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ATTORNEYS FOR PLAINTIFF, JOSHUA SWEET AND THOSE  
SIMILARLY SITUATED

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN FRANCISCO**  
**UNLIMITED JURISDICTION**

JOSHUA SWEET, INDIVIDUALLY AND ON )  
BEHALF OF THOSE SIMILARLY SITUATED, )

PLAINTIFFS,

v.

SF TIRE & SERVICE CENTRAL INC., A )  
CALIFORNIA CORPORATION, AND DOES 1 )  
THROUGH 10, INCLUSIVE, )

DEFENDANTS. )

CASE No. CGC-20-584213

**DECLARATION OF KEVIN  
WOODALL IN SUPPORT OF  
PLAINTIFF'S UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

**Date: December 2, 2021**

**Time: 9:30 a.m.**

**Dept: 302**

**Judge: Hon. Ethan P. Schulman**

**ACTION FILED APRIL 22, 2020**

**NO TRIAL DATE SET**

1 I, Kevin Woodall, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of California and before this  
3 Court. I am counsel to Plaintiff Joshua Sweet (“Sweet”) in the above-captioned matter.  
4 Except as otherwise indicated, I have personal knowledge of the facts set forth in this  
5 declaration.

6 **Claims and Procedural History**

7 2. On April 22, 2020, Sweet filed his initial complaint alleging the following class  
8 action claims: (1) unpaid overtime wages under Labor Code §§ 510 and 1194; (2) missed  
9 meal and rest periods under Labor Code §§ 226.7 and 512; (3) failure to timely pay final  
10 wages under Labor Code §§ 201-203; (4) failure to provide accurate itemized wage  
11 statements under Labor Code § 226; and (5) unfair competition. Sweet alleges that SF  
12 Tire failed to pay all overtime wages because it did not calculate the regular rate of pay  
13 with commissions and non-discretionary bonuses, which resulted in an overtime rate of  
14 pay (calculated at 1.5 or 2 times the regular rate of pay) that was lower than required by  
15 Labor Code §§ 510 and 1194. Sweet further contends overtime wages were not paid  
16 because SF Tire did not pay all hours worked beyond 8 hours per day and 12 hours per  
17 day at an overtime rate of pay, but instead paid those hours at a regular rate of pay.  
18 Because SF Tire did not pay all overtime wages owed when employment ended, Sweet  
19 brought a derivative claim for waiting time penalties under Labor Code §§ 201-203,  
20 which provides statutory penalties equivalent to a day’s wages for each day an employee  
21 is not paid all wages immediately upon termination or within 72 hours of resignation.  
22 Sweet also brought an inaccurate wage statement claim under Labor Code § 226, in  
23 which he contends that wage statements issued by SF Tire do not contain the correct  
24 gross wages, the correct hours worked at each rate of pay or the correct number of hours  
25 worked. In the missed meal and rest period claims, Sweet alleges that employees missed  
26 or did not take timely meal and rest periods due to the demands of the job and lack of  
27 authorization by SF Tire, yet they were not paid premium pay for the missed or  
28 noncompliant meal and rest periods in accordance with Labor Code §§ 226.7 and 512.

1 Lastly, the unfair competition claim is based upon the unpaid overtime claim and missed  
2 meal and rest period allegations, extending the statutes of limitation relating to those  
3 claims. At or about the same time the initial complaint was filed, Sweet provided notice  
4 under the Private Attorneys General Act (“PAGA”) that SF Tire not only committed the  
5 foregoing wage and hour violations, but failed to provide suitable seating to employees.

6 3. On June 3, 2020, Sweet filed a First Amended Complaint, in which he asserted  
7 PAGA claims relating to all of the foregoing class action claims, along with a PAGA  
8 claim for failure to provide suitable seating.

9 4. In July, 2021, the parties participated in a full day mediation session with Jeffrey  
10 Ross, an experienced and well-respected wage and hour mediator who has successfully  
11 resolved numerous class action and PAGA disputes. The mediation was successful and  
12 the parties agreed to settle this matter for \$1,475,000.

### 13 **Extensive Discovery Conducted**

14 5. The parties engaged in thorough discovery prior to settling this matter. Sweet  
15 propounded and received responses to informal discovery requests for documents and  
16 information. SF Tire produced a random 10 percent sample of wage statements and time  
17 entry records of the 547 Class Members. Specifically, my office received all wage  
18 statements and time entry records of approximately 58 of the 547 Class Members. SF  
19 Tire also produced employment policies, handbooks and information relating to all Class  
20 Members including, but not limited to, their dates of employment, positions held, rates of  
21 pay, workweeks and pay periods and employment status (i.e., whether they were former  
22 or current employees). After receiving this information and documents, my paralegal and  
23 I conducted an extensive analysis of the data and records. Prior to the mediation, SF Tire  
24 also produced thorough, confidential financial records of the company (subject to  
25 mediation privilege), which set forth the difficulty the company has experienced during  
26 the pandemic.

### 27 **Primary Settlement Terms**

28 6. The parties settled this matter for One Million Four Hundred Seventy-Five

Thousand Dollars (\$1,475,000) (hereinafter, “Maximum Settlement Amount”), which is non-reversionary. The Maximum Settlement Amount will be allocated as follows under the agreement: (1) \$30,000 will be paid to the Labor Workforce Development Agency (“LWDA”) and PAGA represented employees (75 percent to the LWDA and 25 percent to PAGA represented employees); (2) class counsel can seek up to thirty-three percent (33%) of the Maximum Settlement Amount in attorney’s fees, along with the reimbursement of costs advanced—not to exceed \$25,000 in costs; (3) the Settlement Administrator will receive approximately \$7,000 to \$8,000; (4) Sweet can seek an incentive payment of \$7,500 relating to his efforts in advancing the interests of class members; and (5) the Settlement Class members will receive the remainder of the Maximum Settlement Amount (“Net Settlement Amount”). The Maximum Settlement Amount will be fully paid, pursuant to an installment plan, by March 1, 2023. Attached hereto as Exhibit 1 is a true and correct copy of the Joint Stipulation of Class and Representative Action Settlement (“Settlement Agreement”).

7. The Net Settlement Amount will be distributed to putative class members who do not opt-out of the settlement as follows: the Settlement Administrator will divide the Net Settlement Amount by the total number of workweeks in the Class Period (April 22, 2016 to January 1, 2020) for all Settlement Class Members to arrive at an amount per workweek. That amount will then be multiplied by the number of workweeks of each Settlement Class Member to arrive at the Individual Settlement Payments.

8. Assuming each of the projected 547 Class Members does not opt-out, the average compensation attributed to each Settlement Class Member before subtraction of the fees, costs and payments above will be approximately \$2,696 (\$1,475,000 Maximum Settlement amount divided by 547 Class Members). The amount attributed to each Settlement Class Members who worked the entire Class Period, before subtraction of fees, costs and payments above, will be in excess of \$14,780 (\$1,475,000 Maximum Settlement Amount divided by 18,761 workweeks in Class Period = \$78 per workweek x 188 workweeks in the Class Period). It is also noteworthy that if not all Class Members

1 participate in the settlement, the settlement amount for each Settlement Class Member  
2 would be higher.

3 9. Payroll withholdings will be made on the one-third (1/3) portion deemed unpaid  
4 wages, while there will be no taxes withheld regarding the two-thirds (2/3) portion  
5 deemed penalties, interest and other non-wage damages. In exchange for their  
6 participation, the Settlement Class Members will provide a *limited* release that covers the  
7 claims asserted in this action for the Class Period (April 22, 2016 through January 1,  
8 2020), including those claims that were brought or could have been brought and that  
9 arose from or relate to the facts alleged in the First Amended Complaint.

10 10. Within five (5) business days of a preliminary approval order by the Court,  
11 SF Tire shall provide the Settlement Administrator (Phoenix Settlement Administrators, a  
12 company with substantial experience in this area that submitted a reasonable bid) with the  
13 names and contact information of Class Members, along with the information necessary  
14 to make the payments described above. Within five (5) business days of receiving the  
15 class list and data from SF Tire, the Settlement Administrator will update the addresses  
16 using a national address search service and send to the Class Members via first class mail  
17 a Notice Packet. The Class Notice includes detailed information regarding the claims  
18 asserted, the settlement and amounts to be paid under the settlement (above), the number  
19 of workweeks worked by the employee during the Class Period, the impact on the rights  
20 of Class Members if they choose to opt-out of the settlement or do nothing, and how to  
21 submit an opt-out request and object to the settlement, along with the final approval  
22 hearing date. If any Class Notices are returned, the Settlement Administrator will update  
23 the address using a national address search service and resend the Class Notice. Class  
24 Members will have forty-five (45) days from the mailing of the Class Notice to opt-out or  
25 object to the settlement. Attached hereto as Exhibit 2 is a true and correct copy of the  
26 proposed Class Notice.

27 **Potential Damages and Risks Associated With Litigation**

28 11. I have extensive experience and knowledge with respect to wage and hour

1 class actions and although I believe Sweet could have ultimately prevailed if this case did  
2 not settle, I realize Sweet and the putative class would have to overcome hurdles to  
3 demonstrate liability, damages and class action status. Specifically, Sweet contends that  
4 SF Tire did not properly pay overtime wages, issued inaccurate wage statements, did not  
5 provide compliant meal and rest periods or premium pay for the same, and did not timely  
6 pay final wages to putative class members in violation of Labor Code §§ 203, 226, 226.7,  
7 510 and 512. SF Tire denies Sweet's allegations and stood ready and willing to oppose a  
8 motion to certify a class action for trial purposes and to litigate the case on the merits. In  
9 reaching the settlement, Sweet was mindful of the risk that the Court may not certify a  
10 class action for purposes of trial or that SF Tire may prevail on the merits.

11 12. SF Tire was prepared to argue that putative class members are not owed  
12 overtime wages because its policy is compliant with Labor Code § 510 and employees  
13 did receive overtime pay. In addition, SF Tire contends that it was not liable for missed  
14 or noncompliant meal and rest periods under Labor Code §§ 226.7 and 512, as it  
15 maintained policies encouraging employees to take meal and rest periods and paid  
16 premium pay. SF Tire would have argued that if employees chose not to take meal or  
17 rest periods, including at the correct time or for the full time permitted, it was not liable.  
18 SF Tire was prepared to argue that Sweet and other employees received their final pay  
19 when their employment ended in accordance with Labor Code §§ 201-203. Finally, SF  
20 Tire maintains that the wage statements provided to Sweet and other employees complied  
21 with Labor Code § 226. For purposes of settlement, Sweet weighed these risks against  
22 the full value of the class claims.

23 13. In addition to its legal arguments, SF Tire provided my office with  
24 confidential financial records (subject to mediation privilege) showing the company has  
25 suffered financial distress due to the pandemic.

26 14. If Sweet were to prevail on liability and class certification, the total amount  
27 of unpaid overtime wages during the Class Period would have been approximately  
28 \$125,000 (\$99,000 relating to the failure to properly calculate the regular rate of pay and

1 \$26,000 relating to the failure to include all pay overtime for all hours worked and pay 2  
2 times the regular rate of pay when employees worked in excess of 12 hours per day). My  
3 office arrived at these figures after extensive review and extrapolation of the 10 percent  
4 sample of wage statements and time entry records from the four-year Class Period (April  
5 22, 2016 to January 1, 2020). From our review of the sample wage statements, the failure  
6 to properly calculate the regular rate of pay with commissions and non-discretionary  
7 bonuses mostly related to those who performed sales, which represented approximately  
8 16 to 18 percent of the non-exempt employees. We also discovered that the failure to  
9 always pay 2 times the regular rate of pay for hours worked in excess of 12 hours per day  
10 and the failure to pay all overtime hours or minutes worked (i.e., overtime hours/minutes  
11 listed in wage statements occasionally did not reflect all overtime hours/minutes  
12 calculated from the time entry records) affected employees in different positions. My  
13 office arrived at the foregoing unpaid overtime wages assessment by calculating the  
14 damages of the 10 percent sample and extrapolating it to the entire Class.

15 15. My office also determined that during the 3-year Class Period (April 22,  
16 2017 to January 1, 2020), Labor Code § 203 penalties relating to the failure to timely pay  
17 final wages would have been approximately \$1,112,832 (467 former employees x .60  
18 violation rate = 280 affected employees x 8 hours worked per day x 30 days x \$16.56  
19 average hourly rate). My staff and I analyzed the 10 percent sample of wage statements  
20 and time entry records and determined approximately 60 percent of employees were not  
21 paid all overtime wages during their employment. This violation percentage was  
22 extrapolated to the 467 former employees reflected in the documents and information  
23 produced by SF Tire. In addition, my office determined the \$16.56 average rate of pay  
24 from the extensive records provided by SF Tire, which listed the rates of pay for all non-  
25 exempt employees.

26 16. In addition, my office determined there were approximately 1,354 wage  
27 statements during the one-year Class Period that contained incorrect gross wages earned,  
28 incorrect hours worked at each rate of pay due or incorrect hours worked due to the

violations set forth above, which resulted in approximately \$135,420 in penalties under Labor Code § 226 (\$100 per pay period x 2,257 pay periods x .60 violation rate). My office arrived at this figure by determining from the 10 percent sample of wage statements and time entry records that approximately 60 percent of the time, wage statements did not contain the correct gross wages, the correct hours worked at each rate of pay or the correct hours worked. This violation rate was then applied to the Class. We also calculated the 2,257 pay periods during the one-year Class Period (April 22, 2019 to January 1, 2020) from the information and records provided by SF Tire.

17. After extensive review of time entry records and wage statements, my office also found that unpaid premium pay for the missed and noncompliant meal period claim is \$633,791 (18,761 workweeks x 4 days/week x .51 violation rate x \$16.56 avg. hourly rate). My office calculated the damages by analyzing the 10 percent sample of wage statements and time entry records. In particular, from our review of these records, we determined that approximately 51 percent of the time, non-exempt employees either missed a meal period, took less than 30 minutes for a meal period, took a meal period after working more than 5 hours or did not take a compliant meal period after working more than 10 hours per day. Further, we determined from the time entry records that employees worked an average of 4 days per week. The 51 percent violation rate was extrapolated to the Class. As noted earlier, my office calculated the \$16.56 average rate of pay from the spreadsheets provided by SF Tire, which list the rates of pay for all non-exempt employees.

18. Although SF Tire was not required to keep records showing whether employees took rest breaks and when they were taken (unlike meal periods), my office found it reasonable to apply the same 51 percent violation rate calculated for missed and noncompliant meal periods to rest periods. Based upon this information, my paralegal and I determined the unpaid premium pay for missed and noncompliant rest period claims would be \$633,791 (18,761 workweeks x 4 days/week x .51 violation rate x \$16.56 avg. hourly rate).

1        19.        Although the maximum potential recovery for the class claims during the  
2 Class Period was \$2,640,834, there were risks associated with certifying the Class and  
3 establishing liability, including the foregoing arguments made by SF Tire. Equally  
4 important, SF Tire argued that it did not have the ability to pay more than the agreed  
5 upon settlement amount, as it suffered financially during the pandemic, which is one  
6 reason the settlement amount will be paid in installments.

7        20.        In addition to the statutory penalties sought as part of the class action,  
8 Sweet seeks civil penalties under PAGA relating to the same violations of Labor Code  
9 §§ 201-203, 226, 226.7, 510 and 512. Sweet also seeks civil penalties under PAGA  
10 relating to SF Tire's failure to provide suitable seating under Labor Code § 1198. Sweet  
11 seeks \$100 per pay period for each violation, along with attorney's fees and costs. SF  
12 Tire raises the same defenses mentioned above and contends it provided suitable seating  
13 to employees who were able to be seated on the job. During the one-year statute of  
14 limitations for PAGA released claims (April 22, 2019 to January 1, 2020), Sweet was not  
15 able to identify any suitable seating violations, other than some experienced by Sweet at  
16 the store location where he worked. If Sweet were able to demonstrate that SF Tire  
17 violated the aforementioned Labor Code sections during the one-year statute of  
18 limitations, the maximum potential penalties would be \$510,054. My office arrived at  
19 this figure by multiplying the 2,257 pay periods during the one-year PAGA release period  
20 (April 22, 2019 to January 1, 2020) by the violation rates above and then multiplying that  
21 figure by the \$100 penalty, as set forth below:

- 22        • Improper wage statements: 2,257 pay periods x .60 violation rate x \$100  
23        penalty = \$135,420
- 24        • Unpaid overtime: 2,257 pay periods x .60 violation rate x \$100 penalty =  
25        \$135,420
- 26        • Waiting time penalties: 150 employees x .60 violation rate x \$100 penalty =  
27        \$9,000
- 28        • Noncompliant meal periods: 2,257 pay periods x .51 violation rate x \$100

penalty = \$115,107

- Noncompliant rest periods: 2,257 pay periods x .51 violation rate x \$100

penalty = \$115,107

- Seating: no penalties or an insignificant amount

However, all of the risks identified above relating to the underlying alleged Labor Code violations apply equally to the PAGA claim. In addition, SF Tire would rely upon the Court's discretion under PAGA to reduce or eliminate the amount of the award of civil penalties under Labor Code § 2699 et seq. SF Tire would argue the violations were not intentional, but inadvertent. As a result, SF Tire would argue that it would be unjust to award substantial PAGA penalties on top of the statutory penalties and damages available under Labor Code §§ 203, 226, 226.7, 510 and 512 for the same underlying statutory violations. If Sweet were to prevail, the LWDA would obtain 75% of the penalties and aggrieved employees would be entitled to 25% of the penalties, according to the PAGA. Given the above, it is common for PAGA penalties to be greatly reduced by the courts.

21. Given the risks involved with obtaining and certifying a class action and prevailing on the merits regarding the class claims, along with the financial difficulties of SF Tire, the realistic potential recovery relating to the class action claims is a fraction of the maximum theoretical recovery. I estimate that in light of the defenses raised by SF Tire, the realistic potential recovery is approximately 70% of the maximum theoretical recovery or \$1,848,583. Thus, this \$1,475,000 settlement represents approximately eighty percent (80%) of the realistic potential recovery and almost fifty-six percent (56%) of the maximum potential recovery. In my experience, courts have found a class action settlement is fair when it represents a small fraction of the potential recovery for class members.

**The Settlement is Fair, Reasonable and Adequate**

22. After engaging in the extensive discovery noted above, the parties participated in a full-day mediation in July, 2021 with a well-respected mediator, Jeffrey Ross.

1        23.        The settlement does not grant preferential treatment to segments of the  
2 Class because all members were affected by SF Tire's conduct and they will receive a  
3 settlement amount based upon the number of workweeks they worked during the Class  
4 Period (i.e., they receive more compensation the longer they were subjected to SF Tire's  
5 alleged improper conduct).

6        24.        I have been practicing law for twenty-six years. After graduating from the  
7 University of San Francisco School of Law (Magna Cum Laude) in 1995 and my  
8 admission to the bar that same year, I first practiced as a Lieutenant in the Navy Judge  
9 Advocate General's Corps until 1999. During that time, from approximately 1997 until  
10 1999, I was a Special Assistant United States Attorney. In 1999, I left government  
11 practice and worked for a small firm in San Francisco (Steyer, Lowenthal, Boodrookas  
12 and Walker) before joining the international firm of Foley & Lardner LLP in early 2000.  
13 For the next 10 ½ years, I was an Associate, Senior Counsel and Partner in Foley &  
14 Lardner LLP's Labor and Employment Department (approximately 7 years as Senior  
15 Counsel and Partner). In August, 2010, I started my own firm, which specializes in  
16 employment litigation, including class actions and complex cases.

17        25.        During my career, I have tried approximately 50 cases to either a jury, a  
18 judge or an administrative board in the Navy and in federal and California courts, and  
19 another 15-20 cases to an arbitrator. In the last 22 years, I have specialized in labor and  
20 employment litigation. I have represented plaintiffs and defendants in numerous class  
21 action and complex litigation cases, including well-known clients in wage and hour and  
22 other class actions, such as Kmart Corporation, 24 Hour Fitness, Global Tel-Link  
23 Corporation and Color Spot Nurseries. I have defeated class certification, certified class  
24 actions and settled numerous class cases. When representing plaintiffs in wage and hour  
25 class actions at my own firm, I have been appointed class counsel and recovered millions  
26 of dollars for my clients. In the past, I was voted by my peers as one of The Best  
27 Lawyers in the Bay Area with respect to employment litigation.

28        26.        In my opinion, I believe the settlement is very good result for the

1 Settlement Class. While I believe Sweet can prevail on behalf of the Class, there are  
2 significant hurdles to overcome in order to demonstrate liability, damages and class  
3 action status, as set forth in more detail above. Further, given the financial condition of  
4 SF Tire, there was a risk that SF Tire would not be able to pay the judgment.

5 27. Sweet spent many hours participating in discovery and mediation, along  
6 with providing the facts necessary for the pleadings and the like. My paralegal and I  
7 have spent a considerable amount of time prosecuting this case. I expect to spend many  
8 additional hours after preliminary approval including, but not limited to, working with the  
9 Settlement Administrator, preparing additional motions for fees, costs and final approval,  
10 and addressing any objections, if necessary. Sweet and my office will submit more  
11 details regarding our time spent on this matter in a later motion for attorney's fees, costs  
12 and an incentive payment.

13 **Class Certification**

14 28. The Class is sufficiently numerous and ascertainable. There are 547 Class  
15 Members and of this amount, approximately 467 individuals are former employees. The  
16 Class can easily be ascertained, as it is "all current and former hourly-paid or non-exempt  
17 employees who worked for Defendant within the State of California at any time during  
18 the Class Period [from April 22, 2016 through January 1, 2020]." The Class Members  
19 have already been identified through SF Tire's own records, including wage statements,  
20 time entry records and documents showing those who are current and former California  
21 employees during the Class Period.

22 29. In this case, common issues of fact and law predominate. Sweet contends  
23 that SF Tire had defective policies relating to overtime pay, including policies that do not  
24 provide employees are entitled to 1.5 times their regular rate of pay when they work  
25 beyond 8 hours per day or 2 times their regular rate of pay when they work beyond 12  
26 hours per day, in violation of Labor Code §§ 510 and 1194. Based upon my firm's  
27 extensive analysis of the wage statements and time entry records of employees, Sweet  
28 further contends that SF Tire's uniform pay practices resulted in unpaid overtime wages.

1 The uniform practices include failing to calculate the regular rate of pay with non-  
2 discretionary commissions and bonuses, failing to pay 2 times the regular rate of pay  
3 when employees work in excess of 12 hours per day and not capturing all overtime hours  
4 worked in wage statements. As the overtime wages were not paid when the employees  
5 resigned or were discharged, the foregoing policies and practices resulted in derivative  
6 waiting time penalty violations under Labor Code §§ 201-203, which require an  
7 employer to pay all wages immediately upon termination of employment or within 72  
8 hours of a resignation.

9 30. Based upon the same policies and practices, Sweet can demonstrate that  
10 common issues predominate with respect to the inaccurate and noncompliant wage  
11 statement claim under Labor Code § 226. Given the above, Sweet can demonstrate that  
12 he and other non-exempt employees of SF Tire did not receive wage statements that list  
13 the correct gross wages earned, the correct number of hours worked at each rate of pay or  
14 the correct total hours worked. Further, the knowing and intentional requirement under  
15 Labor Code § 226 is subject to common proof, as Sweet only needs to demonstrate that  
16 SF Tire was aware of the policies and practices and intended to provide the wage  
17 statements in this manner or format. *Orozco v. Ill. Tool Works Inc.*, 2016 U.S. Dist.  
18 LEXIS 158115, \*15-16 (E.D. Cal. Nov. 15, 2016) (predominance requirement was met  
19 because knowing and intentional requirement requires only a showing the employer was  
20 aware of the format of the wage statements and intended to provide them in this format);  
21 *Vidrio v. United Airlines, Inc.*, 2016 U.S. Dist. LEXIS 189537, \*7 (C.D. Cal. Aug. 23,  
22 2016) (class certification proper for wage statements containing inaccurate hours and  
23 other issues where leadership was aware of and intended the format of wage statements  
24 provided). The requirement that employees suffer an injury from the inaccurate wage  
25 statements is a common issue of fact, as proof of injury is based upon what a “reasonable  
26 person” would understand from the wage statements. *Brewer v. General Nutrition Corp.*,  
27 2014 U.S. Dist. LEXIS 159380, \*16-17 (N.D. Cal. Nov. 12, 2014).

28 31. Common issues of fact and law also predominate regarding the missed and

1 noncompliant meal and rest period claims based upon SF Tire's uniform policies and  
2 practices. Sweet contends SF Tire's handbook was deficient because it did not inform  
3 non-exempt employees they were authorized and permitted to take a 10-minute rest  
4 period for every four hours of work or major fraction thereof in accordance with Labor  
5 Code § 226.7, but instead informed employees that only when working conditions  
6 permitted and pending a supervisor's approval, rest breaks could be taken. Likewise,  
7 Sweet maintains the meal period policy in SF Tire's handbook was defective because it  
8 did not inform non-exempt employees they were authorized and permitted to take a 30-  
9 minute meal period before the end of the fifth hour of work or a second meal period after  
10 10 hours of work, in accordance with Labor Code §§ 226.7 and 512. Sweet can also  
11 demonstrate uniform practices regarding missed or noncompliant meal periods from the  
12 wage statements and time entry records, which show non-exempt employees routinely  
13 missed or were not provided 30-minute meal periods before the end of the fifth hour of  
14 work, yet premium pay was not paid for the same.

15 32. Sweet's claims are typical of the Class. Sweet's wage statements and time  
16 entry records show he was not paid all overtime wages when he worked over 8 hours per  
17 day during the Class Period, as the regular rate of pay used to calculate Sweet's overtime  
18 rate of pay was not calculated with his earned commissions and non-discretionary  
19 bonuses. Like other Class Members, this resulted in Sweet getting paid at an overtime  
20 rate of pay that was lower than required by law. SF Tire also failed to pay all hours  
21 worked beyond 8 hours per day or 12 hours per day at any overtime rate. As a result,  
22 Sweet's wage statements were incorrect because they listed the incorrect gross and net  
23 wages and the incorrect number of hours worked at each rate of pay. Further, Sweet's  
24 wage statements did not always list the correct number of hours worked, like other Class  
25 Members. Sweet also missed and was not provided with compliant meal and rest periods,  
26 but he was not paid premium pay for all missed or noncompliant meal and rest periods.  
27 Lastly, Sweet was not paid all overtime wages when his employment ended, resulting in  
28 waiting time penalties.

1        33.        Sweet and I will adequately represent the Class. Sweet has already  
2 demonstrated he will vigorously protect the interests of the Class. He participated in  
3 preparing complaints and discovery, providing detailed information, assisting with his  
4 declaration used for this motion, assisting in the review of settlement agreements, and  
5 attending a lengthy mediation session. As noted herein, I have extensive experience with  
6 wage and hour class actions. As set forth herein, my firm has diligently and vigorously  
7 prosecuted this action by: (1) filing and amending complaints; (2) investigating Class  
8 Members' potential claims; (3) propounding and receiving discovery; (4) analyzing  
9 information and documents that SF Tire provided in discovery; (5) preparing for and  
10 participating in a mediation; (6) negotiating the settlement agreement; and (7) briefing the  
11 instant motion for preliminary approval.

12        **Plaintiff Separately Resolved a Pending DLSE Complaint**

13        34.        In or about 2020, Sweet filed an administrative charge with the Department  
14 of Fair Employment and Housing ("DFEH") (Case No. 202004-09845607), in which he  
15 alleged SF Tire engaged in disability discrimination and retaliation. Sweet not only  
16 alleged he suffered discrimination and retaliation during his employment, but his  
17 employment was terminated due to discrimination and retaliation. Sweet contends that  
18 his damages resulting from the discrimination and retaliation were in the six figures,  
19 including lost income, emotional distress, attorney's fees and costs. Without admission  
20 of liability by SF Tire, the parties entered into a separate agreement to resolve the  
21 allegations in the DFEH action, including a Civil Code section 1542 waiver that does not  
22 release the class action claims in this case, in exchange for \$25,000 payable to Sweet.  
23 This payment will not be made from the Maximum Settlement Amount. The parties  
24 negotiated this individual settlement amount at the end of the mediation with Jeff Ross,  
25 after the Class settlement was substantially completed, as SF Tire requested a full release  
26 of claims by Sweet.

27        **PAGA Notice of Settlement**

28        35.        Notice of the PAGA settlement was communicated to the Labor Workforce

1 Development Agency. Attached hereto as Exhibits 3 and 4 are true and correct copies of  
2 the PAGA notice filed in April, 2020 and notice of this settlement, respectively.

3 I declare under penalty of perjury pursuant to the laws of California and the United  
4 States that this statement is true and correct. Executed this 7th day of November, 2021,  
5 at Corte Madera, California.

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KEVIN WOODALL

## EXHIBIT 1

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

JOSHUA SWEET, Individually and on  
Behalf of those Similarly Situated;

Plaintiff,

vs.

SF TIRE & SERVICE CENTRAL, INC., a  
California Corporation; and DOES 1  
through 10, Inclusive,

Defendants.

Case No. CGC-20-584213

**JOINT STIPULATION OF CLASS AND  
REPRESENTATIVE ACTION SETTLEMENT**

Complaint Filed: April 22, 2020  
FAC Filed: June 3, 2020  
Trial Date: None Set

**JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT**

This Joint Stipulation of Class and Representative Action Settlement (“Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Joshua Sweet (“Plaintiff”) and Defendant SF Tire & Service Central, Inc. (“Defendant”). Plaintiff and Defendant collectively are referred to in the Agreement as “the Parties.”

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1. “Action” means *Joshua Sweet v. SF Tire & Service Central, Inc., et al.*, filed on April 22, 2020 in San Francisco Superior Court, Case No. CGC-20-584213.

3. “Class” or “Class Member(s)” means all current and former hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period. Defendant has determined that there are approximately 547 individuals that comprise the Class, including 467 former employees.

5. “Class Counsel Award” means such award of fees, costs and expenses as the Court authorize for payment to Class Counsel for the services they have rendered and will render to the Plaintiff and the Class in the Action. Defendant agrees not to oppose Class Counsel Award of up to Thirty-three percent (33%) of the Maximum Settlement Amount (\$1,475,000.00), *i.e.* the sum of One Million Four Hundred Fifty Thousand Dollars (\$1,450,000.00) and reimbursement of actual out-of-pocket costs and expenses of up to Twenty-Five Thousand Dollars (\$25,000.00), subject to the Court finally approving this Settlement.

7. “Class Period” means the period from April 22, 2016, through January 1, 2020.

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1           9.       “Complaint” means the operative Class and Representative Action Complaint filed  
2 by Plaintiff in this Action.

3           10.      “Counsel for Defendant” or “Defense Counsel” means Linda M. Moroney and  
4 Natalie B. Fujikawa of Gordon Rees Scully Mansukhani, LLP.

5           11.      “Court” means the Superior Court for the State of California, County of San  
6 Francisco, or any other Court taking jurisdiction of the Action.

7           12.      “Defendant” means SF Tire & Service Central, Inc.

8           13.      “Effective Date” shall be the last day on which to appeal an order granting final  
9 approval of the Settlement Agreement if timely objections are filed, or the resolution of any such  
10 appeal that does not alter the terms of the settlement.

11          14.      “Enhancement Payment” or “Service Payment” means the amount that the Court  
12 authorizes to be paid to Plaintiff, in addition to his Individual Settlement Payment, in recognition  
13 of his efforts and risks in assisting with the prosecution of the Action. Subject to the Court granting  
14 final approval, the Parties agree that Plaintiff shall be paid up to Seven Thousand Five Hundred  
15 Dollars (\$7,500.00) from the Maximum Settlement Amount.

16          15.      “Final Approval” means that the Final Approval Order and Judgment have been  
17 entered by the Court.

18          16.      “Maximum Settlement Amount” means the maximum settlement amount of One  
19 Million Four Hundred Seventy-Five Thousand Dollars (\$1,475,000. 00) to be paid by Defendant  
20 as a result of this Stipulation. The Maximum Settlement Amount includes all Individual Settlement  
21 Payments to Settlement Class Members, the Enhancement Payment to Plaintiff, Settlement  
22 Administration Costs to the Settlement Administrator, the PAGA Payment, and Class Counsel  
23 Award. Defendant shall have no monetary responsibility of any kind in connection with this  
24 settlement other than payment of the Maximum Settlement Amount.

25          17.      “Individual Settlement Payment” means the amount payable from the Net  
26 Settlement Amount to each Settlement Class Member.

27          18.      “Net Settlement Amount” means the balance of the Maximum Settlement Amount  
28 remaining after deduction of the approved Enhancement Payment to Plaintiff, Settlement

Administration Costs, the California Labor and Workforce Development Agency's ("LWDA") portion of the PAGA Payment, and Class Counsel Award. The entire Net Settlement Amount is the maximum amount that will be available for distribution to Settlement Class Members.

19. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, and telephone number; (b) a written statement of basis for the objection; and (c) any copies of papers, briefs, or documents upon which the objection is based. The Notice of Objection must be returned by mail to the Settlement Administrator at the specified address indicated in the Notice Packet and must be postmarked by the Response Deadline.

20. "Notice Packet" means the Notice of Class Action Settlement, substantially in the form attached as **Exhibit A**.

21. "PAGA Payment" means the portion of the Maximum Settlement Amount that the Parties have agreed will be allocated to resolve all claims, penalties, and remedies under the Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698, *et seq.*, "PAGA"). The amount of the PAGA Payment is subject to Court approval pursuant to California Labor Code section 2699(l). The Parties have agreed that Thirty Thousand Dollars (\$30,000.00) of the Maximum Settlement Amount shall be allocated to the resolution of claims arising under PAGA. Pursuant to the PAGA, seventy-five percent (75%) of the PAGA Payment, *i.e.* the sum of Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00), shall be paid to the LWDA, and twenty-five percent (25%) of the PAGA Payment, *i.e.* the sum of Seven Thousand, Five Hundred Dollars (\$7,500.00), shall be part of the Net Settlement Amount to be distributed to Settlement Class Members.

22. "Parties" means Plaintiff, on behalf of himself and Settlement Class Members, and Defendant collectively.

23. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

24. "Released Claims" means the following: all claims, including penalties, costs and attorneys' fees related thereto, that could have been brought under the facts and allegations made in the operative Complaint, including, but not limited to: (1) Unpaid Overtime Wages (Lab. Code

1 §§ 510 and 1198); (2) Meal Period Violations (Lab. Code §§ 226.7 and 512); (3) Rest Period  
2 Violations (Lab. Code § 226.7); (4) Failure to Timely Pay Final Wages (Lab. Code §§ 201 and  
3 202); (5) Non-Compliant Wage Statements (Lab. Code § 226); (6) Unfair Business Practices (Bus.  
4 & Prof. Code §§ 17200, *et seq.*); and (7) and Penalties under the California Private Attorneys'  
5 General Act pursued in the Action, that accrued at any time during the Class Period.

6 25. "Released Parties" means Defendant and Defendant's affiliates, parents, and their  
7 respective successors and predecessors in interest, all of their respective officers, directors,  
8 employees, administrators, fiduciaries, trustees and agents, and each of their past, present and  
9 future officers, directors, shareholders, employees, agents, principals, heirs, representatives,  
10 attorneys, accountants, auditors, consultants, insurers and reinsurers.

11 26. "Request for Exclusion" means a timely letter submitted by a Class Member  
12 indicating a request to be excluded from the Settlement. The Request for Exclusion must: (a)  
13 clearly state that the Class Member does not wish to be included in the Settlement; (b) set forth the  
14 name, address, and telephone number of the Class Member requesting exclusion; (c) be signed by  
15 the Class Member; (d) be returned by mail to the Settlement Administrator at the specified address  
16 indicated in the Notice Packet; and (e) be postmarked on or before the Response Deadline.

17 27. "Response Deadline" means the latter of forty-five (45) days after the Settlement  
18 Administrator initially mails the Notice Packet to Class Members or thirty (30) days after returned  
19 Notice Packets are re-mailed to a corrected address, and is the last date on which Class Members  
20 may submit Requests for Exclusion or Notices of Objections to the Settlement.

21 28. "Settlement" means the agreement among the Parties to resolve the Action, as set  
22 forth in this Stipulation.

23 29. "Settlement Administration Costs" means the fees and expenses reasonably  
24 incurred by the Settlement Administrator as a result of the procedures and processes expressly  
25 required by this Agreement, which are estimated at Seven Thousand Dollars (\$7,000.00). Any  
26 portion of the Settlement Administration Costs not used or approved by the Court shall be added  
27 to the Net Settlement Amount.

28 30. "Settlement Administrator" means Phoenix Settlement Administrators.

1           31.     “Settlement Class” or “Settlement Class Members” means all Class Members who  
2 do not submit valid and timely Requests for Exclusion.

3           32.     “Settlement Payment Check” means the payment of the Individual Settlement  
4 Payment to Settlement Class Members.

5                               **B.     FACTUAL BACKGROUND**

6           1.     On April 22, 2020, Plaintiff initiated this Action in San Francisco County Superior  
7 Court, asserting causes of action for: (1) Unpaid Overtime Wages (Lab. Code §§ 510 and 1198);  
8 (2) Meal Period Violations (Lab. Code §§ 226.7 and 512); (3) Rest Period Violations (Lab. Code  
9 § 226.7); (4) Failure to Timely Pay Final Wages (Lab. Code §§ 201 and 202); (5) Non-Compliant  
10 Wage Statements (Lab. Code § 226); and (6) Unfair Business Practices (Bus. & Prof. Code §§  
11 17200, *et seq.*). On June 3, 2020, Plaintiff filed a First Amended Complaint adding a Cause of  
12 Action for penalties under the California Private Attorneys’ General Act, which includes the same  
13 class allegations and a failure to provide suitable seating allegation. As alleged in the pleadings,  
14 Plaintiff seeks to represent the Class and other aggrieved employees. Plaintiff further seeks  
15 damages, penalties, attorneys’ fees, and costs.

16          2.     The Parties engaged in informal discovery. Defendant provided a sampling of pay  
17 and time records for the Settlement Class Members within the Class Period that allowed Plaintiff  
18 to analyze records and determine an appropriate value for Settlement.

19          3.     On or about September 25, 2020, the Parties agreed to participate in private  
20 mediation. In connection with the mediation, Defendant produced Plaintiff’s personnel and payroll  
21 records, as well as Defendant’s written employment policies and procedures. Defendant also  
22 produced data relating to the number of Class Members and weeks worked by each Class Member,  
23 as well as a sampling of Class Members’ payroll and timekeeping data, which allowed Plaintiff’s  
24 counsel to conduct a full damage analysis.

25          4.     On July 19, 2021, the Parties engaged in mediation with Jeffery A. Ross, an  
26 experienced wage and hour class action mediator. After the exchange of further information and  
27 extended negotiations, Plaintiff and Defendant reached the present class-wide settlement. The  
28 settlement discussions were conducted at arm’s length.

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2           5.       The Parties recognize the risk, expense, and delay in continuing the Action, and  
3 therefore believe the Settlement to be fair, reasonable, and adequate. Accordingly, the Parties  
4 desire to settle, compromise, and discharge all disputes and claims arising from or relating to the  
5 Action.

6       **C.       PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

7           1.       Settlement Consideration. Defendant shall pay the sum of the Maximum Settlement  
8 Amount as specified in this Agreement, which shall be used to pay: (1) Individual Settlement  
9 Payments; (2) Class Counsel Award; (3) Enhancement Payment; (4) Settlement Administration  
10 Costs; and (5) the PAGA Payment. Defendant shall have no monetary responsibility of any kind  
11 in connection with this settlement other than payment of the Maximum Settlement Amount. The  
12 Parties agree that this is a non-reversionary Settlement and that no portion of the Maximum  
13 Settlement Amount shall revert to Defendant.

14          2.       Funding of the Maximum Settlement Amount. The Maximum Settlement Amount  
15 will be paid per the following installment plan:

16               a.       Initial Payment of Seven Hundred Seventy-Five Thousand Dollars  
17 (\$775,000.00) payable to the Claims Administrator within fifteen (15) days of the Effective Date;

18               b.       Second payment of Three Hundred Thousand Dollars (\$300,000) payable  
19 to the Claims Administrator no later than March 1, 2022; and

20               c.       Third payment of Four Hundred Thousand Dollars (\$400,000) payable to  
21 the Claims Administrator no later than March 1, 2023.

22          3.       Class Counsel Award. Defendant agrees not to oppose Class Counsel Award of up  
23 to thirty-three percent (33%) of the Maximum Settlement Amount (\$1,475,000.00), *i.e.* the sum of  
24 Four Hundred Eight-Six Thousand Seven Hundred Fifty Dollars (\$486,750.00) and reimbursement  
25 of actual litigation costs and expenses of up to Twenty-Five Thousand Dollars (\$25,000.00), which  
26 shall be paid from the Maximum Settlement Amount. Any portion of the Class Counsel Award  
27 not awarded to Class Counsel shall be added to the Net Settlement Amount and shall be distributed  
28 to Settlement Class Members as provided in this Agreement. It is agreed that no order of the Court,

1 including any order concerning attorneys' fees, may alter or otherwise increase the Maximum  
2 Settlement Amount. It is understood and agreed by the Parties, Class Counsel and Defendant's  
3 counsel that no amounts designated herein as Class Counsel's fees and expenses are accessible or  
4 otherwise available to Class Counsel until the payment amount and method are agreed to by Class  
5 Counsel and the Settlement Administrator pursuant to an Attorney Fee Distribution Agreement.  
6 A Form 1099 shall be issued to Class Counsel reflecting the awarded attorney's fees, costs and  
7 expenses.

8         4.     Class Representative Enhancement Payment. Defendant agrees not to oppose any  
9 application or motion by Plaintiff for an Enhancement Payment of up to Seven Thousand Five  
10 Hundred Dollars (\$7,500.00) to Plaintiff. The Enhancement Payment shall be paid from the  
11 Maximum Settlement Amount and shall be paid in addition to Plaintiff's Individual Settlement  
12 Payment as a Settlement Class Member. The Settlement Administrator shall issue an IRS Form  
13 1099 to Plaintiff reflecting the Enhancement Payment. Plaintiff shall be solely and legally  
14 responsible to pay any and all applicable taxes on Plaintiff's Enhancement Payment and shall  
15 hold harmless Defendant from any claim or liability for taxes, penalties, or interest arising as a  
16 result of the Enhancement Payment. Any portion of the Enhancement Payment not awarded to  
17 Plaintiff shall be added to the Net Settlement Amount and shall be distributed to Class Members  
18 as provided in this Agreement. It is agreed that no order of the Court, including any order  
19 concerning the Enhancement Award, may alter or otherwise increase the Maximum Settlement  
20 Amount.

21         5.     Settlement Administration Costs. The Settlement Administrator shall be paid for  
22 the reasonable costs of administration of the Settlement from the Maximum Settlement Amount,  
23 currently estimated at Seven Thousand Dollars (\$7,000.00). These costs, which shall be paid from  
24 the Maximum Settlement Amount, shall include, *inter alia*, the required tax reporting on the  
25 Individual Settlement Payments, the issuing of 1099 IRS Forms, establishing a Qualified  
26 Settlement Fund, administering and distributing the Maximum Settlement Amount and Class  
27 Counsel Award, and providing necessary reports and declarations. Any portion of the Settlement  
28 Administration Costs not allowed shall be added to the Net Settlement Amount and shall be

distributed to Settlement Class Members as provided in this Agreement.

6. PAGA Payment. Subject to Court approval, the Parties agree that the amount of Thirty Thousand Dollars (\$30,000.00) of the Maximum Settlement Amount shall be designated for satisfaction of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Payment, *i.e.* the sum of Twenty-Two Thousand, Five Hundred Dollars (\$22,500.00), shall be paid to the LWDA. The remaining twenty-five percent (25%), *i.e.* the sum of Seven Thousand, Five Hundred Dollars (\$7,500.00), shall be part of the Net Settlement Amount to be distributed to Settlement Class Members as per this Agreement.

7. Net Settlement Amount. The Net Settlement Amount shall be used to satisfy Individual Settlement Payments to Settlement Class Members in accordance with the terms of this Agreement. The Settlement Administrator will allocate the Individual Settlement Payments by number of workweeks each Settlement Class Member was employed by Defendant in California during the Class Period. Specifically, after Defendant provides the number of said workweeks for each Settlement Class Member, the Settlement Administrator will divide the Net Settlement Amount by the total number of workweeks in the Class Period for all Settlement Class Members to arrive at an amount per workweek. That amount will then be multiplied by the number of workweeks of each Settlement Class Member to arrive at the Individual Settlement Payments. Settlement Class Members are entitled to 100% of the Net Settlement Amount. Defendant maintains no reversionary right to any portion of the Net Settlement Amount. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Payments for each Settlement Class Member so that the amount actually distributed to Settlement Class Members equals 100% of the Net Settlement Amount.

8. Calculation of Maximum Settlement Amount. The Maximum Settlement Amount was calculated with, and is premised on, Defendant's representation that approximately 547 Class Members worked a total of 18,761 workweeks during the Class Period. In the event the number of workweeks during the Class Period exceeds 18,761, Plaintiff will have the option to either

proportionally increase the Maximum Settlement Amount or rescind the Settlement Agreement.

9. No Credit toward Benefit Plans. The Individual Settlement Payments made to Settlement Class Members under this Agreement, the Enhancement Payment made to Plaintiff, as well as any other payments made pursuant to this Agreement, shall not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plans. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any Class Members may be entitled under any benefit plans.

10. Settlement Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in the administration of the Settlement. The Settlement Administrator shall provide the following services:

- a. Establish and maintain a Qualified Settlement Fund account;
- b. Verify the last known address for each Class Member through a generally utilized, national address update database prior to mailing the Notice Packet;
- c. Print and mail the Notice Packet;
- d. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable and, to the extent new and more current addresses are found, also reprint and re-mail Notice Packets accordingly;
- e. Establish and maintain a toll-free informational telephone support line to assist Class Members who have questions regarding the Notice Packet;
- f. Field inquiries from Class Members, and administer any Requests for Exclusion;
- g. Provide weekly status reports to counsel for the Parties, including: (a) the number of Notices mailed (including information regarding undeliverable and/or emailed Notices); (b) the number of disputes received (and sending copies of said disputes); (c) the number of objections received; and (d) the number of requests for exclusion received;

1           h.       Calculate Individual Settlement Payments;

2           i.       Distribute and pay the Enhancement Payment, Individual Settlement

3 Payments, the PAGA Payment to the LWDA, and fees and costs awarded to Class Counsel;

4           j.       Prepare and issue 1099 tax forms; and

5           k.       Provide declarations and/or other information to the Court as requested.

6       11.   Delivery of the Class List and Data. Within five (5) business days of Preliminary

7 Approval, Defendant shall provide the Class List and Data to the Settlement Administrator.

8       12.   Notice by First-Class U.S. Mail. Within five (5) business days after receiving the

9 Class List and Data from Defendant, the Settlement Administrator shall mail a Notice Packet to

10 all Class Members via regular First-Class U.S. Mail, using the most current, known mailing

11 addresses identified in the Class List.

12       13.   Confirmation of Contact Information in the Class List. Prior to mailing, the

13 Settlement Administrator shall perform a search based on the National Change of Address

14 Database for information to update and correct for any known or identifiable address changes.

15       14.   Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice

16 Packet will provide: (1) information regarding the nature of the Action; (2) a summary of the

17 Settlement's principal terms; (3) the Class definition; (4) each Class Member's estimated

18 Individual Settlement Payment and the formula for calculating Individual Settlement Payments, if

19 they do not request to be excluded; (5) the dates that comprise the Class Period; (6) instructions

20 on how to submit valid Requests for Exclusion, or objections; (7) the deadlines by which the Class

21 Member must submit a Request for Exclusion or Notice of Objection to the Settlement; (8) the

22 date for the final approval hearing; and (9) the claims to be released. The Notice Packet will also

23 inform Class Members that, in order to receive the Individual Settlement Payment, they do not

24 need to do anything except keep the Settlement Administrator apprised of their current mailing

25 addresses.

26       15.   Re-Mailing of Returned Notices. Any Notice Packets returned to the Settlement

27 Administrator as non-deliverable on or before the Response Deadline shall be re-sent promptly via

28 regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement

1 Administrator shall indicate the date of such re-mailing on the Notice Packet. If no forwarding  
2 address is provided, the Settlement Administrator shall promptly attempt to determine the correct  
3 address using a skip-trace, or other search using the name and/or address of the Class Member  
4 involved and shall then perform a re-mailing. Those Class Members who receive a re-mailed  
5 Notice Packet shall have their Response Deadline extended thirty (30) days from the re-mailing  
6 date.

7 16. Request for Exclusion Procedures. Any Class Member, other than Plaintiff, may  
8 opt-out from the Settlement by submitting a written Request for Exclusion to the Settlement  
9 Administrator postmarked by the Response Deadline. A Request for Exclusion must: (1) contain  
10 the name, address, and telephone number of the person requesting exclusion; (2) clearly state that  
11 the Class Member does not wish to be included in the Settlement; (3) be signed by the Class  
12 Member; (4) be returned by mail to the Settlement Administrator at the specified address; and (5)  
13 be postmarked on or before the Response Deadline. The date of the postmark shall be the exclusive  
14 means to determine whether a Request for Exclusion is timely. By submitting such a Request for  
15 Exclusion, a Class Member shall be deemed to have exercised their option to opt out of the Action  
16 and not be bound by this Agreement. Accordingly, a Class Member who timely submits a valid  
17 Request for Exclusion will not be entitled to any payments under this Settlement and will not be  
18 bound by the terms of the Settlement. Any Class Member who fails to submit a valid and timely  
19 Request for Exclusion on or before the Response Deadline shall be deemed a Settlement Class  
20 Member and will be bound by all terms of the Settlement to the fullest possible extent if the  
21 Settlement is granted final approval by the Court. At no time shall any of the Parties or their  
22 counsel seek to solicit or otherwise encourage Class Members to submit a Request for Exclusion.

23 17. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class  
24 Member who does not affirmatively opt-out of the Settlement by submitting a valid and timely  
25 Request for Exclusion shall be bound by all terms of the Settlement to the fullest possible extent,  
26 including those pertaining to the Released Claims, as well as any Judgment that may be entered  
27 by the Court.

28 18. Objection Procedures. Any Class Member who does not opt-out of this Settlement

1 shall be entitled to object to the Settlement. To object to the Settlement, a Class Member must  
2 return by mail a written statement of objection to the Settlement Administrator at the specified  
3 address by the Response Deadline. The Notice of Objection must include: (a) the objector's full  
4 name, signature, address, and telephone number; (b) a written statement of the basis for the  
5 objection; and (c) any copies of papers, briefs, or documents upon which the objection is based.  
6 Alternatively, a Class Member may appear at the Final Approval Hearing and present their  
7 objection to the Court orally, even without written objection.

8 At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage  
9 Class Members to submit written objections to the Settlement or appeal from the Order and  
10 Judgment. Any Class Member who submits a valid Request for Exclusion shall not be allowed to  
11 object to this Settlement. No later than five (5) days after the Response Deadline, the Settlement  
12 Administrator shall provide Defense Counsel with a complete list of all Class Members who have  
13 timely and properly requested exclusion from the Class.

14 19. Defendant's Right to Rescind. If more than five percent (5%) of the Class Members  
15 submit a timely and valid Request for Exclusion, Defendant will have the right, but not the  
16 obligation, to revoke and void this Agreement at its discretion. Defendant must exercise the option  
17 to rescind within ten (10) business days of Defense Counsel receiving notification from the  
18 Settlement Administrator that more than five percent (5%) of the Class Members have submitted  
19 timely and valid Requests for Exclusion from the Settlement. If Defendant exercises this right to  
20 void the Agreement, then the Parties will have no further obligations under the Agreement,  
21 including, without limitation, any obligation by Defendant to pay the Maximum Settlement  
22 Amount, or any amounts that otherwise would have been owed under this Agreement, except that  
23 Defendant shall pay all Settlement Administration Costs incurred by the Settlement Administrator.  
24 In the event the Settlement is terminated, the Parties shall proceed in all respects as if this  
25 Agreement had not been executed. The Parties agree that they will not encourage any Class  
26 Member to object to the Settlement or to opt out.

27 20. Settlement Administrator's Reports of Information. The Settlement Administrator  
28 shall provide Defense Counsel and Class Counsel a weekly report which certifies the number of

1 Class Members who have submitted valid Requests for Exclusion. Additionally, the Settlement  
2 Administrator will provide to counsel for both Parties any updated reports regarding the  
3 administration of the Settlement as needed or requested. The Settlement Administrator shall also  
4 forward to Parties' counsel any Notices of Objection received immediately upon receipt. Further,  
5 the Settlement Administrator shall immediately forward any Request for Exclusion to the Parties'  
6 counsel so that they can determine whether the Request for Exclusion is valid and timely.

7 21. Distribution Timing of Individual Settlement Payments. No earlier than the  
8 Effective Date, and no later than 15 calendar days after the Effective Date, the Settlement  
9 Administrator shall issue payments to (1) Settlement Class Members; (2) the Labor and Workforce  
10 Development Agency; (3) Plaintiff; and (4) Class Counsel (unless a later date is set forth in the  
11 Attorney Fee Distribution Agreement). The Settlement Administrator shall also issue a payment  
12 to itself for services performed in connection with the Settlement.

13 22. Uncashed Settlement Payment Checks. Any Settlement Payment Checks issued by  
14 the Settlement Administrator to Settlement Class Members shall be negotiable for not less than  
15 one hundred eighty (180) calendar days from the date of their issuance. This is a non-reversionary  
16 settlement. All Individual Settlement Payments to Class Members that remain un-cashed after one  
17 hundred eighty (180) days of the mailing of Settlement Payment Checks by the Settlement  
18 Administrator shall be paid out pursuant to California Code of Civil Procedure section 384 to the  
19 following *cy pres* recipient: California Rural Legal Assistance Foundation. In such event, those  
20 Class Members will nevertheless remain bound by the Settlement.

21 Defendant shall submit a declaration to the Court during the settlement approval process  
22 explaining why this organization is an appropriate *cy pres* recipient. Should the Court reject  
23 California Rural Legal Assistance Foundation as a viable *cy pres* recipient, the Parties agree to  
24 select Legal Services of Northern California as an alternate *cy pres* recipient or another *cy pres*  
25 recipient approved by the Court.

26 23. Certification of Completion. Upon completion of administration of the Settlement,  
27 the Settlement Administrator shall provide a written declaration under oath to certify such  
28 completion to the Court and counsel for all Parties.

1           24.   Administration Costs if Settlement Fails or is Delayed. If the Court does not  
2 approve the Settlement due to an objection or the Settlement is otherwise deemed void or  
3 rescinded, any costs incurred by the Settlement Administrator shall be borne equally by Defendant  
4 and Plaintiff, unless otherwise specified in this Agreement.

5           25.   Treatment of Individual Settlement Payments. Two thirds (2/3) of the Individual  
6 Settlement Payments shall be allocated as interest, penalties, and other non-wage damages, to be  
7 reported on an IRS Form 1099 by the Settlement Administrator. The remaining one third (1/3) of  
8 the Individual Settlement Payments shall be allocated as wages, subject to payroll deductions and  
9 to be reported on an IRS Form W-2 by the Settlement Administrator.

10          26.   Administration of Taxes by the Settlement Administrator. The Settlement  
11 Administrator shall be responsible for issuing to Plaintiff, Settlement Class Members, and Class  
12 Counsel, 1099 and W-2 forms or other tax forms as may be required by law for all amounts paid  
13 pursuant to this Agreement.

14          27.   Tax Liability. Defendant, Defense Counsel, the Settlement Administrator, and  
15 Plaintiff's counsel make no representation as to the tax treatment or legal effect of the payments  
16 called for hereunder, and Plaintiff and Settlement Class Members are not relying on any statement,  
17 representation, or calculation by Defendant, Defense Counsel, Plaintiff's counsel, or by the  
18 Settlement Administrator in this regard. Plaintiff and Settlement Class Members understand and  
19 agree that they will be solely responsible for the payment of any and all taxes and penalties  
20 assessed on their respective payments described herein and will defend, indemnify, and hold  
21 Defendant, Defense Counsel, Plaintiff's counsel and the Settlement Administrator free and  
22 harmless from and against any claims resulting from treatment of such payments as non-taxable  
23 penalties/damages.

24          28.   Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR  
25 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY  
26 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER  
27 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS  
28 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR

1 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS  
2 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE  
3 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE  
4 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR  
5 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED  
6 EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL  
7 FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,  
8 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
9 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO  
10 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
11 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY  
12 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
13 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER  
14 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY  
15 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF  
16 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
17 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY  
18 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS  
19 AGREEMENT.

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

24 30. Release of Claims by Settlement Class Members. As of the date of the funding of  
25 the Maximum Settlement Amount, Plaintiff and all Settlement Class Members, as well as their  
26 spouses, heirs, executors, administrators, trustees, and/or permitted assigns, hereby do and shall  
27 be deemed to have fully, finally and forever released, settled, compromised, relinquished and  
28 ///

1 discharged, to the fullest extent possible, any and all of the Released Parties of and from any and  
2 all Released Claims.

3 31. Nullification of Settlement. In the event that the Settlement does not become final  
4 for any reason, then this Agreement, and any documents generated to bring it into effect, shall be  
5 null and void. Any order or judgment entered by the Court in furtherance of this Agreement shall  
6 likewise be treated as void from the beginning.

7 32. Disputes Regarding Individual Settlement Payments. In the event that Class  
8 Members have a dispute as to the data provided by the Defendant, Class Members will have the  
9 opportunity to provide documentation and/or an explanation. If there is a dispute, the Settlement  
10 Administrator will consult with the Parties to determine whether an adjustment is warranted. The  
11 Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual  
12 Settlement Payments under the terms of this Agreement, and that determination shall be binding.

13 33. Disputes Regarding Administration of Settlement. Any disputes not resolved by the  
14 Settlement Administrator concerning the administration of the Settlement will be resolved by the  
15 Court under the laws of the State of California. Prior to any such involvement of the Court, counsel  
16 for the Parties will confer in good faith to resolve the disputes without the necessity of involving  
17 the Court. No further award of attorney fees or costs shall be sought by or made to Class Counsel  
18 in connection with any such further proceedings.

19 34. Preliminary Approval Hearing. Plaintiff shall obtain a hearing before the Court to  
20 request the Preliminary Approval of the Settlement, conditional certification of the Class, and the  
21 entry of a Preliminary Approval Order: (i) approving of the proposed Settlement, and (ii) setting a  
22 date for a Final Approval/Settlement Fairness Hearing. The Preliminary Approval Order shall  
23 provide for the Notice Packet to be sent to all Class Members as specified herein. Class Counsel  
24 shall prepare the motion for Preliminary Approval of the Settlement and all supporting papers.  
25 Defendant shall provide a declaration, if the Court deems necessary, supporting its lack of financial  
26 ability to pay any additional amount to settle this Action. In conjunction with the Preliminary  
27 Approval hearing, Plaintiff shall submit this Agreement, which sets forth the terms of this  
28 Settlement, and will include the proposed Notice Packet, attached to this Agreement as **Exhibit A**.

1           35.   Final Settlement Approval Hearing. Upon expiration of the deadlines to submit  
2 Requests for Exclusion or Notices of Objections to the Settlement, and with the Court's  
3 permission, a Final Approval/Settlement Fairness Hearing shall be conducted to determine the  
4 Final Approval of the Settlement along with the amounts properly payable for (i) Individual  
5 Settlement Payments; (ii) the LWDA Payment; (ii) the Class Counsel Award; (iii) the  
6 Enhancement Payment; and (iv) Settlement Administration Costs. Class Counsel will be  
7 responsible for drafting all documents necessary to obtain final approval. Class Counsel will also  
8 be responsible for drafting the attorneys' fees and costs application to be heard at the Final  
9 Approval Hearing.

10           36.   Entry of Judgment and Continued Jurisdiction of the Court. Concurrent with the  
11 Motion for Final Approval, the Parties shall also jointly seek the entry of Judgment consistent with  
12 the terms of this Agreement. After entry of the Judgment, the Court shall have continuing  
13 jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms  
14 of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as  
15 may be appropriate under court rules or as set forth in this Agreement.

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

19           38.   Confidentiality/Publicity. Plaintiff and Class Counsel agree that they will not issue  
20 any press releases, initiate any contact with the press or media, respond to any press inquiry, post  
21 information on any social media or website, or have any communication with the press or media  
22 about the fact, amount, or terms of the Settlement. Plaintiff and Class Counsel agree they will not  
23 advertise or market any of the terms of the Settlement through written, recorded, or electronic  
24 communications. In addition, Class Counsel will not put details about the settlement on their  
25 website, unless no reference is made to the case name or Defendant. Plaintiff and Class Counsel  
26 further agree that if they are contacted regarding this case, they will take reasonable steps to  
27 determine whether the contacting party is a member of the Class. If the contacting party is not a  
28 Class Member or the legal representative of a Class Member, Plaintiff and Class Counsel will state

only that the lawsuit exists and has been resolved. However, this will not prevent Class Counsel from undertaking required submissions and disclosures that are required to obtain approval of the Settlement, including and not limited to, submission of the Settlement to the LWDA in conformity with the PAGA statute.

39. Entire Agreement. This Agreement and any attached Exhibits constitute the entirety of the Parties' Settlement terms. No other prior or contemporaneous written or oral negotiations or agreements may be deemed binding on the Parties.

40. Disputes Regarding Language of Final Settlement Agreement. If the Parties have a dispute with regard to the language of the Agreement, the Parties agree to attempt to informally resolve the dispute by engaging Jeffrey A. Ross to mediate such dispute.

41. Amendment or Modification. This Agreement may be amended or modified only by a written instrument signed by the Parties or their successors-in-interest.

42. Authorization to Enter into Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by the Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best and good-faith efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

43. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors, heirs, or assigns of the Parties hereto, as previously defined.

44. California Law Governs. All terms of this Agreement and Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

45. Execution and Counterparts. This Agreement is subject only to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed

1 counterparts and each of them, including facsimile and scanned copies of the signature page, shall  
2 be deemed to be one and the same instrument provided that counsel for the Parties shall exchange  
3 among themselves original signed counterparts.

4 46. Acknowledgement that the Settlement Is Fair and Reasonable. The Parties believe  
5 this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this  
6 Settlement after arm's-length negotiations, mediation, and in the context of adversarial litigation,  
7 taking into account all relevant factors, present and potential. The Parties further acknowledge that  
8 they are each represented by competent counsel and that they have had an opportunity to consult  
9 with their counsel regarding the fairness and reasonableness of this Agreement.

10 47. No Admission of Liability or Class Certification. The Parties are agreeing to class  
11 certification for settlement purposes only. This Agreement shall not constitute, in this or any other  
12 proceeding, an admission of any kind by Defendant, including without limitation, that Defendant  
13 committed any violation of statute or other wrongdoing, that Defendant is liable to Plaintiff or to  
14 any other Class Members, that certification of a class for trial or any other purpose is appropriate  
15 or proper or that Plaintiff or any Class Member can establish any of the requisite elements for class  
16 treatment of any of the claims in this Action. If, for any reason, the Settlement is not finally  
17 approved, this Agreement will be void and the Parties will be restored to their respective positions  
18 in the lawsuit as if they had not entered into this Agreement. The Parties further agree that this  
19 Agreement or any documents or orders issued related to this Settlement will not be admissible,  
20 other than according to the Settlement's terms, in this or any other proceeding as evidence that  
21 either: (i) a class action should be certified, or (ii) Defendant is liable to Plaintiff or any Class  
22 Member.

23 48. Non-Admission of Liability. The Parties enter into this Agreement to resolve the  
24 dispute that has arisen between them and to avoid the burden, expense and risk of continued  
25 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that  
26 it has violated any federal, state, or local law; violated any regulations or guidelines promulgated  
27 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached  
28 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or

engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law, regulation, or legal requirement. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission of any nature on the part of Defendant, or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

49. Captions. The captions and section numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

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

51. Enforcement Actions. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement, or to declare rights and/or obligations under this Settlement, the prevailing Party or Parties shall be entitled to recover from the non-prevailing Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

53. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel. Further,

1 Plaintiff and Class Counsel warrant and represent that there are no liens on the Agreement.

2 54. Cooperation and Execution of Necessary Documents. All Parties shall cooperate in  
3 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of  
4 this Agreement.

5 55. Binding Agreement. The Parties warrant that they understand and have full  
6 authority to enter into this Agreement, and further intend that this Agreement shall be fully  
7 enforceable and binding on all Parties and agree that it shall be admissible and subject to disclosure  
8 in any proceeding to enforce its terms.

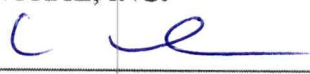
9 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this  
10 Joint Stipulation of Class Action Settlement between Plaintiff and Defendant as of the date(s) set  
11 forth below:

12  
13 DATED: 10/21/2021

14   
Plaintiff Joshua Sweet

15 **DEFENDANT SF TIRE & SERVICE**  
16 **CENTRAL, INC.**

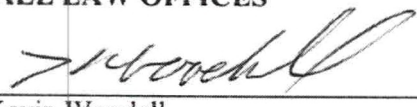
17 DATED: October 28, 2021

18   
Chris Monteverde, CEO

19 **APPROVED AS TO FORM**

20 DATED: 10/26/21

21 **WOODALL LAW OFFICES**

22 By:   
23 Kevin Woodall  
24 Attorneys for Plaintiff and the Class

25 **GORDON REES SCULLY MANSUKHANI, LLP**

26 DATED: October 28, 2021

27 By:   
28 Linda M. Moroney  
Natalie B. Fujikawa  
Attorneys for Defendant SF Tire & Service  
Central, Inc.

## EXHIBIT A

**NOTICE OF CLASS ACTION SETTLEMENT**

*Joshua Sweet v. SF Tire & Service Central, Inc.*  
San Francisco County Superior Court Case No. CGC 20-584213

**You are receiving this Notice because you have been identified as a former or current non-exempt or hourly-paid employee of SF Tire & Service Central, Inc. (referred to herein as “SF Tire”). You should read this Notice carefully because it will affect your rights.**

*The San Francisco County Superior Court authorized this notice. This is not a solicitation from a lawyer.*

A former employee, Joshua Sweet, has sued SF Tire on behalf of himself and others similarly situated former and current non-exempt or hourly-paid employees of SF Tire. The parties have reached a settlement, and the Court has preliminarily approved it. The settlement resolves the lawsuit. Your legal rights are affected whether you act or do not act. SF Tire cannot and will not retaliate against you in any way for participating in this settlement. **Read this notice carefully.**

According to SF Tire’s records, you were employed by SF Tire at a time between April 22, 2016 and January 1, 2020 (“Class Period”) and worked \_\_\_\_\_ workweeks during this period of time.

| <b>YOUR OPTIONS IN RESPONSE TO THIS NOTICE OF SETTLEMENT</b>                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DO NOTHING AND RECEIVE SETTLEMENT PAYMENTS</b>                                                                     | Receive payments and release certain claims as set forth below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>EXCLUDE YOURSELF FROM THE SETTLEMENT AND RECEIVE NO PAYMENTS FROM THE SETTLEMENT</b><br><br>(Deadline: ____, 2022) | Submit a request for exclusion (also called an “Opt-Out Request”) to exclude yourself from the lawsuit and settlement, receive no money and do not release the claims alleged in this class action case.<br><br>If you wish to be excluded from the lawsuit and settlement, you must follow the instructions set forth below for Opt-Out Requests.                                                                                                                                                                                                                                                                                                                                                       |
| <b>OBJECT TO THE SETTLEMENT</b><br><br>(Deadline: ____, 2022)                                                         | If you disagree with the proposed settlement, you may submit an objection. If the Court agrees with your objection, the parties can choose whether to withdraw the settlement or change its terms. If the Court rejects, i.e. overrules, your objection, you will be bound by the Settlement. You will not have a second opportunity to opt-out of the settlement.<br><br>Objections may be submitted to the Court, the Settlement Administrator and counsel as set forth below.<br><br>Written objections will be considered without the need for the objector to appear at the final approval hearing. Alternatively, an objector may appear at the final approval hearing and make an oral objection. |

**YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.**

**1. Why did I receive this Notice?**

You received this Notice because SF Tire's records show that you were employed by SF Tire at some time between April 22, 2016 and January 1, 2020 ("Class Period"). This Notice explains that the Court has granted preliminary approval of a proposed settlement of a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed settlement.

**2. What is this lawsuit about?**

Plaintiff Joshua Sweet ("Plaintiff") filed a lawsuit against SF Tire and Service Central, Inc. on behalf of himself and other current and former non-exempt or hourly-paid employees in the Superior Court of California, County of San Francisco (the "Action"). The Action was originally filed on April 22, 2020. The Action alleges that Plaintiff and other similarly situated non-exempt or hourly-paid employees of SF Tire were not paid overtime wages, were denied meal and rest periods and did not receive premium pay for missed or noncompliant meal and rest periods, were not timely paid final wages and received inaccurate or noncompliant wage statements. In addition, Plaintiff brought Private Attorneys General Act ("PAGA") claims alleging the same class action violations, along with a claim that SF Tire failed to provide suitable seating. In the lawsuit, Plaintiff seeks general and special damages, statutory penalties, civil penalties, attorney's fees and costs. SF Tire contends that it complied with all applicable laws. The Court has granted preliminary approval of the Class Action Settlement between the parties in this case. The Court has not made a decision regarding the ultimate merits of each party's position.

**3. What is a class action and who is involved in this lawsuit?**

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Joshua Sweet) sue on behalf of themselves and other people who may have similar claims. These people together are a "Class" or "Class Members." The company they sue (in this case, SF Tire) is called the Defendant. If the Court determines that Class Representatives may represent a Class, then the court may resolve the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

In this case, the Parties have decided to settle the case on a Class basis. The Court has made a preliminary determination that the proposed Class settlement between SF Tire and Class Members is fair, adequate, and reasonable. The Court will decide whether to finally approve the proposed settlement after the Class Members are given a chance to exclude themselves from or object to the proposed settlement.

SF Tire does not admit engaging in any unlawful conduct as alleged in this lawsuit and denies all claims and charges of wrongdoing and liability. SF Tire denies that it owes damages or monies related to any of Plaintiff's allegations listed above. SF Tire is settling the matter as a compromise. SF Tire reserves its right and intends to defend itself against any claim if for any reason the Settlement fails.

**4. Is there any money available now?**

If the Court gives final approval to this settlement, participating Settlement Class Members will be sent a checks for their portion of the settlement funds.

**5. What does the settlement provide?**

The proposed settlement requires SF Tire to pay a Maximum Settlement Amount not to exceed One Million Four Hundred Seventy-Five Thousand Dollars (\$1,475,000). The Maximum Settlement Amount will be paid by SF Tire to the Class Action Administrator for distribution in the following installments:

- a. The Initial Payment of Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00) shall be paid fifteen (15) days after the settlement becomes final;

b. The Second payment of Three Hundred Thousand Dollars (\$300,000) shall be paid no later than March 1, 2022; and

c. The Third payment of Four Hundred Thousand Dollars (\$400,000) shall be paid no later than March 1, 2023.

The Maximum Settlement Amount includes payments for attorneys' fees (up to \$486,750.00) and costs (up to \$25,000), an enhancement award for Plaintiff (up to \$7,500), Settlement Administration Costs (\$7,000), and a PAGA payment to the Labor Workforce Development Agency of \$22,500. The amount remaining after these payments is the amount available to distribute to the Settlement Class ("Net Settlement Amount"). Settlement proceeds will be paid to all Class Members who do not submit a Request for Exclusion or Opt-Out Request ("Settlement Class Members"). Settlement Class Members will receive one payment after the settlement becomes final and a second payment after March 1, 2023.

Plaintiff Joshua Sweet also settled his non-class action/non-PAGA claims against SF Tire for \$25,000, but this payment will not be made from the Maximum Settlement Amount.

#### **6. What can I get from the settlement?**

The amount of your share of the Net Settlement Amount will be calculated as follows.

The Settlement Administrator will divide the Net Settlement Amount by the total number of workweeks in the Class Period for all Settlement Class Members to arrive at an amount per workweek. That amount will then be multiplied by the number of workweeks that you worked during the Class Period to arrive at your payments. Using this formula, the Settlement Administrator estimates that your payments will total \$\_\_\_\_\_.

#### **7. Will taxes be withheld from my settlement payments?**

Of the payments distributed to each Settlement Class Member, two-thirds (2/3) shall be allocated as interest, penalties and other non-wages and reported on an IRS Form 1099. The remaining one-third (1/3) of the payment distributed to each Settlement Class Member shall be allocated as wages and subject to payroll deductions on an IRS Form W-2. Settlement Class Members should consult with their tax advisors concerning the tax consequences of the payments that they receive under the settlement.

#### **8. When and Where is the Final Approval Hearing?**

The Court has scheduled a Fairness/Final Approval Hearing on [insert date], 2022, at [time]. in Department 302 of the Superior Court of California, County of San Francisco, located at 400 McAllister Street, San Francisco, CA 94102, at which time the Court will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to Settlement Class Members; and (2) whether the applications for attorneys' fees, costs, and the Plaintiff's awards should be approved. If the Court approves the settlement, an Order Granting Final Approval will be entered. It is neither required nor necessary that you attend the Final Approval Hearing. Once the Order Granting Final Approval is signed by the Court, and if there is no appeal of the Court's order, then checks will be mailed out to the Settlement Class Members as provided above. If an appeal is filed, then distributions will be delayed until after final resolution of any appeals.

#### **9. How can I receive the payments?**

You do not need to do anything to receive the payments so long as you do not exclude yourself from the Class.

If this Notice was sent to you at your current address, you do not need to do anything further to receive payments. If this Notice was forwarded by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, then you should immediately notify the Settlement Administrator in writing stating your name and past and current addresses.

The Settlement Administrator's address is:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

**10. What am I giving up if I stay in the class?**

If you do nothing and the Court gives final approval to the settlement (and it is not appealed), you will receive your settlement payments, but will be unable to sue SF Tire for the following "Released Claims":

All claims, including penalties, costs and attorneys' fees related thereto, that could have been brought under the facts and allegations made in the operative Complaint, including, but not limited to: (1) Unpaid Overtime Wages (Lab. Code §§ 510 and 1198); (2) Meal Period Violations (Lab. Code §§ 226.7 and 512); (3) Rest Period Violations (Lab. Code § 226.7); (4) Failure to Timely Pay Final Wages (Lab. Code §§ 201-203); (5) Non-Compliant Wage Statements (Lab. Code § 226); (6) Unfair Business Practices (Bus. & Prof. Code §§ 17200, *et seq.*); and (7) and Penalties under the California Private Attorneys' General Act pursued in the Action, that accrued at any time during the Class Period.

The Released Class Claims do not include a release of any *other* rights you have or claims you may have as an employee or former employee of SF Tire.

**11. What if I get my payments and don't cash them?**

If you receive the payments and do not cash your checks, you will still be bound by the terms of the settlement and you will release all claims released under this settlement. After 180 days, the Settlement Administrator will stop payment on your check(s). The funds from any un-cashed checks will then revert to a cy pres recipient, the California Rural Legal Assistance Foundation.

**12. What happens if I do nothing at all?**

If you do nothing, you will receive payments from the settlement and you will be bound by the terms of the settlement.

**13. How do I request to be excluded from the settlement?**

If you want to retain the right to pursue claims against SF Tire alleged in this case and/or you do not want payments from this settlement, then you must take certain steps. This is called excluding yourself, and is also referred to as "opting out" of the settlement. Do not exclude yourself or "opt out" if you wish to receive money from this settlement.

To exclude yourself from the settlement, you must submit an opt-out request postmarked on or before \_\_\_\_\_, 2022. In the opt-out request, you must: (1) legibly state your name, your address and your telephone number, (2) state that you do not wish to be included in the Settlement, and (3) sign the opt-out request. If you choose to opt-out of the Settlement, you will not receive money from the Settlement. You must return your request to:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

**14. If I do not exclude myself, can I sue SF Tire for the same claims later?**

No. If you do not submit a valid and timely Opt-Out request postmarked by \_\_\_\_\_, 2022, you will be bound by all terms of the settlement and any Final Judgment entered in the Action, if the settlement is approved by the Court. The settlement and Final Judgment will include a full release of claims in this Action, which will prevent you from suing SF Tire or any related persons or entities for the claims released by the settlement. If you have a pending lawsuit, speak to your lawyer in that case immediately.

**15. If I exclude myself, can I get money from this settlement?**

No. If you exclude yourself, you are asking not to be included in the settlement.

**16. Do I have a lawyer in this case?**

The Court has approved the Woodall Law Offices as Class Counsel to represent you and all Settlement Class Members. You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want to hire your own lawyer, you may do so at your own expense. For example, you can hire your own legal counsel to appear in Court for you if you want someone other than Class Counsel to speak for you.

**17. How will the lawyers and the Class Representatives be paid?**

Class Counsel will request that the Court approve an award of attorneys' fees and litigation costs. Class Counsel will also request that the Plaintiff receives an additional award. The amount of attorneys' fees and costs awarded to Class Counsel and any awards to the Plaintiff will be subject to the Court's approval. You will not have to pay these fees and expenses separately. Class Counsel has been prosecuting the Action on behalf of the Class on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The attorney's fees and costs awarded by the Court will constitute full compensation for all legal fees and expenses of Class Counsel in the Action, including any work they do in the future. Lastly, as part of the preliminary approval of the settlement, the Court has approved payment of claims administration expenses in the amount of up to Seven Thousand Dollars (\$7,000) to the Settlement Administrator from the Maximum Settlement Amount.

**18. How do I object to the settlement?**

If you think that the proposed settlement is unfair, inadequate or unreasonable, you can object to the proposed settlement. If you object, and if the Court approves the proposed settlement, then you will still receive a share of the settlement money, and you will be bound by the terms of the release as set forth above.

Objections do not need to be formally filed but may be submitted personally or through an attorney, to the proposed Settlement for Case No. CGC-20-584213 by mailing your objection to:

The Clerk of the Court, Superior Court of California, County of San Francisco,  
400 McAllister Street, San Francisco, California 94102

You may also submit an objection in person at the Superior Court, County of San Francisco. Copies of all documents submitted to the clerk must also be mailed to the Settlement Administrator and counsel listed below.

All objections should reference the case name and number (*Sweet v. SF Tire & Service Central, Inc.* (Case No. CGC-20-584213)) and be submitted no later than \_\_\_\_\_, 2022.

The objection must state that you object to the Settlement and include the following information: (1) your name, address, phone number; (2) a statement of your views and the reasons for your objection; and (3) copies of papers, briefs or documents upon which the objection is based. Alternatively, a Class Member may appear at the Final Approval Hearing and present his/her objection to the Court orally, even without written objection. The submission of an objection shall not operate as a request for exclusion and no Class Member shall be excluded from the Settlement simply by virtue of filing an objection. You will also be permitted to withdraw your objection. If the Court approves the Settlement over your objection, you will be bound by the Settlement, and all of the terms in this Notice will apply to you. You will not have a second opportunity to opt-out of the settlement if the Court overrules your objection. You may also (but are not required to) attend the Final Approval Hearing on \_\_\_\_\_, 2022. Counsel for the parties will bring to the Court's attention all objections received by this date.

Copies of all documents submitted to the Court must also be mailed to the Settlement Administrator with a postmark dated no later than \_\_\_\_\_, 2022 at the following address:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

If you object in the manner provided above, then you or your attorney may appear at the Final Approval Hearing, currently set for \_\_\_\_\_, 2022, at \_\_:00 a.m./p.m. at Department 302 of the Superior Court of California, County of San Francisco, 400 McAllister Street, San Francisco, CA 94102. However, if you do not object in the manner provided above, your objection may be considered waived and you will not be able to make any other or later objection to the fairness, reasonableness or adequacy of the proposed settlement.

**19. What’s the difference between objecting to the settlement and excluding myself from the settlement?**

Objecting is simply telling the Court that you don’t like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**20. May I attend the hearing and speak?**

Anyone may attend this hearing. If you are a Settlement Class Member and wish to make an objection at the hearing, you may do so.

**21. Where can I get more details about the settlement?**

This Notice summarizes the proposed settlement. For a more detailed statement of the matters involved in the Action, you may refer to the Unopposed Motion for Preliminary Approval of Class Action Settlement, and any other pleadings and papers filed in the Action. All of the pleadings and other records in this litigation, including the Settlement Agreement, may be examined online on the San Francisco County Superior Court’s website at <https://sfsuperiorcourt.org/divisions/civil>. After arriving at the website, click the “online services” link and then the “case query” link, then enter CGC-20-584213 as the case number and click “SEARCH.” Images of every document filed in the case may be viewed through the “Register of Actions.”

**22. Can I read a copy of the settlement agreement?**

Yes. A copy of the settlement agreement may be found as part of the Unopposed Motion for Preliminary Approval of Class Action Settlement, which is available for your review through the San Francisco County Superior Court’s website pursuant to the instructions provided in Question 21 above.

**23. What is the Contact information for Class Counsel and Defendant’s Counsel?**

| <u>CLASS COUNSEL</u>                                                                                                                                  | <u>COUNSEL FOR SF TIRE</u>                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| KEVIN F. WOODALL<br>WOODALL LAW OFFICES<br>100 Pine Street, Suite 1250<br>San Francisco, CA 94111<br>Telephone: 415.413.4629<br>kevin@kwoodalllaw.com | LINDA M. MORONEY<br>NATALIE B. FUJIKAWA<br>GORDON REES SCULLY MANSUKHANI, LLP<br>275 Battery Street, Suite 2000<br>San Francisco, CA 94111<br>Telephone: 415.986.5900 |

**24. What if I have more questions?**

If you have any questions about the settlement, you may contact the Settlement Administrator:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]  
Toll-free Phone number: [insert]

**\*\*\* PLEASE DO NOT CONTACT THE COURT WITH YOUR QUESTIONS\*\*\***

## EXHIBIT 2

**NOTICE OF CLASS ACTION SETTLEMENT**

*Joshua Sweet v. SF Tire & Service Central, Inc.*  
San Francisco County Superior Court Case No. CGC 20-584213

**You are receiving this Notice because you have been identified as a former or current non-exempt or hourly-paid employee of SF Tire & Service Central, Inc. (referred to herein as “SF Tire”). You should read this Notice carefully because it will affect your rights.**

*The San Francisco County Superior Court authorized this notice. This is not a solicitation from a lawyer.*

A former employee, Joshua Sweet, has sued SF Tire on behalf of himself and others similarly situated former and current non-exempt or hourly-paid employees of SF Tire. The parties have reached a settlement, and the Court has preliminarily approved it. The settlement resolves the lawsuit. Your legal rights are affected whether you act or do not act. SF Tire cannot and will not retaliate against you in any way for participating in this settlement. **Read this notice carefully.**

According to SF Tire’s records, you were employed by SF Tire at a time between April 22, 2016 and January 1, 2020 (“Class Period”) and worked \_\_\_\_\_ workweeks during this period of time.

| <b>YOUR OPTIONS IN RESPONSE TO THIS NOTICE OF SETTLEMENT</b>                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DO NOTHING AND RECEIVE SETTLEMENT PAYMENTS</b>                                                                     | Receive payments and release certain claims as set forth below.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>EXCLUDE YOURSELF FROM THE SETTLEMENT AND RECEIVE NO PAYMENTS FROM THE SETTLEMENT</b><br><br>(Deadline: ____, 2022) | Submit a request for exclusion (also called an “Opt-Out Request”) to exclude yourself from the lawsuit and settlement, receive no money and do not release the claims alleged in this class action case.<br><br>If you wish to be excluded from the lawsuit and settlement, you must follow the instructions set forth below for Opt-Out Requests.                                                                                                                                                                                                                                                                                                                                                       |
| <b>OBJECT TO THE SETTLEMENT</b><br><br>(Deadline: ____, 2022)                                                         | If you disagree with the proposed settlement, you may submit an objection. If the Court agrees with your objection, the parties can choose whether to withdraw the settlement or change its terms. If the Court rejects, i.e. overrules, your objection, you will be bound by the Settlement. You will not have a second opportunity to opt-out of the settlement.<br><br>Objections may be submitted to the Court, the Settlement Administrator and counsel as set forth below.<br><br>Written objections will be considered without the need for the objector to appear at the final approval hearing. Alternatively, an objector may appear at the final approval hearing and make an oral objection. |

**YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.**

**1. Why did I receive this Notice?**

You received this Notice because SF Tire's records show that you were employed by SF Tire at some time between April 22, 2016 and January 1, 2020 ("Class Period"). This Notice explains that the Court has granted preliminary approval of a proposed settlement of a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed settlement.

**2. What is this lawsuit about?**

Plaintiff Joshua Sweet ("Plaintiff") filed a lawsuit against SF Tire and Service Central, Inc. on behalf of himself and other current and former non-exempt or hourly-paid employees in the Superior Court of California, County of San Francisco (the "Action"). The Action was originally filed on April 22, 2020. The Action alleges that Plaintiff and other similarly situated non-exempt or hourly-paid employees of SF Tire were not paid overtime wages, were denied meal and rest periods and did not receive premium pay for missed or noncompliant meal and rest periods, were not timely paid final wages and received inaccurate or noncompliant wage statements. In addition, Plaintiff brought Private Attorneys General Act ("PAGA") claims alleging the same class action violations, along with a claim that SF Tire failed to provide suitable seating. In the lawsuit, Plaintiff seeks general and special damages, statutory penalties, civil penalties, attorney's fees and costs. SF Tire contends that it complied with all applicable laws. The Court has granted preliminary approval of the Class Action Settlement between the parties in this case. The Court has not made a decision regarding the ultimate merits of each party's position.

**3. What is a class action and who is involved in this lawsuit?**

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Joshua Sweet) sue on behalf of themselves and other people who may have similar claims. These people together are a "Class" or "Class Members." The company they sue (in this case, SF Tire) is called the Defendant. If the Court determines that Class Representatives may represent a Class, then the court may resolve the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

In this case, the Parties have decided to settle the case on a Class basis. The Court has made a preliminary determination that the proposed Class settlement between SF Tire and Class Members is fair, adequate, and reasonable. The Court will decide whether to finally approve the proposed settlement after the Class Members are given a chance to exclude themselves from or object to the proposed settlement.

SF Tire does not admit engaging in any unlawful conduct as alleged in this lawsuit and denies all claims and charges of wrongdoing and liability. SF Tire denies that it owes damages or monies related to any of Plaintiff's allegations listed above. SF Tire is settling the matter as a compromise. SF Tire reserves its right and intends to defend itself against any claim if for any reason the Settlement fails.

**4. Is there any money available now?**

If the Court gives final approval to this settlement, participating Settlement Class Members will be sent a checks for their portion of the settlement funds.

**5. What does the settlement provide?**

The proposed settlement requires SF Tire to pay a Maximum Settlement Amount not to exceed One Million Four Hundred Seventy-Five Thousand Dollars (\$1,475,000). The Maximum Settlement Amount will be paid by SF Tire to the Class Action Administrator for distribution in the following installments:

- a. The Initial Payment of Seven Hundred Seventy-Five Thousand Dollars (\$775,000.00) shall be paid fifteen (15) days after the settlement becomes final;

b. The Second payment of Three Hundred Thousand Dollars (\$300,000) shall be paid no later than March 1, 2022; and

c. The Third payment of Four Hundred Thousand Dollars (\$400,000) shall be paid no later than March 1, 2023.

The Maximum Settlement Amount includes payments for attorneys' fees (up to \$486,750.00) and costs (up to \$25,000), an enhancement award for Plaintiff (up to \$7,500), Settlement Administration Costs (\$7,000), and a PAGA payment to the Labor Workforce Development Agency of \$22,500. The amount remaining after these payments is the amount available to distribute to the Settlement Class ("Net Settlement Amount"). Settlement proceeds will be paid to all Class Members who do not submit a Request for Exclusion or Opt-Out Request ("Settlement Class Members"). Settlement Class Members will receive one payment after the settlement becomes final and a second payment after March 1, 2023.

Plaintiff Joshua Sweet also settled his non-class action/non-PAGA claims against SF Tire for \$25,000, but this payment will not be made from the Maximum Settlement Amount.

#### **6. What can I get from the settlement?**

The amount of your share of the Net Settlement Amount will be calculated as follows.

The Settlement Administrator will divide the Net Settlement Amount by the total number of workweeks in the Class Period for all Settlement Class Members to arrive at an amount per workweek. That amount will then be multiplied by the number of workweeks that you worked during the Class Period to arrive at your payments. Using this formula, the Settlement Administrator estimates that your payments will total \$\_\_\_\_\_.

#### **7. Will taxes be withheld from my settlement payments?**

Of the payments distributed to each Settlement Class Member, two-thirds (2/3) shall be allocated as interest, penalties and other non-wages and reported on an IRS Form 1099. The remaining one-third (1/3) of the payment distributed to each Settlement Class Member shall be allocated as wages and subject to payroll deductions on an IRS Form W-2. Settlement Class Members should consult with their tax advisors concerning the tax consequences of the payments that they receive under the settlement.

#### **8. When and Where is the Final Approval Hearing?**

The Court has scheduled a Fairness/Final Approval Hearing on [insert date], 2022, at [time]. in Department 302 of the Superior Court of California, County of San Francisco, located at 400 McAllister Street, San Francisco, CA 94102, at which time the Court will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to Settlement Class Members; and (2) whether the applications for attorneys' fees, costs, and the Plaintiff's awards should be approved. If the Court approves the settlement, an Order Granting Final Approval will be entered. It is neither required nor necessary that you attend the Final Approval Hearing. Once the Order Granting Final Approval is signed by the Court, and if there is no appeal of the Court's order, then checks will be mailed out to the Settlement Class Members as provided above. If an appeal is filed, then distributions will be delayed until after final resolution of any appeals.

#### **9. How can I receive the payments?**

You do not need to do anything to receive the payments so long as you do not exclude yourself from the Class.

If this Notice was sent to you at your current address, you do not need to do anything further to receive payments. If this Notice was forwarded by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, then you should immediately notify the Settlement Administrator in writing stating your name and past and current addresses.

The Settlement Administrator's address is:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

**10. What am I giving up if I stay in the class?**

If you do nothing and the Court gives final approval to the settlement (and it is not appealed), you will receive your settlement payments, but will be unable to sue SF Tire for the following "Released Claims":

All claims, including penalties, costs and attorneys' fees related thereto, that could have been brought under the facts and allegations made in the operative Complaint, including, but not limited to: (1) Unpaid Overtime Wages (Lab. Code §§ 510 and 1198); (2) Meal Period Violations (Lab. Code §§ 226.7 and 512); (3) Rest Period Violations (Lab. Code § 226.7); (4) Failure to Timely Pay Final Wages (Lab. Code §§ 201-203); (5) Non-Compliant Wage Statements (Lab. Code § 226); (6) Unfair Business Practices (Bus. & Prof. Code §§ 17200, *et seq.*); and (7) and Penalties under the California Private Attorneys' General Act pursued in the Action, that accrued at any time during the Class Period.

The Released Class Claims do not include a release of any *other* rights you have or claims you may have as an employee or former employee of SF Tire.

**11. What if I get my payments and don't cash them?**

If you receive the payments and do not cash your checks, you will still be bound by the terms of the settlement and you will release all claims released under this settlement. After 180 days, the Settlement Administrator will stop payment on your check(s). The funds from any un-cashed checks will then revert to a cy pres recipient, the California Rural Legal Assistance Foundation.

**12. What happens if I do nothing at all?**

If you do nothing, you will receive payments from the settlement and you will be bound by the terms of the settlement.

**13. How do I request to be excluded from the settlement?**

If you want to retain the right to pursue claims against SF Tire alleged in this case and/or you do not want payments from this settlement, then you must take certain steps. This is called excluding yourself, and is also referred to as "opting out" of the settlement. Do not exclude yourself or "opt out" if you wish to receive money from this settlement.

To exclude yourself from the settlement, you must submit an opt-out request postmarked on or before \_\_\_\_\_, 2022. In the opt-out request, you must: (1) legibly state your name, your address and your telephone number, (2) state that you do not wish to be included in the Settlement, and (3) sign the opt-out request. If you choose to opt-out of the Settlement, you will not receive money from the Settlement. You must return your request to:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

**14. If I do not exclude myself, can I sue SF Tire for the same claims later?**

No. If you do not submit a valid and timely Opt-Out request postmarked by \_\_\_\_\_, 2022, you will be bound by all terms of the settlement and any Final Judgment entered in the Action, if the settlement is approved by the Court. The settlement and Final Judgment will include a full release of claims in this Action, which will prevent you from suing SF Tire or any related persons or entities for the claims released by the settlement. If you have a pending lawsuit, speak to your lawyer in that case immediately.

**15. If I exclude myself, can I get money from this settlement?**

No. If you exclude yourself, you are asking not to be included in the settlement.

**16. Do I have a lawyer in this case?**

The Court has approved the Woodall Law Offices as Class Counsel to represent you and all Settlement Class Members. You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want to hire your own lawyer, you may do so at your own expense. For example, you can hire your own legal counsel to appear in Court for you if you want someone other than Class Counsel to speak for you.

**17. How will the lawyers and the Class Representatives be paid?**

Class Counsel will request that the Court approve an award of attorneys' fees and litigation costs. Class Counsel will also request that the Plaintiff receives an additional award. The amount of attorneys' fees and costs awarded to Class Counsel and any awards to the Plaintiff will be subject to the Court's approval. You will not have to pay these fees and expenses separately. Class Counsel has been prosecuting the Action on behalf of the Class on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The attorney's fees and costs awarded by the Court will constitute full compensation for all legal fees and expenses of Class Counsel in the Action, including any work they do in the future. Lastly, as part of the preliminary approval of the settlement, the Court has approved payment of claims administration expenses in the amount of up to Seven Thousand Dollars (\$7,000) to the Settlement Administrator from the Maximum Settlement Amount.

**18. How do I object to the settlement?**

If you think that the proposed settlement is unfair, inadequate or unreasonable, you can object to the proposed settlement. If you object, and if the Court approves the proposed settlement, then you will still receive a share of the settlement money, and you will be bound by the terms of the release as set forth above.

Objections do not need to be formally filed but may be submitted personally or through an attorney, to the proposed Settlement for Case No. CGC-20-584213 by mailing your objection to:

The Clerk of the Court, Superior Court of California, County of San Francisco,  
400 McAllister Street, San Francisco, California 94102

You may also submit an objection in person at the Superior Court, County of San Francisco. Copies of all documents submitted to the clerk must also be mailed to the Settlement Administrator and counsel listed below.

All objections should reference the case name and number (*Sweet v. SF Tire & Service Central, Inc.* (Case No. CGC-20-584213)) and be submitted no later than \_\_\_\_\_, 2022.

The objection must state that you object to the Settlement and include the following information: (1) your name, address, phone number; (2) a statement of your views and the reasons for your objection; and (3) copies of papers, briefs or documents upon which the objection is based. Alternatively, a Class Member may appear at the Final Approval Hearing and present his/her objection to the Court orally, even without written objection. The submission of an objection shall not operate as a request for exclusion and no Class Member shall be excluded from the Settlement simply by virtue of filing an objection. You will also be permitted to withdraw your objection. If the Court approves the Settlement over your objection, you will be bound by the Settlement, and all of the terms in this Notice will apply to you. You will not have a second opportunity to opt-out of the settlement if the Court overrules your objection. You may also (but are not required to) attend the Final Approval Hearing on \_\_\_\_\_, 2022. Counsel for the parties will bring to the Court's attention all objections received by this date.

Copies of all documents submitted to the Court must also be mailed to the Settlement Administrator with a postmark dated no later than \_\_\_\_\_, 2022 at the following address:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]

If you object in the manner provided above, then you or your attorney may appear at the Final Approval Hearing, currently set for \_\_\_\_\_, 2022, at \_\_:00 a.m./p.m. at Department 302 of the Superior Court of California, County of San Francisco, 400 McAllister Street, San Francisco, CA 94102. However, if you do not object in the manner provided above, your objection may be considered waived and you will not be able to make any other or later objection to the fairness, reasonableness or adequacy of the proposed settlement.

**19. What’s the difference between objecting to the settlement and excluding myself from the settlement?**

Objecting is simply telling the Court that you don’t like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**20. May I attend the hearing and speak?**

Anyone may attend this hearing. If you are a Settlement Class Member and wish to make an objection at the hearing, you may do so.

**21. Where can I get more details about the settlement?**

This Notice summarizes the proposed settlement. For a more detailed statement of the matters involved in the Action, you may refer to the Unopposed Motion for Preliminary Approval of Class Action Settlement, and any other pleadings and papers filed in the Action. All of the pleadings and other records in this litigation, including the Settlement Agreement, may be examined online on the San Francisco County Superior Court’s website at <https://sfsuperiorcourt.org/divisions/civil>. After arriving at the website, click the “online services” link and then the “case query” link, then enter CGC-20-584213 as the case number and click “SEARCH.” Images of every document filed in the case may be viewed through the “Register of Actions.”

**22. Can I read a copy of the settlement agreement?**

Yes. A copy of the settlement agreement may be found as part of the Unopposed Motion for Preliminary Approval of Class Action Settlement, which is available for your review through the San Francisco County Superior Court’s website pursuant to the instructions provided in Question 21 above.

**23. What is the Contact information for Class Counsel and Defendant’s Counsel?**

| <u>CLASS COUNSEL</u>                                                                                                                                  | <u>COUNSEL FOR SF TIRE</u>                                                                                                                                            |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| KEVIN F. WOODALL<br>WOODALL LAW OFFICES<br>100 Pine Street, Suite 1250<br>San Francisco, CA 94111<br>Telephone: 415.413.4629<br>kevin@kwoodalllaw.com | LINDA M. MORONEY<br>NATALIE B. FUJIKAWA<br>GORDON REES SCULLY MANSUKHANI, LLP<br>275 Battery Street, Suite 2000<br>San Francisco, CA 94111<br>Telephone: 415.986.5900 |

**24. What if I have more questions?**

If you have any questions about the settlement, you may contact the Settlement Administrator:

SF Tire Class Action Administration  
c/o [Name of Administrator]  
[INSERT ADDRESS]  
Toll-free Phone number: [insert]

**\*\*\* PLEASE DO NOT CONTACT THE COURT WITH YOUR QUESTIONS\*\*\***

## EXHIBIT 3

# WOODALL LAW OFFICES

100 Pine Street, Suite 1250  
San Francisco, California 94111

Direct (415) 413-4629

Fax (866) 937-4109  
[kevin@kwoodalllaw.com](mailto:kevin@kwoodalllaw.com)

March 30, 2020

## **SUBMITTED ONLINE**

Department of Industrial Relations  
California Labor Workforce Development Agency  
PAGA Administrator  
455 Golden Gate Avenue, 10<sup>th</sup> Floor  
San Francisco, California 94102

## **VIA CERTIFIED MAIL (HAND RECEIPT REQUESTED)**

SF Tire & Service Central Inc. dba Big O Tires  
Attn: Legal Department  
415 Military East  
Benicia, CA 94510

Chris Monteverde  
Chief Executive Officer and Agent for Service of Process  
SF Tire & Service Central Inc. dba Big O Tires  
3040 Geary Blvd.  
San Francisco, CA 94118

**Re: *Joshua Sweet and those similarly situated v. SF Tire & Service Central Inc. dba Big O Tires***

To Whom It May Concern:

This office represents Joshua Sweet (“Sweet”) and other former and current California employees who have worked for SF Tire & Service Central Inc. dba Big O Tires and its affiliates (“Big O Tires”) in connection with the above-referenced matter. This amended notice is sent pursuant to the provisions of PAGA, §§ 2699, *et seq.*

## **I. FACTUAL BACKGROUND**

Sweet is a former, non-exempt California employee of Big O Tires. Sweet performed customer service, including selling tires. Sweet worked at approximately 5 different Big O Tires stores. Sweet's employment was terminated in or about February, 2020.

During their employment, Sweet and other former and current nonexempt California employees were not paid all wages due by Big O Tires and other responsible persons under Labor Code §§ 510, 558 and 1194. Among other things, they were not paid all overtime wages and/or agreed upon wages due because Big O Tires failed to calculate overtime wages and the overtime rates of pay with nondiscretionary commissions, spiffs, bonuses and other compensation. Instead, Big O Tires calculated overtime wages and the overtime rates of pay by simply multiplying the base rate of pay by 1.5. For example, according to Sweet's wage statement for pay period 10/29/2018 to 11/11/2018, Sweet's base rate of pay was \$23/hour. Big O Tires calculated his overtime rate of pay for this period as \$34.50, which is 1.5 times Sweet's base rate of pay. Sweet worked .95 hours of overtime and was paid \$32.78 in overtime for this pay period. According to Sweet's wage statement for pay period 11/12/2018 to 11/25/2018, Sweet's base rate of pay was \$22/hour. Big O Tires calculated his overtime rate of pay for this period as \$33, which is 1.5 times Sweet's base rate of pay. Sweet worked 4.55 hours of overtime and was paid \$150.15 in overtime for this pay period. According to Sweet's wage statement for pay period 11/26/2018 to 12/9/2018, Sweet's base rate of pay was \$22/hour. Big O Tires calculated his overtime rate of pay for this period as \$33, which is 1.5 times Sweet's base rate of pay. Sweet worked 3.22 hours of overtime and was paid \$106.26 in overtime for this pay period. Sweet received another wage statement that showed he earned \$705 in commissions from November 1, 2018 to November 30, 2018. The \$705 in commissions should have been used to determine the regular rates of pay used for purposes of calculating the overtime rates of pay used in November, 2018, which would have resulted in overtime rates of pay that exceeded the \$33 and \$34.50 per hour actually used. With the proper overtime rates of pay, Sweet's overtime wages would have exceeded the amounts actually paid.

The foregoing facts relating to the calculation of overtime wages also resulted in inaccurate and noncompliant wage statements under Labor Code § 226. Specifically, the wage statements listed the inaccurate rates of pay for the pay period (including the overtime rates of pay), inaccurate gross and net wages earned for the pay period by excluding all overtime wages earned, and an inaccurate number of hours worked at each rate of pay. On information and belief, Big O Tires also failed to include all hours worked.

California's wage orders require that employees be provided seats when the nature of the work reasonably permits it and that an adequate number of suitable seats be placed in reasonable proximity to the work area. Big O Tires violated the wage orders and Labor Code section 1198, which provides the employment of any employee under

conditions of labor prohibited by the [wage] order is unlawful, by failing to provide suitable seats to Sweet and other employees. Many times, there was no seating in the work areas behind the counters and other locations.

Sweet and other former and current California employees of Big O Tires were denied 10-minute rest periods during every 4 hours of work or major fraction thereof and were denied meal periods when they worked over 5 hours in a workday (or a second meal period when they worked over 10 hours in a workday), along with premium pay for missed rest and meal periods, in violation of Labor Code §§ 226.7 and 512. On information and belief, Sweet and other current and former employees of Big O Tires were not permitted to take timely and compliant rest and/or meal periods because they were not given relief by others and had heavy workloads. Sweet and other employees were not always paid premium pay for the missed meal and rest periods, in violation of the Labor Code.

Lastly, Sweet and former California employees of Big O Tires were not paid the aforementioned unpaid overtime wages and all wages due when their employment ended, in violation of Labor Code §§ 201-202. Big O Tires still owes overtime wages due for those underpaid workweeks.

## **II. § 2699, ET SEQ., LABOR CODE VIOLATIONS**

Sweet and other former and current California employees have numerous legal claims against Big O Tires. Further investigation and formal discovery will likely uncover other claims and additional facts supporting the liability. These violations include, but are not limited to, the following:

### **UNPAID OVERTIME WAGES**

(Labor Code §§ 510, 558)

During their employment with Big O Tires, Sweet and other former and current non-exempt California employees did not receive all agreed upon wages and overtime wages for hours worked.

Pursuant to Labor Code § 510, non-exempt employees are entitled to 1.5 times their regular pay rate for any work performed in excess of 8 hours in a day, any work performed in excess of 40 hours per week and for the first 8 eighths on the seventh workday. Further, they are entitled to twice their regular pay rate for any work performed past 12 hours in one day or past 8 hours on the seventh day. Although Sweet and other former and current non-exempt California employees of Big O Tires worked such overtime hours, Big O Tires failed to pay them the foregoing overtime wages, which it owes to them. As noted above, Big O Tires did not pay correct overtime wages because it failed to calculate the regular rate of pay and thus, the overtime rate of pay, with the nondiscretionary commissions, spiffs, bonuses and other compensation. Instead,

Big O Tires simply multiplied their base rates of pay by 1.5 to arrive at the overtime rates of pay. Because the overtime rates of pay used by Big O Tires were lower than required by law, Sweet and other former and current nonexempt employees were not paid all overtime wages earned.

For a violation of § 510, Labor Code § 558 imposes a penalty of \$50.00 for each underpaid employee for the initial violation and \$100.00 per employee for each pay period for which the employee was underpaid. This civil penalty is in addition to the civil penalty of \$100/\$200 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 et seq. for a violation. Furthermore, pursuant to Labor Code § 2699 et seq., Sweet and other former and current non-exempt California employees are entitled to collect 25% of the penalty assessment.

**FAILURE TO PROVIDE EMPLOYEE WITH ACCURATE AND  
REQUIRED ITEMIZED STATEMENT OF WAGES**

(Labor Code §§ 226(a), 226.3, 2699)

Pursuant to Labor Code § 226(a), at the time of each payment of wages, every employer must provide its employees with an accurate itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by the employee; (4) all deductions; (5) net wages earned; (6) the inclusive dates of the period for which the employee is paid; (7) the name of the employee and his or her partial social security number or employee identification number; (8) the name and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Big O Tires failed to provide such writings and all of this information to its employees, including Sweet and other former and current California employees. Among other violations, their wage statements do not contain the correct overtime rates of pay, the correct hours worked at each correct rate of pay and the correct gross and wages earned because Big O Tires did not calculate their regular rates of pay (and as a result, their overtime rates of pay) with nondiscretionary commissions, bonuses, spiffs and other compensation, which resulted in unpaid overtime wages. On information and belief, Big O Tires also failed to correctly list the total hours worked by Sweet and other employees.

For example, for pay period 10/29/2018 to 11/11/2018, Sweet's wage statement listed \$34.50, which is 1.5 times Sweet's base rate of pay of \$23/hour. Sweet was paid \$32.78 in overtime for this pay period. This wage statement was inaccurate because Sweet earned commissions during this pay period (\$705 for the month of November), but this was not used to calculate Sweet's overtime rate of pay or his overtime wages. Sweet's overtime rate of pay and overtime wages earned were higher than reported on his wage statement for this pay period.

As a result of the violations, Big O Tires prevented Sweet and other former and current California employees from asserting their rights under the Labor Code, thereby causing damages and injuries to them. They were not able to determine their correct hours worked for the stated pay period, rates of pay and compensation from the wage statements (among other things), such that they were required to hire an attorney and expert to gather and review other documents to make sure determinations.

Labor Code § 226.3 imposes an additional civil penalty on the employer for a violation of Labor Code § 226(a). The penalty amount is \$250.00 per employee per initial violation, and \$1,000 per employee per subsequent violation. This civil penalty is in addition to the civil penalty of \$100/\$200 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 et seq. for a violation. Pursuant to Labor Code § 2699 et seq., Sweet and other former and current California employees are entitled to collect 25% of the penalty assessed.

**FAILURE TO FULLY COMPENSATE EMPLOYEES WHEN THEIR  
EMPLOYMENT ENDS**

(Labor Code §§ 201, 202, 203 and 256)

Labor Code § 201 requires employers to immediately pay any wages, without abatement or reduction, to any employee who is discharged. Labor Code § 202 requires employers to pay all wages earned and unpaid, without abatement or reduction, no later than 72 hours of receiving an employee's notice of intent to quit or immediately at the time of quitting if the employee provided at least 72 hours' notice of intent to quit. For violations of Labor Code §§ 201 and 202, Labor Code § 203 causes the unpaid wages of the employee to continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, but the wages shall not continue for more than 30 days. Likewise, Labor Code § 256 provides for a penalty of 30 days' wages as a result of the same violations. Big O Tires violated each of the foregoing Labor Code sections and is responsible for the foregoing penalties, along with civil penalties under Labor Code § 2699 et seq.

Again, Big O Tires did not pay all overtime wages to Sweet and former California employees upon the termination of their employment due to the failure calculate overtime wages with the correct overtime rates of pay, due to the failure to calculate the regular and overtime rates of pay with nondiscretionary commissions, bonuses, spiffs and other compensation. This civil penalty is in addition to the civil penalty of \$100/\$200 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 et seq. for a violation. Former California employees of Big O Tires are entitled to collect 25% of the penalty imposed pursuant to Labor Code § 2699 et seq.

## **PREMIUM PAY OWED FOR MISSED/NONCOMPLIANT REST AND MEAL PERIODS**

(Labor Code §§ 226.7 and 512)

Labor Code § 226.7(a) states, “no employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.” The applicable Wage Orders provide, in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest for four (4) hours or major fraction thereof.” Labor Code § 226.7(b) states: “[I]f an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each work day that the meal or rest period is not provided.”

Labor Code § 512 provides, “An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”

In *Augustus v. ABM Security Services, Inc.*, 2 Cal.5<sup>th</sup> 257 (2016), the California Supreme Court determined former security guards were denied off-duty rest periods and were entitled to premium pay for missed rest periods because they were on-call during the rest periods.

During the time that Sweet and other former and current non-exempt California employees performed work for Big O Tires, on information and belief, they were often not provided all off-duty 10-minute rest periods and 30-minute meal periods. Employees were not able to take timely, compliant meal and rest periods due to the heavy workload or they did not receive off-duty meal and rest periods, in violation of *Augustus*. When they attempted to take meal and rest periods, they were frequently interrupted with work requests, required to take them late or their breaks were shorter than required by law. Big O Tires failed to provide appropriate relief for Sweet and other employees to take proper meal and rest periods. Further, when they worked over 10 hours in a workday, they were not always given the opportunity to take a second 30-minute meal period. Big O Tires did not always provide Sweet and other employees with premium pay for missed rest and meal periods, including one hour of pay for each day a rest period was missed and another hour of pay for each day a meal period was missed.

The civil penalty for violating Labor Code § 226.7 is \$100/\$200 per pay period, per aggrieved employee, for each violation pursuant to Labor Code § 2699 et seq. Pursuant to Labor Code § 2699 et seq., Sweet and other former and current non-exempt California employees are entitled to collect 25% of the penalty assessment.

### **ATTORNEY'S FEES, INTEREST, & PENALTIES**

(Labor Code §§ 218.5, 218.6, 1194, 2699(g)(1), 2699.5)

Labor Code §§ 218.5, 218.6, 2699(g)(1) and 1194 give employees the right to recover in a civil action interest on unpaid wages, reasonable attorney's fees, and costs of suit. Accordingly, Big O Tires is liable for interest on all unpaid wages as well as attorney's fees and costs. Sweet and former and current California employees have already incurred and will continue to incur costs in seeking to recover back-owed wages and other payments owed to them.

Furthermore, Sweet and other former and current California employees are entitled to bring a civil action for their wage and hour claims. Thus, Big O Tires is liable for penalties resulting from violations involving **all** other similarly situated employees.

### **MISCELLANEOUS**

Given the circumstances and facts discussed in this letter, Big O Tires has violated or is believed to have violated a myriad of other Labor Code provisions, including but not limited to, Labor Code §§ 201 through 2802.

### **III. CONCLUSION**

Please be advised that this notice is intended to exhaust the requirements set forth under California Labor Code §§ 2699, *et seq.* By law, an employee alleging a violation of one of the above referenced sections must notify his or her employer and the Labor and Workforce Development Agency before he or she can invoke the provisions of § 2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer and the employee within 60 calendar days regarding whether it intends to investigate the alleged violation. (Labor Code § 2699.3(a)(2)(A).) If the LWDA advises it will not investigate, or if no notice is provided within 65 calendar days, the employee may file or amend a lawsuit invoking the provisions under Labor Code § 2699. (Labor Code § 2699.3(a)(2)(A).)

Any matters not addressed herein within the proscribed time under Labor Code § 2699 et seq. shall be pursued in litigation.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

It is a practice and goal of this firm to resolve matters prior to litigation or early in litigation. Thus, I encourage Big O Tires to engage in settlement communications immediately upon receipt of this notice, before a lawsuit is filed. My firm is willing to engage in settlement discussions regarding all of these issues before a lawsuit is filed. I look forward to hearing from you upon your receipt of this notice.

Very truly yours,

*Kevin F. Woodall*

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