with this Agreement.
- 21 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
22 the Court shall first attempt to construe the provisions valid to the fullest extent
23 possible consistent with applicable precedents so as to define all provisions of this
24 Agreement valid and enforceable.
- 25 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
26 intend to pursue any claims against the Released Parties, including, but not limited to,
27 any and all claims relating to or arising from Plaintiff's employment with Defendants,
28

1 regardless of whether Class Counsel is currently aware of any facts or legal theories
2 upon which any claims or causes of action could be brought against Released Parties,
3 including those facts or legal theories alleged in the operative complaint in this Action.
4 The Parties further acknowledge, understand and agree that this representation is
5 essential to the Agreement and that this Agreement would not have been entered into
6 were it not for this representation.

7 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
8 certification for purposes of this Settlement only.

9 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
10 Released Claims have merit and give rise to liability on the part of Defendants.
11 Defendants claim that the Released Claims have no merit and do not give rise to
12 liability. This Agreement is a compromise of disputed claims. Nothing contained in
13 this Agreement and no documents referred to and no action taken to carry out this
14 Agreement may be construed or used as an admission by or against the Defendants,
15 Released Parties, Plaintiff, or Class Counsel as to the merits or lack thereof of the
16 claims asserted. Other than as may be specifically set forth herein, each Party shall be
17 responsible for and shall bear its/his own attorney's fees and costs.

18 DD. Confidentiality. Class Counsel and the Class Representative agree that they will not
19 issue any press releases, initiate any contact with the press, respond to any press
20 inquiry, post on any internet websites, or have any communication with the press about
21 the Lawsuit, and/or the fact, amount or terms of the settlement. Before the date of the
22 filing of the motion for preliminary approval of the settlement, the Class
23 Representative and settlement class counsel will not initiate any contact with Class
24 Members or anyone else about the settlement, except that: (a) settlement class counsel,
25 if contacted by a Class Member, may respond that a settlement has been reached and
26 that the details will be communicated in a forthcoming Court-approved notice; and (b)
27 the Class Representative, if contacted by a Class Member, may respond only that the
28

Class Member should contact settlement class counsel.

EE. Headings. The section and paragraph headings contained in this Settlement Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Settlement Agreement.

FF. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

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

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

DATED: Apr 12, 2023


(Apr 12, 2023 15:43 PDT)

DAVID EZELL

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: _____

DIAB LEASING INC.

Printed Name

Title

1 Class Member should contact settlement class counsel.

2 EE. Headings. The section and paragraph headings contained in this Settlement
3 Agreement are for reference purposes only and shall not affect in any way the meaning
4 or interpretation of this Settlement Agreement.

5 FF. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
6 of this Agreement. This Agreement will not be construed against any Party on the basis
7 that the Party was the drafter or participated in the drafting.

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

12
13 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

14
15 DATED: _____

16 _____
17 DAVID EZELL

18
19 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

20 4/12/2023
21 DATED: _____

22 Farouk Diab

23 _____
24 DIAB LEASING INC.

25 Farouk Diab

26 _____
27 Printed Name

28 _____
PRESIDENT

Title

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4/12/2023
DATED: _____

Farouk Diab

FAROUK DIAB

Farouk Diab

Printed Name

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

1 DATED: _____

FAROUK DIAB

3 _____
4 Printed Name

6
7 IT IS SO AGREED AS TO FORM BY COUNSEL:

8
9 DATED: April 12, 2023

JCL LAW FIRM, A.P.C.

10 By: _____

11 Attorneys for Plaintiff and the Settlement Class
12 Members

13
14
15 DATED: April 12, 2023

ZAKAY LAW GROUP, APLC

16 By: _____

17 Attorneys for Plaintiff and the Settlement Class
18 Members

Exhibit A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(David Ezell v. Diab Leasing, Inc., et al., Sacramento County Superior Court Case No. 34-2021-00305329)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<< [REDACTED] >>. See the explanation below. The Settlement will not be fully funded for approximately thirty-three (33) months and 15 days after the Court grants Final Approval. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Released Parties as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement, except a portion of the PAGA payment, if applicable, in the estimated amount of \$<< [REDACTED] >>. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Sacramento (the “Court”) has been reached between Plaintiff David Ezell (“Plaintiff”), on the one hand, and Defendant Diab Leasing Inc. and Farouk Diab (collectively “Defendants”), on the other hand. The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are or previously were employed by Defendants in California and classified as a non-exempt employee at any time during the Class Period. The “Class Period” is the period from July 30, 2017, up to and including December 2, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On July 30, 2021, Plaintiff filed a Complaint against Defendant Diab Leasing, Inc. in the Superior Court of the State of California, County of Sacramento. Plaintiff alleged claims that Defendant Diab Leasing, Inc. (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (c) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to reimburse Plaintiff for required expenses in violation of California Labor Code § 2802; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (i) Violated the Private Attorney General Act at Labor Code Section 2698, *et seq.* Plaintiff subsequently amended the Complaint to name the following as defendants: Farouk Diab; DIAB AND ABED, INC.; FAROUK DIAB AND ZAHAR ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOON AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC.; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC.; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB (collectively “Doe Defendants”).

Defendants deny and dispute all claims alleged in the Action. Specifically, Defendants contended (and continue to contend) that the Action could not properly be maintained as a class action; members of the class were properly paid all wages and overtime that were due; members of the class were provided all legally required meal breaks and rest breaks; members of the class were paid all wages due them at the time of their terminations; members of the class were provided accurate, itemized wage statements; Defendants did not violate California Business and Professions Code section 17200 *et seq.*; class members were reimbursed for required business expenses, if any; and that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action. Further, Doe Defendants contend that they did not employ members of the class.

On July 18, 2022, the Plaintiff and Defendants (collectively “Parties”) participated in an all-day mediation with Tripper Ortman, Esq., an experienced mediator of wage and hour class actions. The mediation concluded without a settlement. After months of negotiations, Mediator Ortman made a mediator’s proposal, and the Parties accepted the proposal. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Maximum Settlement Amount. Defendant has agreed to pay an “all in” amount of One Million Seven Hundred Thousand Dollars and Zero Cents (\$1,700,000.00) (the “Maximum Settlement Amount”) to fund the settlement. The Maximum Settlement Amount includes the payment of all Settlement Shares to Settlement Class Members,

Class Counsel's attorneys' fees and costs ("Class Counsel Award"), Settlement Administration Costs, the LWDA Payment, Aggrieved Employee Payment, and the Class Representative's Payment to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Maximum Settlement Amount by depositing the money in thirty-three (33) equal monthly payments of \$51,515.15 with the Settlement Administrator beginning 15 calendar days after the Court's final approval of this settlement. "Final" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Maximum Settlement Amount. The Settlement provides for certain payments to be made from the Maximum Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Maximum Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Costs. Payment to the Settlement Administrator, estimated not to exceed \$25,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Class Counsel Award. Payment to Class Counsel of Class Counsel Award consisting of attorneys' fees and litigation costs incurred of no more than 1/3 of the Maximum Settlement Amount (currently \$566,666.66) and litigation expenses of not more than \$25,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$80,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$60,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$20,000 will be distributed to Aggrieved Employees as part of the Aggrieved Employee Payment.
- Calculation of Payments to Settlement Class Members. After all the above payments of the court-approved Class Counsel Award, the Class Representative's Payment, the PAGA Payment, and the Settlement Administration Costs are deducted from the Maximum Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period ("Settlement Share"). A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant Diab Leasing Inc.'s records, a member of the class worked at least one-day during any such workweek.
- Calculation of Aggrieved Employee Payments to Aggrieved Employees. The Aggrieved Employee Payments shall be distributed to Aggrieved Employees irrespective of whether they exclude themselves or opt-out. The Aggrieved Employee Payments will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by

the number of pay periods worked by each respective PAGA Employee during the PAGA Period. “Aggrieved Employees” means each of the Class Members who was employed by Defendants at any time during the PAGA Period. The PAGA Period means the period between May 25, 2020, and continuing through up to and including December 2, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 10% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 90% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant’s counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Release by Settlement Class Members.

“Released Parties” shall mean Defendants, DIAB AND ABED, INC.; FAROUK DIAB AND ZAHER ABED; DIAB AND ABU RAMADAN, INC.; FAROUK DIAB AND MIKE ABU RAMADAN; DIAB AND AHMAR, INC.; FAROUK DIAB AND FRAIDOOH AHMAR; DIAB AND ALTAIAN, INC.; FAROUK DIAB AND BASHAR ALTAIAN; DIAB AND ASPIRAS INC.; FAROUK DIAB AND NAWAL ASPIRAS; DIAB AND BAWAB, INC.; FAROUK DIAB AND TAREK BAWAB; DIAB AND DIAB, INC.; FAROUK DIAB; DIAB AND ILAIAN INC; FAROUK DIAB; DIAB AND SAFORI INC; FAROUK DIAB AND MAJIDA SAFORI; DIAB AND YASSIN INC; FAROUK DIAB AND BELAL YASSIN; DIAB AND SAMMAR, INC.; FAROUK DIAB; DIAB ENTERPRISES, INC; FAROUK DIAB; DIAB LEASING INC.; FAROUK DIAB; DIAB, YASSIN AND YASSIN INC.; FAROUK DIAB AND BELAL YASSIN AND ASHRAF YASSIN; F DIAB AND G ABED, INC.; FAROUK DIAB AND GHADAH ABED; F DIAB AND R DIAB INC; FAROUK DIAB AND RAID DIAB; F DIAB AND S DIAB INC.; FAROUK DIAB AND SALEH DIAB; DIAB 865 INC; FAROUK DIAB AND SALEH DIAB, and all of their respective current and former partners, parents, subsidiaries, franchisors, Galardi Group Franchise Corp., Galardi Group Franchise & Leasing, LLC, predecessors and successors, joint employers, and their affiliated entities, and each of their respective owners, officers, directors, managing agents, exempt-employees, partners, shareholders, and agents, and any other successors, heirs, assigns, or legal representatives, any attorneys, insurers, and claims representatives.

“Released Class Claims” shall mean all claims that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint, including, but not limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204, 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197, 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382, 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide

required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof. Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released Class Claims for the Class Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Released Parties about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Release by the Aggrieved Employees.

"Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.

As of the Funding Date, in exchange for the consideration set forth in this Agreement, each of the Aggrieved Employees, the Plaintiff, the LWDA and the State of California, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release and discharge the Released Parties from the Released PAGA Claims for the PAGA Period.

5. How much will my payment be?

Defendant Diab Leasing, Inc.'s records reflect that you have << [REDACTED] >> Workweeks worked during the Class Period. Based on this information, your estimated Settlement Share is << [REDACTED] >>.

Defendants' records reflect that you have << [REDACTED] >> Pay Periods worked during the PAGA Period. Based on this information, your estimated Aggrieved Employee Payment is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than [REDACTED] [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: [REDACTED], (800) [REDACTED].

The Court will hold a hearing on [REDACTED] to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, Individual Settlement Payments and Aggrieved Employee Payments will be mailed by regular First-Class U.S. Mail to Settlement Class Members' and/or Aggrieved Employees last known mailing address no later than fifteen (15) calendar days after the Maximum Settlement Amount is sufficiently funded so as to cover the Individual Settlement Payments and Aggrieved Employee Payments in their entirety. If there are objections or appeals, resolving them can take time.. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at [www.\[REDACTED\].com](http://www.[REDACTED].com)

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Aggrieved Employee Payments.

Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the [REDACTED]. The written request for exclusion must state that the Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Class Member; (3) must be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number; and (4) contain a typewritten or handwritten notice stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *David Ezell v. Diab Leasing, Inc., et al.*, currently pending in the Superior Court for the County of Sacramento, Case No. 34-2021-00305329. I understand that by requesting to be excluded from the settlement, I will receive no money from the Settlement described in this Notice." The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Class Members who wish to object to the Settlement may submit to the Settlement Administrator a written statement of objection ("Notice of Objection") by [REDACTED]. The postmark date of mailing shall be deemed the exclusive means for determining that a Notice of Objection was served timely. The Notice of Objection must be signed by the Settlement Class Member and state: (1) the case name and number; (2) the name of the Settlement Class Member; (3) the address of the Settlement Class Member; (4) the last four digits of the Settlement Class Member's Social Security number; (4) the basis for the objection; and (5) if the Settlement Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Class Members who fail to make objections in writing in the manner specified above may still make their objections orally at the Final Approval/Settlement Fairness Hearing with the Court's permission. Settlement Class Members will have a right to appear at the Final Approval/Settlement Fairness Hearing to have their objections heard by the Court. Class

Members may not object to the PAGA Payment or Released PAGA Claims.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than [REDACTED]. The address for the Settlement Administrator is [REDACTED].

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com

Counsel for Defendants:

Beth A. Kahn, Esq.
Ryan C. McKim, Esq.
Clark Hill LLP
555 Flower Street, 24th Floor
Los Angeles, CA 90071
Tel: (213) 891-9100
Fax: (213) 488-1178
Email: bkahn@clarkhill.com
rmckim@clarkhill.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on [REDACTED], at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280 before Judge Lauri A. Damrell. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at [REDACTED] or write to **David Ezell v. Diab Leasing, Inc., et al., Case No. 34-2021-00305329**, Settlement Administrator, c/o [REDACTED].

More details are in the Settlement Agreement. For more information, you may inspect the Court files and the Settlement Agreement at the Sacramento County Superior Court, located at 720 Ninth Street Sacramento, CA 958140-1280. You may also contact Class Counsel, the Settlement Administrator, and/or Defendant's Counsel for more information.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.

- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to Bet Tzedek. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 3

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Gordon D. Schaber Superior Court, Department 28

JUDICIAL OFFICER: HONORABLE LAURI A. DAMRELL

Courtroom Clerk: V. Aleman

CSR: NONE

Court Attendant: J. Flores

34-2021-00305329-CU-OE-GDS

August 25, 2023

9:00 AM

David Ezell vs. Diab Leasing Inc, a California corporation

MINUTES

APPEARANCES:

No Appearances

NATURE OF PROCEEDINGS: Hearing on Motion for Preliminary Approval of Settlement Motion for Preliminary Approval of Class and PAGA; Case Management Conference

There being no request for oral argument the Court affirmed the tentative ruling.

TENTATIVE RULING:

Plaintiff Davis Ezell's ("Plaintiff") motion for preliminary approval of class and Private Attorneys General Act ("PAGA") settlement is UNOPPOSED and GRANTED, as follows.

Moving counsel's Notice of Motion does not provide notice of the Court's tentative ruling system, as required by Local Rule 1.06. Moving counsel is directed to contact opposing counsel and advise them of Local Rule 1.06, the Court's tentative ruling procedure, and the manner to request a hearing.

Background

On May 25, 2021, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency ("LWDA") and served the same on Defendant Diab Leasing, Inc. ("Defendant"). On July 30, 2021, Plaintiff filed the class action complaint in this Court, asserting claims for: (1) unfair competition; (2) failure to pay minimum wages; (3) failure to pay overtime wages; (4) failure to provide required meal breaks; (5) failure to provide required rest breaks; (6) failure to provide accurate itemized wage statements; (7) failure to reimburse employees for required expenses; (8) failure to provide wages when due; and (9) violation of the PAGA. (Zakay Decl., ¶ 7.) On May 12, 2023, Plaintiff amended the complaint to add the true names of Defendants designated as Does 2-31. (5-12-23 Amendment.)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Plaintiff filed a motion for preliminary approval of the Parties' Stipulation of Settlement of Class Action Claims and Release of Claims ("Settlement Agreement" or "Agreement") on April 13, 2023. (Zakay Decl., Exh. 1 ("SA").) On May 4, 2023, the Court issued a Tentative Ruling granting Plaintiff's motion. The Parties appeared on May 5, 2023 and requested a short continuance to address a potential change in circumstances, which the Court granted. (5-5-23 Minute Order.) Pursuant to the Parties' written stipulation, the Court did not adopt its Tentative Ruling and the hearing was continued to July 14th, and then rescheduled to August 25th. (5-12-23 Order; 6-27-23 Notice.)

Defendant was able to secure a loan to pay the entire settlement (as opposed to 33 equal monthly payments), but would need to negotiate a lesser overall settlement amount. (Zakay Supp. Decl., ¶¶ 4, 6.) The Parties negotiated a First Amended Stipulation of Settlement of Class Action Claims and Release of Claims ("Amended Agreement"). (*Id.*, ¶ 8, Exh. 2 ("Amended SA").) Plaintiff now seeks preliminary approval of the Parties' Amended Agreement. Concurrent with the initial filing of this motion, Plaintiff submitted the proposed Settlement Agreement to the LWDA. (Zakay Decl., Exh. 3.) However, Plaintiff shall provide proof that Plaintiff submitted the Amended Agreement to the LWDA.

Legal Standard

The law favors the settlement of lawsuits, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, expense, and rigors of formal litigation. (See *Neary v. Regents of Univ. of Cal* (1992) 3 Cal.4th 273, 277-281; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 52.) However, a class action may not be dismissed, compromised, or settled without approval of the court, and the decision to approve or reject a proposed settlement is committed to the court's sound discretion. (See Cal. Rules of Court, Rule 3.769; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-35 (*Wershba*).)

In determining whether to approve a class settlement, the court's responsibility is to "prevent fraud, collusion or unfairness to the class" through settlement because the rights of the class members, including the named plaintiffs, "may not have been given due regard by the negotiating parties." (*Consumer Advocacy Group, Inc. v. Kintetsu Enters. of Am.* (2006) 141 Cal.App.4th 46, 60.) The court must independently determine "whether the settlement is in the best interests of those whose claims will be extinguished" and "make an independent assessment of the reasonableness of the terms to which the parties have agreed." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130, 133.) The burden of establishing the fairness and reasonableness of the settlement is on the proponent. (*Wershba, supra*, 91 Cal.App.4th at p. 245; see also *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135 1165-66.)

The Court does not rubber stamp these motions, but rather serves as a guardian of absent class members' rights to ensure the settlement is fair. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.) "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.'" (*7-Eleven, supra*, 85 Cal.App.4th at p. 1145.) "A settlement need not obtain 100 percent of the damages sought in

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

order to be fair and reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if 'the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated,' this is no bar to a class settlement because 'the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.'" (*Wershba, supra*, 91 Cal.App.4th at p. 250, citations omitted.) The court's primary objective for preliminary approval is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing. (Rubenstein et al., *Newberg on Class Actions* (6th ed. 2022) § 13:10.)

Provisional Class Certification

If the class has not yet been certified, part of the motion for preliminary approval will include a request for provisional certification for purposes of settlement only. (See Cal. Rule of Court, Rule 3.769.) Although the provisional process is less demanding than a traditional motion for class certification, a trial court reviewing an application for preliminary approval of a settlement must still find that the normal class prerequisites have been met. (See *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625-627 (1997); in accord, *Carter v. City of Los Angeles* (2014) 224 Cal.App.4th 808, 826.) These requirements are generally expressed as follows: (1) numerosity of class members, (2) typicality of claims, (3) adequacy of representation by the named plaintiffs, and (4) the superiority and predominance of common questions of law and fact. (*Vasquez v. Sup. Ct.* (1971) 4 Cal.3d 800, 820.)

Here, Plaintiff seeks provisional certification of the following class: "[A]ll individuals who are or previously were employed by Defendants in California and classified as a non-exempt employee at any time during the Class Period," which is defined as the period from July 30, 2017 up to and including December 2, 2022. (Amended SA, §§ I.G and H.)

Plaintiff argues that the proposed Class should be certified for settlement purposes because: (1) the proposed class of approximately 1,150 current and former employees is sufficiently numerous; (2) these employees are ascertainable because the Class Members can be readily determined from Defendants' employment files; (3) common questions of law and fact predominate over any questions affecting only individual Class Members because Plaintiff challenges Defendants' uniform policies and practices regarding paying wages for all hours worked, providing meal and rest periods, providing accurate itemized wage statements, as well as whether that conduct constituted unfair competition; (4) Plaintiff's claims are typical of the Class because Plaintiff, like every other member of the Class, was employed by Defendants and was subject to the same employment practices and policies; and (5) Plaintiff can adequately represent the Class because Plaintiff and Class Counsel do not have any conflicts of interest, Plaintiff retained competent and experienced counsel, and Plaintiff and Class Counsel will prosecute the case vigorously on behalf of the Class. (Mot., pp. 12-14.) Finally, Plaintiff contends that the class action vehicle is the superior method for managing this case. (Mot., p. 14:20-25.) The Court finds Plaintiff's arguments persuasive and certifies the Class for settlement purposes.

Class Representatives & Class Counsel

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Plaintiff is preliminarily approved as Class Representative. (SA, §I.J.) Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and Shani Zakay of Zakay Law Group, APLC are preliminarily approved as Class Counsel (“Counsel”). (SA, § I.D.)

Fair, Adequate, and Reasonable Settlement

Before approving a class action settlement, the Court must find that the settlement is “fair, adequate, and reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) The Court considers such factors as “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of class members to the proposed settlement.” (*Id.*) “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Id.* at p. 1802.)

Under the terms of the Settlement Agreement, Defendant agrees to pay a non-reversionary Maximum Settlement Amount (“MSA”) of \$1,600,000. (Amended SA, §§ I.P, III.A.1.) The Parties agreed to a \$100,000 reduction from the original MSA in exchange for Defendant making a single, lump sum payment. (Zakay Supp. Decl., ¶ 9.) Defendant will separately pay the employer payroll taxes for the wage portion of the settlement awards. (*Ibid.*) The following amounts will be paid out from the MSA:

- (1) attorneys’ fees not to exceed \$533,333.33 (one-third of the MSA) to Class Counsel (*id.*, § III.L.10);
- (2) reimbursement of litigation expenses not to exceed \$25,000 (*ibid.*);
- (3) administration costs not to exceed \$25,000 to be paid to the Settlement Administrator (*id.*, § III.L.13);
- (4) a Class Representative Payment not to exceed \$10,000 to be paid to the Class Representative (*id.*, § III.L.9); and
- (5) a PAGA Payment of \$80,000, with 75% or \$60,000 to the LWDA and 25% or \$20,000 paid to Aggrieved Employees. (*Id.*, § III.L.11.)

The remaining amount – the Net Settlement Amount (“NSA”) – is approximately \$926,666.67, a reduction of approximately \$66,666.67 from the original Settlement. (Zakay Decl., ¶ 33; Zakay Supp. Decl., ¶¶ 5, 10.) The Settlement Administrator will pay an Individual Settlement Payment from the NSA to each Settlement Class Member. The Individual Settlement Payment for each Settlement Class Member will be calculated by dividing the respective workweeks for each Settlement Class Member by the total number of workweeks worked by all Settlement Class Members during the Class Period and then multiplying that amount by the NSA. (Amended SA, § III.L.1.) Plaintiff argues (and Counsel attests) to a slightly different approach, but either method should result in the same payment amount. (See Mot., p. 2:18-22; Zakay Decl., ¶ 15.) The entire NSA shall be distributed. (Amended SA, § III.L; Zakay Decl., ¶ 16.) This same pro-rata method will be used to calculate the Individual Payments to Aggrieved Employees. (Amended SA, § III.L.2.) Class members will have 45 days from the date the Administrator mails the Notice Packets to submit requests for exclusion or objections to the Settlement. (*Id.*, §§

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

I.EE, III.K.7, III.K.8.) Class Members who receive a re-mailed Notice Packet will have their response deadline extended by 15 days. (*Id.*, § III.K.4.)

For tax purposes, the individual settlement payments will be allocated as follows: 10% as wages and 90% as penalties and interest. (*Id.*, § III.L.3.) 100% of the individual PAGA Class Member settlement payments shall be treated as penalties. (*Id.*, § III.L.4.) The Settlement Administrator will report the portion allocated as wages on an IRS Form W-2. The remaining non-wage portions, including the PAGA Payment, will be reported on an IRS Form 1099. (*Id.*, § III.L.4 and 5.) Any checks that remain uncashed after 180 days from mailing will be voided and the total amount of any uncashed settlement checks will be distributed to Bet Tzedek as a cy pres recipient. (*Id.*, § III.L.8.) The Agreement indicates that neither Counsel, Defendants' counsel, nor any of the Parties have any interest in Bet Tzedek. (*Ibid.*) In moving for final approval, Counsel is expected to file a declaration explaining why the cy pres distribution fulfills the purposes of the lawsuit or is otherwise appropriate. (*State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 472; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 722.) The parties must also confirm in their declarations that they have no interest in the cy pres recipient, including its governance.

The MSA will now be funded in a single, lump sum payment 30 calendar days after the Effective Date, which is the date the Court grants final approval assuming there are no objections. (Amended SA, §§ I.L, I.M, III.L; compare to SA, § III.L.) As of the Funding Date, meaning the date when the MSA is fully funded (Amended SA, § I.M), Plaintiff and the Settlement Class Members shall "release and discharge the Released Parties from the Released Class Claims for the Class Period." (*Id.*, § III.B.) Similarly, as of the Funding Date, the Aggrieved Employees, Plaintiff, the LWDA, and the State of California, shall "release and discharge the Released Parties from the Released PAGA claims for the PAGA Period." (*Id.*, § III.C.)

The Agreement defines "Released Class Claims" as "all claims that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint, including, but not limited to claims arising under Labor Code sections 200, 201, 201.5, 202, 203, 204, 205.5, 206.5, 226, et seq., 226.2, 226.7, 246, 510, et seq., 512, 515, 558, 1194, 1197, 1197.1, 1198, 2698, et seq., 2802, California Code of Civil Procedure sections 382, 395, 395.5, 410, 474, Business and Professions Code section 17200, et seq., 17203, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims for failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to timely pay wages in violation of Cal. Lab. Code § 204; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802; and claims involving any alleged unfair competition in violation of Cal. Bus. & Prof Code § 17200, et seq. arising from the Labor Code violations released herein, that occurred during the Class Period." (*Id.*, § I.BB.) The Agreement defines "Released PAGA Claims" as "all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

notice provided to the LWDA pursuant to Labor Code section 2699.3, subd. (a), including but not limited to, claims arising under Labor Code sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 206.5, 210, 218.5, 218.6, 226, et seq., 226.2, 226.3, 226.7, 246, 510, et seq., 512, 515, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.14, 1198, 1199, 2695, et seq., 2698, et seq., 2699, 2699.3, 2699.5, 2802, 2804, and the requirement for the Industrial Welfare Commission Wage Order, as well as claims involving failure to pay minimum wages in violation of Cal. Labor Code §§ 1194, 1197 & 1197.1; failure to pay overtime wages in violation of Cal. Lab. Code §§ 510, et seq.; failure to provide required meal periods in violation of Cal. Lab Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide required rest periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the applicable IWC Wage Order; failure to provide accurate itemized statements in violation of Cal. Lab. Code §§ 226, 226.2; failure to provide wages when due in violation of Cal. Lab. Code §§ 201, 202, and 203; failure to reimburse employees for required expenses in violation of Cal. Lab. Code § 2802, that occurred during the PAGA Period.” (*Id.*, § I.CC.) While these definitions are lengthy and somewhat duplicative insofar they initially list the various Labor Code sections and then separately list them again with a description of the claim, the Agreement’s releases are appropriately limited to the circumstances of Complaint and the PAGA notice. Only Plaintiff is subject to a general release. (*Id.*, § III.D.)

The moving papers demonstrate that the Settlement Agreement was reached after sufficient investigation and arms-length negotiations by the Parties. The Parties engaged in informal discovery in anticipation of mediation. Defendants provided Counsel with necessary records and information regarding the Class, including a sample of pay and time records and Defendants’ relevant employment policies regarding compensation and timekeeping. (Zakay Decl., ¶¶ 5, 35.) Plaintiff analyzed the data with the help of an expert to determine Defendants’ maximum potential liability. (*Id.*, ¶¶ 5-6.) The Parties participated in an all-day mediation before Tripper Ortman, a respected and experienced mediator of wage and hour class and PAGA actions. (*Id.*, ¶ 5.) Plaintiff’s moving papers, the Settlement Agreement, and proposed Class Notice indicate that the mediation occurred on July 18, 2022. (Mot., p. 4:14-15; SA, § II.F; Class Notice, p. 2.) Counsel attests that the mediation occurred on August 29, 2022. (Zakay Decl., ¶¶ 5, 9.) The Court assumes this was an error on Counsel’s part and the July 18, 2022 date is correct. The mediation concluded without a settlement and the parties engaged in formal discovery while continuing settlement negotiations with the assistance of Mr. Ortman and Judge Mitchell Goldberg, a retired bankruptcy court judge. Judge Goldberg was retained to evaluate and provide opinions of Defendants’ financial condition and ability to pay. (*Ibid.*) Ultimately, the Parties accepted a settlement proposal jointly made by Mr. Ortman and Judge Goldberg, resulting in the Agreement now before the Court. (*Ibid.*)

Counsel further attests that before amending the MSA of the Agreement, the Counsel and Plaintiff consulted with Judge Goldberg. (Zakay Supp. Decl., ¶ 11.) Judge Goldberg reviewed Defendant’s financial position and the length of time Class Members would be expected to wait for their Individual Settlement Payments. Based on that review, Judge Goldberg concluded that the benefit of receiving slightly smaller Individual Settlement Payments in early 2024 significantly outweighed the benefit of receiving an additional \$57.97 in approximately three years. (*Ibid.*) Plaintiff also sought the assistance of Kenneth L. Creal, a Certified Public Accountant, to review the amended terms. (*Id.*, ¶ 12.) Mr. Creal determined that the amended MSA of \$1,600,000, to be paid within 30 days of the Effective Date, was substantially more

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valuable when considering the present value of \$1,700,000, which he estimated to be \$1,473,004. (*Ibid*; Creal Decl., ¶¶ 4-5.) Mr. Creal also noted that the Amended Agreement eliminates the risk associated with a long payment schedule that Defendant could face unforeseen business difficulties and be unable to adhere to the terms of the Original Agreement. (Creal Decl., ¶ 6.)

Plaintiff estimates that Defendants were subject to maximum liability for damages in the amount of \$4,276,782 consisting of \$250,702 for unpaid wages, \$641,315 for rest periods, \$641,315 for meal periods, and \$110,030 for unreimbursed expenses. In addition, Plaintiff's expert calculated \$1,795,470 in waiting time penalties and \$837,950 for wage statement penalties. Finally, Plaintiff's expert calculated that Defendants could be liable for PAGA penalties in an amount of \$3,006,500. (Zakay Decl., ¶¶ 6, 36.) Although Counsel does not provide the computational bases for these estimates, Counsel describes the theories underlying Plaintiff's claims as well as Defendants' asserted defenses. (*Id.*, ¶¶ 6, 22-25, 36(a)-(e).) Ultimately Plaintiff estimated Defendants' maximum total exposure at approximately \$7,283,282 for class claims and PAGA penalties. Accordingly, the MSA of \$1,600,000 represents approximately 21.9% of the maximum estimated exposure and 37.4% of the maximum estimated damages on the class claims. (Zakay Supp. Decl., ¶ 15.) These are not substantially different from Plaintiff's initial estimates. (Zakay Decl., ¶¶ 6, 36.)

Counsel attests to their extensive experience in this type of litigation and other courts have appointed them as class counsel in numerous wage and hour class actions. (Zakay Decl., ¶ 31; Lapuyade Decl., ¶¶ 3-11, Exh. A.) Counsel further attests that the settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay, defenses asserted by Defendants, and numerous potential appellate issues. (Zakay Decl., ¶ 5, 12, 29.) The Parties possessed sufficient information to engage in meaningful negotiations and make an informed judgment regarding the likelihood of success on the merits and the results that could be obtained through further litigation. Based on the foregoing, the Court preliminarily finds, subject to the final fairness hearing, that the Settlement is within the ballpark of reasonableness and is entitled to a presumption of fairness and that all relevant factors presently support preliminary approval.

PAGA Payment

The Settlement Agreement provides for an \$80,000 PAGA Payment to resolve claims under PAGA, with 75% or \$60,000 to the LWDA and 25% or \$20,000 paid to Aggrieved Employees. (Amended SA, § III.L.11.) The Agreement defines Aggrieved Employees as each of the Class Members who were employed by Defendants at any time during the PAGA Period. (*Id.*, § I.B.) The PAGA Period is the "period between May 25, 2020, and continuing through up to and including December 2, 2022." (*Id.*, § I.V.) As described above, Aggrieved Employees separately release "all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts alleged in the complaint and PAGA notice provided to the LWDA" during the PAGA Period. (*Id.*, § I.CC.)

Plaintiff's expert calculated that Defendants could be liable for PAGA penalties in an amount of \$3,006,500. (Zakay Decl., ¶¶ 6, 36.) While Plaintiff did not specifically discount the PAGA

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penalties estimate, Plaintiff acknowledged that the PAGA claim is subject to a variety of defenses and risk, including that Class Members may not be able to recover subsequent penalties, that the Court could reduce the PAGA penalty amount citing the employer's good faith, and that PAGA claims are not seriously valued by Defendants for settlement purposes. (Mot., p. 9, fn 6; Zakay Decl., ¶ 36.) Plaintiff argues that the PAGA allocation is reasonable considering these factors. The PAGA allocation represents approximately 2.66% of the maximum penalty estimate and 5% of the MSA. The Court finds the PAGA allocation reasonable under the circumstances.

Proposed Class Notice

The notice to Class Members must fairly apprise the prospective members of the terms of the settlement without expressing an opinion on the merits of the settlement. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1164; see also Cal. Rule of Court, Rule 3.769.) "Whether a claimant would want to accept or reject the proposed settlement is a decision to be made by him independently and without influence or pressure from those competing parties who either favor or oppose the settlement." (*Phila. Hous. Auth. v. Am. Radiator & Std. Sanitary Corp.* (E.D. Pa. 1970) 323 F.Supp. 364, 378.) Here, the Court finds Plaintiff's proposed notice fairly apprises the Class Members of the terms of the proposed settlement and their rights as prospective Class Members.

Class Counsel Fees and Costs

Class Counsel requests an award of attorney's fees up to \$533,333.33, or one third of the GSA (Amended SA, § III.L.10), but provides no analysis or argument regarding the appropriateness of their fee request. Instead, Class Counsel attests that, "[i]n support of this request, Class Counsel will provide evidentiary support, including lodestar." (Zakay Decl., ¶ 20; Mot., p. 3:13-15.)

While this amount is within established rates for fee awards in class settlements pursuant to the common fund doctrine, Counsel is admonished for failing to provide any analysis whatsoever at the preliminary approval stage. Nonetheless, the award is preliminarily approved. In moving for final approval, the Court expects Class Counsel to provide arguments and support with respect to this amount, such as by providing the lodestar information. (See *In re Activision Sec. Litigation* (N.D. Cal. 1989) 723 F.Supp. 1373, 1379; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558 & fn. 13.; *Martin v. Ameripride Servs.* (S.D. Cal. June 9, 2011), 2011 WL 2313604, at *8 (collecting cases); *Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal 2010) 266 F.R.D. 482, 491 (same); see also *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 & n.11.)

Counsel provides no explanation for the fee splitting arrangement between JCL Law Firm, APC and Zakay Law Group, APLC. In moving for final approval, Counsel must describe the fee splitting arrangement and confirm that Plaintiff has provided written approval. (*Mark v. Spencer* (2008) 166 Cal.App.4th 219; Rules Prof. Conduct, rule 1.5.1; Cal Rules of Court, rule 3.769.)

The Settlement Agreement also provides attorneys' costs not to exceed \$25,000. (Amended SA, § III.L.10.) This allocation is preliminarily approved, with the expectation that, in moving for final approval, Counsel will provide a declaration showing actual costs.

Settlement Administrator

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ILYM Group, Inc. is appointed to act as the Settlement Administrator. (Amended SA, § I.GG.) ILYM Group currently estimates settlement administration costs at \$17,250. (Mullins Decl., ¶ 10.) The maximum allocation of \$25,000 for the cost of administration is reasonable and preliminarily approved. (Amended SA, § III.L.12.)

Class Representative Payment

Plaintiff seeks a \$10,000 class representative payment in exchange for his participation as Class Representative. (Amended SA, §§ I.I, III.L.9.) Counsel asserts that the requested award is well within the accepted range of service awards for the purposes of preliminary approval. (Zakay Decl., ¶ 27.) Plaintiff generally describes his efforts and estimates that he spent approximately 30-40 hours working on this case. (Ezell Supp. Decl., ¶ 8.)

Final Approval Hearing

The Court will again review and consider the terms of this settlement at the time of the final approval hearing.

Hearing on Motion for Final Approval of Settlement is scheduled for 01/05/2024 at 09:00 AM in Department 28 at Gordon D. Schaber Superior Court.

If either party is unavailable on **January 5, 2024 at 9:00 a.m.**, the parties shall meet and confer to identify three other Fridays at 9:00 a.m. that work for the parties to schedule the hearing. They shall then submit those dates to the Court via email at Dept28@saccourt.ca.gov, and the Court will reschedule the hearing accordingly.

The briefing shall be filed in conformity with Code of Civil Procedure § 1005.

Plaintiff shall provide proof of his submission of the Amended Agreement to the LWDA and a revised proposed order for the Court's signature.

To request oral argument on this matter, you must call Department 28 at (916) 874-6695 by 4:00 p.m. the court day before this hearing and notify the opposing party/counsel of oral argument. If no call is made, the tentative ruling becomes the order of the court. (Local Rule 1.06.)

Parties requesting services of a court reporter will need to arrange for private court reporter services at their own expense, pursuant to Government Code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. Parties may contact Court-Approved Official Reporters Pro Tempore by utilizing the list of Court Approved Official Reporters Pro Tempore available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

*If you are not using a reporter from the Court's Approved Official Reporter Pro Tempore list, a Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) must be signed by each party, the private court reporter, and the Judge. **The signed form must be filed with the clerk prior to the hearing.***

If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211). The form must be filed with the clerk at least 10 days prior to the hearing or at the time the hearing is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.

If oral argument is requested, the Parties are encouraged to appear via Zoom with the links below:

To join by Zoom link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept28>

To join by phone dial (833) 568-8864 ID 16039062174

Counsel for Plaintiff is directed to notice all parties of this order.

Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at

<https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.

TENTATIVE RULING:

NO APPEARANCE REQUIRED.

FURTHER CONFERENCE

A Case Management Conference is scheduled for 01/05/2024 at 09:00 AM in Department 28.

On the Court's own motion, the Case Management Conference scheduled for 09/15/2023 is vacated.

On the Court's own motion, the Hearing on Motion for Final Approval of Settlement scheduled for 09/15/2023 is vacated.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

/s/ V. Aleman

By: V. Aleman, Deputy Clerk

Minutes of: 08/25/2023

Entered on: 08/25/2023

EXHIBIT 4

Jennifer Heming

From: Tesla Stone
Sent: Monday, August 28, 2023 4:09 PM
To: Jennifer Heming
Subject: FW: Thank you for your Proposed Settlement Submission

Best Regards,

Tesla Stone | JCL Law Firm, A.P.C.
Senior Paralegal & Office Manager
5440 Morehouse Drive | Suite 3600
San Diego | CA | 92121
T: 619.599.8292 | F: 619.599.8291 Toll Free | 1.888.498.6999 <http://www.jcl-lawfirm.com> | tstone@jcl-lawfirm.com

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The JCL Law Firm, APC, does not offer tax advice to its clients.

-----Original Message-----

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Monday, August 28, 2023 4:08 PM
To: Shani Zakay <shani@zakaylaw.com>
Subject: Thank you for your Proposed Settlement Submission

08/28/2023 04:07:37 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: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 5

EXHIBIT 6

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291

FIRM RESUME

Areas of Practice: Employee Class Actions, Wage and Hour Class Actions, Civil Litigation, and Unlawful Housing Practices.

ATTORNEY BIOGRAPHIES

Jean-Claude Lapuyade, Esq.
California Bar Number 248676
Founding Partner

Biography:

Mr. Lapuyade is a San Diego based labor and employment attorney representing aggrieved California employees and the victims of unlawful housing practices throughout the State of California. Mr. Lapuyade's litigation practice focuses on representing California employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, and misclassification, wrongful termination cases and tenants in unlawful housing class actions. Mr. Lapuyade prides himself on providing his clients with aggressive, attentive and result driven representation through the litigation process, trial and arbitration. Since 2007, Mr. Lapuyade successfully recovered in excess of \$200 million in monetary awards for his clients.

Mr. Lapuyade served as co-editor of the Insurance Column for Consumer Attorneys of San Diego from 2011 to 2014. As editor, Mr. Lapuyade was responsible for publishing monthly articles in the Trial Bar News periodical analyzing complex insurance coverage issues. Mr. Lapuyade is a four-time recipient of the Super Lawyers Rising Star by Thomson Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to 5 percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California
- U.S. District Court Central District of California
- U.S. District Court Eastern District of California
- U.S. District Court Northern District of California

Professional Associations:

- California Employment Lawyers Association, 2007 to Present
- Consumer Attorneys of San Diego, 2007 to 2020
- American Bar Association, Section of Litigation, Member, 2007 to 2020
- American Bar Association, Labor & Employment Section, Member, 2007 to 2020
- American Bar Association, Tort, Trial & Insurance Section, Member, 2007 to 2020
- California Bar Association, Labor & Employment Section, Member, 2007 to Present
- California Bar Association, Litigation Section, Member, 2007 to Present

Education:

- **California Western School of Law**
 - J.D. - 2006
 - Honors: Deans Merit Scholarship, California Western School of Law 2005 - 2006
- **University of Arizona**
 - B.A. - 2001
 - Major: History

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2015 - 2018
- Distinguished Advocate Award for Outstanding Oral Advocacy, 2005 - 2006

Sydney Castillo-Johnson, Esq.
California Bar Number 343881
Associate Attorney

Biography:

Ms. Castillo-Johnson is a San Diego based labor and employment attorney representing California employees throughout the state of California. Ms. Castillo-Johnson's litigation practice focuses on representing current and former employees in wage and hour class actions for unpaid wages, missed meal and rest breaks, misclassification, and wrongful termination.

Ms. Castillo-Johnson volunteered her time at California Western School of Law first as a student intern and later as a student manager with the Community Law Project which offers legal services to the low-income community of San Diego.

Education:

- **California Western School of Law**
 - J.D.- 2022
 - Honors:
 - Dean's Honor List: Spring 2021, Fall 2021
 - Public Service Honor Society Fall 2021
 - 3L Academic Merit Scholarship
 - Dean's Diversity, Service, and Leadership Scholarship
 - Activities: Community Law Project Student Manager
- **Azusa Pacific University**
 - B.A. – 2018
 - Major: Criminal Justice

Monnett De La Torre, Esq.
California Bar Number 272884
Senior Associate

Biography:

Ms. De La Torre is a San Diego and Ventura County based labor and employment attorney representing aggrieved California employees throughout the State of California. Ms. De La Torre's litigation practice focuses on representing California employees in wage and hour class and representative actions for unpaid wages, missed meal and rest breaks, misclassification, penalties, and wrongful termination cases. Ms. De La Torre has extensive experience handling internal workplace investigations. Ms. De La Torre has handled matters before the Department of Fair Employment and Housing, Equal Employment Opportunity Commission and Department of Labor.

Ms. De La Torre is a two-time recipient of the Super Lawyers Rising Star by Thomas Reuters. To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. While up to five percent of the lawyers in a state are named to Super Lawyers, no more than 2.5 percent are named to Rising Stars.

Bar Admissions:

- California
- U.S. District Court Southern District of California

Professional Associations:

- California Employment Lawyers Association, 2022 to Present
- Consumer Attorneys of San Diego, 2010-2015
- American Bar Association, Labor & Employment Section, Member, 2015 to Present
- California Bar Association, Labor & Employment Section, Member, 2015 to Present
- San Diego La Raza Lawyers Association, 2010-2015
- Ventura County Bar Association, 2015-Present
- Women Lawyers of Ventura County, 2015-Present

Education:

- **New England School of Law**
 - J.D.- 2010

- Honors:
 - Dean's List Consecutive years
- **University of California, San Diego**
 - B.A.- 2006
 - Major: Economics
 - Minor: Latin American Studies

Honors:

- Super Lawyers Rising Star, Thomson Reuters, 2021 and 2022
- Pacific Cost Business Times, "Top 40 under 40" Award
- Daily Transcripts "Top Young Attorney: nominee, consecutive years"

REPORTED CASES

- *Blanchette et al., v. Superior Court (GHA Homes)*, 8 Cal.App.5th 521, 2017
- *Chmurny v. State*, 392 Md. 159, 2006

EXAMPLES OF THE JCL LAW FIRM'S
REPRESENTATIVE CLASS ACTION & REPRESENTATIVE CASES

- *Ware v. Shake Shack Enterprises, LLC*, Alameda Superior Court Case No. 21CV002063 (October 19, 2023) Hon. Brad Seligman approved a \$1,330,000.00 class action and PAGA action settlement for violations of California wage and hour laws. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Trinh v. Precision Metal Products, Inc., et al.*, San Diego Superior Court Case No. 37-2022-00000965-CU-OE-CTL (October 16, 2023) Hon. Matthew C. Braner approved a \$450,000.00 class action and PAGA action settlement for, *inter alia*, unpaid off the clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Anderson v. Barton Myers Associates, Inc., et al.*, Los Angeles Superior Court Case No. 21STCV43314 (October 12, 2023) Hon. Elihu M. Berl approved a \$900,000.00 class action and PAGA action settlement for meal and rest period violations. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *DeSanctis v. Douglas Products and Packaging Company, LLC*, Contra Costa Superior Court Case No. C21-01874 (October 11, 2023) Hon. Charles S. Treat approved a \$372,500.00 class action and PAGA action settlement for, *inter alia*, failure to pay for all hours worked. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Jackson v. White Fir, LLC, et al.*, Sacramento Superior Court Case No. 34-2021-00301656 (October 6, 2023) Hon. Lauri A. Damrell approved a \$750,000.00 class action and PAGA action settlement for violations of California wage and hour laws. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Kneisly v. SR Machining, Inc., et al.*, Riverside Superior Court Case No. CVRI2201491 (October 5, 2023) Hon. Harold W. Hopp approved a \$220,000.00 class action and PAGA action settlement for meal and rest period violations. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Mendez v. Bondz, Inc., et al.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0007486 (September 14, 2023) Hon. George J. Abdallah, Jr. approved a \$180,000.00 class action and PAGA action settlement for, *inter alia*, failure to comply with piece-rate laws. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Baray v. Curation Foods, Inc., et al.*, Santa Barbara Superior Court Case No. 21CV02834 (August 29, 2023) Hon. James F. Rigali approved a \$495,000.00 class action and PAGA action settlement for meal and rest period violations. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Rodriguez, et al. v. Ferma Greenbox, Inc., et al.*, Alameda Superior Court Case No. RG21101104 (August 23, 2023) Hon. Evelio Grillo approved a \$200,000.00 class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *O'Quinn v. Laugh Factory, Inc.*, Los Angeles Superior Court Case No. 19STCV28155 (August 1, 2023) Hon. Carolyn B. Kuhl approved a \$144,000.00 class action and PAGA action settlement for, *inter alia*, unlawful tip pooling. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Toler v. Total Testing Solutions, LLC*, Los Angeles Superior Court Case No. 21STCV38452 (July 27, 2023) Hon. Elihu M. Berle approved a \$160,000.00 class action and PAGA action settlement for meal and

rest period violations. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.

- *Rodriguez v. EAH, Inc.*, Santa Cruz Superior Court Case No. 21CV00884 (July 25, 2023) Hon. Marjorie Carter approved a \$1,450,000.00 class action and PAGA action settlement for, *inter alia*, failure to compensate overtime and redeemed sick pay at the regular rate of pay. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Neutall v. Urban Alchemy*, San Francisco Superior Court Case No. CGC-20-588622 (July 13, 2023) Hon. Richard B. Ulmer approved a \$980,000.00 class action settlement for violations of California wage and hour laws. The Court appointed JCL Law Firm, APC as Class Counsel.
- *Rodriguez v. RM Parks Place, Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2021-6050 (June 7, 2023) Hon. Erin Guy Castillo approved a \$175,000.00 class action and PAGA action settlement for, *inter alia*, wage statement violations. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Chrestensen v. Northeastern Rural Health Clinics* Lassen, Superior Court Case No. 63703 (April 13, 2023) Hon. Leonard J. La Casse approved a \$270,000.00 class action and PAGA action settlement for, *inter alia*, unpaid overtime wages. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Hernandez, et al. v. Parenting Network, Inc.*, Tulare Superior Court Case No. VCU287027 (March 14, 2023) Hon. Bret Hilman approved a \$225,000.00 class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Sarmiento v. Caduceus Healthcare Inc.*, San Diego Superior Court Case No. 37-2021-00002597 (March 10, 2023) Hon. Richard S. Whitney approved a \$315,000.00 class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Garces, et al. v. DriverDo, LLC*, Los Angeles Superior Court Case No. 19STCV32773 (January 24, 2023) Hon. Carolyn B. Kuhl approved a \$700,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *De Jesus v. Guardian Angel Home Care, Inc.*, San Diego Superior Court Case No. 37-2020-00021049-CU-OE-CTL (July 29, 2022) Hon. Ronald F. Frazier approved a \$300,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Kaur v. Aces 2020 I, LLC, et al.*, Contra Costa Superior Court Case No. MSC20-02482 (December 22, 2022) Hon. Edward G. Weil approved a \$585,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Molina v. Hawaiian Airlines, Inc.*, Los Angeles Superior Court Case No. 20STCV28079 (November 23, 2022) Hon. Maren Nelson approved a \$250,000 class action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the Plaintiff.
- *Lang Jr. v. Pathways Community Services LLC*, San Diego Superior Court Case No. 37-2019-00049969-CU-OE-CTL (September 9, 2022) Hon. James A. Mangione approved a \$160,000 class action and PAGA settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Martinello v. Century Wilshire, Inc.*, Los Angeles Superior Court Case No. 20STCV32613 (March 1, 2022) Hon. Carolyn Kuhl approved a \$550 billing rate and appointed Jean Claude Lapuyade, Esq. of the JCL Law Firm, APC, as Class Counsel.
- *Wilson v. Spreen Inc. (dba Spreen Honda)*, San Bernardino Superior Court Case No. CIVSB2119857 (April 6, 2022) Hon. David Cohn approved a \$300,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC, represented the plaintiff, the State of California, and the Aggrieved Employees.
- *Ledesma v. TVJ Sons I, Inc.; Porter and Howard, Inc.* Santa Barbara Superior Court Case No. 20CV03573 (November 10, 2021) Hon. Jed Beebe approved a \$350,000 PAGA action settlement for meal and rest period violations. The JCL Law Firm, APC represented the State of California and the Aggrieved Employees.
- *Jacobs v. Rush Media Company, LLC; XLT Management Services, Inc.*, Los Angeles Superior Court Case No. 20STCV32350 (May 2, 2022) Hon. Daniel J. Buckley appointed the JCL Law Firm, APC as Class Counsel and approved a \$330,000 class action settlement for, *inter alia*, independent contractor misclassification.
- *Chavez v. HTL Conrad Domestic, LLC; HTL Conrad Domestic Employer, LLC*, San Diego Superior Court Case No. 37-2020-00016193-CU-OE-CTL (June 9, 2022) Hon. John S. Meyer approved a \$850,000 PAGA action settlement for, *inter alia*, failure to compensate overtime at the regular rate of pay. The JCL Law Firm, APC acted as representative PAGA counsel for the State of California and the Aggrieved Employees.
- *Renteria v. Love's Country Stores of California*, San Bernardino Superior Court Case No. CIVDS20164481 (June 14, 2022) Hon. David Cohn approved a \$2.2 million dollar class action and PAGA action settlement

for, *inter alia*, unpaid overtime and sick pay. The JCL Law Firm, APC acted as Class Counsel and as representative PAGA counsel for the State of California.

- *Lopez v. Adidas America, Inc.*, Ventura Superior Court Case No. 56-2021-005498444-CU-OE-VTA (April 4, 2022) Hon. Mark Borrell approved a \$1.5 million dollar class action and PAGA action settlement for, *inter alia*, inaccurate overtime calculations, and appointed the JCL Law Firm, APC as Class Counsel.
- *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No. 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA counsel for the State of California.
- *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums and appointed Jean-Claude Lapuyade, Esq. as Class Counsel.)
- *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and appointed Jean-Claude Lapuyade, Esq. as Class Counsel in a wage and hour class action settlement.)
- *Latin v. OneMain General Service Corporation*, Stanislaus County Superior Court Case No. CV-20-002498 (October 22, 2021) Hon. Stacy Speiller approved a PAGA action settlement for \$700,000 wage statement violations. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.
- *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson approved \$550 billing rate in a representative California Labor Code Private Attorney General Act settlement).
- *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No. CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed the JCL Law Firm, APC as Class Counsel)
- *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as class counsel for the settlement class and as representative PAGA counsel the State of California and the Aggrieved Employees.)
- *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a PAGA Settlement negotiated on behalf of the State of California and the aggrieved employees by the JCL Law Firm, APC.)
- *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for, *inter alia*, missed meal and rest periods.)
- *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)
- *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No. 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for, *inter alia*, off-the-clock work.)
- *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class Counsel and granted final approval of wage and hour class action for off-the-clock work.)
- *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No. SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class counsel and granted final approval of wage and hour class action for meal period violations.)
- *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No. 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC acted as lead counsel.)
- *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement for, *inter alia*, missed meal and rest periods. JCL Law Firm, APC, acted as lead counsel.)
- *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as Class Counsel.)

- *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law Firm, APC, as Class Counsel and granted final approval for an unlawful housing class action settlement arising out of Civil Code Section 1940.1.)
- *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as class counsel and granted final approval of wage and hour class action for unpaid overtime.)
- *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case No. 37-2018-00043601 (May 31, 2019 – Hon. Gregory Pollack appointed JCL Law Firm, APC, as Class Counsel and granted preliminary approval for the wage and hour class action settlement involving nearly 900 current and former employees. Final approval scheduled for October 4, 2019)
- *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No. CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement for *inter alia*, missed meal and rest periods and independent contractor misclassification.)
- *Moschetto v. Pillow Global, Inc.* San Diego Superior Court, Case No. 37-2017-00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm, APC, as Class Counsel and granted final approval for a wage and hour wage class action settlement involving misclassified house cleaners.)
- *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an unlawful housing class action arising under Civil Code Section 1940.2)
- *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage and hour class action settlement for meal and rest period violations);
- *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm, APC, as Class Counsel and granted final approval for a wage and hour class action settlement involving claims for on duty meal and rest periods.);
- *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court Case No. BC603030 (2018 - certified and settled wage and hour class action.)
- *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and rest periods)
- *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-00012373-CU-OE-CTL (2017 - Certified and settled class action for employee misclassification);
- *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No. BC617160 (2017 - Certified and settled wage and hour class action.);
- *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
- *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices arising out of Civil Code Section 1940.1);