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Attorneys for Plaintiff
JAIME CAZARES VARGAS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

JAIME CAZARES VARGAS, as an individual
and on behalf of others similarly situated,

Plaintiff,

vs.

JTS MODULAR, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No. BCV-20-100645-JEB

[Assigned to Hon. J. Eric Bradshaw Department: J]

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SETTLEMENT APPROVAL OF
CLAIMS BROUGHT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT AND REASONABLE
ATTORNEYS' FEES, COSTS, AND
ENHANCEMENT AWARD**

Date: April 26, 2022

Time: 8:30 a.m.

Dept.: J

Complaint Filed: March 4, 2020

Trial Date: None Set

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Jaime Cazares Vargas (“Plaintiff”) in the above-captioned matter. I am a member in
4 good standing of the bar of the State of California and am admitted to practice in this Court. I have
5 personal knowledge of the facts stated in this declaration and could testify competently to them if called
6 upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
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1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.

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27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
2 United States District Court, Central District of California, Honorable Percy
3 Anderson, presiding.
- 4 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
5 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 6 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
10 States District Court, Central District of California, Honorable Percy Anderson,
11 presiding.
- 12 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
13 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 14 ► *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
15 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 16 ► *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
17 KSC, United States District Court, Southern District of California.⁴
- 18 ► *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
19 of Solano, Honorable Paul Berman, presiding.
- 20 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
21 Superior Court, County of Orange, Honorable William Claster, presiding.
- 22 ► *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
23 Superior Court, County of Orange, Honorable William Claster, presiding.
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26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

1 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
2 Court, County of San Francisco.

3 ▶ *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
4 Court, Northern District of California, Honorable Richard Seeborg, presiding.

5 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
6 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
7 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
8 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
9 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
10 five (65) wage and hour class actions filed in State courts throughout California, with several of them
11 having been removed to Federal courts. I believe that my professional experience renders me more than
12 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
13 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
14 of wage and hour cases throughout my career involving similar claims, including the wage and hour
15 class actions identified above, I have litigated similar claims from both plaintiff and defense
16 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
17 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
18 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
19 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

20 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
21 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
22 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
23 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-
24 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
25 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,
26 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*
27 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,
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Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; and *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding.

9. As co-lead counsel for Plaintiff, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a reasonable result for the Aggrieved Employees.

1 10. JTS Modular builds permanent modular buildings using ground up construction
2 material to primarily construct and build schools (99% of its business is building schools; the other 1%
3 is a combination of medical facilities, police and/or fire departments).

4 11. On March 4, 2020, Plaintiff filed his original complaint in this action which asserted
5 putative class action claims against JTS Modular. On March 4, 2020, Plaintiff also provided written
6 notice to the LWDA and JTS Modular asserting claims for civil penalties pursuant to PAGA stemming
7 from alleged violations of the California Labor Code including: (1) pay all minimum wages owed; (2)
8 pay all overtime wages owed; (3) provide legally compliant meal periods or premium pay for non-
9 compliant meal periods; (4) permit and authorize compliant rest periods or premium pay for non-
10 compliant rest periods; (5) reimburse necessary business expenditures; (6) provide accurate, itemized
11 wage statements; (7) provide and pay all earned wages at least twice during each calendar month; (8)
12 maintain accurate records; and (9) pay and/or timely pay all wages owed at the time of separation of
13 employment. A true and correct copy of the LWDA letter is attached hereto as **Exhibit 1**. On May 11,
14 2020, after exhausting his administrative remedies, Plaintiff filed a First Amended Complaint (“FAC”)
15 which added an Eighth Cause of Action under the PAGA. *Id.* On May 19, 2020, pursuant to Plaintiff’s
16 request, the Court dismissed Plaintiff’s class and individual allegations (due to the existence of an
17 arbitration agreement executed by Plaintiff on or about June 28, 2019 during his employment with JTS
18 Modular), but retained his representative claim under PAGA, the sole claim remaining at issue in this
19 case and the sole claim which forms the basis of the Settlement.

20 12. Throughout the two-year litigation of this matter, Plaintiff propounded one set of
21 Employment and General Form Interrogatories, three sets of Special Interrogatories, and two sets of
22 Requests for Production of Documents, and JTS Modular propounded one set of written discovery
23 including Employment Form Interrogatories, Requests for Admission, Special Interrogatories, and
24 Requests for Production of Documents. Both Parties responded to all discovery served. In response
25 to written discovery served by Plaintiff, in pertinent part, JTS Modular produced nearly 5,000 pages of
26 documents and information pertaining to Plaintiff and the Aggrieved Employees, including, but not
27 limited to, a sampling of time and pay records, written policies, and employee handbooks. In response
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to written discovery served by JTS Modular, in pertinent part, Plaintiff produced over 500 pages of documents and information. Further, the Parties completed a *Belair-West* notice and JTS Modular produced the contact information for the employees who did not opt-out. Additionally, Plaintiff took the deposition of JTS Modular's Person Most Knowledgeable and JTS Modular took Plaintiff's deposition.

After agreeing to participate in private mediation, JTS Modular produced additional data/metrics pertaining to the number of allegedly Aggrieved Employees at issue, and the number of pay periods at issue for the relevant time period. After the detailed review of the formal discovery produced by JTS Modular, including the payroll and time records and other documents and policies produced by JTS Modular, and a review of the depositions taken, Plaintiff's Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff's case. This discovery allowed the parties to assess the merits and value of Plaintiff's claims as well as the merits and value of Defendant's defenses if a settlement could not be reached.

13. On March 1, 2022, the Parties participated in mediation with Steven G. Mehta Esq., a well-respected wage and hour class and representative action mediator. During mediation, the Parties vigorously debated their opposing legal positions and the likelihood of Plaintiff's ability to proceed on a representative basis. Ultimately, the Parties reached a settlement, the terms of which were subsequently finalized in writing after mediation. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 2**. The Proposed Notice of PAGA Settlement and Release of Claims is attached as Exhibit B to the Settlement.

14. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount:	\$422,500.00
Minus Court-approved attorneys' fees (1/3):	\$140,833.33
Minus Court-approved attorneys' costs:	\$14,615.87
Minus Court-approved enhancement award:	\$7,500.00
Minus settlement administrator costs:	\$3,570.00
Net Settlement Amount:	\$255,980.80

Net Settlement Amount:	\$255,980.80
75% to LWDA	\$191,985.60
25% to Aggrieved Employees	\$63,995.20

1 The GSA shall be deposited within 30 calendar days of Court approval of the settlement and
2 the Court's Final Judgment becoming Final. *See* Settlement, ¶ III.2. Within 10 business days of the
3 Effective Date of the Settlement, Defendant shall provide the Settlement Administrator with
4 information for Aggrieved Employees in order to calculate and distribute checks to Aggrieved
5 Employees. *See* Settlement, ¶ IV.2.

6 15. According to JTS Modular, there are approximately 368 Aggrieved Employees defined
7 as "all current and former hourly, non-exempt employees of Defendant JTS Modular, Inc. who worked
8 in California at any time from March 4, 2019 through date the Court grants approval of this
9 settlement."⁶ The Aggrieved Employees, including Plaintiff, worked a total of 18,840 pay periods
10 worked by the Aggrieved Employees during the PAGA Period of March 4, 2019 through the date the
11 Court grants approval of this settlement. The average payment to an Aggrieved Employee is estimated
12 to be \$173.90.

13 16. As described in the accompanying Motion for Approval, Plaintiff alleges that JTS
14 Modular failed to compensate Plaintiff and other non-exempt employees for all of their time worked
15 by utilizing time-shaving and/or rounding practices that were not even-handed over time and would
16 result in the underpayment of wages to the Aggrieved Employees. Plaintiff also alleges that JTS
17 Modular failed to compensate its employees when they travelled to various worksites in the field.
18 Plaintiff believes that this violation occurred in each and every pay period during the relevant time
19 period, which is approximately 18,840 pay periods. Accordingly, pursuant to Labor Code section
20 1197.1, Plaintiff calculated JTS Modular's exposure at \$4,654,800 ((368 x \$100 initial violation) +
21 (18,472 x \$250 subsequent violation)).

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24 ⁶ Defendant represents that there are an estimated 18,840 pay periods worked by the Aggrieved Employees
25 during the PAGA period of March 4, 2019 through the date the Court grants approval of this settlement. If the
26 number of pay periods worked by the Aggrieved Employees during the PAGA period is more than 10% greater
27 than this figure, the PAGA Period shall cut-off and/or cease once the number of pay periods reaches 10%
28 greater than 18,840 (i.e. 20,724 pay periods). Defendant shall only be obligated for and to remit payment of the
Gross Settlement Amount reached under this Agreement, and the Gross Settlement Amount shall not be in any
manner increased in the event the number of pay periods worked by the Aggrieved Employees during the
PAGA Period exceeds 20,724 pay periods. *See* Settlement, ¶ III.3.

1 17. JTS Modular counters that it compensated Plaintiff and all other non-exempt employees
2 for all their time worked and for wages earned. JTS Modular also contends that its practices and
3 policies were compliant and lawful, employees kept track of and reported their own time, and any
4 unpaid time was *de minimis* and therefore non-compensable. JTS Modular also contends it had, and
5 continues to have, policies, practices, and procedures in place for employees to report their travel time
6 in order to receive compensation. JTS Modular also argues that only the initial violation rate could
7 apply, if at all. In light of these defenses and JTS Modular's argument that the Court would exercise
8 its discretion to reduce any civil penalty due to its good faith efforts to comply with applicable law,
9 Plaintiff discounted the maximum recovery on this claim by 85% to account for the risk that Defendant
10 could prevail in their defenses, to arrive at a projected total of \$698,220.00.

11 18. Plaintiff alleges that as a result of the work demands imposed by JTS Modular and
12 requiring the employees to take lunch at the same time, their meal periods often did not start before the
13 end of their fifth hour of work, meaning the meal periods were late or otherwise short or unlawful in
14 violation of Labor Code section 512. Plaintiff also alleges that as a result of JTS Modular's failure to
15 include travel time as compensable work time, the meal periods were late. Based on the time data
16 produced in connection with mediation, there appears to be at least one meal period violation in
17 approximately 74% of the pay periods, or approximately 13,942 pay periods. Accordingly, pursuant
18 to Labor Code section 558, Plaintiff calculated JTS Modular's maximum exposure at \$1,099,300 ((368
19 x \$50 initial violation) + (13,574 x \$100 subsequent violation)).

20 19. JTS Modular counters that it has always provided non-exempt employees with an
21 opportunity to take legally compliant meal periods, and any non-compliant meal periods reflected in
22 employee timekeeping records were solely the result of employee choice, rather than any policy or
23 practice of Defendant. JTS Modular points out that it is only required to "provide" the opportunity to
24 take meal periods, not "ensure" meal periods are taken, and that they have always done so. JTS
25 Modular also contends that Plaintiff could not recover the \$100 civil penalty for "subsequent
26 violations" because it did not have notice of any initial violation. Lastly, JTS Modular contends that
27 the Court would use its discretion provided for in the PAGA to reduce the maximum penalty exposure
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1 due to its good faith efforts to comply with applicable law. In light of these defenses, Plaintiff
2 discounted the maximum recovery on this claim by 90% to account for the risk that JTS Modular could
3 prevail in its defenses, to arrive at a projected total of \$109,930.00.

4 20. Plaintiff alleges that JTS Modular failed to authorize and permit all legally required rest
5 periods. Specifically, Plaintiff alleges that JTS Modular's rest period policy as written in its Employee
6 Handbook, up until June 2019 or approximately 1,570 pay periods, states that its employees must
7 remain on company premises. Moreover, Plaintiff alleges that while working in the field, which
8 Plaintiff conservatively estimates was half of the relevant pay periods or 9,420, JTS Modular combined
9 his rest periods with his meal period and provided one single hour break, in violation of California law.
10 Therefore, based on a total of 10,990 pay periods, Plaintiff alleges there was at least one rest period
11 violation and pursuant to Labor Code section 558, Plaintiff calculated JTS Modular's exposure at
12 \$1,080,900 ((362 x \$50 initial violation) + (10,628 x \$100 subsequent violations)).

13 21. JTS Modular counters contends it has always maintained and enforced lawful rest
14 period policies and practices, Plaintiff and other non-exempt employees were authorized and permitted
15 to take all off-duty rest periods in compliance with California law, and despite its policy employees
16 were always allowed to leave the premises. JTS Modular also contends that its written rest period
17 policy changed in 2019 and for the entire relevant time period it allowed its non-exempt employees to
18 leave the work premises during rest periods, consistent with its prior practices. JTS Modular also
19 contends that Plaintiff could not recover the \$100 civil penalty for "subsequent violations" because it
20 did not have notice of any initial violation. Lastly, JTS Modular contends that the Court would use its
21 discretion provided for in the PAGA to reduce the maximum penalty exposure due to its good faith
22 efforts to comply with applicable law especially since JTS Modular changed its rest period policy in
23 2019. In light of these defenses, Plaintiff discounted the maximum recovery on this claim by 85% to
24 account for the risk that JTS Modular could prevail in its defenses, to arrive at a projected total of
25 \$162,135.00.

26 22. As Plaintiff's PAGA claim was based on the underlying failure to pay all wages and
27 meal and rest period premiums resulting in alleged deficient wage statements, Plaintiff asserts PAGA

1 penalties for each Aggrieved Employee for each pay period in the PAGA limitations period. Therefore,
2 applying the initial violation rate of \$100, the estimated exposure is \$1,884,000 (18,840 pay periods x
3 \$100 initial violation).

4 23. JTS Modular argues that Plaintiff's underlying claims will fail and, as a result, the
5 wholly derivative wage statement claim will also fail. JTS Modular also vehemently argues that a meal
6 and rest period claims cannot support a claim for wage statement penalties . Further, JTS Modular
7 contend that the "second violation" should not be applied where the LWDA has not previously cited
8 JTS Modular. Finally, JTS Modular also argues that since the primary allegations in this case are that
9 JTS Modular failed to pay all wages and provide all meal and rest periods, imposing multiple penalties
10 based on different Labor Code section under derivative theories of liability for the same conduct would
11 be inappropriate and unfair. As such, Plaintiff discounted that figure by 90% to account for the risk of
12 losing on the merits and for the risk of the Court reducing penalties, to arrive at a realistic recovery for
13 Aggrieved Employees of \$188,400.00.

14 24. Plaintiff alleges that JTS Modular is liable for waiting time penalties under Labor Code
15 section 203 as a result of its failure to pay all wages and meal and rest period premiums. Based on the
16 data provided by JTS Modular, 292 Aggrieved Employees have separated their employment with JTS
17 Modular during the relevant time period who could be entitled to waiting time penalties. Therefore,
18 Plaintiff calculated JTS Modular's maximum exposure for waiting time penalties at approximately
19 \$29,200.00 (292 former employees x \$100).

20 25. JTS Modular asserts it has strong defenses to the waiting time claim because there exist
21 good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties. JTS
22 Modular also argues that meal and rest period claims cannot support a claim for waiting time penalties.
23 In light of these defenses, Plaintiff discounted the maximum recovery on this claim by 80% to account
24 for the risk that JTS Modular could prevail in its arguments, to arrive at a projected total of \$5,840.

25 26. Plaintiff alleges that JTS Modular required employees to use their personal vehicles and
26 their personal cellular phones to discharge their duties as required under Labor Code section 2802 and
27 by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137. Plaintiff alleges that despite
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1 this requirement JTS Modular failed to reimburse its employees for necessary business expenses.
2 Plaintiff believes that this failure occurred in all of the relevant pay periods. Therefore, pursuant to
3 Labor Code section 558, Plaintiff calculated JTS Modular's exposure at \$3,785,200 (368 x \$50 initial
4 violation) + (18,472 x \$100 subsequent violations)).

5 27. JTS Modular argues that cellular phones largely were not necessary for work. JTS
6 Modular also contends that once it started requiring its employees to keep track of their time using a
7 phone application, Procore, it reimbursed employees \$5.00 per month. In light of this, Plaintiff
8 discounted the maximum recovery on this claim by 90% to account for the risk that JTS Modular could
9 prevail in its arguments, to arrive at a projected total of \$567,780.00.

10 28. Based on the sum of the foregoing estimated figures, Plaintiff predicts the realistic total
11 recovery for the Aggrieved Employees to be approximately \$1,729,385.00.

12 29. My firm and co-counsel's firms request one-third of the GSA (currently estimated at
13 140,833.33 in attorneys' fees, and a total of \$14,615.87 (including costs associated with the instant
14 motion) in actual litigation costs. This fee request is consistent with my firm and co-counsel's
15 experience in similar wage-and-hour class and PAGA matters. My firm and/or co-counsel's firms
16 conducted extensive legal research regarding the merits of Plaintiff's claims, Plaintiff's ability to
17 recover penalties under the PAGA, and Defendant's potential defenses. My firm and co-counsel's
18 firms spent significant time conducting formal written discovery, reviewing JTS Modular's discovery
19 responses and document production, preparing and responding a first set of written discovery from JTS
20 Modular, preparing for and defending Plaintiff's deposition, and preparing for and taking the
21 deposition of JTS Modular's Person Most Knowledgeable. My firm and co-counsel's firm also
22 conducted significant research and analysis of data and information produced informally prior to
23 mediation and used this data and analysis to complete an exposure analysis for PAGA penalties. My
24 firm and co-counsel's firms Counsel also expended significant additional effort in preparing
25 subsequent settlement documents, this Motion for settlement approval, and supporting declarations,
26 and will oversee the settlement administration process.

30. My experience in matters similar to this one was integral in evaluating the strengths and weaknesses of this case and the reasonableness of the Settlement. Practice in the narrow field of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive state and federal law, as well as the procedural law of class action litigation. This case involved nuanced legal issues regarding both substantive and procedural law, including complex issues with respect to providing meal periods and the propriety of statutory penalties.

31. My law firm and co-counsel's firm maintain records of our hours worked on this case by billing our time in increments of one-tenth (1/10) of an hour into a timekeeping system. I access the timekeeping system regularly for purposes of assessing the number of attorney and paralegal hours worked for each case that my law firm handles. I relied on the timekeeping records for this case to prepare this declaration.

32. Plaintiff's Counsel have a lodestar of \$232,348.50 without the use of any multiplier, which is approximately 1.65 times more than the \$140,833.33 fee request. The following is a general summary showing the number of hours of work performed by each attorney and paralegal in my firm and co-counsel's firm on this case:

Name	Rate	Hours	Pre-Multiplier Lodestar
Scott M. Lidman (23rd Year Attorney)	\$750	165.4	\$124,050.00
Elizabeth Nguyen (16th Year Attorney)	\$650	67.1	\$43,615.00
Paul K. Haines (15th Year Attorney)	\$650	23.3	\$15,145.00
Milan Moore (6th Year Attorney)	\$400	33.6	\$13,440.00
Romina Tamiry (2nd Year Attorney)	\$295	102.8	\$30,326.00
Paralegals	\$175	32.7	\$5,722.50
Total Lodestar			\$232,348.50

33. My proposed hourly rate of \$750, Ms. Nguyen's proposed hourly rate of \$650, Mr. Haines' proposed hourly rate of \$650, Ms. Moore's proposed hourly rate of \$400, and Ms. Tamiry's rate of \$295 are reasonable in light of our respective skills, wage and hour class action litigation experience, reputation, and fee awards to other attorneys of similar experience in California. Moreover,

our requested hourly rates are in line with the *Laffey* Matrix, a true and correct copy of which is attached hereto as **Exhibit 3**.

34. The attorneys' fee award requested is consistent with those routinely awarded by California superior courts. California superior courts frequently grant common fund awards of 33%. *See, e.g., Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008); *see also, In re Pacific Enterprises Securities Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming 33% fee award); *Chavez v. Saticoy Lemon Ass'n*, Case No. 56-2015-00468600-CU-OE-VTA, 2015 WL 5561118 (Ventura Cty. Super. Ct., Aug. 29, 2015) (approving attorneys' fees of one-third of settlement fund in representative PAGA settlement)..

35. Indeed, numerous courts have awarded attorneys' fees of up to, or in excess of 40% of the common fund. *Ammari Electronics, et al. v. Pacific Bell Directory*, Alameda County Sup. Ct., Case No. RG05198014 (awarded 43.8%) (2015); *In re California Indirect Purchaser X Ray Film Antitrust Litigation*, San Francisco Sup. Ct. 1998 (citing *Abzug v. Kerkorian*, Los Angeles Sup. Ct., Nov. 19, 1990, Case No. CA-00981 (45%) and *Haitz v. Meyer*, Alameda County Sup. Ct., August 20, 1990, Case No. 5729683 (45%)); *Hall v. Cinema 7, Inc.*, San Francisco Sup. Ct., July 16, 2008, Case No. CGC-01-409105 (53%); and *Rundberg v. Intrawest Napa Dev. Co.*, Napa County Sup. Ct., January 15, 2014, Case No. 26-56886 (40%).

36. Being a private law practice my firm can only properly litigate a limited number of cases at one time. The professional demands of this case were significant, including a significant number of hours of attorney and paralegal time. This litigation precluded my firm from other employment due to the time and financial commitments required by the case. Indeed, because my firm takes on cases on a purely contingency fee, we are only compensated for our time if we successfully settle a case or prevail at trial. Accordingly, I believe the requested fees are reasonable.

37. Plaintiff has provided written approval of the split of attorneys' fees in this action: 46.5% to Haines Law Group, APC, 31% to Lidman Law, APC, 22.5% to Michael Burgis & Associates, P.C. Michael Burgis & Associates, P.C. is the referring attorney.

1 38. Since undertaking representation of Plaintiff, my firm and/or co-counsel's firm
2 dedicated substantial resources to this litigation, including expending a total of \$14,615.87 (including
3 costs associated with the instant motion) in actual litigation costs, without receiving any compensation
4 to date. A true and correct copy of my firm's and Haines Law Group's costs summary in this matter
5 is attached hereto as **Exhibit 4**. My office and co-counsel conducted legal research regarding the merits
6 of Plaintiff's claims, the ability to recover penalties under the PAGA, and JTS Modular's potential
7 defenses. Plaintiff's Counsel conducted legal research regarding the merits of Plaintiff's claims, the
8 ability to recover penalties under the PAGA, and JTS Modular's potential defenses. Plaintiff's Counsel
9 spent significant time conducting formal written discovery, reviewing JTS Modular's discovery
10 responses and document production, preparing and responding a first set of written discovery from JTS
11 Modular, preparing for and defending Plaintiff's deposition, and preparing for and taking the
12 deposition of JTS Modular's Person Most Knowledgeable. Plaintiff's Counsel also analyzed the data
13 and information produced informally prior to mediation and prepared an exposure analysis on the
14 PAGA penalties. Plaintiff's Counsel also expended significant additional effort in preparing
15 subsequent settlement documents, this Motion for settlement approval, and supporting declarations,
16 and will oversee the settlement administration process.

17 39. Plaintiff also seeks an enhancement award of \$7,500.00, which is reasonable given
18 Plaintiff's efforts in this case and the risks he undertook on behalf of the Aggrieved Employees.
19 Plaintiff provided substantial factual information and documents to my firm and co-counsel's firms,
20 and attended multiple meetings. Plaintiff responded to a set of formal written discovery, collected
21 documents, and prepared for and sat for his deposition. Plaintiff also made himself available on the
22 day of the mediation, and responded to all questions that I had as various issues arose. Further, Plaintiff
23 put his future employment prospects at risk by becoming a class representative, as the fact that he filed
24 a lawsuit "is searchable on the internet and may become known to prospective employers when
25 evaluating" them for employment.

26 40. Although the Parties had engaged in some formal discovery, the parties did commit to
27 an exchange of informal documents and information in association with mediation. Preparation for trial
28

1 remained for the parties as well as the prospect of appeals in the wake of a summary judgment ruling
2 for either party. As a result, the Parties would incur considerably more attorneys' fees and costs
3 through trial. This settlement avoids those risks and the accompanying expense.

4 41. On March 23, 2022, Plaintiff submitted the proposed Settlement to the LWDA pursuant
5 to Labor Code § 2699(1)(2). A true and correct copy of the confirmation is attached hereto as **Exhibit**
6 **5**.

7 42. As of the date of the filing of the instant Motion, I am not aware of any class,
8 representative or other collective action in any other court in this or any other jurisdiction that asserts
9 claims similar to those asserted in this action on behalf of a class or group of individuals some or all
10 of whom would also be an Aggrieved Employee.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct. Executed on March 23, 2022, at El Segundo, California.

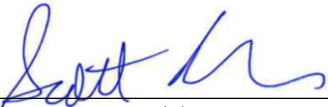
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15 _____
16 Scott M. Lidman
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EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

222 N. SEPULVEDA BOULEVARD, SUITE 1550, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

March 4, 2020

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JTS Modular, Inc.
c/o Dene C. Hurlbert, Agent for Service of Process
7001 McDivitt Drive
Bakersfield, CA 93313

Re: *Jaime Cazares Vargas v. JTS Modular, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Cazares Vargas in claims arising from his employment with JTS Modular, Inc. (“Defendant”). Mr. Vargas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Vargas was employed by Defendant as a non-exempt laborer from approximately May 2010 until approximately November 18, 2019 at Defendant’s site in Bakersfield, California. Mr. Vargas worked as an “Assembly Person” and his primary job responsibilities included, without limitation, roofing and painting. During his employment with Defendant, Mr. Vargas spent approximately two-thirds of his time at the yard in Bakersfield and one-third of his time on worksites buildings schools.

During his employment with Defendant, and while working at the yard, Defendant would keep track of Mr. Vargas’s time worked and would unlawfully shave his work time and/or round his work time such that Mr. Vargas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Vargas was routinely unpaid for his time worked. As a result, Defendant failed to pay Mr. Vargas all required minimum and overtime wages.

Additionally, during his time at the worksites, Mr. Vargas was not paid for compensable travel time to and from the assigned work site because Defendant maintained a uniform policy or practice of recording Mr. Vargas's time that he arrived at the work site and the time he left the work site, but not the actual time Mr. Vargas started working and stopped working. Because Mr. Vargas was often traveling to various worksites, which were the locations of Defendant's customers, Mr. Vargas would often spend up to three hours traveling one way to the work site assigned by Defendant without being paid for the compensable travel time. Further, while at the worksites, Defendant had a policy and practice of having the foreman recording Mr. Vargas' hours. This practice by Defendant resulted in Defendant not properly tracking the time worked by Mr. Vargas, and also resulted in Defendant not paying Mr. Vargas for all wages owed for the work he performed, including failing to pay him all required minimum and overtime wages.

Further, during his employment with Defendant, Mr. Vargas often worked in excess of eight hours per workday and/or forty hours per workweek, but did not receive proper overtime compensation equal to one and one-half times his regular rate of pay for all overtime hours worked. Specifically, Defendant paid Plaintiff a food stipend, cash fringe, and/or other forms of pay not properly excludable as a matter of law when calculating Mr. Vargas's regular rate of pay (hereinafter referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Vargas, Defendant failed to include the Incentive Pay when calculating his regular rate of pay for purposes of overtime, thereby causing Mr. Vargas to be underpaid for all his required overtime wages.

Throughout his employment, Mr. Vargas was not provided all required meal periods due to Defendant's meal period policies and practices which fail to provide uninterrupted, duty-free 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, while at the yard, Defendant had a policy and practice of having Mr. Vargas use one of the two timeclocks to clock out for lunch and then clock back in at the end of lunch. Because so many employees took their lunch at the same time, approximately over 100 employees, there was a significant line in which Mr. Vargas had to wait to clock in and out for his lunch period. As a result, Mr. Vargas was delayed in starting his meal period and also had to cut the end of his meal period short in order to be back at work after 30 minutes elapses. Because waiting in line to clock in and out was under the direction and control of Defendants, Mr. Vargas and the other non-exempt employees were not fully relieved of all duties for at least 30 minutes, resulting in late, short, or otherwise unlawful meal periods. Further, when Mr. Vargas worked at the worksite, he was not provided timely meal periods due to the work demands imposed by Defendant and/or by Defendant's failure to consider the compensable travel time before arriving at the worksites as time worked for purposes of providing a meal break before the end of the fifth hour of work.

Mr. Vargas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, while at the worksites Defendant combined Mr. Vargas's rest periods with his meal period and provided one single hour break. Accordingly, Defendant's rest period policies and

practices fail to authorize and permit paid rest periods for every four hours worked, *or major fraction thereof*.

During Mr. Vargas's employment with Defendant, Mr. Vargas was required to use his personal vehicle and personal cellular phone to discharge his duties. Specifically, Mr. Vargas was required to use his personal vehicle to travel to and from worksites. It was also necessary for Mr. Vargas to use his personal cellular phone for a variety of required work activities, including, but not limited to contacting his supervisor if necessary. Defendant knew or should have known that Mr. Vargas was necessarily incurring expenses due to the use of his personal vehicle and personal cellular phone in the direct discharge of his duties. Yet, despite the necessity of Mr. Vargas using his personal vehicle and cellular phone for work activities and Defendant knowing or should have knowing about same, Mr. Vargas was never reimbursed for mileage and/or a reasonable portion of his cellular phone expenses by Defendants, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of Defendant's failure to pay all minimum wages, all overtime wages, and all meal and rest period premium wages, Defendant failed to provide Mr. Vargas with accurate, itemized wage statements. As a further result, Defendant failed to pay all wages owed to Mr. Vargas upon his separation of employment from Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 16 ("Wage Order 16"):

Overtime Violations

Defendant was required to pay Mr. Vargas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Mr. Vargas worked overtime hours but was not properly compensated due to Defendant's time-shaving/rounding policies and practices, failure to keep track of all of his time worked, and/or its failure to include Incentive Pay in his regular rate, thereby resulting in a systematic underpayment of overtime wages.

Minimum Wage Violations

Defendant was required to pay Mr. Vargas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor

Code §§ 1194; 1194.2, 1197; The Wage Order 16, § 4. Mr. Vargas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Vargas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Vargas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful time-shaving and/or rounding practice that would almost exclusively round and shave in Defendant's favor such that Mr. Vargas and other aggrieved employees were routinely unpaid for their time worked.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Vargas and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 11. Specifically, Defendant had a policy and practice of not providing a timely first meal period. Additionally, Defendant failed to provide a second, uninterrupted, duty-free 30-minute meal periods to Mr. Vargas and other non-exempt employees who worked in excess of 10.0 hours per day. As a result, Mr. Vargas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

Defendant also failed to authorize and permit Mr. Vargas and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 12. As a result, Mr. Vargas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Failure to Reimburse Business Expenses

Defendant failed to reimburse Mr. Vargas and other aggrieved employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses and use of personal vehicle incurred in the direct discharge of the job duties of such employees. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the

discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Vargas and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Vargas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, and total gross and net wages earned, in violation of Labor Code § 226 *et seq.* Defendant’s failure to furnish Mr. Vargas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data.

Failure to Pay All Wages Upon Termination

Defendant failed to timely pay Mr. Vargas all of his final wages at the time of termination, which include, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Further, Mr. Vargas is informed and believes, that as a matter of uniform policy and practice, Defendant continues to fail to pay other aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendant’s failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendant’s willful failure to timely pay Mr. Vargas and other aggrieved employees their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due.

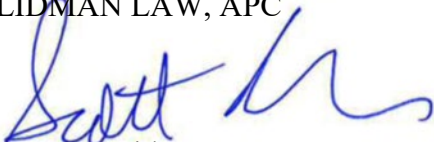
As an “aggrieved employee,” Mr. Vargas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Vargas’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Vargas and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Vargas and other aggrieved employees all overtime compensation earned;

- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Vargas and other aggrieved employees;
- d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Vargas and other aggrieved employees;
- e) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Vargas and other aggrieved employees for necessary work expenditures;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Vargas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Vargas and other aggrieved employees all earned wages at least twice during each calendar month;
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Vargas and other aggrieved employees; and
- i) Defendant violated Labor Code § 203 by failing to pay Mr. Vargas and other aggrieved employees for all wages owed at the time of their termination of employment.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

PAGA SETTLEMENT AND RELEASE AGREEMENT

This PAGA Settlement and Release Agreement (“Settlement” or “Agreement”) is made and entered into by and between Plaintiff Jaime Cazares Vargas (“Plaintiff”), acting in a Private Attorney General capacity, and Defendant JTS Modular, Inc. (“Defendant”). By and through this Agreement, this Settlement shall be binding upon Plaintiff, Defendant, Aggrieved Employees (defined in Section I below), Released Parties (defined in Section I below), and the State of California with respect to Plaintiff Jaime Cazares Vargas’s claim(s) under the Private Attorneys’ General Act of 2004 (“PAGA”), California Labor Code section 2699 et seq., advanced and alleged in Plaintiff’s First Amended Complaint and all relevant and associated pleadings therewith, in the case entitled *Jaime Cazares Vargas v. JTS Modular, Inc.*, Kern County Superior Court, Case No. BCV-20-100645. This Agreement shall be subject to the terms and conditions set forth herein, as well as the approval of the Court.

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. “Action” means Plaintiff’s lawsuit against Defendant with the only remaining claim at issue and being asserted against Defendant, pursuant to Plaintiff’s First Amended Complaint on file and all relevant and associated pleadings therewith, being under the Private Attorneys’ General Act of 2004 (“PAGA”) as set forth in California Labor Code section 2699, *et seq.* The Action is currently at issue before the Kern County Superior Court, entitled *Jaime Cazares Vargas v. JTS Modular, Inc.*, Case No. BCV-20-100645.
2. “Aggrieved Employees” means all current and former hourly, non-exempt employees of Defendant JTS Modular, Inc. who worked in California at any time from March 4, 2019 through date the Court grants approval of this Settlement.
3. “Complaint” means the First Amended Complaint entitled *Jaime Cazares Vargas v. JTS Modular, Inc.*, pending in Kern County Superior Court, Case No. BCV-20-100645, and filed on May 11, 2020, of which Plaintiff’s PAGA claim, set forth as his Eighth Cause of Action, is the only claim at issue in this Action as a result of Plaintiff having filed and requested dismissal of all class claims and causes of action and granted by the Court on May 19, 2020.
4. “Court” means the Superior Court of California for the County of Kern, the Honorable J. Eric Bradshaw of Division J presiding, or any other Judge of the Superior Court of California for the county of Kern to whom the Action may be assigned.
5. “Defendant” means JTS Modular, Inc.
6. “Defendant’s Counsel” means T. Scott Belden and Daniel M. Root of the Law Office of Belden Blaine Raytis, LLP.
7. “Effective Date” means the date upon entry of an Order by the Court approving this Settlement Agreement, and the Superior Court’s Final Judgment (“Final Judgment” or Judgment”) becomes Final.

8. "Final" means the latest of: (i) if there are objections and no appeal is filed, thirty days after the Final Approval Order is entered; (ii) if there are objections and an appeal is filed, the day after appeal is dismissed or withdrawn, or appeal is decided upholding propriety of the Settlement; and (iii) if no objections are filed, the day the Final Approval Order is entered.

9. "Gross Settlement Amount" is the non-reversionary sum of Four Hundred Twenty-Two Thousand Five Dollars and Zero Cents (\$422,500.00), which represents the total amount payable under this Settlement by Defendant, including, without limitation, for payment of all claims at issue under this Action, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff's Counsel's fees and costs, payment of Plaintiff's enhancement award, payment to the Settlement Administrator for administration costs, and payment in exchange for and in consideration of releases of claims by Plaintiff and Aggrieved Employees.

10. "Individual PAGA Payment" means the amount to be paid to each Aggrieved Employee based on the formula described herein.

11. "LWDA" means the California Labor and Workforce Development Agency.

12. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff's Counsel's fees up to one-third of the Gross Settlement Amount (currently estimated at \$140,833.33); (b) Plaintiff's verified costs up to \$25,000.00; (c) Plaintiff's enhancement award in an amount not to exceed \$7,500.00; and (d) administration costs in an amount not to exceed \$3,570.00.

13. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

14. "PAGA Period" means the time period from March 4, 2019 through the date the Court grants approval of this Settlement.

15. "PAGA Released Claims" means as follows: Plaintiff, the State of California, and all Aggrieved Employees shall and will fully and finally release Defendant and the Released Parties as set forth below from and with respect to any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act ("PAGA"), Labor Code § 2698 *et seq.*, against the Released Parties as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action and any future amendments to the operative complaint, including: (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197, and 1198, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (c) failure to provide meal periods, or premium for non-compliant meal periods (Labor Code sections 226.7, 512 and 558, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods (Labor Code sections 226.7, 516 and 558, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (e) failure to reimburse necessary business expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s) including, but not limited to IWC, Wage

Order No. 16); (f) failure to provide accurate, itemized wage statements (Labor Code section 226 et seq.), (g) failure to provide and pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure to maintain accurate records (Labor Code section 1174), and (i) failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of employment (Labor Code sections 201-203), as well as including any related claims for attorneys' fees, costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom ("PAGA Released Claims").

16. "Parties" mean Plaintiff and Defendant, collectively.

17. "Plaintiff" means Jaime Cazares Vargas.

18. "Plaintiff's Counsel" means Scott M. Lidman, Elizabeth Nguyen, and Milan Moore, of Lidman Law, APC; and Paul K. Haines of Haines Law Group, APC.

19. "Released Parties" means Defendant and its former, present and future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants, insurers, reinsurers, and/or legal representatives; and any individual and/or entity acting on behalf of or concert with Defendant or which could be jointly liable with respect to this Action.

20. "Settlement Administrator" means Simpluris, Inc., and, with respect thereto, administrator costs are to be payable from the Gross Settlement Amount to Administrator for services performed and completed with respect to administering the settlement.

II. RECITALS

1. Plaintiff's single remaining cause of action for civil penalties under the PAGA alleged on behalf of the Aggrieved Employees is based on Defendant's alleged failure to: (1) pay all minimum wages owed; (2) pay all overtime wages owed; (3) provide legally compliant meal periods, and/or remit payment of meal period premiums for non-compliant meal periods; (4) permit and authorize compliant rest periods, and/or remit payment of rest period premiums for non-compliant rest periods; (5) reimburse necessary business expenditures; (6) provide accurate, itemized wage statements; (7) provide and pay all earned wages at least twice during each calendar month; (8) maintain accurate records; and (9) pay and/or timely pay all wages owed at the time of separation and/or termination of employment.

2. On March 4, 2020, Plaintiff filed his original complaint in the Action which asserted putative class action and individual claims based on the alleged Labor Code violations set forth in Paragraph II.1. above.

3. On March 4, 2020, Plaintiff sent a written PAGA notice pursuant to Labor Code section 2698 et seq. to the LWDA and Defendant asserting claims for civil penalties pursuant to the PAGA stemming from alleged violations of the California Labor Code described in Paragraph II.1 above, a true and correct copy of which is attached hereto as **Exhibit A**.

4. On or about May 4, 2020, Defendant transmitted to Plaintiff a demand to arbitrate based upon Plaintiff's June 28, 2019 acknowledgment and execution of JTS's Confirmation of Receipt of the 2019 Employment Handbook and Arbitration Agreement ("Arbitration Agreement"). As a result of Plaintiff's execution of the foregoing, Defendant contends that Plaintiff entered into an Arbitration Agreement with Defendant inclusive of, but not limited to, terms and conditions governing employment-based claims and allegations asserted in the lawsuit.

5. On or about May 11, 2020, after exhausting his administrative remedies, as well as pursuant to meet and confer discussions by and between the Parties with respect to the terms and conditions of the Arbitration Agreement, Plaintiff filed a First Amended Complaint which included a claim under the PAGA. Plaintiff's First Amended Complaint is the operative complaint at issue with respect to this Action.

6. On or about May 19, 2020, subsequent to meet and confer discussions by and between the Parties with respect to the terms and conditions of the Arbitration Agreement, and pursuant to a Request for Dismissal filed and served by Plaintiff subsequent thereto, the Court dismissed Plaintiff's individual and class-wide employment and wage and hour claims and allegations against Defendant without prejudice, leaving Plaintiff's Eight Cause of Action for violations of the PAGA as the sole remaining claim at issue in the Action.

7. During the pendency of the Action, the Parties engaged in extensive formal written discovery including, but not limited to, engaging in the *Belaire-West* notice process with respect to former hourly, non-exempt employees for purposes of investigating this action, exchanging of a sampling of hourly, non-exempt wage and time records of a reasonable sampling, and taking of depositions, as well as also exchanged certain informal discovery prior to mediation. In response to Plaintiff's Counsel's formal and informal discovery requests and from the depositions, Plaintiff's Counsel obtained information and documents pertaining to Plaintiff and other Aggrieved Employees, as well as with respect to the claims at issue in this Action, in order for Plaintiff's Counsel to investigate Plaintiff's allegations and evaluate the substance and value of the PAGA claim.

8. On March 1, 2022, the Parties participated in a full-day mediation before mediator Steven G. Mehta, Esq. During the mediation and with the assistance of the mediator, the Parties were able to reach a settlement and agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

9. By and through this Agreement, the Parties wish to avoid the expense of further proceedings and any future and further prosecution of Plaintiff's PAGA claim, as alleged in the Action.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission and Purpose.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. Neither the existence of this Settlement nor anything contained herein shall be construed or deemed as an admission of liability, culpability, negligence,

or wrongdoing on the part of Defendant. This Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. The Parties recognize that, absent this Settlement, the issues presented in this Action are likely to be resolved only with further extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits. The Parties have taken into account the risk and uncertainty of the outcome inherent hereto. The Parties have at all times diligently pursued investigation and matters relevant and material to this Action. The purpose of this Settlement is to settle and compromise all the Released Claims during the PAGA Period that Plaintiff and Aggrieved members may have against Defendant and/or any of the Released Parties.

2. **Gross Settlement Amount.** Defendant shall pay Four Hundred Twenty-Two Thousand Five Dollars and Zero Cents (\$422,500.00) as the **non-reversionary** Gross Settlement Amount. Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator by no later than thirty (30) calendar days of Court approval of the Settlement. The Settlement Administrator shall hold all portions of the Gross Settlement Amount in an interest-bearing account for the benefit of the Aggrieved Employees until the time for disbursement. The releases identified herein shall be null and void if Defendant fails to fully fund the Gross Settlement Amount.

3. **Escalator Clause.** Defendant represents that there are an estimated 18,840 pay periods worked by the Aggrieved Employees during the PAGA period of March 4, 2019 through the date the Court grants approval of this settlement. If the number of pay periods worked by the Aggrieved Employees during the PAGA period is more than 10% greater than this figure, the PAGA Period shall cut-off and/or cease once the number of pay periods reaches 10% greater than 18,840 (*i.e.* 20,724 pay periods). Defendant shall only be obligated for and to remit payment of the Gross Settlement Amount reached under this Agreement, and the Gross Settlement Amount shall not be in any manner increased in the event the number of pay periods worked by the Aggrieved Employees during the PAGA Period exceeds 20,724 pay periods.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third (1/3) of the Gross Settlement Amount (currently estimated to be One Hundred Forty Thousand Eight Hundred Thirty-Three Dollars and Thirty—Three Cents (\$140,833.33). Defendant will not oppose Plaintiff's request for costs incurred in prosecuting this Action in amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than

adjusting the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. Plaintiff's Enhancement Award. Defendant will not oppose Plaintiff's request for an enhancement award in the amount of Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for his service to the LWDA and the Aggrieved Employees by and through filing the Action, actively participating in discovery and preparing for and sitting for his deposition, and the risk he undertook by attaching his name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement award). If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. Administration Costs. The Parties agree that the Administration Costs shall be paid from the Gross Settlement Amount, currently estimated to be approximately Three Thousand Five Hundred Seventy Dollars and Zero Cents (\$3,570.00) for purposes of administering the Settlement. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA;

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

This paragraph regarding allocation is based on the Parties' collective understanding that all payments will be considered "penalties" and that there will be no employer-side tax consequence to Defendant as a result of an allocation of the penalty amount being wages. If the Parties later determine otherwise, they will meet and confer regarding changes to this allocation provision. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. Representative PAGA Release. In his capacity as a Private Attorney General or "aggrieved employee" acting on behalf of himself, the State of California, and Aggrieved Employees, and in consideration of the enhancement award awarded to him, upon the Effective Date of this Settlement, Plaintiff hereby releases Defendant and Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period. Moreover, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that upon approval of this Settlement by the Court, he is forever releasing and discharging all of his individual claims for civil penalties under the PAGA and that he therefore will no longer be an "aggrieved employee" under PAGA, and that, except to seek approval of the Settlement pursuant to California Labor Code section

2699(l), he will have no standing to act as a named or representative plaintiff in any action against Defendant or any of the other Released Parties under PAGA based upon any event occurring prior to the date of execution of this Agreement. That is, Plaintiff specifically represents, warrants, acknowledges, affirms, and agrees that he would be barred under claim preclusion from bringing any subsequent administrative action, civil action, or arbitration under PAGA based upon any event occurring prior to the date of execution of this Agreement.

7. **Aggrieved Employees Release.** As set forth herein this Settlement, upon the Effective Date hereof, all Aggrieved Employees bound by and subject to this Action shall fully and finally release and forever discharge Defendant and the Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period.

8. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt-out or otherwise exclude himself or herself from the Settlement. Neither Plaintiff nor Defendant, nor their respective counsel, will directly or indirectly solicit or otherwise encourage any Aggrieved Employee to object to the Settlement or appeal from the judgment in this Action. The Parties further agree that there is no right for any Aggrieved Employee to appeal the approval of the Settlement by the Court. The Parties will jointly defend against any objection, opt-out, or any appeal filed with respect to the Final Approval Order approving this Settlement.

9. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, with respect to this Action and which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges, and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Plaintiff's Motion and Court Approval of PAGA Settlement.** To permit judicial review and approval of the Settlement, as required by Labor Code Section 2698, et seq., Plaintiff's Counsel will file the Agreement with the Court as part of Plaintiff's Motion seeking Court approval of the Settlement, as well as concurrently therewith submit the Agreement to the LWDA for review and approval, as set forth Labor Code section 2699(l)(2).

Promptly upon execution of this Settlement, Plaintiff shall cause to be filed and served with the Court requisite noticed motion seeking approval of the Settlement. Plaintiff's Counsel shall be responsible for drafting all documents necessary to obtain approval, subject to reasonable approval and cooperation by Defendant and Defendant's Counsel. At least five (5) calendar days prior to filing of the noticed motion, Plaintiff's Counsel shall provide a draft copy of the noticed motion to Defendant's Counsel for review and comment. Plaintiff will consider in good faith any proposed edits/additions to the noticed motion from Defendant's Counsel but is not required to make any such proposed edits/additions to the noticed motion. Provided the noticed motion is consistent with the terms of this Agreement, the motion will be unopposed

11. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment, as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the material terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees. Plaintiff's Counsel will further submit any judgment rendered in the Action and approving the PAGA Settlement to the LWDA pursuant to Labor Code section 2699(1)(3).

13. **No Further Funding Requirements Beyond Gross PAGA Amount.** Defendant's monetary obligation under this Agreement is limited to the Gross Settlement Amount. Defendant shall not be called upon or required in any manner to contribute any additional monies above the Gross Settlement Amount under the terms of this Agreement.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Simpluris Inc. to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period.

Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in the highest of confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement and none of the information contained in the list shall be disclosed to third Parties or to Plaintiff's Counsel without the express written consent of counsel for Defendant. Administrator shall use the PAGA information solely for the purpose of giving Aggrieved Employees notice of their respective right to a share of the Settlement.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee

and the data used to calculate said payments. The Settlement Administrator shall also advise whether the Escalator Clause in Section III.3 has been triggered; however, as set forth under the Escalator Clause in Section III.3, Defendant shall not be liable for or obligated to pay any amount in excess of the Gross Settlement Amount set forth hereunder. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within two (2) business days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit B**, in both English and Spanish, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be re-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 Aggrieved Employee involved and will perform a single re-mailing after which any returned checks will be deemed undeliverable.

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Settlement Payment(s) to the Aggrieved Employees, the postmark date of any subsequent mailing to any the Aggrieved Employees, and a list of Aggrieved Employees who did not receive the Individual Settlement Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of and in the name(s) of the Aggrieved Employees to whom the checks were issued but who did not

cash the checks. The unclaimed checks shall remain in the unclaimed property fund in the name of the Aggrieved Employee until such time that they claim their property (the Individual Settlement Payment), or the property is otherwise disposed of pursuant the Unclaimed Property Laws.

5. **Payment of Remainder.** Within two (2) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** Within fifteen (15) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement. The Settlement Administrator shall provide a further such accounting under oath, upon request, after the conclusion of the 180-day check cashing period.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and paid via IRS Form 1099 issued to each Aggrieved Employee. No later than January 31 of the year following payment of their individual portion of the PAGA Payment, the Settlement Administrator will prepare and issue IRS Form 1099s to Aggrieved Employees who received a payment.

Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations and/or responsibilities. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any U.S., federal, state, or local tax issue, such advice is not intended or written to be used, and cannot be used by any person for the purpose of avoiding penalties under the Internal Revenue Code. Each individual who received a payment from this Settlement will be responsible for the payment of any taxes owing on said amount. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, beneficiaries, administrators, and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Action, and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. This Settlement shall be deemed to have been entered into in the County of Kern, California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of Kern. Furthermore, this Settlement shall be valid and enforceable notwithstanding any new legal developments regarding the PAGA Released Claims or any other matter related to the Action occurring after the date this Agreement is executed by all Parties.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) after good faith efforts to amend or modify the Agreement for Court approval the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

8. **Authorization to Enter into Settlement.** The signatories hereto represent that they are fully authorized to enter into this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile, electronic signatures, 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 a fully executed Agreement. The Parties also agree that a facsimile, electronic, or scanned copy of the fully executed Agreement shall have the same force and effect as an original signed Agreement.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate, and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. 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 and reasonableness of this Settlement.

11. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement 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.

14. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

15. **Enforcement Action.** The Parties hereby agree this Agreement is enforceable under Code of Civil Procedure section 664.6, so as to allow the Parties to enforce the terms of their settlement until performance has been made in full. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

16. **Caption and Associated Interpretations.** Paragraph or Section titles and/or captions contained herein are inserted as a matter of convenience and for reference purposes only, and in no way define, limit, extend, establish, and/or describe the scope and/or extent of this Settlement or any term, provision, and/or condition hereof. Each term, provision, and/or condition of this Settlement is contractual and not merely a recital.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

PARTIES TO THE AGREEMENT:

Dated: Mar 16, 2022

JAIME CAZARES V
Jaime cazares (Mar 16, 2022 15:30 PDT)

Jaime Cazares Vargas, Plaintiff

Dated: MAR 16, 2022

By: 
Its: PHILLIP ENGLER
President
JTS Modular, Inc., Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: March 16, 2022

LIDMAN LAW, APC

By: 
Scott M. Lidman
Attorneys for Plaintiff, Jaime Cazares Vargas

Dated: March 16, 2022

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff, Jaime Cazares Vargas

Dated: March 17, 2022

BELDEN BLAINE RAYTIS, LLP

By: 
T. Scott Belden
Daniel M. Root
Attorneys for Defendant, JTS Modular, Inc.

EXHIBIT A

EXHIBIT A

LIDMAN LAW

222 N. SEPULVEDA BOULEVARD, SUITE 1550, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

March 4, 2020

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JTS Modular, Inc.
c/o Dene C. Hurlbert, Agent for Service of Process
7001 McDivitt Drive
Bakersfield, CA 93313

Re: *Jaime Cazares Vargas v. JTS Modular, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Cazares Vargas in claims arising from his employment with JTS Modular, Inc. (“Defendant”). Mr. Vargas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former non-exempt employees in California who have worked for Defendant, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Vargas was employed by Defendant as a non-exempt laborer from approximately May 2010 until approximately November 18, 2019 at Defendant’s site in Bakersfield, California. Mr. Vargas worked as an “Assembly Person” and his primary job responsibilities included, without limitation, roofing and painting. During his employment with Defendant, Mr. Vargas spent approximately two-thirds of his time at the yard in Bakersfield and one-third of his time on worksites buildings schools.

During his employment with Defendant, and while working at the yard, Defendant would keep track of Mr. Vargas’s time worked and would unlawfully shave his work time and/or round his work time such that Mr. Vargas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Vargas was routinely unpaid for his time worked. As a result, Defendant failed to pay Mr. Vargas all required minimum and overtime wages.

Additionally, during his time at the worksites, Mr. Vargas was not paid for compensable travel time to and from the assigned work site because Defendant maintained a uniform policy or practice of recording Mr. Vargas's time that he arrived at the work site and the time he left the work site, but not the actual time Mr. Vargas started working and stopped working. Because Mr. Vargas was often traveling to various worksites, which were the locations of Defendant's customers, Mr. Vargas would often spend up to three hours traveling one way to the work site assigned by Defendant without being paid for the compensable travel time. Further, while at the worksites, Defendant had a policy and practice of having the foreman recording Mr. Vargas' hours. This practice by Defendant resulted in Defendant not properly tracking the time worked by Mr. Vargas, and also resulted in Defendant not paying Mr. Vargas for all wages owed for the work he performed, including failing to pay him all required minimum and overtime wages.

Further, during his employment with Defendant, Mr. Vargas often worked in excess of eight hours per workday and/or forty hours per workweek, but did not receive proper overtime compensation equal to one and one-half times his regular rate of pay for all overtime hours worked. Specifically, Defendant paid Plaintiff a food stipend, cash fringe, and/or other forms of pay not properly excludable as a matter of law when calculating Mr. Vargas's regular rate of pay (hereinafter referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Vargas, Defendant failed to include the Incentive Pay when calculating his regular rate of pay for purposes of overtime, thereby causing Mr. Vargas to be underpaid for all his required overtime wages.

Throughout his employment, Mr. Vargas was not provided all required meal periods due to Defendant's meal period policies and practices which fail to provide uninterrupted, duty-free 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, while at the yard, Defendant had a policy and practice of having Mr. Vargas use one of the two timeclocks to clock out for lunch and then clock back in at the end of lunch. Because so many employees took their lunch at the same time, approximately over 100 employees, there was a significant line in which Mr. Vargas had to wait to clock in and out for his lunch period. As a result, Mr. Vargas was delayed in starting his meal period and also had to cut the end of his meal period short in order to be back at work after 30 minutes elapsed. Because waiting in line to clock in and out was under the direction and control of Defendants, Mr. Vargas and the other non-exempt employees were not fully relieved of all duties for at least 30 minutes, resulting in late, short, or otherwise unlawful meal periods. Further, when Mr. Vargas worked at the worksite, he was not provided timely meal periods due to the work demands imposed by Defendant and/or by Defendant's failure to consider the compensable travel time before arriving at the worksites as time worked for purposes of providing a meal break before the end of the fifth hour of work.

Mr. Vargas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, while at the worksites Defendant combined Mr. Vargas's rest periods with his meal period and provided one single hour break. Accordingly, Defendant's rest period policies and

practices fail to authorize and permit paid rest periods for every four hours worked, *or major fraction thereof*.

During Mr. Vargas's employment with Defendant, Mr. Vargas was required to use his personal vehicle and personal cellular phone to discharge his duties. Specifically, Mr. Vargas was required to use his personal vehicle to travel to and from worksites. It was also necessary for Mr. Vargas to use his personal cellular phone for a variety of required work activities, including, but not limited to contacting his supervisor if necessary. Defendant knew or should have known that Mr. Vargas was necessarily incurring expenses due to the use of his personal vehicle and personal cellular phone in the direct discharge of his duties. Yet, despite the necessity of Mr. Vargas using his personal vehicle and cellular phone for work activities and Defendant knowing or should have knowing about same, Mr. Vargas was never reimbursed for mileage and/or a reasonable portion of his cellular phone expenses by Defendants, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

As a result of Defendant's failure to pay all minimum wages, all overtime wages, and all meal and rest period premium wages, Defendant failed to provide Mr. Vargas with accurate, itemized wage statements. As a further result, Defendant failed to pay all wages owed to Mr. Vargas upon his separation of employment from Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 16 ("Wage Order 16"):

Overtime Violations

Defendant was required to pay Mr. Vargas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 16, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked." As explained above, Mr. Vargas worked overtime hours but was not properly compensated due to Defendant's time-shaving/rounding policies and practices, failure to keep track of all of his time worked, and/or its failure to include Incentive Pay in his regular rate, thereby resulting in a systematic underpayment of overtime wages.

Minimum Wage Violations

Defendant was required to pay Mr. Vargas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor

Code §§ 1194; 1194.2, 1197; The Wage Order 16, § 4. Mr. Vargas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Vargas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Vargas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful time-shaving and/or rounding practice that would almost exclusively round and shave in Defendant's favor such that Mr. Vargas and other aggrieved employees were routinely unpaid for their time worked.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Vargas and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 16, § 11. Specifically, Defendant had a policy and practice of not providing a timely first meal period. Additionally, Defendant failed to provide a second, uninterrupted, duty-free 30-minute meal periods to Mr. Vargas and other non-exempt employees who worked in excess of 10.0 hours per day. As a result, Mr. Vargas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.").

Rest Period Violations

Defendant also failed to authorize and permit Mr. Vargas and other aggrieved employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 16, § 12. As a result, Mr. Vargas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Failure to Reimburse Business Expenses

Defendant failed to reimburse Mr. Vargas and other aggrieved employees for necessary work expenses, including, but not limited to, expenses incurred for the reasonable portion of cellular phone expenses and use of personal vehicle incurred in the direct discharge of the job duties of such employees. Defendant's policy of not providing reimbursement for necessary work-related expenses is in violation of Wage Order 16, § 9, and Labor Code § 2802 ("An employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the

discharge of his or her duties, or of his or her obedience to the directions of the employer.”) Mr. Vargas and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses with interest.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Vargas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, meal and rest period premiums, and total gross and net wages earned, in violation of Labor Code § 226 *et seq.* Defendant’s failure to furnish Mr. Vargas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant’s reported data.

Failure to Pay All Wages Upon Termination

Defendant failed to timely pay Mr. Vargas all of his final wages at the time of termination, which include, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Further, Mr. Vargas is informed and believes, that as a matter of uniform policy and practice, Defendant continues to fail to pay other aggrieved employees all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203. Defendant’s failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendant’s willful failure to timely pay Mr. Vargas and other aggrieved employees their earned wages upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due.

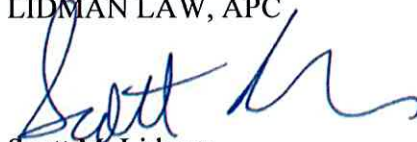
As an “aggrieved employee,” Mr. Vargas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Vargas’s own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Vargas and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Vargas and other aggrieved employees all overtime compensation earned;

- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Vargas and other aggrieved employees;
- d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Vargas and other aggrieved employees;
- e) Defendant violated Labor Code § 2802 by failing to reimburse Mr. Vargas and other aggrieved employees for necessary work expenditures;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Vargas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Vargas and other aggrieved employees all earned wages at least twice during each calendar month;
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Vargas and other aggrieved employees; and
- i) Defendant violated Labor Code § 203 by failing to pay Mr. Vargas and other aggrieved employees for all wages owed at the time of their termination of employment.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT B

EXHIBIT B

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Jaime Cazares Vargas v. JTS Modular, Inc.
Kern County Superior Court Case No. BCV-20-100645

<<Name>>
<<Address>>
<<City>>, <<State>> <<Zip Code>>
XX - XX -

I. NOTICE OF PAGA SETTLEMENT

Plaintiff Jaime Cazares Vargas ("Plaintiff"), a former employee of JTS Modular Inc. ("JTS"), commenced the above-referenced lawsuit in the California Superior Court for the County of Kern on or about March 4, 2020 ("Action"). This Action was alleged on behalf of himself, the State of California, and other certain former and current hourly, non-exempt employees of JTS ("Aggrieved Employees").

Specifically, in this Action, Plaintiff sought to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency ("LWDA") and other Aggrieved Employees under the California Private Attorneys General Act (the "PAGA"). These civil penalties are based on Plaintiff's allegations that JTS: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide legally compliant meal periods, or remit payment of premiums for non-compliant meal periods; (4) failed to permit and authorize compliant rest periods, or remit payment of premiums for non-compliant rest periods; (5) failed to reimburse necessary business expenditures; (6) failed to provide accurate, itemized wage statements; (7) failed to provide and pay all earned wages at least twice during each calendar month; (8) failed to maintain accurate records; and (9) failed to pay and/or timely pay all wages owed at the time of separation and/or termination of employment.; and as a result is liable for civil penalties under the PAGA. JTS denies all liability and allegations raised under Plaintiff's operative complaint, and has raised various defenses to the claims asserted by Plaintiff. JTS contends that it has at all time complied with applicable federal, state, and local laws and regulations.

On **[INSERT DATE OF APPROVAL ORDER]**, the Kern County Superior Court (the "Court") issued an Order approving settlement of the claims advanced by Plaintiff pursuant to the PAGA, Labor Code section 2698 et seq. The Settlement reached by and between the Parties is neither an admission of any liability or wrongdoing by JTS nor an indication that any laws, codes, and/or regulations were violated. The Court has *not* made any determination(s), finding(s), and/or ruling(s) with respect to the merits, claims, causes of action, and/or allegations advanced by Plaintiff.

Accordingly, this Notice is not to be understood or interpreted as an expression of any opinion, finding, and/or ruling by the Court as to the merits of Plaintiff's claims set forth in this Action. This Settlement has been entered into by JTS purposes of compromising and settling the Action to avoid the cost and operational burden of continued litigation.

As such, you are receiving this Notice because you are in the group of employees referred to as "Aggrieved Employees," which is defined as: "all current and former hourly, non-exempt employees of Defendant JTS Modular, Inc. who worked in California at any time from March 4, 2019 through **[insert date of approval or**

earlier date if escalator clause triggered]." The foregoing period of time is the PAGA Period applicable to this Action.

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period. Your individual PAGA payment has been calculated at \$**[AMOUNT PAID TO THIS EMPLOYEE]**. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties reported on an IRS Form 1099, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor JTS has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, Plaintiff, the State of California and all Aggrieved Employees, including you, have fully and finally released JTS and its former, present and future owners, parents, subsidiaries, franchisees, and/or affiliates; all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, heirs, administrators, executors, joint venturers, accountants, insurers, reinsurers, and/or legal representatives; and any and all persons and/or entities acting under, by, through, or in concert with any of them ("Released Parties") from any and all claims, rights, demands, liabilities and causes of action for civil penalties under the Labor Code and Private Attorneys General Act ("PAGA"), Labor Code § 2698 et seq., against the Released Parties as pled, or could have been pled based on the facts alleged, in the operative complaint in the Action, any future amendments to the operative complaint, including: (a) failure to pay all minimum wages owed (Labor Code sections 204, 218, 558, 1194, 1194.2, 1197, and 1198 as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (b) failure to pay all overtime wages (Labor Code sections 204, 510, 558, 1194 and 1198, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (c) failure to provide meal periods, or premium for non-compliant meal periods (Labor Code sections 226.7, 512 and 558, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods (Labor Code sections 226.7, 516 and 558, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (e) failure to reimburse necessary business expenditures (Labor Code sections 2802 and 2804, as well as applicable Wage Order(s) including, but not limited to IWC, Wage Order No. 16); (f) failure to provide accurate, itemized wage statements (Labor Code section 226 et seq.), (g) failure to provide and pay all earned wages at least twice during each calendar month (Labor Code section 204), (h) failure to maintain accurate records (Labor Code section 1174, and (i) failure to pay and/or timely pay all wages owed at the time of their separation and/or termination of employment (Labor Code sections 201-203, as well as including any related claims for attorneys' fees, costs, expenses, penalties, declaratory relief, restitution, and/or interest resulting therefrom ("PAGA Released Claims").

Upon entry of the Order approving the Settlement, and the Superior Court's Final Judgment issued becoming final, any Aggrieved Employee covered by this Agreement (including you) will be barred from proceeding with any of the PAGA Released Claims released by the Settlement.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Simpluris at **[INSERT DMINISTRATOR INFO INCLUDING ADDRESS, PHONE NUMBER, FAX NUMBER AND EMAIL]** with any questions.

Settlement checks will be valid for 180 days from the date of issuance. It is strongly encouraged that you cash or deposit this check as soon as possible following receipt. If not deposited or cashed within 180 days from the date of issuance, settlement checks will be determined to be void. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 3

EXHIBIT 3

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., DL v. District of Columbia, 267 F.Supp.3d 55, 69

(D.D.C. 2017)

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 4

EXHIBIT 4

Expense Summary
Jaime Cazares Vargas v. JTS Modular, Inc.

EXPENSE	AMOUNT
Mediation Costs	\$8,500.00
Deposition Transcripts	\$3,454.10
Filing, Service, and Messenger Fees	\$1,745.27
Copying Costs	\$134.50
Postage Costs	\$68.00
CourtCall	\$564.00
PAGA Approval Motion Fees (Filing, copying, postage, etc.)	\$150.00
TOTAL:	\$14,615.87

EXHIBIT 5

EXHIBIT 5

From: [DIR PAGA Unit](#)
To: [Dana Joudi](#)
Subject: Thank you for your Proposed Settlement Submission
Date: Wednesday, March 23, 2022 2:28:54 PM

03/23/2022 02:28:35 PM

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

Item submitted: Proposed Settlement

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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



Private Attorneys General Act (PAGA) – Filing

Proposed Settlement of PAGA case

PAGA Number (LWDA-CM-) : * 776413-20

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

[Search for PAGA Case number](#)

The timing of the deposit of settlement checks is governed by the provisions of the State Administrative Manual. This ministerial, administrative act of depositing a settlement check mandated by state procedures should not be construed as nor does it constitute an unconditional, voluntary and/or absolute acceptance of settlement proceeds or approval of the terms of any settlement agreement or judgment related to that check.

Your Information (Person Who is Filing)

Your First Name *	Your Last Name *	Your Email Address *
Scott	Lidman	djoudi@lidmanlaw.com
Your Street Name, Number and Suite/Apt *		Your Mobile Phone Number
2155 Campus Drive, Suite		
Your City *	Your Work Phone Number	
El Segundo		
Your State *		
California		
Your Zip/Postal Code *		
90245		

Court and Hearing Information

Court *	Court Case Number *	Hearing Date (if any)	Hearing Time
Kern County Superior Cou	BCV-20-100645-JEB	4/26/22	8:30 a.m.
Hearing Location	Number of aggrieved employees *	Gross settlement amount *	Gross penalty amount *
Div. J, 1215 Truxtun Ave.,	368	422500	255980.80
Penalties to LWDA *	Date of proposed settlement *		
191985.60	3/17/22		

Proposed Settlement and Other Documents

Proposed Settlement *

Choose File 2022-03-17 Fl...xecuted).pdf

Other Attachment (if any)

Choose File No file chosen

[Add Another Attachment](#)

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

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

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

Previous Page

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