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7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10 FERNANDO SALGUERO, as an aggrieved
employee and private attorney general,

11 Plaintiff,

12 vs.

13 COLLABERA INC., a New Jersey
14 Corporation; and DOES 1 through 50,
inclusive,

15 Defendants
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Case No.: 20STCV19946

*Assigned for all purposes to: Hon. Michael L.
Stern, Dept. 62*

**DECLARATION OF HEATHER DAVIS IN
SUPPORT OF MOTION FOR ORDER
APPROVING SETTLEMENT PURSUANT
TO CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT AND
ENTERING JUDGMENT**

Hearing Date: November 19, 2021
Hearing Time: 9:00 a.m.
Department: 62

Reservation ID: 905919296565

Complaint Filed: May 26, 2020
Trial Date: January 31, 2022

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I, Heather Davis, declare as follows:

1. I am an attorney duly admitted to the Bar of the State of California and all United States District Courts in the State of California. I am a partner with Protection Law Group, LLP, counsel of record for Plaintiff Fernando Salguero (“Plaintiff”). I make this declaration in support of Plaintiff’s Motion for Order Approving Settlement Pursuant to California Labor Code §2699 Private Attorneys General Act. Unless indicated otherwise, I have personal knowledge of the facts stated herein and if called as a witness I could and would competently testify thereto.

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1 dismiss; removing actions from state court to federal court; drafting and responding to written
2 discovery; drafting and opposing discovery related motions; arguing discovery related motions;
3 drafting motions to consolidate related matters; interviewing putative class members and obtaining
4 declarations in connection with class certification; drafting oppositions to motions for class
5 certification; drafting motions for decertification following class certification; conducting exposure
6 analyses to assess the strengths and weaknesses of asserted claims, the likelihood of prevailing at
7 class certification and potential damages resulting from such claims; drafting mediation briefs;
8 serving as the primary contact to in-house counsel; deposing Plaintiff and putative class members;
9 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In short,
10 I played an integral role in all aspects of litigation from the inception of a matter through and
beyond class certification.

11 6. During my practice in other jurisdictions and continuing today, I have been
12 primarily devoted to working in employment law and on complex class action and representative
13 litigation and multi-plaintiff work.

14 7. Protection Law Group LLP is a law firm specifically devoted to the representation
15 of employees against employers in California involving claims relating to violations of the
16 California Labor Code, including claims for failure to pay all wages owed, failure to pay overtime
17 premiums, failure to pay meal and rest premiums and failure to provide accurate wage records. The
18 practice of employment law is a very specific, narrow field which requires diligence in an ever-
19 evolving field of substantive and procedural law.

20 8. Although not exhaustive, below is a representative list of several of the wage and
21 hour class actions that I performed substantial work on while I was an attorney with Littler
22 Mendelson, including, but not limited to: *Villacres v. ABM Industries, Inc.*, 189 Cal.App.4th 562
23 (2010); *Brizuela v. Copart, Inc.*, CIVRS11101592, (San Bernardino Superior Court class action
24 settlement); *Augustus v. ABM Industries, Inc.*, BC336416, 2 Cal. 5th 257 (2016); *Tagaki v. United*
25 *Airlines*, 2:11-CV9191 (Central District class action settlement), *Babasa v. Comerica, Inc.*, 3:11-
26 CV00595, *Leyva v. Medline Industries, Inc.* 5:11-cv-00164 (Central District), *Blue v. Coldwell*
27 *Banker Residential Brokerage Co.*, BC417335, (Los Angeles Superior Court, class action
28 settlement), and *Acosta v. Texwood Industries, Inc.*, 2:07-cv-03237-DDP-PLA (Central District

1 class action settlement).

2 9. Since opening my firm, I have served as lead counsel or co-class counsel in several
3 wage and hour class and/or representative actions seeking wages and penalties owed on behalf of
4 employees for which final approval of the settlement or class certification has been granted,
5 including, but not limited to the following:

- 6 • *Holzer v. Wedbush Securities, Inc.*, BC 550462 (Los Angeles Superior Court wage
7 and hour class action certifying class of independent contractors and appointing
8 Protection Law Group, LLP as class counsel);
- 9 • *White v. Windy Pizza Plus, LLC*, BC593377 (Los Angeles Superior Court wage and
10 hour class action certifying class of all non-exempt employees and appointing
11 Protection Law Group, LLP as class counsel);
- 12 • *Morera v. Continental Assets Mgmt.*, BC502003, (Los Angeles Superior Court wage
13 and hour class action appointing Protection Law Group, LLP as class counsel in
14 settlement);
- 15 • *Fong et al. v. Regis Corporation*, 3:13-cv-13-04497 VC, (United States District Court,
16 Northern District of California, wage and hour class action settlement and
17 appointment Protection Law Group, LLP as class counsel in settlement);
- 18 • *Espinoza v. Financial Partners Credit Union*, BC502165 (Los Angeles Superior Court
19 wage and hour Class action appointing Protection Law Group, LLP as class counsel in
20 settlement);
- 21 • *Kesheshian, et al v. S. Cal. Logistics*, BC557981 (Los Angeles Superior Court wage
22 and hour class action appointing Protection Law Group, LLP as class counsel in
23 settlement);
- 24 • *Sampson v. 24 HR Homecare LLC*, BC586019 (Los Angeles County Superior Court
25 wage and hour class action);
- 26 • *Glenn v. Decron Properties Corp.*, BCC 578035 (Los Angeles Superior Court wage
27 and hour class action appointing Protection Law Group, LLP as class counsel in
28 settlement);
- *Torres v. Auto Rescue et al.*, RIC 1509900 (Riverside County Superior Court wage
and hour class action appointing Protection Law Group, LLP as class counsel in
settlement);

- 1 • *Kashanian v. Plus Labs, Inc.*, (Santa Clara County Superior Court wage and hour
2 class action appointing Protection Law Group, LLP as class counsel in settlement);
- 3 • *Cadena v. Tetra Property Management*, 257425 (Tulare County Superior Court wage
4 and hour class action appointing Protection Law Group, LLP as class counsel in
5 settlement);
- 6 • *Drayton v. Hollywood Park Casino*, BC593935 (Los Angeles Superior Court wage
7 and hour class action appointing Protection Law Group, LLP as class counsel in
8 settlement);
- 9 • *Khan v. FPI Management, Inc.*, JCCP4819 (Los Angeles Superior Court wage and
10 hour class action appointing Protection Law Group, LLP as class counsel in
11 settlement);
- 12 • *Byrd v. Masonite Corp.*, 5:16-cv-00035-JGBKK (United States District Court, Central
13 District of California appointing Protection Law Group, LLP as class counsel in
14 settlement);
- 15 • *Hadrick v. Woodmont Real Estate Serv., et al.*, CIV 530405 (San Mateo County
16 Superior Court wage and hour class action appointing Protection Law Group, LLP as
17 class counsel in settlement);
- 18 • *Utterbach v. Daylight Transport, LLC et al.* BC600994 (Los Angeles Superior Court
19 wage and hour class action appointing Protection Law Group, LLP as class counsel in
20 settlement);
- 21 • *Eiden v. Olive & June*, BC654685 (Los Angeles Superior Court wage and hour class
22 action appointing Protection Law Group, LLP as class counsel in settlement);
- 23 • *Lemus v. Slater Inc.*, CIVDS1703633 (San Bernardino Superior Court wage and hour
24 class action appointing Protection Law Group, LLP as class counsel in settlement);
- 25 • *Deluna v. Amerit Fleet Solutions et al.*, CIVDS1721564 (San Bernardino Superior
26 Court wage and hour class action appointing Protection Law Group, LLP as class
27 counsel in settlement);
- 28 • *Stone v. Universal Protection Services*, AAA Case No. 01-15-0002-7497 (American
Arbitration Association wage and hour class action appointing Protection Law Group,
LLP as class counsel in settlement on behalf of class of 75,000+ putative class
members);

- 1 • *Commick v. Prometheus Real Estate Group*, CIV531264 (San Mateo Superior Court
2 wage and hour class action appointing Protection Law Group, LLP as class counsel in
3 settlement);
- 4 • *Martinez v. AMRO Fabricating Corp.*, BC681938 (Los Angeles Superior Court wage
5 and hour class action appointing Protection Law Group, LLP as class counsel in
6 settlement);
- 7 • *Ramirez v. Western National Properties*, BC639319 (Los Angeles Superior Court
8 wage and hour class action appointing Protection Law Group, LLP as class counsel in
9 settlement);
- 10 • *Hernandez v. Access Dental Plan et. al*, 34-2017-00220944 (Sacramento Superior
11 Court wage and hour class action appointing Protection Law Group, LLP as class
12 counsel in settlement);
- 13 • *Fernandez v. Sumitomo Rubber North America, Inc.*, CIVDS 1803211 (San
14 Bernardino Superior Court wage and hour class action appointing Protection Law
15 Group, LLP as class counsel in settlement);
- 16 • *Gomez v. Fairway Staffing Services, Inc.*, BC689771 (Los Angeles Superior Court wage
17 and hour class action appointing Protection Law Group, LLP as class counsel in
18 settlement);
- 19 • *Fuentes v. Communications Test Design, Inc.*, Case No. CIVDS1802427 (San
20 Bernardino Superior Court wage and hour class action appointing Protection Law
21 Group, LLP as class counsel in settlement);
- 22 • *Hartline v. Senior Operations, LLC*, Case No. BC697665 (Los Angeles Superior Court
23 wage and hour class action appointing Protection Law Group, LLP as class counsel in
24 settlement);
- 25 • *Carrozzella v. Basalite Concrete Products, LLC*, Case No. 34-2014-00220214
26 (Sacramento Superior Court wage and hour class action appointing Protection Law
27 Group, LLP as class counsel in settlement);
- 28 • *Howey v. Battery Systems, Inc.*, Case No. 2026114 (Stanislaus Superior Court wage and
hour class action appointing Protection Law Group, LLP as class counsel in settlement);
- *Correa v. Cashbak, LLC*, Case No. BC723845 (Los Angeles Superior Court wage and

- hour class action appointing Protection Law Group, LLP as class counsel in settlement);
- *Lemus v. Cass Construction*, Case No. 37-2017-00028180 (San Diego Superior Court wage and hour class action appointing Protection Law Group, LLP as class counsel in settlement); and
 - *Sales v. J.S. International Shipping Corp.*, Case No. 18CIV05048 (San Mateo Superior Court wage and hour class action appointing Protection Law Group, LLP as class counsel in settlement).

10. Including myself, Protection Law Group includes eight attorneys, all of whom actively and continuously represent plaintiffs in employment class actions and representative actions, in Superior Courts throughout the State of California, in the Court of Appeal, and in various Federal courts. Because of the unique history and nature of our practice, all of the attorneys at Protection Law Group have a high level of knowledge and experience in labor and employment law.

11. I am fully familiar with the legal and factual issues in this case, and have specific experience litigating complex wage and hour actions as class actions, including employment cases as set forth above. The Settlement presented here only resulted after having engaged in extensive informal discovery and investigation and is the product of hard-fought litigation and extensive arms' length negotiations. In my opinion as an experienced counsel, the Settlement is fair, reasonable, adequate, and in the best interests of the State and the PAGA Employees.

PROCEDURAL HISTORY AND FACTUAL BACKGROUND

12. On or about March 18, 2020, Plaintiff filed a letter with the Labor and Workforce Development Agency ("LWDA") and provided copies of this letter to Defendant Collabera Inc. ("Defendant") via certified mail, asserting claims for Defendant's (1) failure to pay for all time worked at correct rates of pay, including minimum wages, straight time wages, and overtime compensation; (2) failure to provide meal periods and pay meal period premiums; (3) failure to authorize and permit rest periods and pay rest period premiums; (4) failure to timely pay wages during employment; (5) failure to provide accurate itemized wage statements; (6) failure to maintain accurate records; (7) failure to reimburse necessary business expenditures; and (8) failure to timely

1 pay all wages upon termination of employment. Attached as **Exhibit 1** is a true and correct copy of
2 my office's March 18, 2020, letter to the LWDA and Defendant.

3 13. On May 26, 2020, my office filed a Complaint against Defendant on behalf of
4 Plaintiff, individually and on behalf of others similarly situated, alleging a single cause of action for
5 Violation of California Labor Code § 2699 (Private Attorneys General Act) ("PAGA").

6 14. Shortly after the filing of the Complaint, the Parties met and conferred and agreed to
7 informally stay discovery pending private mediation. However, the Parties entered into a Stipulation
8 in which they agreed to negotiate and finalize a protective order so that formal discovery, including
9 the production of employees' contact information, could proceed swiftly in the event mediation was
10 unsuccessful. As part of the stipulation Defendant also agreed to provide Plaintiff's Counsel with a
11 random 20% sampling of time and payroll records at least four weeks prior to mediation as well as
12 additional informal discovery.

13 15. In advance of mediation, Defendant provided Plaintiff's Counsel with the stipulated
14 time and payroll records as well as all employee handbooks and relevant policy documents in place
15 during the PAGA Period and other relevant documents. Defendant also provided my office with and
16 information relating to the PAGA Employees including, the total number of pay periods at issue,
17 the number of current and former employees, and other relevant information. Defendant represented
18 prior to mediation that there were approximately 2,154 total employees and approximately 32,793
19 pay periods through January 2021. My office thereafter conducted an extensive independent
20 investigation and evaluations of the claims and defenses in this matter.

21 16. On April 26, 2021, the Parties attended mediation with Jeffrey A. Ross, Esq. during
22 which the parties debated their positions with the mediator and exchanged arguments regarding their
23 claims and defenses. The Parties were unable to resolve their dispute at mediation, but after careful
24 consideration following mediation accepted a mediator's proposal to resolve the PAGA Claims at
25 issue for Two Million, One Hundred Thousand Dollars (\$2,100,000.00).

26 17. The Parties then spent considerable time drafting and revising a memorandum of
27 understanding memorializing this agreement and thereafter spent additional time negotiating and
28 finalizing the terms of a long form settlement. Then, on October 26, 2021, the Parties fully executed

1 a Joint Stipulation of PAGA Settlement and Release of Claims. Attached as **Exhibit 2** is a true and
2 correct copy of the Settlement Agreement.

3 **SUMMARY OF THE TERMS OF SETTLEMENT**

4 18. Plaintiff seeks approval of a proposed PAGA Settlement Agreement.

5 19. The Settlement Agreement defines the “PAGA Employees” as: All current and
6 former non-exempt employees of Defendant who worked in the state of California during the PAGA
7 Period. “PAGA Period” means the period of time from March 22, 2019, and ending on May 28,
8 2021. Settlement Agreement Section I(A) ¶ 12 and ¶14.

9 20. According to information provided to my office by Defendant’s counsel, there are
10 approximately 2,154 PAGA Employees.

11 21. Subject to Court approval, Plaintiff and Defendant have agreed to settle the PAGA
12 claims at issue in the Action for a Maximum Settlement Amount of \$2,100,000.00. Agreement
13 Section I(A) ¶8.

14 22. The Maximum Settlement Amount is a common fund and therefore, includes all
15 requested costs, fees, and other allocations. Specifically, the Maximum Settlement Fund includes:
16 (1) the Attorney’s Fees Payment in the amount of \$735,000.00; (2) the Attorney’s Costs Payment
17 of \$11,530.88; (3) a Settlement Administration Payment of up to \$19,990.00; and (4) the PAGA
18 Representative Payment to Plaintiff in the amount of \$7,500.00. After the foregoing amounts are
19 deduced from the Maximum Settlement Amount, the remaining Net Settlement Amount paid to the
20 LWDA and Aggrieved Employees. Settlement Agreement Section II(B) ¶2(a-e).

21 23. The Net Settlement Amount is currently estimated to be \$1,325,979.12 and will be
22 distributed as follows: 75% of the Net Settlement Amount, or \$994,484.34, will be paid to the
23 LWDA, and the remaining 25%, or \$331,494.78, will be paid to the PAGA Employees on a *pro*
24 *rata* basis based upon the number of pay periods worked by each PAGA Employee during the
25 PAGA Period. Settlement Agreement Section II(B) ¶ 2(e).

26 24. All Individual PAGA Payments will be treated as miscellaneous income for which a
27 1099 will be issued. Settlement Agreement Section II(C) ¶14

28 25. No later than thirty (30) calendar days after the Motion for Approval is granted,
Defendant will provide the Settlement Administrator the PAGA Employees’ Data including (i) each

1 PAGA Employee's full name; (ii) last known home address; (iii) last known telephone number; (iv)
2 social security number; and (v) start and end dates of active employment as a non-exempt employee
3 of Defendant in the State of California; (vi) total Pay Periods worked during the PAGA Period; and
4 (vii) any other information, including the Pay Period Value per the calculation in Paragraph 9 above,
5 required by the Settlement Administrator in order to effectuate the terms of the Settlement
6 ("Aggrieved Employee List"). Settlement Agreement Section II(C) ¶6.

7 26. Within fourteen (14) court days of the Effective Date, Defendant will deposit the
8 Maximum Settlement Amount into a Settlement Account established by the Settlement
9 Administrator. Settlement Agreement Section II(C) ¶7.

10 27. Within ten (10) business days following the funding of this settlement, the Settlement
11 Administrator will issue from the Settlement Fund Account Individual Settlement Shares based on
12 the twenty-five percent (25%) of the Net Settlement Amount to PAGA Employee's last know
13 mailing address. Settlement Agreement Section II(C) ¶12 .

14 28. Payments to the PAGA Employees will be accompanied by a cover letter,
15 substantially similar in content and form to the proposed cover letter attached "Exhibit A" to the
16 Settlement Agreement. See Settlement Agreement, Ex. A. Settlement Agreement Section II(A) ¶11.

17 29. All checks to PAGA Employees will be sent by the Settlement Administrator, and
18 shall remain valid and negotiable for 180 days from the date of their issuance. If any checks are not
19 cashed within 180 days of mailing, those funds shall be transmitted to the Controller of the State of
20 California to be held pursuant to California Unclaimed Property Law, California Code of Civil
21 Procedure § 1500, *et seq.* Settlement Agreement Section II(C) ¶12.

22 30. In exchange for payment from the Settlement, upon the funding of the Maximum
23 Settlement Amount, Plaintiff, the PAGA Employees, and the State of California will be deemed to
24 have released and discharged the Releasees of the PAGA Released Claims as defined in the
25 Agreement. Settlement Agreement Section II(A) ¶¶18-19.

THE SETTLEMENT IS FAIR AND REASONABLE

Plaintiff Complied PAGA's Notice Requirements

26 31. Before bringing a civil action under PAGA, an employee must comply with the
27 notice requirements set for in Labor Code section 2699.3. Plaintiff complied with these
28

1 requirements. Specifically, on March 18, 2020, Plaintiff provided written notice to the LWDA and
2 Defendant of his intent to assert claims under PAGA and the basis for those claims, to which the
3 LWDA did not respond. Accordingly, on May 26, 2020, after more than 65 days had passed,
4 Plaintiff filed his Complaint in this Action.

5 32. The Settlement Agreement and this motion and supporting papers are being
6 concurrently submitted to the California Labor and Workforce Development Agency, as required
7 by California Labor Code section 2699(1)(2).

8 **Discovery and Informed Arms-Length Negotiations**

9 33. The Parties prepared extensive briefing and argument regarding the strengths and
10 weaknesses of Plaintiff's claims and Defendant's defenses and engaged in extensive settlement
11 negotiations during a full day mediation with Jeffrey A. Ross, a highly-respected mediator with
12 extensive experience involving wage and hour matters including actions under the Private Attorneys
13 General Act. The settlement negotiations were at arm's length and, although conducted in a
14 professional manner, were adversarial. Defendant at all times maintained that it had complied with
15 California wage and hour laws. Likewise, if this matter had not resolved through mediation and
16 additional discussions with the mediator, Plaintiff was prepared to vigorously litigate this dispute
17 including through trial and possible appeals. The proposed Settlement was reached at the end of a
18 process that was neither fraudulent nor collusive. To the contrary, counsel for the Parties advanced
19 their respective positions throughout the settlement negotiations.

20 34. Settlement was reached in this matter only after extensive informal discovery. Prior
21 to mediation, Defendant's counsel provided my office with a random sampling 20% sampling of
22 the PAGA Employees time and payroll records as well as information regarding the total number of
23 non-exempt employees, the number of pay periods worked, and other relevant information. In
24 addition, Defendant also supplied my office with all applicable wage and hour policies, documents
25 pertaining to meal and rest period premium requests/waivers, and other relevant documents. My
26 office thoroughly reviewed this discovery and worked with an outside expert to review this data.
27 Based on this review and analysis, my office was able to prepare an informed assessment and
28 analysis of Defendant's potential exposure. This investigation allowed my office to act intelligently
in negotiating the settlement.

1 35. The Parties extensively briefed their respective positions regarding the strengths and
2 weaknesses of Plaintiff's claims and provided their analyses to the mediator for her consideration.
3 The mediator helped the Parties debate the strengths and weakness of their respective positions and
4 reach a compromise despite their disputed evaluations of the case.

5 **Estimate of Defendant's Maximum Potential Exposure**

6 36. Based on the informal discovery provided, my office estimated that should all claims
7 be adjudicated in favor of Plaintiff, Defendant faced an estimated maximum liability of
8 \$25,560,675.00 in penalties arising from the alleged Labor Code Violations.

9 **Risk-Basket Analysis And Adjustments**

10 37. Although the investigation and information discovered supports Plaintiff's
11 contentions, Plaintiff and my office recognize that substantial barriers exist to actual recovery of
12 such penalties. Consideration of these risks factored into the decision to enter the Settlement at this
13 stage of litigation.

14 38. First, in order for Plaintiff to prevail at trial on his PAGA claims, he would have to
15 prove the underlying Labor Code violations, demonstrate that Aggrieved Employees suffered these
16 violations, and demonstrate that Defendant's conduct gives rise to penalties. Plaintiff's core
17 allegation is that Defendant systematically violated the California Labor Code by, *inter alia*, failing
18 to pay for all time worked, including minimum and overtime wages, failing to provide compliant
19 meal and rest periods and associated premiums, failing to timely pay wages during and upon
20 termination of employment, failing to provide accurate itemized wage statements, failing to
21 maintain accurate payroll records, and failing to reimburse business expenses and costs. Although
22 Plaintiff maintains that such wage and hour claims are amenable to resolution as to a group of
23 employees, many courts have found that the issues raised by Plaintiff, including off-the-clock work,
24 meal and rest period violations, and unreimbursed business expenses, raise individualized issues
25 that render a case unmanageable and unsuitable for adjudication as to a large group of employees.
26 Although California case law clearly states that PAGA actions need not satisfy class action
27 requirements, my office remained mindful of the fact that some courts have nevertheless held that
28 PAGA claims must meet a threshold "manageability" requirement.

1 39. Defendant also maintained several defenses to Plaintiff's theory of liability which, if
2 successfully argued and proven, had the potential to eliminate or substantially reduce Plaintiff's
3 estimated recovery. Throughout this litigation, Defendant maintained and continues to maintain that
4 it had legally-compliant employment policies and practices and denies that it ever violated the Labor
5 Code provisions Plaintiff seeks to enforce under PAGA. For instance, with respect to penalties
6 Plaintiff sought to enforce for meal period violations, Defendant argued that, given what it
7 maintained were compliant policies and practices, any issues regarding meal periods would require
8 an individualized inquiry that would be unmanageable.

9 40. Plaintiff's claims regarding off-the-clock work performed before and after
10 employees shifts and during meal period faced similar challenges and the potential need for
11 individualized inquiry.

12 41. My office also anticipates that should the case proceed, Defendant will attempt to
13 challenge Plaintiff's standing as an aggrieved employee and will deny that any of its other
14 employees, whom Plaintiff seeks to represent, are aggrieved. Indeed, some courts have taken an
15 approach requiring plaintiffs to establish standing and bifurcating discovery and/or trial of a PAGA
16 claim.

17 42. In addition to Defendant's anticipated defenses, my office remained mindful of the
18 fact that PAGA gives the Court discretion to lower the penalties assessed if, based on the facts and
19 circumstances of the particular case, to do otherwise would result in an award that is
20 "unjust, arbitrary and oppressive, or confiscatory."

21 43. My office also recognized that there was a significant risk that the Court would
22 decline to assess the cumulative penalties for the maximum number of potential violations, as a
23 significant portion of Defendants' liability arises from claims that are largely predicated on
24 successful prosecution of Plaintiff's meal period, rest period, and unpaid overtime and minimum
25 wage claims, and could therefore be considered duplicative by the court.

26 44. Further, my office recognized that, protracted litigation of PAGA claim would be an
27 expensive, time-consuming, and extremely uncertain proposition. In order to prove liability and
28 damages, Plaintiff will be required to conduct additional extensive discovery, conduct numerous
depositions, request and analyze thousands of pages of documents, obtain employee contact

1 information, contact these employees, and obtain numerous declarations at great expense. Obtaining
2 the cooperation of current employees would also be difficult, given the likely reluctance to aid
3 prosecution of a lawsuit against a current employer. On the other hand, Defendant would likely be
4 able to obtain the cooperation of its employees. Moreover, even if Plaintiff prevailed at trial, possible
5 appeals could substantially delay any recovery by the employees and State of California. There is a
6 significant risk that Plaintiff could ultimately recover nothing for himself, other employees, or the
7 State.

8 45. Thus, while Plaintiff maintains that his PAGA claim is meritorious, my office took
9 into account the strengths and weaknesses of each side's respective positions in evaluating the
10 Defendant's likely potential exposure. First, taking into account the risk of maintaining the case on
11 a representative basis, arguments regarding manageability, and challenges to Plaintiff's status as an
12 aggrieved employee, my office discounted Defendant's estimated liability 50%. In consideration for
13 merits-based risk factors, including prevailing at trial, my office discounted Defendant's estimated
14 liability an additional 50%. Finally, given the discretionary nature of PAGA penalties, the likelihood
15 that these potential penalties could be severely reduced by the Court's decision to decline to stack
16 such penalties, and the fact that Defendant had potential arguments that the imposition of such
17 penalties would be arbitrary and oppressive, my office discounted Defendant's estimated liability
18 by an additional 66%. This resulted an adjusted estimated liability of \$2,108,775.69

18 **Policy Considerations and Prior Settlements**

19 46. My office was also mindful of the fact that PAGA is fundamentally not intended to
20 be compensatory in nature but is instead intended to facilitate enforcement of California's labor laws
21 by financing state activities and educating and deterring non-compliance.

22 47. After considering this multitude of factors, Plaintiff and my office concluded that it
23 was in the best interest of the State of California and the Aggrieved Employees to enter into the
24 Settlement. The overall relief obtain by the Settlement is significant, not only from a monetary
25 perspective, but also because it fulfills the public policy objectives of PAGA – to promote
26 enforcement of California's labor laws, provide funds to the state, and deter future non-compliance
27 by Defendant.
28

1 48. Moreover, the Settlement is well-within the range of settlements of PAGA claims
2 approved by Courts in other cases. *See, e.g.,*

- 3 • *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA
4 Payment of \$5,000 in a \$1.5 million class settlement);
- 5 • *Zamora v. Ryder Integrated Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D.
6 Cal. 2014) (\$7,500 payment to LWDA on a \$1.5 million class settlement);
- 7 • *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015) (\$5,000 in
8 a \$500,000 class settlement);
- 9 • *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (\$10,000 to
10 the LWDA out of \$1,750,000 class settlement);
- 11 • *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal. 2011)
12 (PAGA payment of \$7,500 out of \$6.9 million common-fund settlement);
- 13 • *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as
14 PAGA penalties out of \$21,000,000 settlement amount);
- 15 • *Franco v. Ruiz Foods, Inc.*, 2012 WL 5941801 at *14 (E.D. Cal. 2013) (\$10,000.00
16 allotted as PAGA penalties out of \$2.5 million settlement);
- 17 • *Garcia v. Gordon Trucking, Inc.*, 2012 WL 5364575 at *3 (E.D. Cal. 2012)(\$10,000
18 allotted as PAGA penalties out of a \$3.7 million settlement).

19 49. Thus, taking into consideration both the potential value of the PAGA claim, the
20 significant risks associated with continued litigation, and the underlying objective of PAGA, I
21 submit that the Settlement presented herein is fair, reasonable, and adequate.

22 **PLAINTIFF'S COUNSEL'S FEES**

23 50. My office seeks approval of attorneys' fees in the amount of \$735,000.00, which is
24 thirty-five percent (35%) of the Maximum Settlement Amount, and set forth and agreed to as part
25 of the Settlement. This percentage award is commensurate with: (1) the economic risk my office
26 took in commencing this action on a contingency basis knowing that there would likely be a long
27 battle with a premier defense firm; (2) the time, effort and expense dedicated to the case; (3) the
28 skill and determination we have shown; (4) the results we have achieved through the litigation; and
(5) the value of the settlement we have secured for the State of California and PAGA Employees.

1 51. Protection Law Group is a small law firm specifically devoted to the representation
2 of employees against employers in California involving claims relating to violations of the
3 California Labor Code, including claims for failure to pay all wages owed, failure to pay overtime
4 premiums, failure to pay meal and rest premiums and failure to provide accurate wage records. The
5 practice of employment law is a very specific, narrow field which requires diligence in an ever-
6 evolving field of substantive and procedural law. The significant time and attention spent on this
7 case meant we could not spend time on other cases or clients.

8 52. As discussed above, my office undertook extensive investigation, analysis, and
9 research prior to filing the lawsuit and during litigation and mediation. This included attending
10 client meetings, attending hearings with the Court, conducting legal research on unanticipated and
11 remote legal defenses, drafting the stipulations necessary to attend mediation, drafting a *Belaire-*
12 *West* Notice to send to the PAGA Employees, participating in case strategy and analysis, and
13 drafting, reviewing, and revising pleadings. My office conducted extensive informal discovery,
14 researched defenses raised by Defendant, investigated Defendant's policies, practices, and
15 procedures, reviewed hundreds of documents, and analyzed a substantial sampling of time and
16 payroll data before attending a full day mediation. My office also spent significant time drafting
17 and revising the Settlement presented to the Court. A settlement was finally achieved despite all of
18 the obstacles that had to be overcome, because my office used our complex wage-and-hour
litigation experience and skills to obtain the Settlement.

19 53. In addition to the time and effort required, this matter also required substantial skill
20 to successfully litigate. Defendant retained well-respected counsel and vigorously denied liability.
21 Indeed, Defendant and its counsel felt very strongly about Defendant's ability to prevail and
22 mounted several defenses that posed significant threats, challenged the theories of Plaintiff's
23 Counsel, and promised a strong defense moving forward. Further, in order evaluate these claims
24 and defenses, my office were required to review and analyze a tremendous amount of data to
25 determine Defendant's underlying practices and liability, a complex process that took consider
26 time, energy, and knowledge. This complicated analysis required substantial skill but Plaintiff's
27 Counsel were able to successfully navigate these challenges because of their extensive experience
28 in complex wage and hour litigation. This settlement, against experienced defense counsel, and

1 despite the existence of several strong defenses, was made possible through my firm's skill and
2 reputation in complex wage and hour litigation.

3 54. The Settlement represents a fair resolution of this case given the risks inherent in
4 litigating it through trial and possible appeals. As discussed at length above, although I believe that
5 Plaintiff would prevail at trial, a number of risks reduced value of the case. Had the case not settled,
6 Defendant would have vigorously challenged manageability and liability, and sought drastic
7 reduction in the amount of any penalties assessed. Preparing the case for trial would have been
8 extraordinarily expensive and risky proposition. Despite these challenges, Defendants agreed to
9 pay a Maximum Settlement Amount of \$2,100,000.00, which is an outstanding result for a
10 settlement limited to PAGA claims.

11 55. Additionally, this case was litigated on a purely contingent basis. Had my office been
12 unsuccessful, the time devoted to the case would have been for naught, and my office would not
13 recover any fees or any reimbursement of expenses. My office has borne all of the risks and costs
14 of litigation, and will not receive any compensation until recovery is obtained in this case. If the
15 Covid-19 crisis has made one thing clear, it is that economic uncertainty can arise swiftly and for
16 reasons beyond any parties' control. These are the types of risks Plaintiff's Counsel took in deciding
17 to litigate this matter on a contingent basis and this risk is a relevant factor when considering the
18 reasonableness of the requested fee.

19 56. Plaintiff has agreed to a fee of thirty-five percent (35%). The Settlement Agreement
20 and this motion requesting these fees will also be submitted to the LWDA concurrently with the
21 filing of this motion. I am aware that the common and acceptable rate for representation in complex
22 wage and hour litigation is normally twenty-five (25) to thirty-five (35) percent. A fee of thirty-five
23 percent (35%) is appropriate here because of the excellent result achieved for the State of California
24 and PAGA Employees despite the substantial risks described above, including the risk that Plaintiff
25 could ultimately recover nothing at all.

26 57. While it proper and common to request a fee award based on a percentage of the
27 common fund, the fee request is also justified under a simple lodestar analysis.

28 58. Based on my familiarity with prevailing market rates for work of similar complexity
in California, including my extensive involvement in fee application work on my own behalf and

1 on behalf of others, I believe the use of a blended rate of at least \$750 is appropriate for use in this
2 matter and in line with the within the prevailing market rate for work of similar complexity
3 performed by attorneys of similar skill and experience. I have extensive knowledge of the
4 prevailing hourly rates in the community for work of similar nature and complexity to the work in
5 this case. My experience and knowledge in this regard comes from a variety of sources, including:
6 (a) reviewing dozens of fee applications in other matters; (b) my familiarity with fee application
7 orders in other cases; and (c) my independent research and knowledge of the prevailing market
8 rates based on fee requests of other counsel and my familiarity with rates charged in other law
9 firms; and (d) my independent reading and research regarding law firm billing rates.

10 59. Prior to and since the commencement of this action, Protection Law Group, LLP
11 has spent a total of 337.40 hours litigating this case. Using a blended rate of \$750 for the work
12 performed in this matter, results in an approximate lodestar value of \$253,050.00. Attached hereto
13 as “**Exhibit 3**” is a time and task sheet detailing the estimated hours spent on the different tasks
14 associated with this matter by my firm and my counsel.

15 60. Further, I believe the use a multiplier of approximately 2.9 is appropriate in
16 conjunction with the estimated lodestar value.

17 61. Based on my experience multipliers up to four times the estimated lodestar value of
18 a case is commonly awarded by both California and Federal Courts. *See e.g., Wershba v. Apple*
19 *Computer, Inc.*, 91 Cal.App.4th 224, 234-35 (2001) (noting that multipliers “can range from 2 to 4
20 or even higher.”) (disapproved on other grounds).

21 62. Here, as noted above, this matter was litigated on a contingency basis, meaning that
22 my office and co-counsel bore all the risks should these matters have failed and still bears the risk
23 the risk of taking whatever actions are necessary if Defendants fail to pay. This risk is particularly
24 acute in light of the broad economic uncertainty facing many businesses as a result of the Covid-
25 19 pandemic.

26 63. This matter also precluded other work that my firm may have taken on. My office
27 committed substantial time and resources to litigating this matter that were unable to be directed to
28 other matters that may have been less risky.

64. Further, despite being litigated on a contingent basis, this Action was very risky and

1 involved analysis and investigation in a complex and ever evolving field of law. This litigation
2 required substantial investigation and complex data analysis to determine Defendants' underlying
3 practices, and required Plaintiff's Counsel to address challenging issues with respect to Defendant's
4 underlying meal and rest claims, the alleged off-the-clock work, and issues involving the alleged
5 violations stemming from Defendant's piece rate payment of wages.

6 65. Given the complex nature of these claims, and the ever-evolving nature of the law
7 related to PAGA, I believe many attorneys would have been unprepared to litigate these claims and
8 unable to obtain the substantial settlement secured by my office. My office has devoted itself to
9 pursuing and understanding these types of complex wage and hour cases and were able to
10 successfully litigate this matter despite risks that may have dissuaded other counsel from pursuing
11 this case.

12 66. I believe that the efforts of my office have resulted in substantial benefits to both
13 the State and the PAGA Employees, and have helped achieve the underlying purpose of PAGA in
14 deterring future violations and recovering penalties that would otherwise have gone unremedied.
15 Through the efforts of Plaintiff and my office, a fair and reasonable resolution has been reached
16 that includes a settlement payment by Defendant of \$2,100,000.00. The \$735,000.00 in fees
17 provided for in the Settlement is therefore reasonable given the result achieved.

18 PLAINTIFF'S COUNSEL'S COSTS

19 67. To date, Plaintiff's Counsel has borne all risks and costs of litigation and will not
20 receive any compensation until recovery is obtained by Plaintiff, the State of California and the
21 PAGA Employees. Protection Law Group has and will incur approximately \$11,530.88 in costs
22 and litigation expenses. This includes \$11,180.88 in current costs and an additional \$350.00 in
23 anticipated future costs necessary to complete this matter. Plaintiff's future costs include (1) the
24 costs and attorney service fees associated with the filing of this motion and the supporting
25 documents; (2) the costs of CourtCall to attend the PAGA Approval Hearing; and (3) costs
26 associated with filing declarations regarding settlement disbursement after the Settlement is
27 approved. A true and correct copy of a costs sheet detailing the various costs incurred in this matter
28 to date is attached hereto as "**Exhibit 4**".

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SUBMISSION OF THE SETTLEMENT TO THE LWDA

74. On October 27, 2021, my office submitted a copy of the fully executed Settlement Agreement to the California Labor and Workforce Development Agency via online filing at <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>. A true and correct copy of an email confirming submission of the Settlement to the LWDA on October 27, 2021, is attached hereto as **Exhibit 6**.

Executed on October 27, 2021.

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Exhibit 1



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Page 1 of 6

VIA ONLINE FILING

Labor and Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, CA 95814

PAGAfiling@dir.ca.gov

<https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>

RE: Fernando Raul Salguero v. Collabera Inc.

Dear Representative:

This office represents Fernando Raul Salguero (“**Mr. Salguero**”) with respect to his claims against Collabera Inc. (“**Employer**”) for violations of the California Labor Code and IWC Wage Orders. This letter is being sent simultaneously to Employer by certified mail.

Employer employed Mr. Salguero from approximately October 8, 2018 to April 29, 2019, as an hourly, non-exempt employee. During his employment with Employer, Mr. Salguero was employed as a Field Tech at Employer’s worksite at 1977 S. Sepulveda Boulevard, Los Angeles, California 90025. Employer is staffing solutions company with offices and worksites throughout the state of California.

Mr. Salguero intends to seek penalties for violations of the California Labor Code which are recoverable under California Labor Code section 2698, et seq., the Private Attorneys General Act of 2004 (“**PAGA**”). Mr. Salguero is seeking penalties on behalf of himself and in a representative capacity on behalf of the State of California and all current and former non-exempt employees of Employer (“**Aggrieved Employees**”). This letter is being sent in compliance with California Labor Code section 2699.3.

As detailed below, Employer violated several of California’s wage and hour laws during Mr. Salguero’s employment, including but not limited to violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the Industrial Welfare Commission Wage Orders (“**IWC Wage Order**”) including *inter alia*, IWC Wage Order Nos. 4 and 9. The claims made on behalf of Mr. Salguero and Aggrieved Employees are based upon the following facts and theories:

1. FAILURE TO PAY FOR ALL TIME WORKED AT CORRECT RATES OF PAY, INCLUDING MINIMUM WAGES, STRAIGHT TIME WAGES, AND OVERTIME COMPENSATION

Employer has engaged in numerous unlawful practices which resulted in the failure to pay Mr. Salguero and Aggrieved Employees for all time worked at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation.



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First, Employer regularly required Mr. Salguero and Aggrieved Employees to work off-the-clock in order to complete their duties and responsibilities. This off-the-clock work included, amongst other things, requiring Mr. Salguero and Aggrieved Employees to: (1) respond to Employer and work-related requests and perform work while clocked out for purported meal breaks; (2) perform work before clocking in for the start of their shift; and (3) perform work after clocking out for the end of their shift. Mr. Salguero and Aggrieved Employees were not compensated for this off-the-clock work, resulting in a failure to pay minimum wages and straight time wages. Moreover, this off-the-clock work typically caused Mr. Salguero and Aggrieved Employees to work more than eight (8) hours in a day and forty (40) hours in week, resulting in a failure to pay overtime compensation.

In addition to requiring Mr. Salguero and Aggrieved Employees to perform work off-the-clock without compensation, Employer failed to accurately record the actual time worked by Mr. Salguero and Aggrieved Employees, which resulted in a failure to pay Mr. Salguero and Aggrieved Employees for all hours actually worked, including minimum wages, straight time wages and overtime wages. Finally, as a matter of policy and/or practice, Employer failed to pay overtime to Mr. Salguero and Aggrieved Employees for all overtime hours worked based on regular rates of pay correctly calculated to include all applicable remuneration.

As a result of the foregoing practices, Employer has failed to pay Mr. Salguero and Aggrieved Employees for all wages earned at the correct rates of pay, including minimum wages, straight time wages, and overtime compensation. Accordingly, Employer violated IWC Wage Order Nos. 4 and 9 and California Labor Code sections 204, 510, 1194, 1197, 1197.1 and 1198.

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 4 and 9; penalties pursuant to California Labor Code sections 558, 1197.1, and 1199; and attorneys' fees and costs.

2. FAILURE TO PROVIDE MEAL PERIODS AND PAY MEAL PERIOD PREMIUMS

Employer failed to provide Mr. Salguero and Aggrieved Employees with legally-compliant 30-minute meal periods. Mr. Salguero and Aggrieved Employees were required by Employer to work more than five (5) hours per day, but were not provided with uninterrupted 30-minute meal periods. Further, Mr. Salguero and Aggrieved Employees were not provided with a second uninterrupted 30-minute meal period when they worked over ten (10) hours per day. Employer regularly required Mr. Salguero and Aggrieved Employees to work through their first and second meal periods, to take their first meal period after their fifth (5th) hour of work, and/or to take their second meal periods after their tenth (10th) hour of work. On the occasions that Mr. Salguero and Aggrieved Employees did take a meal period, their meal periods were frequently interrupted or cut short.

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Salguero and other Aggrieved Employees from taking timely, complete and duty-free meal periods because, amongst other reasons: (1) Employer did not have legally-compliant policies



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regarding the provision and timing of meal periods or systematically disregarded its own purported meal period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant meal period policies and practices; (3) Employer failed to adequately inform and train Mr. Salguero and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free meal periods; (4) Employer failed to adequately inform and train Mr. Salguero and other Aggrieved Employees about their right to premium wages for non-compliant meal periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Salguero and other Aggrieved Employees to take timely, uninterrupted, and duty-free meal periods; (6) Employer required Mr. Salguero and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during meal periods, which included monitoring and responding to telephone calls, communication devices, and responding to in-person verbal interruptions; and (7) Employer's policy and culture prevented Mr. Salguero and other Aggrieved Employees from taking timely, uninterrupted, and duty-free meal periods because of the priority placed on completing job requirements over employees' right to receive timely, uninterrupted, and duty-free meal periods.

Mr. Salguero and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the meal periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order Nos. 4 and 9 and California Labor Code sections 226.7(a), 512(a) and 1198.

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 4 and 9; penalties pursuant to California Labor Code sections 558 and 1199; and attorneys' fees and costs.

3. FAILURE TO AUTHORIZE AND PERMIT REST PERIODS AND PAY REST PERIOD PREMIUMS

Employer failed to authorize and permit Mr. Salguero and Aggrieved Employees take legally-compliant 10-minute periods. Employer required Mr. Salguero and Aggrieved Employees to work through rest periods. Mr. Salguero and Aggrieved Employees were not provided with uninterrupted, duty-free rest periods when they worked more than four (4) hours or a major fraction thereof. Further, Mr. Salguero and Aggrieved Employees were not provided with a second uninterrupted, duty-free rest period when they worked more than six (6) hours in a day, or a third uninterrupted, duty-free rest period after working more than ten (10) hours in day. In the rare event that a rest period was taken, it was frequently interrupted or cut short. Moreover, Mr. Salguero and Aggrieved Employees were never completely relieved of duty as required by *Augustus v. ABM Security Services, Inc.*, 2 Cal.5th 257 (2016).

Employer's policies, practices, and procedures were responsible for the violations alleged above and prevented Mr. Salguero and other Aggrieved Employees from taking timely and complete rest periods because, amongst other reasons: (1) Employer did not have legally-compliant policies regarding the



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provision and timing of rest periods or systematically disregarded its own purported rest period policies; (2) Employer's management at various levels, affecting all hourly-non-exempt employees, failed and refused to implement and enforce legally compliant rest period policies and practices; (3) Employer failed to adequately inform and train Mr. Salguero and other Aggrieved Employees regarding their right to take timely, uninterrupted, and duty-free rest periods; (4) Employer failed to adequately inform and train Mr. Salguero and other Aggrieved Employees about their right to premium wages for non-compliant rest periods; (5) Employer failed to ensure that there was adequate staffing to allow Mr. Salguero and other Aggrieved Employees to take timely, uninterrupted, and duty-free rest periods; (6) Employer required Mr. Salguero and other Aggrieved Employees to remain on-call and respond to work-related requests at all times, including during rest periods, which included responding to telephone calls, communication devices, and in-person verbal interruptions; and (7) Employer's policy and culture prevented Mr. Salguero and other Aggrieved Employees from taking timely, uninterrupted, and duty-free rest periods because of the priority placed on completing job requirements over employees' right to receive rest periods.

Mr. Salguero and Aggrieved Employees did not receive an extra hour of wages at their regular rate of pay for the rest periods which were not provided to them in compliance with California law.

Accordingly, Employer violated IWC Wage Order Nos. 4 and 9 and California Labor Code sections 226.7(a), and 1198.

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 4 and 9; California Labor Code sections 558 and 1199 penalties; and attorneys' fees and costs.

4. FAILURE TO TIMELY PAY WAGES DURING EMPLOYMENT

As to each pay period, Employer has failed to timely pay all wages earned because [Mr. Salguero and Aggrieved Employees were not paid all the wages they were owed including, *inter alia*, overtime compensation, straight time wages, minimum wages, and meal and rest period premiums. Accordingly, Employer violated California Labor Code section 204(a).

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 210 and 1199; and attorneys' fees and costs.

5. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

As a result of the practices described above, the wage statements provided to Mr. Salguero and Aggrieved Employees never included the actual hours worked, the actual gross wages earned, and the correct rates of pay, inclusive pay period dates, and the name and address of the legal employer. Accordingly, Employer violated California Labor Code section 226(a).



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Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties; penalties pursuant to California Labor Code section 226.3; and attorneys' fees and costs.

6. FAILURE TO MAINTAIN ACCURATE RECORDS

Employer has failed to maintain accurate records relating to Mr. Salguero and Aggrieved Employees' work periods, meal periods, total daily hours worked, and total hours worked per payroll period. Accordingly, Employer violated IWC Wage Order Nos. 7 and 9 and California Labor Code sections 1198.5 and 1174(d).

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 7 and 9; California Labor Code section 1174.5 penalties; and attorneys' fees and costs.

7. FAILURE TO REIMBURSE NECESSARY EXPENDITURES

California Labor Code sections 2800 and 2802 require an employer to reimburse its employees for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. IWC Wage Order Nos. 7 and 9 require employers to provide employees with the tools or equipment necessary for the performance of their job. During the relevant time period, Mr. Salguero and Aggrieved Employees incurred necessary business-related expenses and costs that were not fully reimbursed by Employer. These costs include, but are not limited to, the use of their personal cell phones for work-related purposes.

Accordingly, Employer violated IWC Order Nos. 7 and 9 and California Labor Code sections 2800 and 2802.

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to paragraph (20)(A) of IWC Wage Order Nos. 7 and 9; and attorneys' fees and costs.

8. FAILURE TO TIMELY PAY ALL WAGES UPON TERMINATION OF EMPLOYMENT

Upon the termination of employment, Mr. Salguero and Aggrieved Employees were not paid all wages due to them within twenty-four (24) hours or even within seventy-two (72) hours for those who resigned. Specifically, as a result of Employer's practices of requiring Mr. Salguero and Aggrieved Employees to work off-the-clock without compensation, failure to properly calculate regular rates, and failure to accurately record all hours actually worked, Employer failed to pay Mr. Salguero and Aggrieved Employees for all straight time wage, minimum wages and overtime compensation owed to



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them upon termination of their employment. Accordingly, Employer violated California Labor Code sections 201 and 202.

Mr. Salguero and Aggrieved Employees will therefore seek PAGA default penalties pursuant to Labor Code section 2699; penalties pursuant to California Labor Code sections 203, 1199, and 2699(f)(2); and attorneys' fees and costs.

Therefore, on behalf of himself, the State of California and all Aggrieved Employees, Mr. Salguero may seek all applicable penalties related to these violations of the California Labor Code pursuant to PAGA. If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read 'Amir Nayebdadash', is written over a horizontal line.

Amir Nayebdadash

Notice provided to Employer via Certified Mail (7019 1120 0002 3020 3025)

Collabera Inc.
Agent for Service of Process – XL Corporate Services, Inc.
720 14th St.
Sacramento, CA 95814

Notice provided to Employer via Certified Mail (7019 1120 0002 3020 3056)

Collabera Inc.
110 Allen Rd.
Basking Ridge, NJ 07920

Exhibit 2

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Fernando Salguero ("Plaintiff"), on behalf of himself and on behalf of the State of California and all allegedly-aggrieved employees (referred to herein as the "PAGA Employees" further defined below), and Defendant Collabera, Inc. ("Defendant") (collectively the "Parties"), subject to the approval of the Court, that the settlement of the Action (as defined below) shall be effectuated upon and subject to the following terms and conditions (this "Settlement") Capitalized terms as used herein shall have the meanings set forth in Section II(A) or as defined elsewhere in this Settlement Agreement and Release.

I. RECITALS

WHEREAS, on March 18, 2020, Plaintiff notified the Labor Workforce Development Agency ("LWDA") of his intent to file an action under California's Private Attorneys General Act, California Labor Code § 2698 *et seq.* ("PAGA");

WHEREAS, Plaintiff allowed the LWDA an opportunity to investigate his claims as required by the Labor Code;

WHEREAS, the LWDA took no action in response to Plaintiff's notice;

WHEREAS, on May 26, 2020, Plaintiff commenced the Action by filing a Representative Action against Defendant alleging PAGA claims on behalf of the State of California, himself, and other allegedly-aggrieved employees;

WHEREAS the PAGA claims allege violations of California Labor Code sections 201, 202, 203, 204, *et seq.*, 204(a), 204(d), 210, 218, 218.6, 226, 226(a), 226(e), 226.3, 226.7, 226.7(a), 510, *et seq.*, 510(a), 510(b), 512, 512(a), 558, 1174, 1174(c), 1174(d), 1174.5, 1194, *et seq.*, 1194(a), 1197, 1197.1, 1198, *et seq.*, 1198.5, 1199, 2698, *et seq.*, 2699, *et seq.*, 2699(a), 2699(f)(2), 2699(g)(1), 2699.3, 2699.3(a), 2699.5, 2800, 2802, 2802(a), CCR § 11010, and IWC Wage Orders No. 4, 7 and 9, related to payment of minimum wages, overtime wages, providing meal and rest periods, timely payment of wages during employment, timely payment of final wages, issuance of wage statements and accurate record keeping;

WHEREAS, during the course of the litigation the Parties engaged in informal discovery and exchange of additional information to prepare for a mediation;

WHEREAS, on April 26, 2021, the Parties participated in a private mediation with mediator Jeffrey A. Ross, with respect to the PAGA claims;

WHEREAS, the Parties desire to settle, compromise, and avoid litigation relating to the remaining PAGA Claims in the Action, and have agreed to settle the Action upon the terms and conditions and for the consideration set forth in this Settlement Agreement and Release;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is hereby agreed by and between the Parties hereto as follows:

II. SETTLEMENT TERMS

A. Definitions

1. "Action" means the case entitled ***Fernando Salguero v. Collabera, Inc., Superior Court State of California, County of Los Angeles, Case No. 20STCV19946.***

2. "Aggrieved Employee List" means the Microsoft Excel spreadsheet containing the following information for each PAGA Employee: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total Pay Periods worked as a non-exempt employee of Defendant in the State of California during the PAGA Period; and (7) any other information, including the Pay Period Value per the calculation in Section C(13) below, required by the Settlement Administrator in order to effectuate the terms of this Settlement.

3. "Attorney's Fees" means such attorney fees as the Court may award to Plaintiff's Counsel for the services they have rendered and will render to the PAGA Employees in the Action, and which shall not exceed Seven Hundred Thirty-Five Thousand Dollars and Zero Cents (\$735,000.00).

4. "Attorney's Costs" means such litigation costs as the Court may award to Plaintiff's Counsel for the costs they have incurred and will incur in the investigation, litigation, and resolution of the Action, and in administration of this Settlement, and which shall not exceed Thirty-Thousand Dollars and Zero Cents (\$30,000.00).

5. "Complaint" means the complaint filed in this Action.

6. "Defense Counsel" means Rebecca Aragon of Littler Mendelson, P.C.

7. "Effective Date" means the date this Settlement is approved as provided herein and the Court's order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Settlement, "becomes final and is no longer appealable" shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Settlement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement is affirmed. In the event that: (i) the Court does not approve this Settlement as provided herein; or (ii) the Effective Date does not occur for any other reason, then this Settlement Agreement and Release, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their respective positions. The Effective Date cannot occur, and Defendant will not be obligated to fund this Settlement, until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.

8. "Maximum Settlement Amount" means the maximum potential value of this Settlement, which is Two Million One Hundred Thousand Dollars and Zero Cents (\$2,100,000.00).

The Maximum Settlement Amount is the maximum amount Defendant can be required to pay under this Settlement, including: (1) Payments to the PAGA Employees of their share of the Net Settlement Amount (defined below); (2) Plaintiff Counsel's Attorneys' Fees; (3) Plaintiff Counsel's Attorney's Costs; (4) Settlement Administration Costs; (5) Plaintiff's Incentive Payment, and (6) the Payment to the LWDA of its share of the Net Settlement Amount (defined below).

The Maximum Settlement Amount is based on Defendant's representation that the PAGA Employees worked a total of 32,793 Pay Periods through January 31, 2021. This Pay Period data through January 31, 2021 was provided to Plaintiff within a 10% margin of error. Should the qualifying Pay Periods worked by the PAGA Employees through January 31, 2021 ultimately be determined to be more than 10% above 32,793 Pay Periods, only then will the following escalator clause be triggered: Defendant shall increase the Maximum Settlement Amount on a pro-rata basis equal to the percentage increase in the number of Pay Periods worked through January 31, 2021 by the PAGA Employees above 10% (the "Escalator Clause") (if not, then the Escalator Clause will not be triggered). For example, if the number of Pay Periods increases by 11% to 36,400 Pay Periods through January 31, 2021, the Maximum Settlement Amount will increase by 1%.

9. "Individual Settlement Share" means each PAGA Employee's *pro rata* share of the PAGA Employee Fund as calculated pursuant to Section C(13), below.

10. "Net Settlement Amount" means the Maximum Settlement Amount *minus* the sum of: (1) Plaintiff Counsel's Attorney's Fees, (2) Plaintiff Counsel's Attorney's Costs, (3) Plaintiff's Incentive Payment, and (4) the Settlement Administration Costs. The LWDA will be paid 75% of the Net Settlement Amount and the remaining 25% of the Net Settlement Amount will be paid to the PAGA Employees and that amount shall be referred to as the PAGA Employee Fund as defined in paragraph 13, below.

11. "Notice" means the form of notice that will be sent to each PAGA Employee accompanying their Individual Settlement Shares, which shall be substantially in the form attached hereto as **Exhibit A**. The Notice shall list the amount of Pay Periods worked by each PAGA Employee during the PAGA Period and, applying the Pay Period Value, the estimated Individual Settlement Share each PAGA Employee will receive. The Notice shall be mailed to PAGA Employees in conjunction with the check of each PAGA Employee's share of the PAGA Employee Fund.

12. "PAGA Employees" means all current and former non-exempt employees of Defendant who worked in the state of California from March 22, 2019 through May 28, 2021.

13. "PAGA Employee Fund" means the remaining 25% of the Net Settlement Amount that will be paid to the PAGA Employees.

14. "PAGA Period" is from March 22, 2019 through May 28, 2021.

15. "Pay Period" means any pay period in which a PAGA Employee worked at least one day.

16. "Plaintiff's Counsel" means Heather Davis and Amir Nayebdadash of Protection Law Group, LLP.

17. "Plaintiff's Incentive Payment" means such incentive payment as the Court may award to Plaintiff for his participation in the Action, and which shall not exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00).

18. "Released Claims" means all claims for civil penalties under PAGA that were actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of the State of California, himself and the PAGA Employees, based on the facts, theories, primary rights, statutory or other legal grounds referenced in or alleged in the Complaint and Plaintiff's PAGA letter dated March 18, 2020 to the LWDA ("PAGA Letter"), including but not limited to: (a) penalties pursuant to Labor Code Section 201, 202, 203, 204, et seq., 204(a), 204(d), 210, 218, 218.6, 226, 226(a), 226(e), 226.3, 226.7, 226.7(a), 510, et seq., 510(a), 510(b), 512, 512(a), 558, 1174, 1174(c), 1174(d), 1174.5, 1194, et seq., 1194(a), 1197, 1197.1, 1198, et seq., 1198.5, 1199, 2698, et seq., 2699, et seq., 2699(a), 2699(f)(2), 2699(g)(1), 2699.3, 2699.3(a), 2699.5, 2800, 2802, 2802(a), CCR § 11010, and IWC Wage Orders No. 4, 7 and 9; (b) attorney's fees and costs incurred in the prosecution of this Action on behalf of the PAGA Employees; and (c) any other PAGA penalties based on the facts or theories alleged in the Complaint or PAGA Letter.

19. "Released Parties" means Collabera, Inc. as well as its predecessors, merged entities, parents, subsidiaries, affiliates, related organizations, all of their respective officers, directors, employees, administrators, fiduciaries, trustees, beneficiaries, and agents, and each of their past, present, and future, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, attorneys, auditors, consultants, insurers, and reinsurers.

20. "Settlement Administrator" means ILYM Group, a third-party settlement claims administrator that the Parties will ask the Court to appoint for the purposes of administering this Settlement subject to the negotiations of terms with the ILYM Group. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

21. "Settlement Administration Costs" means that the Parties will obtain a not-to-exceed quote from ILYM Group for Settlement Administration Costs. The Settlement Administration Costs shall be paid out of the Maximum Settlement Amount. The Settlement Administration Costs will not exceed \$19,990.00. To the extent the Court awards payments of Settlement Administration Costs in an amount that is less than the amount stated herein, the remainder shall become part of the Net Settlement Amount.

22. "Settlement Approval Order and Judgment" means the Settlement Approval Order and Judgment that will be entered by the Court, which shall be substantially in the form attached hereto as **Exhibit B**.

23. "Settlement Fund Account" means the bank account established by the Settlement Administrator pursuant to the terms of this Settlement Agreement and Release, from which all monies payable under the terms of this Settlement shall be paid, as set forth herein.

24. "Void Date" means the 181st day after issuance of Individual Settlement Share checks to PAGA Employees, upon which the Individual Settlement Share checks will no longer be valid and negotiable.

B. Consideration

1. No Admission of Liability. Defendant has contended and continues to contend that the allegations in the Action have no merit and do not give rise to liability. Defendant specifically denies all of the allegations in the PAGA Letter, and Complaint. This Settlement Agreement and Release is a compromise of such disputed claims. Nothing contained in this Settlement Agreement and Release and no documents referred to herein and no action taken to carry out this Settlement Agreement and Release may be construed or used as an admission by or against Defendant or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Defendant maintains that it is participating in this Settlement to avoid the expense, inconvenience and delay of further litigation.

2. Maximum Settlement Amount Components. Provided that the Court approves this Settlement and the Effective Date occurs, Defendant will pay the Maximum Settlement Amount of Two Million One Hundred Thousand Dollars and Zero Cents (\$2,100,000.00). All amounts to be paid by Defendant shall be deposited into the Settlement Fund Account, which shall be administered by the Settlement Administrator. All amounts to be paid to anyone pursuant to this Settlement Agreement and Release shall be paid out of the Settlement Fund Account.

- a. Attorney's Fees. In full satisfaction of all claims Plaintiff may have for Attorney's Fees arising out of the Action, the Parties agree that Defendant agrees not to oppose an application for Attorney's Fees of up to thirty-five (35%) of the Maximum Settlement Amount or Seven Hundred Thirty-Five Thousand Dollars and Zero Cents (\$735,000.00) subject to Court approval. Defendant agrees not to oppose Plaintiff's application for Attorney's Fees not to exceed this sum. The Attorney's Fees to be awarded to Plaintiff are subject to the approval of the Court and will be paid only from the Maximum Settlement Amount. Any portion of the Attorney's Fees not awarded to Plaintiff's Counsel will be added to the Net Settlement Amount. Plaintiff understands and agrees that this Settlement Agreement and Release shall remain in full force and effect even if the full amount of Attorney's Fees identified herein is not awarded by the Court. Plaintiff may appeal the Court's order on Attorney's Fees so long as, other than the timing of the disbursements of the settlement proceeds, the appeal will not affect the remaining terms of this Settlement and this Settlement Agreement and Release.
- b. Attorney's Costs. In full satisfaction of all claims Plaintiff may have for litigation costs and expenses arising out of the Action, the Parties agree that Defendant will not oppose an application for Attorney's Costs of up to Thirty Thousand Dollars and Zero Cents (\$30,000.00) subject to Court Approval. Defendant agrees not to oppose Plaintiff's application for Attorney's Costs not to exceed this sum. The Attorney's Costs to be awarded to Plaintiff are subject to the approval of the Court and will be paid only from the Maximum Settlement Amount. Any portion of the Attorney's Costs not awarded to Plaintiff's Counsel will be added to the Net Settlement Amount. Plaintiff understands and agrees that this Settlement Agreement and Release shall remain in full force and effect even if the full amount of Attorney's Costs identified herein is not awarded by the Court. Plaintiff may appeal the Court's order on Attorney's Costs so long as, other than the timing of the disbursements of the settlement proceeds, the appeal will not affect the remaining terms of the Settlement and this Settlement Agreement and Release.

- c. Settlement Administration Costs. The Parties agree will obtain a not-to-exceed quote from ILYM Group for Settlement Administration Costs. The Settlement Administration Costs to be paid to the Settlement Administrator are subject to the Court's approval and will be paid only from the Maximum Settlement Amount. Any portion of the Settlement Administration Costs not awarded by the Court will be added to the Net Settlement Amount.
- d. Plaintiff's Incentive Payment. The Parties agree that Defendant will not oppose Plaintiff's request for an Incentive Payment of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00). The Incentive Payment is in addition to whatever monetary settlement Plaintiff is entitled to recover from the Net Settlement Amount as a PAGA Employee. Any amount of the Incentive Payment not approved by the Court shall become part of the Net Settlement Amount.
- e. Payment to the LWDA. The Parties agree that seventy-five percent (75%) of the Net Settlement Amount (which is currently estimated to be \$980,632.50) and which will be increased by seventy-five percent (75%) of any un-awarded Attorney's Fees, Attorney's Costs, Plaintiff's Incentive Payment and Settlement Administration Costs which are to be added back to the Net Settlement Amount under the terms of this Settlement Agreement and Release – will be paid to the LWDA. The remaining twenty-five percent (25%) of the Net Settlement Amount (which is currently estimated to be \$326,877.50) and which will be increased by twenty-five percent (25%) of any un-awarded Attorney's Fees, Attorney's Costs, Plaintiff's Incentive Payment and Settlement Administration Costs which are to be added back to the Net Settlement Amount under the terms of this Settlement Agreement and Release– will be paid to all PAGA Employees pursuant to the calculation method set forth in Section C(13), below.

3. PAGA Employees' Release. Upon the remittance of the Maximum Settlement Amount by Defendant to the Settlement Administrator, Plaintiff, on behalf of himself, the State of California, and all PAGA Employees, releases the Released Parties from the Released Claims. This release shall be effective for the period from March 18, 2019, through the date of Settlement approval by the Court (the "Settlement Period"). PAGA Employees may discover facts in addition to those they now know or believe to be true with respect to the subject matter of the Released Claims, but upon the Effective Date, PAGA Employees shall be deemed to have, and by operation of the Settlement Approval Court order shall have, fully, finally, and forever settled and released any and all of the Released Claims, without regard to the subsequent discovery or existence of such different or additional facts. PAGA Employees may not to sue or otherwise make a claim against any of the Released Parties that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement approval order entered by the Court shall have full *res judicata* effect and be final and binding upon PAGA Employees regarding the Released Claims. However, other than as to Plaintiff, this Settlement shall not impact PAGA Employees ability to assert Labor Code claims other than PAGA claims, including claims for unpaid wages. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting the definition of a PAGA Employee who are eligible to receive a payment of the Individual Settlement Share of the Net Settlement Amount shall be deemed to have released the Released Claims regardless if the check is cashed or not.

C. Settlement Administration Procedures

1. Settlement Approval Motion. Following full execution of this Settlement Agreement and Release, Plaintiff's Counsel will prepare all papers needed for Court approval of this Settlement ("Settlement Approval"). The Parties agree to cooperate to promote participation in this Settlement and in seeking Court approval of this Settlement, including working cooperatively to address any questions raised by the Court and making any amendments required by the Court. Defendant further agrees that it will not oppose Plaintiff's motion for approval of this Settlement, but reserves the right to file briefing, if clarification is needed and the Parties are unable to resolve their differences concerning same prior to Plaintiff's filing of the motion for settlement approval. The Parties agree to work diligently and cooperatively to have this Settlement presented to the Court for approval. In conjunction with such hearing, Plaintiff's Counsel will present this Settlement Agreement and Release to the Court and will request that the Court issue a Settlement Approval Order and Judgment (substantially in the form of the proposed Settlement Approval Order and Judgment attached hereto as **Exhibit B**) approving and incorporating by reference the terms and conditions of the Settlement Agreement and Release. Plaintiff will also promptly submit the Settlement Agreement and Release to the LWDA as required by the PAGA statute. Defendant agrees not to oppose Plaintiff's motion for Settlement Approval unless the motion is inconsistent with the terms set forth in this Settlement Agreement and Release. Defendant shall not oppose the application to be made for Attorney's Fees and Costs consistent with Paragraphs 2(a), (b) and 8.

2. No Right of PAGA Employees to Object or Opt-Out. The Parties agree there is no statutory right for any PAGA Employee to object, opt out or otherwise exclude himself or herself from this Settlement. Except as otherwise stated, the Parties will vigorously defend against any attempt by any PAGA Employee to intervene in this matter or object to/opt-out of this Settlement. The Parties agree that the settlement of this Action will not be final until any pending or threatened attempt to intervene is fully resolved. The Parties further agree there is no right or opportunity for any PAGA Employee to appeal the approval of this Settlement by the Court. The Parties will jointly defend against any appeal filed with respect to the Settlement Approval Order and Judgment.

3. LWDA Notice. Pursuant to California Labor Code § 2699(I), Plaintiff will provide a copy of this Settlement to the LWDA concurrently with the filing of the motion for Settlement Approval. Plaintiff will also file a declaration in support of his motion for Settlement Approval confirming that he has submitted the Settlement to the LWDA in compliance with Labor Code § 2699(I).

4. Judgment and Continued Jurisdiction. After entry of the Settlement Approval Order and Judgment, the Court will have continuing and exclusive jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of this Settlement; (b) matters relating to the administration of this Settlement; and (c) such post-Judgment matters as may be appropriate under Court rules or as set forth in this Settlement Agreement and Release.

5. Settlement Administrator. Upon approval of the Court, ILYM Group will be retained as the third-party Settlement Administrator to administer this Settlement. The Settlement Administrator will be responsible for: establishing the Settlement Fund Account; calculating Individual Settlement Shares; preparing, printing, and mailing the Individual Settlement Share checks and accompanying Notice to PAGA Employees; disbursing payment of Attorney's Fees and Attorney's Costs to Plaintiff's Counsel; disbursing payment to the LWDA consisting of seventy-five percent (75%) of the Net Settlement Amount; printing and providing PAGA Employees, Plaintiff, and Plaintiff's Counsel with IRS Forms 1099 as required under this

Settlement Agreement and Release and applicable law; providing a due diligence declaration for submission to the Court upon completion of the terms of this Settlement; and for such other tasks as the Parties mutually agree or the Court orders. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities, and shall not mail any payments to Plaintiff, the LWDA, Plaintiff's counsel or any PAGA Employee until the amounts are approved by the Parties. Any legally mandated tax reports, tax filings, or other tax documents required by the administration of this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such preparation shall be part of the Settlement Administration Costs.

6. Aggrieved Employee List. No later than thirty (30) calendar days after the date on which the Court enters the Settlement Approval Order and Judgement, Defendant shall provide the Settlement Administrator with a Microsoft Excel spreadsheet containing the following information for each PAGA Employee: (1) full name; (2) last known home address; (3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendant in the State of California; (6) total Pay Periods worked during the PAGA Period; and (7) any other information, including the Pay Period Value per the calculation in Section C(13), below. This is a material term of this Settlement, and if Defendant fails to comply, Plaintiff shall have the right to void this Settlement. The Aggrieved Employee List (including all Individual Settlement Share calculations) shall be used solely for the administration of this Settlement and for no other purpose, and shall not be shared with Plaintiff's counsel or any persons or entity not employed by the Settlement Administrator and working on the administration of this Settlement. Because PAGA Employees' sensitive personal information is included in the Aggrieved Employee List, the Settlement Administrator shall maintain the Aggrieved Employee List securely and in confidence, maintaining the strictest standards of data privacy.

7. Funding of this Settlement. Within fourteen (14) court days following the Effective Date, Defendant shall fund this Settlement by delivering the funds to the Settlement Administrator.

8. Payment of Attorney's Fees and Attorney's Costs. The Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Attorney's Fees and Attorney's Costs to Plaintiff's Counsel. Plaintiff's Counsel agrees to provide the Settlement Administrator with an executed IRS Form W-9 before payments for Attorney's Fees and Attorney's Costs are issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff's Counsel for the payments made pursuant to this paragraph.

Neither Plaintiff's Counsel nor any other current or past counsel for Plaintiff shall be permitted to petition the Court for, or to accept, any additional payments for attorney's fees, costs, interest, or any other amount from Defendant except as specified above. Defendant's payment of the Attorney's Fees and Attorney's Costs shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney, or law firm, including but not limited to Plaintiff's Counsel, or attorney's fees, expenses, and/or costs in the Action incurred by any other attorney or law firm for attorney's fees, expenses, and/or costs to which any of them may claim to be entitled on behalf of Plaintiff and/or PAGA Employees. The Parties further agree that Plaintiff's Counsel's Attorney Fees and Attorney's Costs shall be for all attorney's fees, expenses, and/or costs, present and future, incurred in the Action by all attorneys working on behalf of Plaintiff and/or PAGA Employees.

9. Payment of Plaintiff's Incentive Payment. The Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Plaintiff's Incentive Payment to Plaintiff. Plaintiff agrees to provide the Settlement Administrator with an executed IRS Form W-9 before

payment for Plaintiff's Incentive Payment is issued. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for the payments made pursuant to this paragraph.

10. Settlement Administration Costs. The Settlement Administrator shall pay from the Settlement Fund Account the Court-approved Settlement Administration Costs.

11. Payment to LWDA. The Settlement Administrator shall issue from the Settlement Fund Account a check payable to the LWDA for seventy-five percent (75%) of the Net Settlement Amount.

12. Individual Settlement Shares. Within ten (10) business days following the Funding of this Settlement, the Settlement Administrator shall issue from the Settlement Fund Account Individual Settlement Shares based on the twenty-five percent (25%) of the Net Settlement Amount to PAGA Employee's last known mailing address. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the Void Date will be sent promptly via regular First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip trace, or other search using the name, address or social security number of the PAGA Employee involved, and will then perform a single re-mailing. Any check re-mailings will not extend the 180-day period to cash a check. Any checks issued to PAGA Employees shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of their issuance and then shall become void on the 181st day after issuance, *i.e.*, the Void Date. The Parties agree that, within fourteen (14) calendar days after the Void Date, any unclaimed funds in the Settlement Fund Account as a result of the failure to cash Individual Settlement Share checks prior to the Void Date shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those PAGA Employees who did not timely cash their Individual Settlement Share checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as all payments to PAGA Employees will be paid out, whether or not these individuals cash their Individual Settlement Share checks. Therefore, Defendant will not be required to pay any interest on such amounts.

13. Calculation of Individual Settlement Shares. Each PAGA Employee's Individual Settlement Share will be determined by converting the PAGA Employee Fund into a Pay Period Value. The Pay Period Value will be established by dividing the PAGA Employee Fund by all Pay Periods worked by PAGA Employees during the PAGA Period. The Pay Periods worked by PAGA Employees during the PAGA Period will be determined according to the pay periods worked during the PAGA Period by non-exempt employees in California by using Defendant's records. The Individual Settlement Share for each PAGA Employee will be determined by multiplying the Pay Period Value by each PAGA Employee's individual worked pay periods during the PAGA Period.

14. Tax Treatment of Individual Settlement Shares. One hundred percent (100%) of each Individual Settlement Share shall be allocated to miscellaneous income for which an IRS Form 1099 will issue, if required by law.

15. Administration of Taxes. The Settlement Administrator will be responsible for issuing to Plaintiff, PAGA Employees, and Plaintiff's Counsel Form 1099s or other tax forms as

may be required by law for all amounts paid pursuant to this Settlement, and for forwarding all penalties to the appropriate government authorities.

16. Certification of Completion. Upon completion of administration of this Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties. Plaintiff's Counsel shall file this declaration with the Court within seven (7) calendar days of receipt.

D. Miscellaneous Provisions

1. No Effect on Employee Benefits. Amounts paid to Plaintiff and other PAGA Employees pursuant to this Settlement Agreement and Release do not count as earnings or compensation for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendant.

2. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Parties are not relying on any statement, representation, or calculation by any of the Parties or by the Settlement Administrator in this regard. Plaintiff understands and agrees that he will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein to him, individually, and will hold Plaintiff's Counsel, Defendant, the Released Parties, Defense Counsel, and the Settlement Administrator free and harmless from and against any claims resulting from treatment of such payments as non-taxable damages. Each Party to this Settlement (for purposes of this section, the "Acknowledging Party" and each Party to this Settlement Agreement and Release other than the Acknowledging Party, an "other Party") acknowledges and agrees that: (a) no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended); (b) the Acknowledging Party (i) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (ii) has not entered into this Settlement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (iii) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other Party to avoid any tax penalty that may be imposed on the Acknowledging Party; and (c) no attorney or adviser to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement Agreement and Release.

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

4. No Pending Lawsuits By Plaintiff. Other than this Action, Plaintiff represents that he does not have any pending lawsuits, administrative complaints, or charges against Defendant or the Released Parties in any local, state, or federal court or administrative agency. Plaintiff further acknowledges that all claims raised therein, if any, shall be fully and finally extinguished by virtue of this Settlement Agreement and Release and the Settlement Approval Order and Judgment.

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

6. Entire Agreement. This Settlement Agreement and Release and any attached Exhibits constitute the entirety of the Parties' settlement terms with respect to the Released Claims, and no oral or written representations, warranties or inducements have been made to any Party concerning this Settlement Agreement and Release or its Exhibits other than the representations, warranties and covenants contained and memorialized in this Settlement Agreement and Release and its Exhibits.

7. Amendment or Modification. This Agreement may be amended or modified only by a formal written instrument signed by counsel for all Parties or their successors-in-interest.

8. Authorization to Enter Into Settlement Agreement. The Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and Release and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement and Release to effectuate its terms. The person or persons signing this Settlement Agreement and Release on behalf of Defendant represent and warrant that he is authorized to sign this Settlement Agreement and Release on behalf of Defendant. Plaintiff represents and warrants that he is authorized to sign this Settlement Agreement and Release and that he has not assigned any claim covered by this Settlement to a third party.

9. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement and Release will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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

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

12. Execution and Counterparts. This Settlement Agreement and Release is subject only to the execution of all Parties. However, this Settlement Agreement and Release may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

13. Acknowledgement that this Settlement is Fair, Adequate and Reasonable. The Parties believe this Settlement Agreement and Release is a fair, adequate and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations facilitated by an experienced wage and hour class action mediator, and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties

further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness, adequacy and reasonableness of this Settlement.

14. Waiver of Certain Appeals. In the event the Court grants Approval of this Settlement, the Parties agree to waive appeals concerning this Settlement.

15. Captions. The captions and paragraph numbers in this Settlement Agreement and Release 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 Settlement Agreement and Release.

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

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

18. Disputes, Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and Release. If the Parties are unable to reach agreement on the form or content of any document needed to implement this Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, any dispute between the Parties as to the remaining terms of this Settlement, shall be submitted to Jeffrey Ross, whose decision shall be final and binding on the Parties hereto.

19. Publicity. Plaintiff and his Counsel agree not to issue a press release or otherwise notify the media about the terms of this Settlement or advertise or market any of the terms of this Settlement through written, recorded, or electronic communications. In addition, Plaintiff's Counsel will not put details about this Settlement on their website. However, this will not prevent Plaintiff's Counsel from undertaking required submissions and disclosures that are required to obtain approval of this Settlement, including and not limited to, submission of this Settlement to the LWDA in conformity with the PAGA statute. Additionally, nothing herein shall be construed to prevent Plaintiff's Counsel from referring to this Settlement in connection with other litigation for the purpose of establishing their adequacy as counsel or to justify an award of attorney's fees.

20. Adequacy of Consideration. The Parties agree that the consideration described herein constitute adequate consideration for this Settlement and releases described herein.

21. Court Approval. If the Court fails to approve this Settlement for any reason, this Settlement shall be considered void *ab initio* and shall be of no force or effect whatsoever, and shall not be referred to or utilized for any purpose whatsoever. However, in the event this Settlement is not approved by the Court, the Parties agree to attend mediation with Jeffrey Ross again in an effort to reach a settlement approved by the Court.

22. Binding Agreement. In the event that any Party breaches any terms of this Settlement and an action is brought to enforce the terms of this Settlement, the prevailing party

in any enforcement action shall be entitled to recover their attorneys' fees and costs. The Court shall have jurisdiction to enforce the terms and conditions of the Settlement pursuant to Code of Civil Procedure 664.6 upon noticed motion of any party.

23. Notices. Unless otherwise specifically provided, all notices, demands or other communications in connection with this Settlement Agreement and Release shall be: (a) in writing; (b) deemed given on the third business day after mailing; and (c) sent via United States registered or certified mail, return receipt requested, addressed as follows:

To Plaintiff:	To Defendant:
Heather Davis, Esq. Amir Nayebdadash, Esq. Protection Law Group 136 Main St., Suite A El Segundo, CA 90245	Rebecca Aragon, Esq. Helen Braginsky, Esq. Littler Mendelson, P.C. 633 West Fifth Street, 63rd Floor, Los Angeles, CA 90071

It is hereby agreed.

Dated: 10/22/2021

PLAINTIFF

DocuSigned by:



66C048FF1CC42C...

Fernando Salguero

Dated: 10/26/2021

DEFENDANT



By: Killol Amin
Its: General Counsel

Approved as to form:

Dated: October 26, 2021

Protection Law Group



Heather Davis, Esq.
Amir Nayebdadash, Esq.
Attorneys for Plaintiff Fernando Salguero

Dated: October 26, 2021

Littler Mendelson, P.C.

Rebecca Aragon, Esq.
Helen Braginsky, Esq.
Attorneys for Defendant Collabera, Inc.

EXHIBIT A

Fernando Salguero v. Collabera, Inc.
Superior Court of the State of California, County of Los Angeles
Case No. 20STCV19946

|||||

<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF REPRESENTATIVE ACTION SETTLEMENT

If you are or were a non-exempt employee of Collabera, Inc. who worked in the state of California at any time from March 22, 2019 to May 28, 2021, you are entitled to receive money from a Settlement brought under the Private Attorneys General Act of 2004 (PAGA).

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

1. Why should you read this notice?

A settlement (the “Settlement”) has been reached in a representative action lawsuit entitled *Fernando Salguero v. Collabera, Inc.*, Los Angeles Superior Court Case No. 20STCV19946 (the “Action” or “Lawsuit”). The Defendant in the Action is Collabera, Inc. (referred to as “Defendant”). The Action was brought by a former employee of Defendant on behalf of the State of California and all alleged “Aggrieved Employees,” defined as all current and former non-exempt employees of Defendant who worked in the state of California at any time from March 22, 2019 to May 28, 2021 (“PAGA Period”).

The Court has granted approval of the settlement amount to be paid by Defendant for settlement of the Action for civil penalties under PAGA.

Defendant’s employment records indicate that you meet the definition of an Aggrieved Employee. The Court directed that this Notice be sent to all Aggrieved Employees to inform you about the case and your rights.

This Notice explains the Lawsuit, the Settlement, your legal rights, and what benefits are available.

2. What is this Lawsuit about?

On May 26, 2020, Plaintiff Fernando Salguero (referred to as “Plaintiff”) filed a representative action complaint against Defendant alleging several violations of California wage and hour laws. Plaintiff filed the Action as a Private Attorney General on behalf of the State and sought penalties on behalf of himself, the State, and all current and former non-exempt employees of Defendant within the PAGA Period. Plaintiff alleges that Defendant owed penalties under California’s Private Attorneys General Act of 2004, California Labor Code §§ 2698-2699.5 (“PAGA”).

Defendant denies that it violated California wage and hour laws and denies that it owes any penalties, but to avoid further time and expense in litigation, Defendant and Plaintiff have agreed to settle the case. In agreeing to this settlement, Defendant does not admit to any wrongdoing or that it is liable in any way for any civil penalties under PAGA.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal and all affected employees will receive compensation. Plaintiff and Plaintiff's attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Aggrieved Employees.

4. What are the terms of the Settlement?

Defendant will pay Two Million One Hundred Thousand Dollars and No Cents (\$2,100,000.00) to settle the Action (the "Maximum Settlement Amount"). The Maximum Settlement Amount includes: (a) all Individual Settlement Shares to Aggrieved Employees; (b) Plaintiff's Incentive Payment; (c) Plaintiff's Counsel's Attorneys' Fees and Costs; (d) a payment to the California Labor and Workforce Development Agency ("LWDA") for civil penalties brought under PAGA; and (e) the Settlement Administrator costs.

The Court has approved the following payments from the Maximum Settlement Amount:

- Plaintiff's Counsel's fees of Seven Hundred Thirty-Five Thousand Dollars and No Cents (\$735,000.00);
- Plaintiff's Counsel's out-of-pocket litigation costs and expenses of up to Thirty-Thousand Dollars and No Cents (\$30,000.00);
- Settlement Administration Costs for ILYM Group, the third-party Settlement Administrator of up to Nineteen Thousand Nine Hundred and Ninety Dollars and No Cents (\$19,990.00); and
- Plaintiff's Incentive Payment of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) in recognition of his time and service in pursuing the Action and in fulfilling his obligation.

After these costs are deducted the remaining money (the "Net Settlement Amount") will be split between the LWDA and Aggrieved Employees. The law requires that 75% of the Net Settlement Amount, or Nine Hundred Eighty Thousand Six Hundred and Thirty-Two Dollars and Fifty Cents (\$980,632.50), be paid to the LWDA. The remaining 25% of the Net Settlement Amount, or Three Hundred Twenty-Six Thousand Eight Hundred and Seventy-Seven Dollars and Fifty Cents (\$326,877.50) ("PAGA Employee Fund"), will be paid out to the Aggrieved Employees. No portion of the Maximum Settlement Amount will be returned to Defendant.

5. How much am I receiving?

Each Aggrieved Employee will receive a *pro rata* share of the PAGA Employee Fund. Each PAGA Employee's Individual Settlement Share will be determined by converting the PAGA Employee Fund into a Pay Period Value. The Pay Period Value will be established by dividing the PAGA Employee Fund by all Pay Periods worked by PAGA Employees during the PAGA Period.

The Pay Periods worked by PAGA Employees during the PAGA Period will be determined according to the pay periods worked during the PAGA Period by non-exempt employees in California by using Defendant's records. The Individual Settlement Share for each PAGA Employee will be determined by multiplying the Pay Period Value by each PAGA Employee's individual worked pay periods during the PAGA Period. Pay Period means any pay period in which a PAGA Employee worked at least one day.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Individual Settlement Share is: \$<<Est.PAGAPaymentAmt>>

Each Individual Settlement Share will be allocated as follows: 100% of each Individual Settlement Share shall be allocated to miscellaneous income for which an IRS Form 1099 will be issued, if required by law.

The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Section 1500, *et seq.* in the names of those Aggrieved Employees who did not cash their Settlement checks until such time they claim their property.

6. What claims are being released by the Settlement?

A Judgment has been entered by the Court. Upon funding of the Maximum Settlement Amount, all Aggrieved Employees have released the Released Parties from the Released Claims for the PAGA Period, which is defined as the period of time from March 18, 2019 through the date of Settlement Approval by the Court.

The Released Parties are defined as “Defendant, as well as its predecessors, merged entities, parents, subsidiaries, affiliates, related organizations, all of their respective officers, directors, employees, administrators, fiduciaries, trustees, beneficiaries, and agents, and each of their past, present, and future, officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, attorneys, auditors, consultants, insurers, and reinsurers.”

The Released Claims are defined as “all claims for civil penalties under PAGA that were actually alleged or that could have been alleged in the Action by Plaintiff, on behalf of the State of California, himself and the PAGA Employees, based on the facts, theories, primary rights, statutory or other legal grounds referenced in or alleged in the Complaint and Plaintiff’s PAGA letter dated March 18, 2020 to the LWDA (“PAGA Letter”), including but not limited to: (a) penalties pursuant to Labor Code Section 201, 202, 203, 204, *et seq.*, 204(a), 204(d), 210, 218, 218.6, 226, 226(a), 226(e), 226.3, 226.7, 226.7(a), 510, *et seq.*, 510(a), 510(b), 512, 512(a), 558, 1174, 1174(c), 1174(d), 1174.5, 1194, *et seq.*, 1194(a), 1197, 1197.1, 1198, *et seq.*, 1198.5, 1199, 2698, *et seq.*, 2699, *et seq.*, 2699(a), 2699(f)(2), 2699(g)(1), 2699.3, 2699.3(a), 2699.5, 2800, 2802, 2802(a), CCR § 11010, and IWC Wage Orders No. 4, 7 and 9; (b) attorney’s fees and costs incurred in the prosecution of this Action on behalf of the PAGA Employees; and (c) any other PAGA penalties based on the facts or theories alleged in the Complaint or PAGA Letter.”

This Settlement shall not impact PAGA Employees ability to assert Labor Code claims other than PAGA claims, including claims for unpaid wages.

Aggrieved Employees cannot opt out of or object to the foregoing PAGA Release.

If you have questions, you can call the ILYM Group, Settlement Administrator at [REDACTED].

PLEASE DO NOT TELEPHONE THE COURT ABOUT THIS SETTLEMENT
They will not be able to assist you.

EXHIBIT B

1 HEATHER DAVIS, SBN 239372
2 heather@protectionlawgroup.com
3 AMIR NAYEBDADASH, SBN 232204
4 amir@protectionlawgroup.com
5 **PROTECTION LAW GROUP, LLP**
6 237 California Street
7 El Segundo, California 90245
8 Telephone: (424) 290-3095
9 Facsimile: (866) 264-7880

10 Attorneys for Plaintiff
11 FERNANDO SALGUERO

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF LOS ANGELES**

15 FERNANDO SALGUERO, as an aggrieved
16 employee and private attorney general,

17 Plaintiff,

18 vs.

19 COLLABERA INC., a New Jersey
20 Corporation; and DOES 1 through 50,
21 inclusive,

22 Defendants.

Case No.: 20STCV19946

*Assigned for all purposes to: Hon. Michael
Stern, Dept. 62*

**[PROPOSED] ORDER APPROVING
SETTLEMENT PURSUANT TO
CALIFORNIA LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT AND
ENTERING JUDGMENT**

Hearing Date: November 19, 2021
Hearing Time: 9:00 a.m.
Department: 62

Complaint Filed: May 26, 2020
Trial Date: January 31, 2022

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 Having reviewed and considered Plaintiff's Motion for Order Approving Settlement
3 Pursuant to California Labor Code Private Attorneys General Act and Entering Judgment, and good
4 cause appearing for the same, it is hereby **ORDERED, ADJUDGED, AND DECREED AS**
5 **FOLLOWS:**

6 1. The Court hereby approves the of Private Attorneys General Act Settlement
7 Agreement and Release attached as Exhibit 2 to the Declaration of Heather Davis ("Settlement
8 Agreement" or "Settlement.") as a fair, reasonable, and adequate resolution of the PAGA claims
9 alleged in the Action.

10 2. The Settlement Agreement is hereby deemed incorporated herein as if expressly set
11 forth. Final judgment is hereby entered in conformity with the Settlement. All terms used herein
12 shall have the same meaning as defined in the Settlement Agreement.

13 3. This Court has jurisdiction over the subject matter of this Action, and over all Parties
14 to this Action, including Plaintiff Fernando Salguero ("Plaintiff"), the State of California, and all
15 PAGA Class Members.

16 4. The Court designates ILYM Group Inc. ("ILYM") as the third-party Settlement
17 Administrator for mailing the PAGA Employees cover letters, distribution of the Maximum
18 Settlement Amount, and other duties set forth in the Settlement.

19 5. No later than thirty (30) calendar days after entry of this Order and Judgment,
20 Defendant will provide ILYM with the Aggrieved Employee List as defined in the Settlement
21 Agreement.

22 6. Provided the Judgment becomes Final, within fourteen (14) court days following the
23 Effective Date, Defendant Collabera, Inc. ("Defendant") is hereby ordered to deposit the Maximum
24 Settlement Amount of Two Million One Hundred Thousand Dollars and No Cents (\$2,100,000.00)
25 into the Settlement Account established by ILYM.

26 7. Defendant will not be required to pay any additional amounts in connection with this
27 Settlement other than those amounts specifically set forth in the Settlement Agreement and this
28 Order.

1 8. Within ten (10) business days following the Funding of the Settlement, ILYM shall
2 distribute the Maximum Settlement Amount as provided in the Settlement and set forth below:

- 3 a. Seven Hundred Thirty-Five Thousand Dollars and No Cents (\$735,000.00) to Plaintiff's
4 Counsel for attorneys' fees ("Attorney's Fees"), which is thirty-five (35%) of the
5 Maximum Settlement Amount, and attorneys' costs ("Attorney's Costs") of up to
6 Thirty-Thousand Dollars and No Cents (\$30,000.00), from the Maximum Settlement
7 Amount as final payment for and complete satisfaction of any and all attorneys' fees and
8 costs incurred by and/or owed to Plaintiff's Counsel related to the Action;
- 9 b. Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) to Plaintiff Fernando
10 Salguero ("Plaintiff's Incentive Payment") from the Maximum Settlement Amount, to
11 compensate him for his services in prosecuting the Action and performing work in
12 support of the Action;
- 13 c. Nineteen Thousand Nine Hundred and Ninety Dollars and No Cents (\$19,990.00) to the
14 Settlement Administrator, ILYM Group Inc. ("Settlement Administration Costs") from
15 the Maximum Settlement Amount for administration expenses incurred by the
16 Settlement Administrator; and
- 17 d. The Net Settlement Amount remaining after the deduction of the Plaintiff's Counsel's
18 Attorney's Fees, Plaintiff's Counsel's Attorney's Costs, Plaintiff's Incentive Payment,
19 and Settlement Administration Costs (\$1,307,510.00), shall be distributed to the
20 California Labor and Workforce Development Agency ("LWDA") and PAGA
21 Employees. 75% of the Net Settlement Amount (\$980,632.50) shall be distributed to the
22 LWDA ("LWDA Payment"). 25% of the Net Settlement Amount (\$326,877.50) shall be
23 distributed to the PAGA Employees ("PAGA Employee Fund"). Each PAGA
24 Employee's Individual Settlement Share will be determined by converting the PAGA
25 Employee Fund into a Pay Period Value. The Pay Period Value will be established by
26 dividing the PAGA Employee Fund by all Pay Periods worked by PAGA Employees
27 during the PAGA Period. The Pay Periods worked by PAGA Employees during the
28 PAGA Period will be determined according to the pay periods worked during the PAGA
 Period by non-exempt employees in California by using Defendant's records. The

1 Individual Settlement Share for each PAGA Employee will be determined by
2 multiplying the Pay Period Value by each PAGA Employee's individual worked pay
3 periods during the PAGA Period. Pay Period means any pay period in which a PAGA
4 Employee worked at least one day.

5 e. ILYM shall mail each PAGA Employee their Individual Settlement Share check along
6 with the Notice attached to the Settlement as Exhibit A.

7 9. All checks to the PAGA Employees shall remain valid and negotiable for 180 days
8 from the date of their issuance to the PAGA Employees. If any checks are not cashed within 180
9 days of mailing, those funds shall be transmitted to the Controller of the State of California to be
10 held pursuant to the Unclaimed Property Law, California Code of Civil Procedure § 1500, et seq. in
11 the names of those PAGA Employee who did not cash their checks until such time they claim their
12 property.

13 10. Upon the funding of the Maximum Settlement Amount, each PAGA Employee, and
14 without the need to manually sign a release document, in exchange for the consideration recited in
15 this Agreement, on behalf of himself or herself and on behalf of his/her current, former, and future
16 heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and
17 finally release Defendant as well as its predecessors, merged entities, parents, subsidiaries, affiliates,
18 related organizations, all of their respective officers, directors, employees, administrators,
19 fiduciaries, trustees, beneficiaries, and agents, and each of their past, present, and future, officers,
20 directors, shareholders, employees, agents, principals, heirs, representatives, accountants, attorneys,
21 auditors, consultants, insurers, and reinsurers (collectively hereinafter the "Released Parties"), from
22 all claims for civil penalties under PAGA that were actually alleged or that could have been alleged
23 in the Action by Plaintiff, on behalf of the State of California, himself and the PAGA Employees,
24 based on the facts, theories, primary rights, statutory or other legal grounds referenced in or alleged
25 in the Complaint and Plaintiff's PAGA letter dated March 18, 2020 to the LWDA ("PAGA Letter"),
26 including but not limited to: (a) penalties pursuant to Labor Code Section 201, 202, 203, 204, et
27 seq., 204(a), 204(d), 210, 218, 218.6, 226, 226(a), 226(e), 226.3, 226.7, 226.7(a), 510, et seq.,
28 510(a), 510(b), 512, 512(a), 558, 1174, 1174(c), 1174(d), 1174.5, 1194, et seq., 1194(a), 1197,
1197.1, 1198, et seq., 1198.5, 1199, 2698, et seq., 2699, et seq., 2699(a), 2699(f)(2), 2699(g)(1),

1 2699.3, 2699.3(a), 2699.5, 2800, 2802, 2802(a), CCR § 11010, and IWC Wage Orders No. 4, 7 and
2 9; (b) attorney's fees and costs incurred in the prosecution of this Action on behalf of the PAGA
3 Employees; and (c) any other PAGA penalties based on the facts or theories alleged in the Complaint
4 or PAGA Letter ("Released Claims").

5 11. Upon the remittance of the Maximum Settlement Amount by Defendant to the
6 Settlement Administrator, Plaintiff, on behalf of himself, the State of California, and all PAGA
7 Employees, releases the Released Parties from the Released Claims. This release shall be effective
8 for the period from March 18, 2019, through the date of Settlement approval by the Court (the
9 "Settlement Period"). PAGA Employees may discover facts in addition to those they now know or
10 believe to be true with respect to the subject matter of the Released Claims, but upon the Effective
11 Date, PAGA Employees shall be deemed to have, and by operation of the Settlement Approval
12 Court order shall have, fully, finally, and forever settled and released any and all of the Released
13 Claims, without regard to the subsequent discovery or existence of such different or additional facts.
14 PAGA Employees may not to sue or otherwise make a claim against any of the Released Parties
15 that seeks recovery for any of the Released Claims. It is the intent of the Parties that the Settlement
16 approval order entered by the Court shall have full res judicata effect and be final and binding upon
17 PAGA Employees regarding the Released Claims. However, other than as to Plaintiff, the
18 Settlement shall not impact PAGA Employees ability to assert Labor Code claims other than PAGA
19 claims, including claims for unpaid wages. In light of the binding nature of a PAGA judgment on
20 non-party employees pursuant to *Arias v. Sup. Ct. (Angelo Dairy)* (2009) 46 Cal.4th 969 and
21 *Cardenas v. McLane Foodservice, Inc.* (2011) 796 F.Supp.2d 1246, individuals otherwise meeting
22 the definition of a PAGA Employee who are eligible to receive a payment of the Individual
23 Settlement Share of the Net Settlement Amount shall be deemed to have released the Released
24 Claims regardless if the check is cashed or not

24 12. The Court finds that Plaintiff gave notice to the California Labor Workforce and
25 Development Agency ("LWDA") and to Defendant of his intention to pursue claims for civil
26 penalties under PAGA arising out of the facts and legal theories alleged in the Complaint, that the
27 LWDA did not give notice that it intended to investigate these claims within 65 days of receiving
28 Plaintiff's notice, and that Plaintiff is therefore authorized to pursue these claims on behalf of the

1 LWDA. The Court further finds that Plaintiff gave notice of this proposed settlement of those claims
2 under PAGA to the LWDA in accordance with Labor Code section 2699(l)(2), and that the LWDA
3 has not expressed any objection to the proposed settlement. Accordingly, this Judgment also bars
4 the LWDA, or any other agency of the State of California, or any person acting on its behalf, from
5 collecting any penalties due to any of them, or any unpaid wages due to PAGA Class Members, to
6 the extent those penalties or unpaid wages arise out of the PAGA Released Claims or the facts giving
7 rise to those claims. *Arias v. Super. Ct.*, 46 Cal.4th 969, 985-986 (2009).

8 13. Neither this Settlement nor any of the terms set forth in the Settlement Agreement
9 are admissions by Defendant, or any of the other Released Parties, of liability on any of the
10 allegations alleged in this Action, nor is this Order a finding of the validity of any claims in this
11 Action, or of any wrongdoing by the Defendant, or any of the other Released Parties.

12 14. Plaintiff's Counsel are directed to submit a copy of this Order and Judgment to the
13 California Labor and Workforce Development Agency within ten (10) calendar days of entry of the
14 Judgment.

15 15. Without affecting the finality of this Order and Judgment, the Court shall retain
16 continuing jurisdiction over this action and the parties, and over all matters pertaining to the
17 implementation and enforcement of the terms of the Settlement Agreement pursuant to Civil
18 Procedure section 664.6. Except as provided to the contrary herein, any disputes or controversies
19 arising with or with respect to the interpretation, enforcement, or implementation of the Settlement
20 Agreement shall be presented to the Court for resolution.

21 16. The Court hereby enters judgment of the entire Action, with prejudice, for the reasons
22 set forth above and upon the terms set forth in the Settlement Agreement.

23 17. This Judgment is intended to be a final disposition of the above-captioned action in
24 its entirety and is intended to be immediately appealable. Subject to the Court's continuing
25 jurisdiction as set forth above, the Court directs the Clerk of the Court to enter Judgment.

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

27 DATED: _____

JUDGE OF THE SUPERIOR COURT

Exhibit 3

ATTORNEY TASK AND TIME CHART
SALGUERO V. COLLABERA, INC.
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 20STCV19946

TASK	PROTECTION LAW GROUP, LLP
Investigation and Research / Due Diligence	
Pre-Lawsuit Investigation of the Merits of Plaintiff Fernando Salguero's Claims and the Merits of the Claims of the Aggrieved Employees	12
Pre-Lawsuit Investigation of Potential Exposure of Defendant Collabera, Inc. ("Defendant") with Respect to Civil Penalties	14
Pre-Lawsuit Legal Research and Analysis of Latest Off-the-Clock, Meal and Rest Break, and Representative PAGA Decisions in California, Including all New Relevant DLSE Materials	8.50
Investigation of Defendant, Defendant's Business Relationships, and the Industry in which Defendant Operates	5.50
Investigation of Defendant's Executives, Officers, and Leadership with a Focus on Involvement in Wage-and-Hour Issues and Establishing Willfulness and Uniformity	4.50
Investigation of Defendant's Organizational and Corporate Structure, and Executive Reporting Structure as They Relate to the Employment and Management of the Aggrieved Employees	3
Analysis of Competitors in Various Relevant Geographic Areas within which Defendant Operates, and Comparing and Contrasting Defendant's Policies, Practices, and Procedures with the Policies, Practices, and Procedures of Defendant's Competitors	10

Research and Investigation Re: Defendant's Policies, Practices, and Procedures Relating to Bonuses/Incentive/Piece Rate Pay, Timekeeping, Meal/Rest Breaks, Overtime Compensation, and Reimbursement of Business-Related Expenses	20.50
Comparative Analysis and Cross-Checking of All Available Job Postings by Defendant in Order to Determine Any Variation and Identify Job Duties and Responsibilities That Would be Susceptible to Being Performed Off-the-Clock or During Meal or Rest Breaks	5
Research and Investigation Re: Various Software Programs Defendant Uses to Conduct Its Everyday Business, Including Timekeeping Software, with a Focus on What Documents (Both Paper and Electronic) Are Created in the Normal Course of Business Relating to Overtime Worked, Off-the-Clock Time Worked Pre/Post-Shift, and Time Worked During Meal Breaks	6
Research and Analysis of Potential Defenses Defendant May Raise, Including <i>De Minimis</i> Work, Non-Compensable Off-the-Clock Work, Waiver, and Compliant Policies	7
Research and Investigation Re: Post- <i>Duran vs. U.S. Bank</i> Trial Manageability Issues, including Research Regarding Which Experts to Retain and For What Purpose	6
Research and Investigation Re: Consideration of Bringing Class Action v. PAGA Action	3.50
Review Arbitration Agreement Purportedly Entered by Plaintiff and Analyze Enforceability Under <i>Armendariz v. Foundation Health Psychcare Services, Inc.</i>	7
Research and Investigation regarding Prior and Ongoing PAGA Actions Against Defendant	4.50
Meet and Communicate with Plaintiff Salguero Throughout the Pendency of the Case	14
Investigate Potential Witnesses and Correspond with Other Aggrieved Employees	3

Pleadings and Court Filings	
Research and Draft Plaintiff's Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code Section 2698, <i>et seq.</i> and Legal Research and Analysis of All Claims Involved (filed May 26, 2020)	8.50
Review Order to Show Cause re Failure to File Proof of Service (filed May 29, 2020)	0.10
Review Notice of Case Management Conference (filed May 29, 2020)	0.10
Review and Analyze Defendant Collabera's Answer to Complaint and Research Defendant's Affirmative Defenses in Support Thereto (filed July 7, 2020)	4
Review Order Continuing Case Management Conference (filed October 2, 2020)	0.10
Review Department 62 Order re Final Trial Preparation (filed October 2, 2020)	1
Draft Notice of Change of Address (filed October 19, 2020)	0.10
Draft and Revise Joint Stipulation Regarding Discovery and Mediation (filed October 29, 2020)	3.50
Draft and Revise Joint Stipulation and Protective Order (filed May 28, 2021)	3
Discovery	
Draft, Plaintiff's proposed Belaire-West notice (June 16, 2020)	3
Draft Plaintiff's Form Interrogatories (Set One), Special Interrogatories (Set One) and Requests for Production of Documents (Set One) to Defendant (served June 16, 2020).	10
Draft Plaintiff's Notice of Deposition of Defendant's Person Most Knowledgeable (served June 16, 2020)	2.50

Review and Analyze Defendants' Request for Production of Documents Set One (propounded July 17, 2020)	3
Review Defendants' Notice of Deposition and Request for Production of Documents (propounded July 17, 2020)	1.50
Draft Plaintiff's Responses and Objections to Defendant's Requests for Production (served August 18, 2020)	9
Draft Plaintiff's Responses and Objections to Defendant's Notice of Deposition and Requests for Production of Documents (served August 18, 2020)	4
Letters and Correspondence	
Draft PAGA Notice to California Labor and Workforce Development Agency Re: Claims of Plaintiff Fernando Salguero for Penalties Under California Labor Code section 2698, et seq. (served March 28, 2020).	6.0
Meet and Confer with Defendant's Counsel, Draft Correspondence to and Review and Respond to Correspondence from Defendant's Counsel	8
Draft Correspondence to and Review and Respond to Correspondence from Mediator re Post Mediation Settlement Discussions	3
Mediation/Settlement	
Review and Analyze Mediation Data and Documents Produced by Defendant for the April 26, 2021 Mediation, including: (1) Employee Handbooks; (2) Timekeeping Policy Documents; (3) Sampling of Employee Time Data; (4) Sampling of Employee Pay Data	30

Prepare for April 26, 2021, Mediation, Including Researching Settlement-Related Issues and Merits of Claims, Drafting Mediation Brief, Compiling the Exhibits in Support of Mediation Brief, and Performing Damages Analysis/Calculations (submitted April 19, 2021)	27
Prepare for and Attend Mediation Session (April 26, 2021 via Zoom)	10
Draft and Revise Memorandum of Understanding (fully executed July 26, 2021)	6
Draft, Review, Revise, Negotiate, and Finalize Joint Stipulation of PAGA Settlement and Release of Claims and accompanying PAGA Notice (fully executed October 26, 2021)	26
Law and Motion	
Research and Draft Plaintiff's Motion for Order Approving Settlement Pursuant to California Labor Code Private Attorneys General Act and Entering Judgment; Declaration of Heather Davis in Support Thereof; Declaration of Fernando Salguero in Support Thereof; and [Proposed] Order and Judgement (anticipated)	34
Total Hours:	337.40

Exhibit 4

SALGUERO V. COLLABERA, INC.

(LOS ANGELES SUPERIOR COURT CASE NO. 20STCV19946)

PROTECTION LAW GROUP LLP - - EXPENSE REPORT

Date	Memo	Debit
March 2020	LWDA Fees	\$ 75.00
June 2020-June 2021	Court Filings and Attorney Service Fees	\$1,231.98
July 2020-October 2020	Service Expenses (Mail/UPS)	\$48.90
October 2020	Mediation with Jeffrey Ross	\$7,000.00
May 2021	Expert Analysis of Time/Payroll Records	\$2,825.00
October 2021 to May 2022	Estimated Future Costs (filing and attorney service fees for filing of PAGA Approval Motion attendance via CourtCall at PAGA Approval Hearing, filing and attorney service fees for filing of Declaration re Settlement Administration)	\$350.00
TOTAL COSTS:		\$11,530.88

Exhibit 5

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Salguero v. Collabera, Inc.

Saturday, October 2, 2021

Requesting Attorneys Name:

Ryan Aliman

E-Mail:

Ryan@protectionlawgroup.com

ILYM Contact:

Sean Hartranft

E-Mail:

Sean@ilymgrouppclassaction.com

Contact Number:

949.690.2564

PAGA Settlement

ASSUMPTIONS	
Total Estimated Number of Aggrieved Employees	2,500
NCOA	Yes
Certified Spanish Translation	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	8	\$1,200.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	12	\$1,440.00
Toll-Free Telephone Support	Flat Rate	\$650.00	1	\$650.00
NCOA	Flat Rate	\$375.00	1	\$375.00
Certified Spanish Translation	Flat Rate	\$1,250.00	1	\$1,250.00
Storage, Photocopies & Deliveries	Flat Rate	\$300.00	1	\$300.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$5,215.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	10	\$1,500.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	10	\$1,250.00
Check, Stub & Release - (including 1099)	Per Check	\$2.00	2,500	\$5,000.00
USPS First Class Postage	Per Piece	\$0.55	2,500	\$1,375.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.50	500	\$1,250.00
Preparation of Taxes	Hourly	\$125.00	10	\$1,250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal \$13,125.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	9	\$900.00
Declaration	Hourly	\$125.00	6	\$750.00

Subtotal \$1,650.00

WILL NOT EXCEED: \$19,990.00

Exhibit 6

Ryan Aliman

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Wednesday, October 27, 2021 6:44 AM
To: Ryan Aliman
Subject: Thank you for your Proposed Settlement Submission

10/27/2021 06:44:08 AM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm