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Attorneys for Plaintiff CARLA COLLINS
and the certified Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CARLA COLLINS on behalf of herself, and
all others similarly situated, and all aggrieved
employees,

Plaintiff,

v.

NATIONAL INSURANCE INSPECTION
SERVICES, INC.; and DOES 1 through 50,
inclusive,

Defendants.

Case No: 20STCV15619

CLASS AND REPRESENTATIVE ACTION

*Assigned to
Honorable Elaine Lu, Dept. 9*

**DECLARATION OF ERIC A. GROVER
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT**

Date: July 10, 2025
Time: 10:00 a.m
Dept. 9

Complaint Filed: April 22, 2020
FAC Filed: June 24, 2020
Trial: Not Set

I, ERIC A. GROVER, declare as follows:

1. I am an attorney duly admitted to the practice of law in the State of California. I am a partner in the law firm Keller Grover LLP, counsel for Plaintiff Carla Collins and the certified Class in this action. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would testify competently to the facts set forth below.

Class Counsel's Experience:

2. Between September 1988 and October 2005, I was first an associate and then a shareholder in the firm Littler Mendelson, P.C. Littler is the largest law firm in the United States specializing in labor and employment law. During my 17 years at Littler, I practiced extensively in all areas of labor and employment law, including wage and hour law and class action defense. While at Littler, I gained extensive litigation experience, including handling numerous arbitrations and administrative trials and trying several cases to verdict in state and federal courts.

3. In the time I worked at Littler, I worked on many class action matters. The following is a list of various class action matters for which I was the lead or co-lead defense attorney:

- a. *DLSE v. UI Video* (Blockbuster) (Alameda County) (Failure to provide uniforms.);
- b. *Vickery, et al. v. Cinema Seven, Inc.* (San Francisco County) (Independent contractor vs. employee status, overtime, minimum wage and expense reimbursement claims.);
- c. *ILWU, et al. v. DMS Messenger Services, et al.* (San Francisco County) (Overtime, minimum wage, expense reimbursement and waiting time penalties.);
- d. *Shields, et al. v. Lyon's Restaurants* (San Diego County) (Manager misclassification.);
- e. *O'Donnell, et al. v. Starving Students Movers* (Marin County) (Overtime, minimum wage and waiting time penalties.);
- f. *Cross, et al. v. Compass* (Sacramento County) (Overtime and waiting time penalties.);
- g. *Flowers, et al. v. Starving Students Movers* (San Joaquin County) (Overtime, minimum wage and waiting time penalties.);

- h. *Chen v. DMX Music, Inc.* (San Francisco County) (Improper chargebacks on commission payments.);
- i. *Tiffany, et al. v. Hometown Buffet* (San Francisco County) (Manager misclassification.);
- j. *Leoni, et al. v. Jetsetter Express, Inc.* (San Joaquin County) (Manager misclassification.);
- k. *Solano v. Clark Pest Control* (Los Angeles County) (Technician/salesperson misclassification.);
- l. *Guglielmino, et al. v. McKee Foods Corp.* (USDC-ND) (Independent contractor vs. employee status.); and
- m. *Evets v. Guess?, Inc.* (San Francisco County) (Manager misclassification.).

4. Between October 15, 2005 and the present, I have been practicing law at Keller Grover LLP. At Keller Grover, approximately 95% of my time is spent representing plaintiffs in employment, privacy, and data breach class action matters. I am currently lead counsel or co-lead counsel on more than 15 different class actions. I have been named Class Counsel in numerous class action matters, including:

- a. *Watson v. Ann Taylor Stores Corp.*,
Los Angeles County Superior Court Case No. BC342729;
- b. *Novak v. Retail Brand Alliance, Inc., et al.*,
Alameda County Superior Court Case No. RG 05-223254;
- c. *Jos. A. Banks Overtime Cases*,
Solano County Superior Court Case No. JCCP NO. 4479;
- d. *Diaz v. Best Buy Stores, L.P.*,
Alameda County Superior Court Case No. RG 06-264187;
- e. *Lozoya v. PA Acquisition Corp., et al*,
Alameda County Superior Court Case No. RG 06-258395;
- f. *Krispy Kreme Overtime Cases*,
Alameda County Superior Court Case No. JCCP No. 4489;
- g. *Walgreens Overtime Cases*,
Los Angeles County Superior Court Case No. JCCP 4387;
- h. *Gring v. Claire's Boutique's, Inc.*,
Alameda County Superior Court Case No. RG 05-247759;
- i. *Greene v. Federated Retail Holdings, Inc.*
San Francisco County Superior Court Case No. CGC 06-449456;
- j. *Stermer v. L'Occitane, Inc.*,
San Francisco County Superior Court Case No. CGC 06-456056;

- 1 k. *Wilde v. Catalina Restaurant Group, Inc. et al.*,
2 Los Angeles County Superior Court Case No. BC347513;
- 3 l. *Rogers v. Accentcare, Inc.*,
4 Alameda County Superior Court Case No. RG 05-237683;
- 5 m. *Fleming v. Dollar Tree Stores, Inc.*,
6 United States District Court, Northern District of California,
7 Case No. C06-cv-03409;
- 8 n. *Corrado v. Valero Services, Inc.*,
9 Alameda County Superior Court Case No. RG 07-322134;
- 10 o. *Stenroos v. Core-Mark International, Inc.*,
11 San Mateo County Superior Court Case No. CIV 451198;
- 12 p. *Ford v. Pilot Travel Centers LLC*,
13 United States District Court, Northern District of California,
14 Case No. C-07-cv-02715;
- 15 q. *Elsbury v. Pizza Hut of Southeast Kansas, Inc.*,
16 United States District Court, Eastern District of California
17 Case No. EDCV 07-00695;
- 18 r. *Brior v. AE Retail West LLC*,
19 San Francisco County Superior Court Case No. CGC 06-455422;
- 20 s. *Moore v. Genesco, Inc. et al.*,
21 Alameda County Case No. RG 06-270570;
- 22 t. *Stermer v. Ulta Salon, Cosmetics & Fragrance, Inc.*,
23 San Francisco County Superior Court Case No. CGC 08-427014;
- 24 u. *Lauzon v. Club Monaco U.S., LLC, Polo Retail, LLC, and Polo Ralph Lauren*
25 *Corporation*, San Francisco County Superior Court Case No. CGC 06-449963;
- 26 v. *Davenport v. Union Bank of California, N.A. and Unionbanc Investment Services*
27 *LLC*, United States District Court, Central District of California,
28 Case No. 2:07-cv-00001;
- w. *Jacobs v. Les Schwab Tire Centers of California, Inc., et al.*,
San Francisco County Superior Court Case No. CGC 08-478372;
- x. *Daniel Arias v. Praxair Distribution, Inc., et al.*,
San Francisco County Case No. CGC 08-474506;
- y. *Flores, et al. v. Zale Delaware, Inc.*,
United States District Court, Northern District of California,
Case No. 07-cv-00539;
- z. *Payan et al. v. MetroPCS, Inc.*,
San Francisco County Superior Court Case No. CGC 08-476703;
- aa. *Njoku v. Ecko Direct, LLC*,
San Francisco County Superior Court Case No. CGC 07-469480;
- bb. *Wiggins v. Cingular Wireless Employee Services, LLC*,
San Francisco County Superior Court Case No. CGC 08-477763;
- cc. *Lee v. Marshalls of CA LLC*,
Alameda County Superior Court Case No. RG 07-337021;

- 1 dd. *Flores v. Cintas Corporation No. 2, Inc.*,
2 Los Angeles County Superior Court Case No. BC400422;
- 3 ee. *Drew v. HCR Manor Care Medical Services of Florida, LLC, et al.*,
4 San Francisco County Superior Court Case No. CGC 09-490181;
- 5 ff. *Ireland, et al. v. National Distribution Centers, L.P., et al.*,
6 San Francisco County Superior Court Case No. CGC 09-493709;
- 7 gg. *Lim-Hui v. Carter's Retail, Inc.*,
8 San Francisco County Superior Court Case No. CGC 09-484456;
- 9 hh. *Sefton v. OshKosh B'Gosh, Inc.*,
10 San Francisco County Superior Court Case No. CGC 09-484496;
- 11 ii. *Murphy v. Check n' Go of California, Inc.*,
12 San Francisco County Superior Court Case No. CGC 06-449394;
- 13 jj. *Wireless Advocates Wage and Hour Cases*,
14 Los Angeles County Superior Court Case No. JCCP 4600;
- 15 kk. *Matrix Service Wage and Hour Cases*,
16 Alameda County Superior Court Case No. JCCP 4610;
- 17 ll. *Sullivan v. Kelly Services, Inc.*,
18 United States District Court, Northern District of California
19 Case No. 08-cv-3893;
- 20 mm. *Strickland, et al. v. Timec Company, Inc., et al.*,
21 San Francisco County Superior Court Case No. CGC 10-501832;
- 22 nn. *Davis and Duke v. Plant Performance Services LLC, et al.*,
23 Alameda County Case No. RG 10-501301;
- 24 oo. *Jordan v. Directory Distributing Associates, Inc.*,
25 San Francisco County Superior Court Case No. CGC 10-500633;
- 26 pp. *Martin v. Total Safety U.S., Inc.*,
27 Alameda County Superior Court Case No. RG 10-533750;
- 28 qq. *Placer Title Company Wage and Hour Cases*,
Sacramento County Superior Court Case No. JCCP 4567;
- rr. *Martin, et al. v. Starcon International, Inc.*,
Contra Costa County Superior Court Case No. MSC10-01071;
- ss. *Meyer v. Irwin Industries, Inc.*,
ADRS Case No. 11-3844-RAH;
- tt. *Lazarin, et al. v. Total Western, Inc.*,
JAMS Case No. 1100067385;
- uu. *Potter v. Zale Delaware, Inc.*,
Alameda County Superior Court Case No. RG 10-548469;
- vv. *Canales, et al. v. Electrical & Instrumentation Unlimited of California, Inc.*, Kern
County Superior Court Case No. S-1500-CV-271947;
- ww. *Schechter and Porter v. ISYS Solutions, Inc.*,
Alameda County Superior Court Case No. RG 10-550517;

- 1 xx. *Gomez v. Pizza Hut of Southeast Kansas, Inc.*,
San Bernardino County Superior Court Case No. CIVVS900679;
- 2 yy. *Hernandez v. Bodell Construction Company*,
3 Alameda County Superior Court Case No. RG12-624600;
- 4 zz. *Gilliam v. Matrix Energy Services, Inc.*,
Alameda County Superior Court Case No. RG11-592345;
- 5 aaa. *Tate v. Wyatt Field Services Co.*,
Alameda County Superior Court Case No. RG 10-522846;
- 6 bbb. *Becerra, et al. v. RadioShack Corporation*,
7 United States District Court, Northern District of California,
Case No. C-11-cv-03586;
- 8 ccc. *Vasquez, et al. v. Turnaround Welding Services, Inc.*,
9 Contra Costa County Superior Court Case No. MSC12-00340;
- 10 ddd. *Betten and Lafa v. Diamond Wireless, LLC*,
United States District Court, Central District of California,
11 Case No. 2:13-cv-02885;
- 12 eee. *Martin v. AltairStrickland LLC*,
Alameda County Superior Court Case No. RG11 575618;
- 13 fff. *Miller v. Southwest Airlines Co.*,
14 United States District Court, Northern District of California,
Case No. C-12-cv-5978;
- 15 ggg. *Nguyen v. Equilon Enterprises LLC*,
16 United States District Court, Northern District of California,
Case No. 4:12-cv-04650;
- 17 hhh. *Saunders v. StubHub Inc.*,
San Francisco County Superior Court Case No. CGC-12-517707;
- 18 iii. *Oregel v. PacPizza, LLC*,
19 Contra Costa County Superior Court Case No. MSC12-01454;
- 20 jjj. *Torres, et al. v. San Joaquin Community Hospital*,
JAMS Case No. 1220043288;
- 21 kkk. *Hulsey v. San Joaquin Community Hospital*,
JAMS Case No. 1210030884;
- 22 lll. *DeLeon, et al. v. NCR Corp.*,
23 San Bernardino County Superior Court Case No. CIVDS1403274;
- 24 mmm. *Springer, et al. v. Stanford Hospital and Clinics, et al.*,
Los Angeles County Superior Court Case No. BC470522;
- 25 nnn. *Ginn, et al. v. Certified Safety, Specialists LLC et al.*,
26 Contra Costa County Superior Court Case No. C11-0969;
- 27 ooo. *Clothier v. SPAR Marketing Services, Inc.*,
Alameda County Superior Court Case No. RG12-639317;
- 28

- 1 ppp. *St. Joseph Health System Medical Information Cases,*
Orange County Superior Court JCCP Case No. 4716;
- 2 qqq. *Everhart and Everhart v. Advantage Sales & Marketing, LLC,*
3 Alameda County Superior Court Case No. RG14-712100;
- 4 rrr. *Miller v. Hitachi America, Ltd.,*
San Mateo County Superior Court Case No. CIV 526430;
- 5 sss. *Johnson and Storey v. Mobility Plus Transportation LLC, et al.,*
6 San Francisco County Superior Court Case No. CGC-13-532872;
- 7 ttt. *Tripp and Solberg v. Crossmark, Inc., et al.,*
United States District Court, Northern District of California,
8 Case No. 3:12-cv-04818.
- 9 uuu. *McCabe, et al. v. Six Continents Hotels, Inc.,*
United States District Court, Northern District of California,
10 Case No. 12-cv-04818;
- 11 vvv. *Wheelock v. Hyundai,*
Orange County Superior Court, Case No. 30-2011-00522293;
- 12 www. *Roberts v. Wyndham Hotel and Resorts LLC, et al.,*
United States District Court, Northern District of California,
13 Case No. 5:12-cv-05083;
- 14 xxx. *Castillo, et al. v. Seagate Technology LLC,*
United States District Court, Northern District of California
15 Case No. 3:16-cv-01958;
- 16 yyy. *Halkola v. Fisher, Sand & Gravel Co.,*
Alameda County Superior Court, Case No. RG17844100;
- 17 zzz. *Ashlock, et al. v. Sunrun, Inc., et al.*
San Francisco County Superior Court CGC-17-557027;
- 18 aaaa. *Spitzer v. FRHI Hotels and Resorts (Canada) Inc.,*
San Bernardino County Superior Court Case No. CIVDS1712220;
- 19 bbbb. *Matthews v. eHealthinsurance Services, Inc.,*
Santa Clara County Superior Court Case No. 17CV305656;
- 20 cccc. *Crowley, et al. v. Central Transport LLC,*
San Bernardino Case No. CIVDS1604546;
- 21 dddd. *Alfinito v. Loop Transportation,*
San Francisco County Superior Court Case No. CGC-17-556677;
- 22 eeee. *Rabanal v. P.F. Chang's China Bistro, et al,*
Alameda County Case No. RG17851208;
- 23 ffff. *Kindt and Pappas v. Aerovias de Mexico, S.A. de C.V., et al,*
San Bernardino County Case No. CIVDS1809416;
- 24 gggg. *Duke v. Jacobs Engineering Group Inc., et al.,*
San Bernardino Superior Court Case No. CIVDS1703459;

- 1 hhhh. *O’Leary v. Youngevity International, Inc.*,
San Diego County Superior Court Case No. 37-2017-00045550;
- 2
- 3 iiiii. *Kindt v. Concesionaria Vuela Compañía de Aviación S.A.P.I. de C.V.*, et al., Napa
County Superior Court Case No. 19CV000373;
- 4 jjjj. *Docter v. Accor Management US Inc.*,
San Joaquin County Superior Court Case No. STK-CV-UBT-2019-0000147;
- 5
- 6 kkkk. *Clothier v Spar Group, Inc.*,
Alameda County Superior Court Case No. RG18926494;
- 7
- 8 llll. *Pennywell-Foster v. IMKO Workforce Solutions, et al.*,
Sacramento County Superior Court Case No. 34-2019-00252683;
- 9
- 10 mmmm. *Stohs, et al. v. Samsonite Company Stores, LLC*,
Alameda County Superior Court Case No. RG19001392;
- 11
- 12 nnnn. *Casarez v. Chemtrade West US LLC*,
Alameda County Superior Court Case No. RG19008007;
- 13
- 14 oooo. *Butler v. Apple Inc.*,
Santa Clara County Superior Court Case No. 1-14-cv-262989;
- 15
- 16 pppp. *Gomez v. Pinnacle Workforce Logistics*,
San Bernardino County Superior Court Case No. CIVDS1804163;
- 17
- 18 qqqq. *Vilitchai, et al. v. Ametek Programmable Power, Inc.*,
San Diego County Superior Court Case No. 37-2015-00025968;
- 19
- 20 rrrr. *Madrid, et al. v. Golden Valley Health Centers*,
Merced County Superior Court Case. No. 20Cv-01484;
- 21
- 22 ssss. *Curtis v. Aegis Treatment Centers, LLC*,
Shasta County Superior Court Case No. 193712;
- 23
- 24 tttt. *Millay v. Napaidence OPCO, LLC*,
Napa County Superior Court Case. No. 19CV001903;
- 25
- 26 uuuu. *Gutierrez v. Brand Energy of California, Inc.*,
Alameda County Superior Court Case No. RG17846239;
- 27
- 28 vvvv. *Sica and Ellis v. Construction & Turnaround Services, L.L.C.*,
United States District Court, Northern District of California
Case No. 4:21-cv-0188;
- www. *Zuckerbraun v. Flour Maintenance Serv., Inc.*,
Alameda County Superior Court Case No. RG20054385;
- xxxx. *Clark-Alonso v. Southwest Airlines Co.*,
Merced County Superior Court Case No. 21 CV-02475
- yyyy. *Zuckerbraun v. Flour Maintenance Serv., Inc.*,
Alameda County Superior Court Case No. RG20054385;
- zzzz. *Sica v Madison Industrial Serv. Team, Ltd Partnership*,
United States District Court, Northern District of California
Case No. 4:20-cv-08347;

- aaaaa. *Harrington v. Forbes Security, Inc.*,
San Francisco County Superior Court Case No. CGC-20-584155;
- bbbbbb. *Hernandez v. Chino Commercial Bank*,
San Bernardino County Superior Court Case No. CIVDS1922849;
- ccccc. *Ellis v. Harder Mechanical Contractors, Inc.*,
United States District Court, Northern District of California
Case No. 21-cv-00844;
- dddddd. *Harrington v. Creative Security Company, Inc.*,
Alameda County Superior Court Case No. RG21095377;
- eeeeee. *Espinoza, et al. v. Dedicated Bldg. Serv. LLC*,
Los Angeles County Superior Court Case No. 20STCV03569
- fffff. *Macomber v. Dermalogica, LLC*,
San Diego County Superior Court Case No: 37-2020-00020451;
- ggggg. *Alvarez, et al. v. Autozone, Inc.*,
San Bernardino Superior Court Case No. CIVDS1416344;
- hhhhh. *Walter v. Farfetch.com US, LLC*,
Orange County Superior Court Case No. 30-2020-01139875;
- iiii. *Cascade Drilling Wage and Hour Cases*,
Alameda County Superior Court Case No. RG21090743;
- jjjjj. *Bush, et al. v. Dutch Bros., LLC*,
Merced County Superior Court, Case No. 22CV-01415;
- kkkkk. *Hernandez v. Automated Harvesting, LLC*,
Monterey County Superior Court, Case No. 22CV002717;
- lllll. *Audycki v. Stanford Healthcare, a Corporation*,
Santa Clara County Superior Court Case No. 19CV347173;
- mmmmm. *Collins v. National Insurance Inspection Services, Inc.*,
Los Angeles County Superior Court Case No. 20STCV15619;
- nnnnn. *Avalos v. AxleHire, Inc.*,
Alameda County Superior Court Case No. 22CV020643;
- ooooo. *Rahmat v. Aeroenlaces Nacionales S.A. de C.V.*,
Ventura County Superior Court Case No. 2023CUBT01235;
- ppppp. *McKeehan v. 1-800-PACK-RAT, LLC*,
San Diego County Superior Court Case No. 37-2022-00038509; and
- qqqqq. *Ellis, et al. v. ARB, Inc.*,
Contra Costa Superior Court Case No. C 20-02183.
- rrrrr. *Delgado v. Avalon-Villa Health Care, LLC*, Los Angeles County Superior Court
Case No. 23STCV15615.

Factual and Procedural Background:

5. A true and correct copy of the Joint Stipulation of Class and PAGA Action

Settlement and Release of Claims (“Stipulation”) entered into by Plaintiff and National Insurance Inspection Services, Inc. (“Defendant”), (collectively, the “Parties”) is attached hereto as **Exhibit A**. The Stipulation is discussed below.

6. On April 22, 2020, Plaintiff filed the putative class action complaint in Los Angeles County Superior Court. Plaintiff filed the operative First Amended Complaint filed on June 24, 2020 (“FAC”). Plaintiff brought the action on behalf of herself and a class of individuals classified by Defendant as independent contractors who work or worked for Defendant in California as real property inspectors on or after April 22, 2016. Plaintiff alleged that Defendant misclassified Class Members to avoid its obligations to employees under California law. Plaintiff alleged claims resulting from the misclassification for unpaid wages, unpaid overtime, missed meal periods and rest breaks, inaccurate wage statements, untimely pay, untimely termination pay, and unreimbursed business expenses. Plaintiff asserted that Defendant’s practices and policies violated Labor Code §§ 201-203, 221, 224, 226(a), 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2775(b)(1) and 2802 and related provisions of IWC Wage Order 4, and Business & Professions Code §§ 17200, *et seq.*¹ Plaintiff also alleged related representative PAGA claims based on the Labor Code violations just mentioned as well as violations of §§ 204, 226.8 and 432.5. A true and correct copy of the operative First Amended Complaint is attached hereto as **Exhibit B**.

7. There has been extensive discovery and motion practice in this action. The Parties engaged in formal discovery, which included depositions, written discovery and document production.

8. On August 8, 2023, the Court conditionally granted class certification subject to Plaintiff submitting an updated trial plan addressing certain issues. A true and correct copy of the Court’s Final Rulings/Orders re: Motion for Class Certification dated August 8, 2023 is attached hereto as **Exhibit C**. The Parties agreed to continue the supplemental briefing schedule to

¹ The FAC alleges that Defendant violated § 2750.3 but that statute has been repealed and replaced with § 2775.

engage in mediation. When that mediation was unsuccessful, the Court issued its unconditional class certification order on January 12, 2024. A true and correct copy of the Court's Rulings/Orders re: Motion for Class Certification dated January 12, 2024 is attached hereto as **Exhibit D.**

9. The certified Class is defined as "All individuals who work or have worked for National Insurance Inspection Services, Inc. in California who are or were classified as independent contractors at any time between April 22, 2016 and May 30, 2024." *See* Ex. D at 1. The Court also certified subclasses for each category of claims. *See* Ex. D at 1-2. There are approximately 569 certified Class Members.

10. Prior to certification, Defendant obtained individual release agreements from 29 real property inspectors who would have otherwise been Class Members. Defendant paid \$500 to each of those 29 releasees, for a total of \$14,500.

11. Defendant denies all the allegations in their entirety. To date, no court has made any findings that Defendant engaged in any wrongdoing or in any wrongful conduct or otherwise acted improperly or in violation of any state law, rule or regulation, with respect to the issues presented in the litigation.

12. The Parties attempted to resolve the case through settlement at various points during this years-long litigation. After the Parties had conducted considerable formal discovery and the Class had been certified, the next step was to proceed with the three-phase trial. At that point, the Parties revisited the possibility of settlement. To that end, the Parties participated in what was their third formal mediation session on January 22, 2025, this time with Brandon McKelvey, Esq., a highly regarded mediator with extensive experience mediating wage and hour class actions. With Mr. McKelvey's assistance, the Parties were able to resolve the case at the third mediation. The mediated negotiations resulted in the Parties reaching an agreement to settle the entire action, subject to the Court's approval. All terms of the parties' settlement are set forth in the Stipulation. *See* Ex. A.

13. At the time the final settlement was reached, Defendant had provided relevant documents and information, including:

(A) The number of Class Members:

- There are approximately 569 Class Members.

(B) The number of days on which Class Members performed at least one Qualified Inspection during the Class Period:

- Class Members performed Qualified Inspections on approximately 61,672 days during the Class Period.

(C) The total pay periods during the PAGA Period:

- Real Property Inspectors worked approximately 18,800 pay periods during the PAGA Period.

14. The parties agreed that, for purposes of settlement only, to the following class definition: “All individuals classified as independent contractors by Defendant who performed inspections in California as real property inspectors at any time between April 22, 2016 and May 30, 2024, inclusive who have not signed release agreements or opt-ed out of the Action.”

15. The Class Period is the period from and including April 22, 2016 through May 30, 2024. The members of the proposed settlement Class are referred to as the “Class Members” in this declaration.

16. For the PAGA claims, the parties agreed that “Aggrieved Individuals” to mean “all current and former real property inspectors who contracted with Defendant in California at any time or times during the PAGA Period.” The PAGA Period is the period from and including April 16, 2019 through January 22, 2025.

Class Counsel’s Assessment of the Fairness of the Settlement:

17. Based on my years of experience and my own independent investigation and evaluation, I believe settlement for the consideration and on the terms set forth in the Stipulation is fair, reasonable, and adequate and it is in the best interests of the settlement class considering all known facts and circumstances and the expenses and risks inherent in litigation. I am familiar with many class action settlements involving employment issues and have a strong understanding of the trends in the value of settlements. I have also personally settled multiple class action cases involving allegedly unpaid wages, unpaid meal and rest break premiums, inaccurate wage statement and unreimbursed business expenses, including those that also alleged related PAGA claims. Based on that knowledge, I am of the opinion the settlement is fair,

reasonable and adequate and is in the best interests of the Class Members.

18. The following is an explanation of the best-case scenario for recovery in this case based on the assumptions below that were derived from the information provided by Defendant and speaking with several putative class members:

Assumptions Used:

- **569 total Class Members**
- **430,882 total inspections performed by Class Members during the Class Period**
- **61,672 total days worked by Class Members during the Class Period**
- **\$13 average hourly minimum wage during the Class Period²**
- **Class Members received a total of 11,706 pay statements during the Labor Code § 226 liability period (April 22, 2019 through May 30, 2024)**
- **528 Class Members are “former employees” for Labor Code § 203 waiting time penalty purposes**
- **18,800 total pay periods worked by Aggrieved Individuals during the PAGA Liability Period**

Damage Calculations Based on Assumptions:

- **Unpaid Minimum Wages for time driving between assignments and completing mandatory reports and uploading photographs – \$801,736 (one hour per workday x 61,672 workdays x \$13 average minimum wage)**
- **Waiting Time Penalties -- \$1,235,520**
 - **The waiting time penalty for each Class Member who is a former real property inspector of Defendant would be \$1,235,520 (\$13/hour x 6 hours a day x 30 days). There are 528 former real property inspector Class Members.**
- **Missed Rest Breaks – approximately \$254,514 [\$13/hour x 19,578 workdays (assuming one violation every five workdays)]**

² Unpaid work time is calculated at the minimum wage. The California minimum wage per hour was \$10 in 2016, \$10.50 in 2017, \$11 in 2018, \$12 in 2019, and \$13 in 2020, \$14 in 2021, \$15 in 2022, \$15.50 in 2023, \$16 in 2024. See <https://www.dir.ca.gov/iwc/minimumwagehistory.htm>.

- **LC 2802 Reimbursement – approximately \$185,016 [\$3 per day for cellular phone service and home internet x 61,672 workdays]**
- **LC 226 Penalty -- approximately \$1,170,600 [11,706 pay periods during the limitations period x \$100]**
- **The above potential damages total \$3,647,386**

Damage Calculation for PAGA Penalties:

- **Potential PAGA penalties could add another \$1,880,000 in statutory damages at \$100 per Qualified Pay Period.³**

19. The strongest claims are the unpaid wages and unreimbursed expenses claims. The \$950,000 Maximum Settlement Amount represents approximately 96% of the unpaid wages and unreimbursed expenses damage calculations. Although the maximum theoretical damages exceed the Maximum Settlement Amount, Defendant’s defenses, discussed below, warrant a substantial discount.

20. The settlement provides that Defendant will pay a Maximum Settlement Amount (“MSA”) of \$950,000 to resolve the claims covered by the settlement. The MSA is comprised of \$935,500 in “new money” in addition to the sum of \$14,500 which Defendant has paid to 29 former property inspectors to obtain individual releases following the filing of the Action (referred to in the Stipulation as “the Pick Up Stix Payment”). There is no reversion of the MSA to Defendant.

21. After subtracting out the amounts allocated to pay the costs of administration the Settlement Administration Costs (capped at no more than \$10,000), the PAGA Payment (\$25,000), the Pick Up Stix Payment (\$14,500), the Class Counsel Award (\$316,667 in fees and costs estimated not to exceed \$75,000), and the Class Representative Incentive Award/General Release Payment (estimated to be \$10,000) from the Maximum Settlement Amount, each of which is subject to the Court’s approval, the Net Settlement Amount (“NSA”) is an estimated \$498,833. The NSA will be distributed to all Settlement Class Members, defined as all Class Members who do not timely opt out, based on the formula set forth in the Stipulation and

³ As addressed below, courts have wide latitude in assessing PAGA penalties.

1 summarized below. On average, each of the 569 Class Members will receive a gross settlement
2 payment of \$876.69 (\$498,833/569).

3 22. Not surprisingly, Defendant has raised what it considers to be substantial defenses
4 to Plaintiff's class claims. Defendant asserts that it has always complied with the California
5 Labor Code, the California Wage Orders, and all applicable California state law.

6 23. Further, recent California Supreme Court case law has interpreted the "good
7 faith" defense in a manner that makes it more difficult for employees to obtain certain penalties,
8 including Labor Code §§ 203 waiting time and 226(e)(1) penalties.⁴ *Naranjo II* found that, if an
9 employer who reasonably believes that its conduct was lawful, it will not be subject to penalties
10 that are intended to deter willful or intentional misconduct.⁵ In other words, *Naranjo II*
11 approved a relatively low bar for establishing a good faith defense to avoid Labor Code §§ 203
12 and 226(e)(1) penalties.⁶

13 24. Class Counsel is of the opinion that Plaintiff would be able to establish
14 Defendant's class-wide liability at trial. However, taking Defendant's proposed defenses into
15 account, Class Counsel believes the proposed allocations of the Net Settlement Amount ("NSA")
16 to be fair and reasonable.

17 25. The settlement is a good compromise for the damages of absent Class Members.
18 The settlement provides that the estimated Net Settlement Amount of \$498,833 will be
19 distributed on a pro-rata basis based on the number of Qualified Inspections worked by each
20 Class Member during the Class Period.

21 26. The settlement provides that \$25,000 of the MSA will be allocated to the
22 settlement of the PAGA claims. Of that amount, the settlement provides that 75%, or \$18,750,

23 _____
24 ⁴ *Naranjo v. Spectrum Sec. Serv., Inc.* (2024) 15 Cal.5th 1056, 1077-81 ("*Naranjo I*"). Although
25 the Court addressed whether a good faith defense exists for the "knowing and intentional"
26 requirement for Labor Code § 226(e)(1) penalties, the Court did so by analyzing the "willfulness"
27 requirement for Labor Code § 203 penalties, finding the two should be harmonized. *Id.*

28 ⁵ *Id.* at 1077-81.

⁶ *Id.* at 1078 ("[s]o long as no other evidence suggests the employer acted in bad faith,
presentation of a good faith defense, based in law or fact, will negate a finding of willfulness,"
quoting *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1204 and citing other cases).

will be paid to the LWDA for enforcement of labor laws and education of employers and employees about their rights and responsibilities under the Labor Code and 25% – or \$6,250 – will be allocated to the Aggrieved Individuals.

27. Again, Defendant has raised what it considers to be substantial defenses to Plaintiff's claims. Also, Defendant has argued that, even if Plaintiff succeeds, it will be able to convince the court to reduce the amount of PAGA penalties awarded, which Plaintiff recognize is a substantial risk. Labor Code § 2699(e)(2) provides that the court sets the amount of PAGA penalties after trial. In setting the penalties to be assessed, courts have wide latitude.⁷ The following are examples of cases where courts awarded substantially reduced PAGA penalties:

- *Fleming v Covidien, Inc.*, No. ED CV10-01487 RGK (OPx), 2011 U.S. Dist. LEXIS 154590, at *8-9 (C.D. Cal. Aug. 12, 2011) (of \$2,800,000 PAGA penalties requested, the court awarded \$500,000);
- *Thurman v Bayshore Transit Mgmt., Inc.*, 203 Cal.App.4th 1112, 1119, 1135 (2012), *disapproved on other grounds* in *ZB, N.A. v Superior Court*, 8 Cal. 5th 175, 196 n.8 (2019) (of \$512,000 PAGA penalties requested, the court awarded \$358,588);
- *Guifi Li v A Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 U.S. Dist. LEXIS 83677, at *51-52 (N.D. Cal. June 15, 2012) (of \$3,334,942 PAGA penalties requested, the court ordered a \$2,764,896 default judgment after jury dismissed);
- *Elder v Schwan Food Co.*, No. B238876, 2013 Cal. App. Unpub. LEXIS 1472, at *7, 11, 19 (Feb. 27, 2013) (the court affirmed a reduced award of \$2,500 individual PAGA civil penalty);
- *Aguirre v Genesis Logistics*, No. SACV 12-00687-JVS (ANx), 2013 U.S. Dist. LEXIS 189820, at *6-7 (C.D. Cal. Dec. 30, 2013) (of \$1,800,000 PAGA penalties requested, the court awarded \$500,000);
- *Halevi v Aroma Bakery Café, Inc.*, Los Angeles County Superior Court No. 468146 (Aug. 30, 2013) (the court declined to award PAGA penalties after trial awarding wages to class on basis that action was not prompted by availability of PAGA penalties, penalties were not necessary to remedy ongoing or future violations, because corporate defendants corrected violations and were no longer in business, inequity would result from awarding penalties only to employees who opted out of class, and plaintiffs did not offer evidence establishing imposition of penalties on individual defendants would not be confiscatory);

⁷ See e.g., *Magadia v. Wal-Mart Assocs.* (N.D. Cal. 2019) 384 F. Supp. 3d 1058, 1100, 1104 (finding that, under Labor Code § 2699(e)(2), “the Court has broad discretion to award PAGA penalties as the Court sees fit” and reducing the PAGA penalty award significantly from the maximum penalties possible).

- *Makabi v Gedalia*, No. B261005, 2016 Cal. App. Unpub. LEXIS 1489, at *6-7 (Mar. 2, 2016) (noting that the trial court found in favor of plaintiffs on Labor Code violation claims, but declined to award any PAGA penalties);
- *Arnold v San Diego Second Chance Program*, San Diego County Superior Court No. 37-2016-00018375 (Dec. 18, 2017) (no PAGA penalties awarded);
- *Felczer v Apple Inc.*, San Diego County Superior Court No. 37-2011-00102593 (Sept. 13, 2017) (no PAGA penalties awarded);
- *Morales v Peck Jeep Eagle, Inc.* (San Diego County Superior Court No. 37-2012-00103823, Oct. 24, 2016) (PAGA penalties of \$80,400.00 awarded);
- *Allen v American Multi-Cinema*, Alameda County Superior Court No. RG11585502 (July 24, 2016) (no PAGA penalties awarded);
- *Atempa v Pama*, San Diego County Superior Court (July 31, 2015) (of PAGA penalties of \$456,133 sought, the court awarded \$197,434.00);
- *Banford v American Gen. Life*, Santa Barbara County Superior Court No. CIV-DS1017566 (Feb. 24, 2015) (PAGA penalties of \$99,000.00 assessed);
- *Parr v GoldenState*, Alameda County Superior Court No. RG12-618103 (July 10, 2014) (PAGA penalties of \$325,835.00 assessed);
- *Driscoll v Granite Rock*, Santa Clara County Superior Court No. 1-08-cv-103426 (Sept. 20, 2011) (the court declined to award PAGA penalties);
- *In re Taco Bell Wage and Hour Actions*, (E.D. Cal. Apr. 8, 2016) No. 1:07-cv-01314-SAB, 2016 U.S. Dist. LEXIS 48557, at *41 (the court declined to award PAGA penalties after trial);
- *Morales v Bridgestone Retail Operations LLC*, Orange County Superior Court No. 30-2017-00900244 (Aug. 2, 2018) (of \$7 million PAGA penalties requested, the court awarded \$425,000);
- *Carrington v Starbucks Corp.* (2018) 30 Cal.App.5th 504, 517, 529 (of \$75 million in penalties sought, the court affirmed the trial court's \$150,000 PAGA penalty award based on 30,000 violations, which reduced the penalty rate to \$5 per violation); and
- *Magadia v Wal-Mart Assocs.* (N.D. Cal. 2019 384 F. Supp. 3d 1058, 1073, 1080, 1101, 1103-04, 1111), vacated in part, reversed in part, and remanded in part by *Magadia v. Wal-Mart Assocs.*, 999 F.3d 668, 671 (9th Cir. 2021) (the district court awarded \$53,901,700 in total PAGA penalties, including \$48,046,000 of \$131,427,750 penalties sought for Labor Code §226(a)(9) wage statement violations; \$5,785,700 of \$28,928,500 sought for Labor Code § 226(a)(6) final pay statement violations; and \$70,000 of requested \$821,400 for Labor Code § 226.7 missed meal period violations; also decertifying meal period regular rate claim class).

28. The Stipulation provides all Class Members with the opportunity to request exclusion from the settlement or to object to the settlement terms. Class Members will have until the Response Deadline to opt out or object, which is 45 calendar days after the Settlement

1 Administrator first mails the Notice of Class Settlement (“Notice”).

2 29. Settlement Class Members, *i.e.*, those Class Members who do not opt out of the
3 settlement, are not required to submit a claim to receive an Individual Settlement Payment.

4 30. Each Settlement Class Member will be assigned a share calculated by dividing his
5 or her total number of Qualified Inspections by the total number Qualified Inspections for the
6 entire Settlement Class, which is that person’s Payment Ratio. The Payment Ratio then will be
7 multiplied by the NSA to determine that Settlement Class Member’s Individual Settlement
8 Payment, except that no gross Individual Settlement Payment will be less than \$25.

9 31. If no Class Member opts out, the average Individual Settlement Payment would
10 be approximately \$876.69 (\$498,833 NSA/569 Class Members). For the reasons explained
11 above, including the various defenses and other risks of litigation, the proposed settlement
12 amount is reasonable under the circumstances.

13 32. The Stipulation provides that the portion of the PAGA Payment allocated to
14 Aggrieved Individuals will be distributed in Individual PAGA Payments to each Aggrieved
15 Individual. Using the Aggrieved Individual Data that Defendant will provide, the Settlement
16 Administrator will calculate the total Qualified Pay Periods for all Aggrieved Individuals. The
17 respective Qualified Pay Periods for each Aggrieved Individual will be divided by the total
18 Qualified Pay Periods for all Aggrieved Individuals, resulting in the Payment Ratio – Aggrieved
19 Individual for each Aggrieved Individual. Each Aggrieved Individual’s Payment Ratio –
20 Aggrieved Individual will then be multiplied by the \$6,250 portion of the PAGA Payment
21 allocated for distribution to the Aggrieved Individuals to calculate each Aggrieved Individual’s
22 PAGA Payment.

23 33. The settlement provides that the Settlement Class Members will provide a limited
24 release, the scope of which is narrowly tailored to the claims certified by the Court in connection
25 with the Class Certification Order. The release is also temporally limited to the Class Period.

26 34. The settlement provides a separate PAGA Release through which the named
27 Plaintiff, individually and as the representative acting as a proxy or agent of the LWDA, a State
28 of California Executive Branch Agency, releases the Released Parties of and from any and all

claims for civil penalties, attorneys’ fees, and litigation costs under PAGA, as alleged in the operative Complaint for the PAGA Period (the “PAGA Released Claims”). No individual Class Members or Aggrieved Individuals are providing a PAGA Release.⁸

35. The settlement provides the proposed Class Representative, Plaintiff Collins, with a reasonable service payment for the risks she took and the time and effort she expended in coming forward to provide invaluable information in support of the claims alleged in the Complaint.

36. The settlement also provides a fair notice procedure that ensures the highest number of Class Members will receive the Notice. The proposed Notice explains in plain language the nature of the lawsuit, terms of the settlement, Class Members’ rights, the number of Qualified Inspections and Qualified Pay Periods the specific Class Member worked, expected Individual Settlement Payment that each Class Member can expect to receive, and the steps necessary to request exclusion from or object to the settlement. *See* Stipulation Exhibit 1.

37. The settlement provides that a Class Member who disagrees with the stated number of Qualified Inspections on his or her Notice may submit a dispute to the Settlement Administrator by the Response Deadline.

38. Also, although “PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action,”⁹ the Notice will inform Settlement Class Members and Aggrieved Individuals of the PAGA Settlement and the amount of the Individual PAGA Payment the Aggrieved Individual can expect to receive. *See* Stipulation Exhibit 1.

39. My firm conducted an extensive investigation of the factual allegations involved in this case. We reviewed relevant information and documents produced through formal and informal discovery prior to reaching a settlement. As part of the settlement negotiations, we

⁸ As part of the final approval process, Plaintiff will seek the Court’s approval of the PAGA portion of the Settlement, including the \$25,000 PAGA Payment, the distribution plan for the PAGA Payment and the PAGA Release.

⁹ *Baumann v. Chase Inv. Servs. Corp.* (9th Cir. 2014) 747 F.3d 1117, 1122.

1 participated in formal mediation with an experienced mediator and engaged in meaningful
2 discussions with Defendant's counsel.

3 40. I believe the settlement amount for each Settlement Class Member is fair,
4 reasonable, and adequate, given the inherent risk of litigation, the risk relative to class
5 certification and the costs of pursuing such litigation. The settlement is the result of extensive
6 arms-length negotiations.

7 41. Fairness of the settlement is further demonstrated by the uncertainty and risks to
8 Plaintiff and the Class Members involved in not prevailing on the class claims. Defendant
9 adamantly disputes Plaintiff's ability to prove that Defendant is liable to the Class Members for
10 its practices regarding pay for drive time and post-inspection work, meal periods, rest breaks,
11 wage statements, termination pay and expense reimbursement.

12 **The Proposed Class Representative Incentive Award/General Release Payment:**

13 42. It is appropriate to recognize the contribution of Plaintiff Collins in prosecuting
14 this litigation and her service as Class Representative during this years-long litigation. I believe
15 it is fair and reasonable that Plaintiff Collins receive a \$10,000 incentive award. Plaintiff Collins
16 is the Class Representative and the proposed settlement Class Representative and has actively
17 and aggressively represented the Class Members during this long litigation. Plaintiff has been
18 essential elements in the successful prosecution and ultimate settlement of this case and was
19 always available to provide her input on the litigation, gather evidence, and provide other
20 information that proved critical to the prosecution. Plaintiff Collins also was deposed by
21 Defendant. The proposed enhancement is fair given the amount of time and effort Plaintiff spent
22 on assisting in the prosecution of this case and the personal hardship and pressure she faced
23 because of filing this lawsuit against her former employer. In addition, Plaintiff Collins will
24 provide a general release of her claims against Defendant, which is much broader than the
25 limited release that will apply to the Settlement Class Members. Plaintiff Collins will provide a
26 declaration outlining her efforts on behalf of the Class Members as part of the final approval
27 process.

28 **Residual Funds:**

43. Settlement checks mailed out to Settlement Class Members shall be valid for 180 calendar days from the date of issuance. The settlement provides that, after the check void date – and with Court approval -- , the Settlement Administrator will send any funds from uncashed checks to St. Jude’s Children’s Research Hospital.

Overlapping Cases:

44. To my knowledge, there are no related pending cases that will be affected by this settlement.

Tax Treatment:

45. The Stipulation provides that the Individual Settlement Payments shall be allocated and treated as payments for reimbursement of expenses, interest, and penalties. For tax purposes, Individual PAGA Payments shall be allocated and treated as 100% penalties. The Settlement Administrator will be responsible for issuing and mailing all required IRS Form 1099s.

Settlement Administration:

46. The parties have agreed to propose Phoenix Settlement Administrators (“Phoenix”) to serve as Settlement Administrator for the Settlement. Phoenix is an experienced settlement administration firm.

Attorneys’ Fees and Costs:

47. Counsel understands that if preliminary approval is granted, the Court will not take up the issue of attorneys’ fees until the final approval hearing. Should preliminary approval be granted, Counsel will provide information regarding the hours spent and costs incurred litigating this case with Plaintiff’s application for final approval.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on this 18th day of April, 2025, at San Francisco, California.

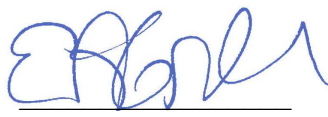

ERIC A. GROVER

EXHIBIT A

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Attorneys for Defendant

National Insurance Inspection Services, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CARLA COLLINS on behalf of herself, and all
others similarly situated,

Plaintiff,

v.

NATIONAL INSURANCE INSPECTION
SERVICES, INC.; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 20STCV15619

CLASS ACTION

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

1 IT IS HEREBY STIPULATED, by and between Plaintiff Carla Collins (“Plaintiff”),
2 individually and on behalf of the Settlement Class, and Defendant National Insurance Inspection
3 Services, Inc. (“Defendant”), and subject to approval by the Court, that the Action is hereby
4 compromised and settled under the terms and conditions set forth in this Joint Stipulation of
5 Class and PAGA Action Settlement and Release of Claims (the “Stipulation”) and that the Court
6 shall make and enter judgment subject to the definitions, recitals and terms set forth in this
7 Stipulation.

8 **I. DEFINITIONS**

- 9 A. “Action” shall mean the civil action entitled *Carla Collins v. National Insurance*
10 *Inspection Services, Inc.*, Los Angeles County Superior Court Case No. 24STCV15619,
11 filed on April 22, 2020.
- 12 B. “Agreement” or “Settlement Agreement” or “Stipulation” means this Joint Stipulation of
13 Class and PAGA Action Settlement and Release of Claims.
- 14 C. “Aggrieved Individuals” means all current and former real property inspectors who
15 contracted with Defendant in California at any time or times during the PAGA Period.
16 All Aggrieved Individuals are also Class Members.
- 17 D. “Aggrieved Individual Data” means information regarding Aggrieved Individuals that
18 Defendant will compile from its available existing records and provide to the Settlement
19 Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include
20 all the following information: (i) each Aggrieved Individual’s full name; (ii) each
21 Aggrieved Individual’s last-known address; (iii) each Aggrieved Individual’s Social
22 Security Number; and (iv) the total number of payments made to each Aggrieved
23 Individual during the PAGA Period.
- 24 E. “Class Counsel” means the attorneys of record for the Class Representative and Class
25 Members, *i.e.*, Eric A. Grover and Robert W. Spencer of Keller Grover LLP, 1965
26 Market Street, San Francisco, California 94103.
- 27
28

- 1 F. “Class Counsel Award” means an award of attorneys’ fees, expenses, and litigation costs
2 granted to Class Counsel and paid from the Maximum Settlement Amount in recognition
3 of their efforts and risks in prosecuting the Action.
- 4 G. “Class Data” means information regarding Class Members that Defendant will compile
5 from its available and existing records and provide to the Settlement Administrator. It
6 shall be formatted as a Microsoft Excel spreadsheet and shall include all the following
7 information: (i) each Class Member’s full name; (ii) each Class Member’s last-known
8 address; (iii) each Class Member’s Social Security Number; and (iv) the total number of
9 inspections performed by each Class Member during the Class Period.
- 10 H. “Class Members” means all individuals classified as independent contractors by
11 Defendant who performed inspections in California as real property inspectors at any
12 time between April 22, 2016 and May 30, 2024, inclusive who have not signed release
13 agreements or opt-ed out of the Action. An individual Class Member also may be an
14 Aggrieved Individual if he or she falls within the “Aggrieved Individual” definition.
- 15 I. “Class Period” shall mean the time period from and including April 22, 2016 through
16 May 30, 2024.
- 17 J. “Class Representative Incentive Award/General Release Payment” means the amount
18 that the Court authorizes to be paid to the Plaintiff from the Maximum Settlement
19 Amount, in addition to the Plaintiff’s Individual Settlement Payment and Individual
20 PAGA Payment, in recognition of her effort and risk in assisting with the prosecution of
21 the Action.
- 22 K. “Class Representative” means the Plaintiff Carla Collins.
- 23 L. “Complaint” means the operative Class and Representative Action Complaint filed in Los
24 Angeles County Superior Court on April 22, 2020.
- 25 M. “Court” means the Los Angeles County Superior Court.
- 26 N. “Defendant” means National Insurance Inspection Services, Inc.
- 27
- 28

- 1 O. "Defense Counsel" means Jeffrey G. McClure and Anne Kelson Hummel of Davenport
2 Gerstner & McClure, APC, 2540 Camino Diablo, Suite 200, Walnut Creek, California
3 94597.
- 4 P. "Effective Date" shall be the date of the later of the following: (a) if there are no
5 objections submitted, at the time of entry by the Court of a final approval order and
6 judgment finally certifying the Settlement Class and approving the settlement, or (b) if
7 there are objections to the settlement, 65 calendar days after the Court enters a final
8 approval order and judgment approving the settlement, or (c) if any appeal, writ, or other
9 appellate proceeding opposing the Court's final approval order approving the settlement
10 has been filed, five business days after any appeal, writ, or other appellate proceedings
11 opposing the settlement have been finally and conclusively dismissed with no right to
12 pursue further judicial remedies or relief.
- 13 Q. "Final Approval Order" means the Court's order granting final approval of the
14 Settlement.
- 15 R. "Individual PAGA Payment" means the amount payable to each Aggrieved Individual
16 from the PAGA Payment. An individual who is entitled to both an Individual Settlement
17 Payment and an Individual PAGA Payment will receive one check incorporating both
18 amounts.
- 19 S. "Individual Settlement Payment" means the amount payable from the Net Settlement
20 Amount to each Settlement Class Member. An individual who is entitled to both an
21 Individual Settlement Payment and an Individual PAGA Payment will receive one check
22 incorporating both amounts.
- 23 T. "LWDA" means the California Labor & Workforce Development Agency.
- 24 U. "LWDA Payment" means the 75% of the \$25,000 PAGA Payment (i.e., \$18,750) that
25 will be paid to the LWDA pursuant to PAGA.
- 26 V. "Maximum Settlement Amount" means \$950,000, which is comprised of \$935,500 in
27 "new money" in addition to the sum of \$14,500 which Defendant has already paid out to
28 29 real property inspectors in exchange for individual releases following the filing of the

1 Action (“the Pick Up Stix Payment”), which includes all payments to Settlement Class
2 members, payment of the Class Counsel Award, payment of the Class Representative
3 Incentive Award/General Release Payment, the PAGA Payment, and payment to the
4 Settlement Administrator for settlement administration expenses. This is an all-in and
5 non-reversionary Settlement.

6 W. “Net Settlement Amount” means the amount that remains after deducting the Class
7 Representative Incentive Award/General Release Payment (estimated to be \$10,000), the
8 Class Counsel Award (estimated to be \$316,667 in fees and no more than \$75,000 in
9 costs), the Pick Up Stix Payment (\$14,500), the PAGA Payment (\$25,000), and the
10 Settlement Administration Costs (capped at no more than \$10,000) from the Maximum
11 Settlement Amount, resulting in a Net Settlement Amount of an estimated \$498,833.

12 X. “Notice of Class and PAGA Action Settlement” means the notice substantially similar to
13 the notice attached to this Stipulation as **Exhibit 1**.

14 Y. “PAGA” means the California Labor Code Private Attorneys General Act of 2004, Labor
15 Code §§ 2698, *et seq.*

16 Z. “PAGA Payment” means the \$25,000 portion of the Maximum Settlement Amount that is
17 allocated to the settlement of claims for civil penalties under PAGA, 25% (\$6,250) of
18 which will be paid to the Aggrieved Individuals and 75% (\$18,750) of which will be paid
19 to the LWDA.

20 AA. “PAGA Period” means the period from and including April 16, 2019 through January 22,
21 2025, inclusive.

22 BB. “PAGA Released Claims” means any and all claims for civil penalties under PAGA
23 based on the labor code violations alleged in the PAGA notice sent by Plaintiff to the
24 LWDA.

25 CC. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
26 Plaintiff or Defendant, individually.

1 DD. "Payment Ratio – Aggrieved Individual" means the respective number of Qualified Pay
2 Periods for each Aggrieved Individual divided by the total number of Qualified Pay
3 Periods for all Aggrieved Individuals.

4 EE. "Payment Ratio – Class Member" means the respective number of Qualified Inspections
5 performed worked by each individual Settlement Class Member who does not opt-out of
6 the class action portion of the Settlement divided by the total number of Qualified
7 Inspections worked by all Settlement Class Members who do not opt-out of the class
8 action portion of the Settlement.

9 FF. "Plaintiff" shall mean the named Plaintiff Carla Collins.

10 GG. "Preliminary Approval Date" means the date on which the Court enters an order granting
11 preliminary approval of the Settlement.

12 HH. "Preliminary Approval Order" means an order granting preliminary approval of the
13 Settlement.

14 II. "Qualified Inspections" means each inspection performed by Class Members for
15 Defendant in California during the Class Period (as reflected in Defendant's records of
16 each Class Member's dates of inspections and pay records).

17 JJ. "Qualified Pay Periods" means the number of times (as reflected in Defendant's records)
18 that each Aggrieved Individual received a check for inspection work performed for
19 Defendant in California during the PAGA Period.

20 KK. "Qualified Settlement Fund" or "QSF" means the qualified settlement fund that will be
21 set up by the Settlement Administrator and into which the Maximum Settlement Amount
22 shall be deposited and from which disbursements shall be made.

23 LL. "Released Claims" means and includes any and all causes of action, claims, rights,
24 statutory damages, penalties, liabilities, expenses, and losses against the Released Parties
25 arising between April 22, 2016 and May 30, 2024, inclusive, under state, federal, or local
26 law, whether statutory or otherwise, arising out of the claims expressly pleaded in the
27 Complaint (i.e., Labor Code §§ 201, 202, 203, 204, 221, 224, 226, 226.3, 226.7, 510,
28 512, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2750.3, and 2802 and Business &

Professions Code §§ 17200, *et seq.* based on alleged violations of these Labor Code provisions) and all other potential claims reasonably related to or arising out of the same set of facts pleaded in the Complaint, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law. The time period of the Released Claims shall be for the entirety of the Class Period.

MM. “Released Parties” shall mean Defendant National Insurance Inspection Services, Inc. and all of its parent companies, subsidiaries, divisions, concepts, related or affiliated companies, clients, and its or their shareholders, officers, directors, employees, agents, principals, representatives, attorneys, accountants, partners, investors, administrators, insurers, predecessors, successors and assigns, and any individual or entity that could be liable for any of the Released Claims.

NN. “Response Deadline” means the date 45 calendar days after the Settlement Administrator first mails the Notice of Class and PAGA Action Settlement to Class Members and is the last date on which Class Members may submit Requests for Exclusion or a Notice of Objection to the Settlement. Class Members may only submit Requests for Exclusion with respect to the class action component of this settlement. Aggrieved Individuals shall have no right to opt out of the PAGA portion of the Settlement. .

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

PP. “Settlement Administrator” means Phoenix Settlement Administrators.

QQ. “Settlement Class Members” means all Class Members who do not submit a valid Request for Exclusion. All Settlement Class Members will automatically receive an Individual Settlement Payment without the need to submit a claim form. Settlement Class Members will release all of the Released Claims and be bound by all terms of the Settlement and any final judgment entered in this Action.

II. RECITALS

A. Class Certification. The Parties stipulate and agree to certification for purposes of this Settlement only. This Agreement is subject to approval by the Court and is made for the sole purpose of consummating settlement of the Action. Should the Settlement not

1 become final and effective as provided herein, class certification shall immediately be set
2 aside and the Settlement Class immediately decertified, subject to further proceedings on
3 the motion of any party to certify or deny certification thereafter. The Parties' willingness
4 to stipulate to class certification as part of the Settlement shall have no bearing on, and
5 shall not be admissible in or considered in connection with, the issue of whether a class
6 should be certified in a non-settlement context in this Action and shall have no bearing on,
7 and shall not be admissible or considered in connection with, the issue of whether a class
8 should be certified in any other lawsuit.

9 B. Settlement Negotiations. The Parties participated in a private mediation session with
10 respected mediator Brandon McKelvey, Esq. and engaged in good faith, arms-length
11 settlement negotiations. As part of the process, the Parties exchanged the information
12 necessary to engage in productive settlement negotiations. The negotiations resulted in
13 the Settlement described in this Stipulation to resolve this Action in its entirety.

14 C. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel
15 recognize the expense and length of continued proceedings that would be necessary to
16 litigate their disputes through trial and through any possible appeals. Plaintiff also has
17 taken into account the uncertainty and risks regarding the outcome of further litigation and
18 the difficulties and delays inherent in any such litigation. Plaintiff and Class Counsel also
19 are aware of the burdens of proof necessary to establish liability for the claims asserted in
20 the Action, both generally and in response to Defendant's defenses thereto, and the
21 difficulties in establishing damages and civil penalties for the Class Members and
22 Aggrieved Individuals. Based on these factors, Plaintiff and Class Counsel have
23 determined that the terms set forth in this Agreement represent a fair, adequate, and
24 reasonable settlement and are in the best interests of the Class Members, the LWDA, and
25 the Aggrieved Individuals.

26 D. Defendant's Reasons for Settlement. Defendant has concluded that any further defense of
27 this litigation would be protracted and expensive for all Parties. Substantial amounts of
28 Defendant's time and resources have been and, unless this Settlement is made, will

1 continue to be devoted to the defense of the claims asserted by Plaintiff. In reaching its
2 decision to enter into this Settlement, Defendant also has taken into account the risks of
3 further litigation. Defendant denies each of the allegations and claims asserted against it
4 in the Action. Despite continuing to contend that it is not liable for any of the claims that
5 Plaintiff has asserted, Defendant nonetheless has agreed to settle in the manner and upon
6 the terms set forth in this Agreement to put to rest the claims asserted in the Action.

7 E. Class Members' Claims. The Class Representative contends that the allegations have
8 merit and give rise to liability on Defendant's part. This Agreement is a compromise of
9 disputed claims. The monies being paid as part of the Settlement are genuinely disputed
10 and the Parties agree that the provisions of California Labor Code § 206.5 are not
11 applicable to this Settlement. Because there is a good faith dispute as to whether any
12 wages are due, the release of claims does not violate California Labor Code § 206.5,
13 which provides in pertinent part as follows:

14 An employer shall not require the execution of any release of any claim
15 or right on account of wages due or to become due, or made as an
16 advance on wages to be earned, unless payment of such wages has been
made.

17 Cal. Lab. Code §206.5(a). Nothing contained in this Agreement, no documents referred to
18 in this Agreement, and no action taken to carry out this Agreement may be construed or
19 used as an admission by or against the Class Members or Class Counsel regarding the
20 merits or lack of merit of the claims asserted.

21 F. Aggrieved Individuals' Claims. Plaintiff contends that the PAGA allegations have merit
22 and give rise to liability on the part of Defendant. This Agreement is a compromise of
23 disputed claims. The monies being paid as part of the settlement are genuinely disputed
24 and the Parties agree that the provisions of Labor Code § 206.5 are not applicable to this
25 settlement. Nothing contained in this Agreement, no documents referred to in this
26 Agreement and no action taken to carry out this Agreement may be construed or used as
27 an admission by or against the Aggrieved Individuals or Class Counsel as to the merits or
28 lack of merit of the claims asserted.

1 G. Defendant's Defenses. Defendant claims that the Released Claims and the PAGA
2 Released Claims have no merit and do not give rise to liability. This Agreement is a
3 compromise of disputed claims. The monies being paid as part of the Settlement are
4 genuinely disputed and the Parties agree that the provisions of California Labor Code §
5 206.5 are not applicable to this Settlement. Because there is a good faith dispute as to
6 whether any wages are due, the release of claims does not violate California Labor Code §
7 206.5. Nothing contained in this Agreement, no documents referred to in this Agreement,
8 and no action taken to carry out this Agreement may be construed or used as an admission
9 by or against Defendant as to the merits or lack of merit of the claims asserted.

10 III. TERMS OF AGREEMENT

11 A. Settlement Consideration to be paid by Defendant. Defendant shall pay the monetary
12 sums specified in this Agreement, i.e., the Maximum Settlement Amount. In no event
13 shall Defendant be required to pay more than the Maximum Settlement Amount
14 (including the amount already paid in connection with the Pick Up Stix Payment).

15 B. Limited Release by All Settlement Class Members. As of the Effective Date, in
16 exchange for the consideration set forth in this Agreement, Plaintiff and the Settlement
17 Class Members will fully release and discharge the Released Parties from the Released
18 Claims for the Class Period. Plaintiff and the Settlement Class Members may hereafter
19 discover facts or legal arguments in addition to or different from those they now know or
20 currently believe to be true with respect to the claims, causes of action and legal theories
21 of recovery in this Action which are the subject matter of the Released Claims.
22 Nonetheless, the discovery of new facts or legal arguments shall in no way limit the
23 scope or definition of the Released Claims, and by virtue of this Agreement, Plaintiff and
24 Settlement Class Members shall be deemed to have, and, by operation of the final
25 judgment approved by the Court shall have, fully, finally, and forever settled and released
26 all of the Released Claims as defined in this Agreement.

27 C. General Release by Plaintiff Only. In addition to the release in Section III.B, in exchange
28 for the consideration set forth in this agreement, Plaintiff makes the additional following

1 general release of all claims, known or unknown: Plaintiff releases Defendant and the
2 Released Parties, from all claims, demands, rights, liabilities and causes of action of
3 every nature and description whatsoever, known or unknown, asserted or that might have
4 been asserted, whether in tort, contract, or for violation of any state or federal statute,
5 rule, regulation, or ordinance arising out of, relating to, or in connection with Plaintiff's
6 contract with Defendant through the end of the Release Period as well as any and all acts
7 or omissions by or on the part of Defendant through the end of the Release Period. (The
8 release set forth in this Paragraph shall be referred to hereinafter as the "Plaintiff's
9 General Release.") With respect to the Plaintiff's General Release, the Plaintiff stipulates
10 and agrees that, upon the Effective Date, Plaintiff shall be deemed to have expressly
11 waived and relinquished, to the fullest extent permitted by law, the provisions, rights and
12 benefits of Section 1542 of the California Civil Code, or any other similar provision
13 under federal or state law, which provides:

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

21 Cal. Civ. Code § 1542. Accordingly, if the facts relating in any manner to this
22 Settlement are found hereafter to be other than or different from the facts now believed to
23 be true, the release of claims contained in the Plaintiff's General Release shall be
24 effective as to all unknown claims.

25 However, specifically excluded from this general release of claims by Plaintiff are any
26 claims for or relating to workers' compensation, unemployment insurance, or any other
27 claims that cannot be waived by law.

28 D. PAGA Release: As of the Effective Date, Plaintiff, individually and as a representative
acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency,
in this Action, agrees to release the Released Parties of and from any and all claims for

1 civil penalties, attorneys' fees, and litigation costs under the California Labor Code
2 Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, as alleged in the
3 PAGA notices Plaintiff sent to the LWDA for the PAGA Period, i.e., the "PAGA
4 Released Claims." To avoid and prevent doubt, the Parties agree that the judgment to be
5 entered by the Court following approval of this settlement forever bars Plaintiff and the
6 LWDA, directly or through any other proxy or agent, from any future prosecution of any
7 of the PAGA Released Claims against any of the Released Parties.

8 E. Conditions Precedent: This Settlement will become final and effective only upon the
9 occurrence of all the following events:

- 10 1. The Court enters a Preliminary Approval Order granting preliminary approval to
11 the Settlement;
- 12 2. The Court enters a Final Approval Order and a judgment;
- 13 3. The final Effective Date occurs; and
- 14 4. Defendant does not invoke its right to revoke the Settlement as described in
15 Paragraph III.S herein.

16 F. Nullification of Settlement Agreement. In the event that the Court denies preliminary or
17 final approval of this Agreement with prejudice, the Settlement fails to become effective,
18 or it is reversed, withdrawn or modified by the Court, or the Court in any way prevents or
19 prohibits Defendant from obtaining a complete resolution of the claims as described
20 herein:

- 21 1. This Agreement shall be void ab initio and of no force or effect, and shall not be
22 admissible in any judicial, administrative or arbitral proceeding for any purpose or
23 with respect to any issue, substantive or procedural;
- 24 2. The conditional class certification (obtained for any purpose) shall be void ab initio
25 and of no force or effect, and shall not be admissible in any judicial, administrative
26 or arbitral proceeding for any purpose or with respect to any issue, substantive or
27 procedural; and
28

3. None of the Parties to this Settlement will be deemed to have waived any claims, objections, defenses or arguments in the Action.

G. Certification of the Settlement Class. The Parties reaffirm class certification of the Settlement Class for the Class Period as follows:

1. Plaintiff Carla Collins shall be reaffirmed as the appointed Class Representative.
2. Eric A. Grover and Robert W. Spencer of Keller Grover LLP shall be reaffirmed as the appointed Class Counsel.

H. Tax Liability. The Parties make no representations as to the tax treatment or legal effect of the payments called for by this Stipulation, and Plaintiff, Settlement Class Members, Aggrieved Individuals and Defendant are not relying on any statement or representation by the Parties in this regard. Plaintiff and Settlement Class Members understand and agree that they will be responsible for the payment of their respective portions of any taxes and penalties assessed on the Class Representative Incentive Award/General Release Payment, Individual Settlement Payments, and Individual PAGA Payments described in this Stipulation and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of all such payments.

I. Circular 230 Disclaimer. Each Party to this Agreement, including the Settlement Class Members, acknowledges and agrees that: (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the acknowledging party: (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including, as to tax counsel, tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging

1 party; and (3) no attorney or adviser to any other Party has imposed any limitation that
2 protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of
3 whether such limitation is legally binding) upon disclosure by the acknowledging party of
4 the tax treatment or tax structure of any transaction, including any transaction
5 contemplated by this Agreement.

6 J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with the
7 Court a Motion for Preliminary Approval and supporting papers, which shall include this
8 Agreement. Plaintiff shall provide a courtesy draft of these papers to Defense Counsel at
9 least five calendar days before filing the documents.

10 K. Settlement Administrator. By accepting the role as Settlement Administrator, the
11 Settlement Administrator is bound to all of the terms, conditions, and obligations
12 described in this Settlement Agreement. Among these obligations, the Settlement
13 Administrator shall have sole and exclusive responsibility for calculating Individual
14 Settlement Payments and Individual PAGA Payments; processing and transmitting
15 payments to the Class Representative, Class Counsel, the LWDA, Settlement Class
16 Members, and Aggrieved Individuals; printing the Notice of Class and PAGA Action
17 Settlement and mailing it to the Class Members and Aggrieved Individuals as directed by
18 the Court; receiving, processing, and reporting Requests for Exclusion and Notices of
19 Objection; sending a postcard reminder to Settlement Class Members and Aggrieved
20 Individuals 30 days before the check void date; distributing tax forms; providing
21 declaration(s) as necessary in support of preliminary and/or final approval of this
22 Agreement; and such other tasks as the Parties mutually agree or the Court orders the
23 Settlement Administrator to perform. The Settlement Administrator shall keep the
24 Parties timely apprised of the performance of all of the Settlement Administrator's
25 responsibilities. Defendant and Defense Counsel shall have no responsibility for
26 validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff,
27 Class Counsel, Defendant, and Defense Counsel shall not bear any responsibility for
28 errors or omissions in the calculation or distribution of Individual Settlement Payments,

1 Individual PAGA Payments or any other distribution of monies contemplated by this
2 Agreement.

3 L. Notice Procedure.

4 1. Class Data and Aggrieved Individual Data. No later than 21 calendar days after the
5 Preliminary Approval Date and only after Defendant receives sufficient and
6 reasonable assurance that the Settlement Administrator will maintain the
7 confidentiality of the Class Data and the Aggrieved Individual Data, Defendant
8 shall provide the Settlement Administrator with the Class Data and Aggrieved
9 Individual Data for purposes of preparing and mailing the Notice of Class and
10 PAGA Action Settlement to Class Members and Aggrieved Individuals, as well as
11 undertaking its other obligations. The Settlement Administrator shall be obligated
12 to keep the Class Data and Aggrieved Individual Data confidential and shall take
13 reasonable and necessary precautions to maintain the confidentiality of the data.
14 The Settlement Administrator shall not distribute or use the Class Data, Aggrieved
15 Individual Data or any information contained therein for any purpose other than to
16 administer this settlement.

17 2. Notice of Class and PAGA Action Settlement.

18 a) The Notice of Class and PAGA Action Settlement shall be in a form
19 substantially similar to the form attached to this Stipulation as **Exhibit 1**. The
20 Notice of Class and PAGA Action Settlement shall instruct Class Members
21 and Aggrieved Individuals to keep the Settlement Administrator apprised of
22 their current mailing addresses, to which the Settlement Payments will be
23 mailed following the Effective Date. The Notice of Class and PAGA Action
24 Settlement shall set forth the release to be given by Settlement Class Members
25 in exchange for an Individual Settlement Payment.

26 b) The Notice of Class and PAGA Action Settlement shall be individualized by
27 inclusion of each Class Member's number of Qualified Inspections and
28 Qualified Pay Periods and the Settlement Administrator's calculation of each

1 Class Member's estimated gross Individual Settlement Payment (if that Class
2 Member does not request exclusion from the Settlement) and each Aggrieved
3 Individual's estimated Individual PAGA Payment.

4 3. Notice By First Class U.S. Mail. Upon receipt of the Class and Aggrieved
5 Individual Data, the Settlement Administrator will perform a search based on the
6 National Change of Address Database to update and correct any known or
7 identifiable address changes. No later than 14 calendar days after receiving the
8 Class and Aggrieved Individual Data from Defendant as provided in this
9 Stipulation, the Settlement Administrator shall mail copies of the Notice of Class
10 and PAGA Action Settlement to all Class Members and Aggrieved Individuals via
11 regular First Class U.S. Mail. The Settlement Administrator shall exercise its best
12 judgment to determine the current mailing address for each Class Member and
13 Aggrieved Individual. The address identified by the Settlement Administrator as
14 the current mailing address shall be presumed to be the best mailing address for
15 each Class Member and Aggrieved Individual.

16 4. Undeliverable Notices. Any Notice of Class and PAGA Action Settlement that is
17 returned to the Settlement Administrator as not having been delivered on or before
18 the Response Deadline shall be re-mailed to the forwarding address affixed to it. If
19 no forwarding address is provided, the Settlement Administrator promptly shall
20 attempt to determine a correct address by lawful use of skip-tracing and by other
21 searches using the name, address and Social Security number of the Class Member
22 or Aggrieved Individual involved and, if another mailing address is identified by the
23 Settlement Administrator, then shall perform a re-mailing to that Class Member or
24 Aggrieved Individual. In addition, if any Notices of Class and PAGA Action
25 Settlement that are addressed to Class Members or Aggrieved Individuals who are
26 contracted with Defendant at the time of mailing are returned to the Settlement
27 Administrator as non-delivered and no forwarding address is provided, the
28 Settlement Administrator shall so notify Defendant. Defendant then will request

1 that the currently-employed Class Member or Aggrieved Individual provide a
2 corrected address and will transmit to the Administrator any corrected address
3 provided by the Class Member or Aggrieved Individual.

4 5. Disputes Regarding Qualified Inspections. A Class Member who disagrees with the
5 number of Qualified Inspections stated on that Class Member's Notice of Class and
6 PAGA Action Settlement will have the opportunity to provide documentation
7 and/or an explanation to show a different number of inspections having been
8 performed during the Class Period. If there is a dispute, the Settlement
9 Administrator will consult with the Parties to determine whether an adjustment is
10 warranted. The Settlement Administrator shall determine the eligibility for, and the
11 amounts of, any Individual Settlement Payments under the terms of this Agreement.
12 The Settlement Administrator's determination of the eligibility for and the amount
13 of any Individual Settlement Payment shall be binding upon the Settlement Class
14 Member and the Parties.

15 6. Disputes Regarding Administration of Settlement. Any disputes not resolved by the
16 Settlement Administrator concerning the administration of the Settlement will be
17 resolved by the Court under the laws of the State of California. Before any such
18 involvement of the Court, counsel for the Parties will confer in good faith to resolve
19 the disputes without the need to involve the Court.

20 7. Requests for Exclusion.

21 a) The Notice of Class and PAGA Action Settlement shall state that Class
22 Members who wish to exclude themselves from the class action Settlement
23 must submit a written Request for Exclusion by the Response Deadline to the
24 address provided in the Notice of Class and PAGA Action Settlement. The
25 written Request for Exclusion must state that the Class Member wishes to
26 exclude himself or herself from the class action Settlement and: (1) must
27 contain the name, address, and the last four digits of the Social Security
28 Number of the person requesting exclusion; (2) must be signed by the Class

1 Member; (3) must be postmarked by the Response Deadline and returned to
2 the Settlement Administrator at the specified address; and (4) must contain a
3 typewritten or handwritten notice stating, in substance, as follows: “I wish to
4 opt out of the Settlement of the class action lawsuit entitled *Collins v. NIIS*.”

5 b) The Request for Exclusion will not be valid unless it both: (1) is timely
6 submitted; and (2) complies with the requirements set forth above in
7 Paragraph III.L.7(a). The date of the postmark on the return mailing envelope
8 for the Request for Exclusion shall be the exclusive means used to determine
9 whether the Request for Exclusion was timely submitted. If the Settlement is
10 approved by the Court, Class Members who have failed to submit a valid and
11 timely written Request for Exclusion on or before the Response Deadline shall
12 be Settlement Class Members who are bound by all terms of the Settlement
13 and any final judgment entered in this Action.

14 c) Any Class Member who requests to be excluded from the class action
15 Settlement will not be entitled to an Individual Settlement Payment and will
16 neither be bound by the terms of the class action Settlement nor have any right
17 to object to, appeal from or comment on the class action Settlement. Nothing
18 in this Settlement Agreement will constitute or be construed as a waiver of
19 any defense that Defendant or the Released Parties have or could assert
20 against anyone who timely serves a Request for Exclusion.

21 d) Aggrieved Individuals cannot request to be excluded from the settlement of
22 the PAGA Released Claims. Class Members who are also Aggrieved
23 Individuals cannot request to be excluded from the settlement of the PAGA
24 Released Claims.

25 e) No later than five calendar days after the Response Deadline, the Settlement
26 Administrator shall provide counsel for the Parties with a final list of the Class
27 Members who have timely submitted written Requests for Exclusion.
28

1 f) At no time shall any of the Parties or their counsel solicit or otherwise
2 encourage Class Members to submit Requests for Exclusion from the
3 Settlement.

4 8. Objections.

5 a) The Notice of Class and PAGA Action Settlement shall state that Class
6 Members who wish to object to the Settlement must mail to the Settlement
7 Administrator, at the address provided in the Notice of Class and PAGA
8 Action Settlement, a written statement of objection (“Notice of Objection”) by
9 the Response Deadline. The postmark date of mailing shall be deemed to be
10 the exclusive means for determining whether a Notice of Objection was
11 timely submitted.

12 b) Class Members who submit a timely Notice of Objection will have a right to
13 appear at the final approval hearing to have their objections heard by the
14 Court. The Notice of Objection must be signed by the Class Member and
15 state: (1) the case name and number; (2) the name of the Class Member; (3)
16 the address of the Class Member; (4) the last four digits of the Class
17 Member’s Social Security Number; (5) the basis for the objection and any
18 supporting documents; and (6) whether or not the Class Member intends to
19 appear at the final approval hearing. Class Members who fail to make
20 objections in the manner specified above may be deemed to have waived any
21 objections and to be foreclosed from making any objections to the Settlement,
22 whether by appeal or otherwise. The failure to submit a written objection
23 does not waive a Settlement Class Member’s right to appear and orally object
24 at the final approval hearing.

25 c) At no time shall any of the Parties or their counsel seek to solicit or otherwise
26 encourage Class Members to file or serve written objections to the Settlement
27 or to appeal from the Final Approval Order.
28

- 1 d) Class Members who submit a written Request for Exclusion are not entitled to
2 object to the Settlement. If a Class Member submits both a Request for
3 Exclusion and a Notice of Objection, the Request for Exclusion will be valid
4 and the Notice of Objection will be invalid.
- 5 e) The Settlement Administrator shall send all Notices of Objection it receives to
6 Class Counsel and Defense Counsel promptly. Class Counsel will be
7 responsible for filing any such objections with the Court before the final
8 approval hearing. Plaintiff and/or Defendant may file oppositions to any
9 Notices of Objection no later than 10 calendar days before the date of the final
10 approval hearing.
- 11 f) Aggrieved Individuals cannot object to the settlement of the PAGA Released
12 Claims. Class Members who are also Aggrieved Individuals cannot object to
13 the settlement of the PAGA Released Claims. Any such objections by
14 Aggrieved Individuals or by Class Members who are Aggrieved Individuals
15 shall be deemed invalid.
- 16 g) Defendant shall not be responsible for the fees, costs, or expenses incurred by
17 Plaintiff, Class Counsel or Class Members arising from or related to any
18 objection to the Settlement Agreement or related to any appeals thereof.

19 M. Funding and Allocation of the Maximum Settlement Amount. This is an all-in and non-
20 reversionary settlement in which Defendant is required to pay the entirety of the
21 Maximum Settlement Amount. No amount of the Maximum Settlement Fund will revert
22 to Defendant. Upon satisfaction of the preconditions described in this Settlement and
23 pursuant to the timeline and instructions below, Defendant will deposit the Maximum
24 Settlement Amount into a Qualified Settlement Fund (“QSF”) to be established by the
25 Settlement Administrator.

- 26 1. Funding Due Date. No later than 21 calendar days after the Effective Date,
27 Defendant shall provide the Maximum Settlement Amount (less the amount already
28

1 paid as part of the Pick Up Stix Payment) to the Settlement Administrator to fund
2 the Settlement as set forth in this Agreement.

3 2. Payments to Settlement Class Members and Aggrieved Individuals.

4 a) Calculation of Individual Settlement Payments. Every Settlement Class
5 Member is entitled to an Individual Settlement Payment without the need to
6 submit a claim form. Individual Settlement Payments shall be paid from the
7 Net Settlement Amount and shall be paid under the formula set forth in this
8 Stipulation.

9 (1) Using the Class Data, the Settlement Administrator will calculate the
10 total number of Qualified Inspections for all Settlement Class Members.
11 The number of Qualified Inspections for each Settlement Class Member
12 then will be divided by the total number of Qualified Inspections for all
13 Settlement Class Members. The result of that division will be the
14 “Payment Ratio” for each Settlement Class Member. Each Settlement
15 Class Member’s Payment Ratio then will be multiplied by the Net
16 Settlement Amount to calculate that Settlement Class Member’s share of
17 the Net Settlement Amount, except no gross Individual Settlement
18 Payment will be less than \$25. A share of the Net Settlement Amount
19 will be provided only to those individuals who satisfy the definition of
20 Settlement Class Members, *i.e.*, Class Members who do not submit a
21 timely and valid Request for Exclusion.

22 (2) The Parties recognize and agree that the formula provided in this
23 Stipulation for allocating the Net Settlement Amount to be paid to the
24 Settlement Class Members is reasonable and designed to provide a fair
25 settlement to the Settlement Class Members.

26 b) Calculation of Individual PAGA Payments: Using the Aggrieved Individual
27 Data, the Settlement Administrator will calculate the total number of
28 Qualified Pay Periods for all Aggrieved Individuals. The number of Qualified

1 Pay Periods for each Aggrieved Employee then will be divided by the total
2 number of Qualified Pay Periods for all Aggrieved Individuals. The result of
3 that division will be the Payment Ratio for each Aggrieved Individual. Each
4 Aggrieved Individual's Payment Ratio then will be multiplied by the \$6,250
5 portion of the PAGA Payment that is allocated for distribution to the
6 Aggrieved Individuals to calculate each Aggrieved Individual's respective
7 PAGA Payment.

8 c) Tax Allocation. The Parties recognize that the settlement amounts to be paid
9 to Settlement Class Members are for reimbursement of expenses, interest, and
10 penalties. For tax purposes, Individual PAGA Payments shall be allocated
11 and treated as 100% penalties. The Settlement Administrator will be
12 responsible for issuing and mailing all required IRS Form 1099s.

13 d) Mailing. The Individual Settlement Payments and Individual PAGA
14 Payments shall be mailed by regular First Class U.S. Mail to Settlement Class
15 Members' and Aggrieved Individuals' last known mailing addresses no later
16 than 42 calendar days after the Effective Date.

17 e) Uncashed Checks. All checks issued to Settlement Class Members shall
18 remain valid and negotiable for 180 calendar days from the date of their
19 issuance. In the event any Individual Settlement Payment or Individual
20 PAGA Payment settlement checks have not been cashed by the check cashing
21 deadline, upon Court approval, the Settlement Administrator shall tender to
22 the funds represented by any such uncashed checks to St. Jude's Children's
23 Research Hospital.

24 3. Class Representative Incentive Award/General Release Payment.

25 a) Plaintiff will apply for a Class Representative Incentive Award/General
26 Release Payment of up to \$10,000 for her time, effort, and risk in bringing and
27 prosecuting this Action. The Class Representative Incentive Award/General
28

1 Release Payment shall be in addition to Plaintiff's Individual Settlement
2 Payment and Individual PAGA Payment.

3 b) The Settlement Administrator shall pay the Class Representative Incentive
4 Awards/General Release Payment to Plaintiff from the Maximum Settlement
5 Amount no later than 42 calendar days after the Effective Date. Any portion
6 of the requested Class Representative Incentive Award/General Release
7 Payment that is not awarded to the Class Representative shall become part of
8 the Net Settlement Amount.

9 c) The Settlement Administrator shall issue an IRS Form 1099 — MISC to
10 Plaintiff for her Class Representative Incentive Award/General Release
11 Payment. Plaintiff shall be solely and legally responsible to pay all applicable
12 taxes on the Class Representative Incentive Awards/General Release Payment
13 and Plaintiff shall hold Defendant and the Released Parties harmless from any
14 claim or liability for taxes, penalties, or interest arising because of Plaintiff's
15 Class Representative Incentive Award/General Release Payment.

16 d) If the Court reduces or does not approve the requested Class Representative
17 Incentive Award/General Release Payment, Plaintiff shall not have the right to
18 revoke this Settlement Agreement, and it will remain binding, nor will
19 Plaintiff seek, request, or demand an increase in the Maximum Settlement
20 Amount on that basis.

21 4. Class Counsel Award.

22 a) In consideration for settling the Action and in exchange for the release of the
23 Released Parties for all Released Claims and for the resolution of the PAGA
24 Released Claims, Class Counsel intends to apply for an award of attorneys'
25 fees not to exceed one-third (33.33%) of the Maximum Settlement Amount
26 (i.e., \$316,667 of the \$950,000 Maximum Settlement Amount), plus actual
27 costs and litigation expenses estimated not to exceed \$75,000.
28

1 b) Class Counsel, Plaintiff, Settlement Class Members, and the Aggrieved
2 Individuals will not apply to the Court for any payment of attorneys' fees and
3 costs that are in addition to the foregoing. The Parties agree that, over and
4 above the Court-approved Class Counsel Award, each of the Parties, including
5 each Settlement Class Member and Aggrieved Individual, shall bear his, her
6 or its own fees and costs, including, but not limited to, those related to the
7 investigation, filing, prosecution, or settlement of the Action; the negotiation,
8 execution, or implementation of this Agreement; and/or the process of
9 obtaining, administering, or challenging a Preliminary Approval Order and/or
10 Final Approval Order.

11 c) Any portion of the requested Class Counsel Award that is not awarded to
12 Class Counsel shall be part of the Net Settlement Amount and shall be
13 distributed to Settlement Class Members as provided in this Agreement.

14 d) The Settlement Administrator shall pay the Class Counsel Award to Class
15 Counsel from the Maximum Settlement Amount no later than 42 calendar
16 days after the Effective Date.

17 e) Class Counsel shall be solely and legally responsible to pay all applicable
18 taxes on the payment made pursuant to this Paragraph III.M.4. The
19 Settlement Administrator shall issue an IRS Form 1099-MISC to Class
20 Counsel for the payments made pursuant to this Paragraph.

21 f) In the event that the Court reduces or does not approve the requested Class
22 Counsel Award, Plaintiff and Class Counsel shall not have the right to modify
23 or revoke the Settlement, or to appeal such order, and the Settlement will
24 remain binding, and neither Plaintiff nor Class Counsel shall seek, request, or
25 demand an increase in the Maximum Settlement Amount on that basis.

26 5. PAGA Payment. \$25,000 shall be allocated from the Maximum Settlement
27 Amount for settlement and release of claims for civil penalties under PAGA, i.e.,
28 the "PAGA Payment." The Settlement Administrator shall pay 75% of that

1 \$25,000 payment, i.e., \$18,750, to the LWDA (the “LWDA Payment”) and the
2 remaining 25% of that \$25,000 payment, i.e., \$6,250, to the Aggrieved Individuals
3 according to the formula described in Paragraph III.M.2.(b). The payment shall be
4 made no later than 42 calendar days after the Effective Date. Class Counsel will
5 take all action required by California Labor Code § 2699(l).

6 6. Settlement Administration Costs. The Settlement Administrator shall be paid from
7 the Maximum Settlement Amount for the costs of administration of the Settlement.
8 The Settlement Administrator has agreed to a fee not to exceed \$10,000. The
9 Settlement Administrator shall be paid for the settlement administration costs no
10 later than 42 calendar days after Defendant provides funds to the Settlement
11 Administrator for disbursement under this Agreement.

12 N. Mutual Full Cooperation. The Parties agree to cooperate fully with each other to
13 accomplish the terms of this Settlement Agreement, including but not limited to
14 executing the necessary documents and taking such other action as reasonably may be
15 necessary to implement the terms of this Settlement Agreement. As soon as practicable
16 after executing this Settlement Agreement, Class Counsel shall, with the assistance and
17 cooperation of Defendant and Defense Counsel, take all necessary steps to secure the
18 Court’s Preliminary and Final Approval of this Settlement Agreement. The Parties also
19 agree to cooperate in the settlement administration process. The Parties each represent
20 they do not have any financial interest in the Settlement Administrator or otherwise have
21 a relationship with the Settlement Administrator that could create a conflict of interest.
22 Class Counsel also will notify Defense Counsel if subpoenaed or upon receipt of any
23 other request for documents or information regarding any other action filed or potential
24 action against the Released Parties that covers or includes any Settlement Class Members
25 and the Released Claims or any Aggrieved Individuals and the PAGA Released Claims.

26 O. Preliminary Approval Motion. Plaintiff will file a motion to request preliminary approval
27 of the settlement, entry of a Preliminary Approval Order for preliminary approval of the
28 proposed Agreement, and the setting of a date for a final-approval hearing. The

1 Preliminary Approval Order shall provide for the Notice of Class and PAGA Action
2 Settlement to be sent to all Class Members as specified in this Stipulation. In conjunction
3 with the preliminary approval motion, Plaintiff shall submit this Agreement, which sets
4 forth the terms of this settlement, and will include the proposed Notice of Class and
5 PAGA Action Settlement.

6 P. Final Approval Motion. No later than 16 court days before the final approval hearing,
7 Plaintiff shall file with the Court a Motion for Final Approval of Settlement, Class
8 Representative Incentive Award/General Release Payment, Class Counsel Award, and
9 Settlement Administration Costs. Plaintiff shall provide a courtesy draft of those motion
10 papers to Defense Counsel at least five calendar days before filing the documents.

11 1. Declaration by Settlement Administrator. The Settlement Administrator shall
12 submit a declaration in support of Plaintiff's Motion for Final Approval of this
13 Settlement. That declaration shall detail the number of Notices of Class and PAGA
14 Action Settlement mailed and re-mailed to Class Members, the number of
15 undeliverable Notices of Class and PAGA Action Settlement, the number of timely
16 Requests for Exclusion, the number of Notices of Objection received, the amount of
17 the average Individual Settlement Payment, the average Individual PAGA Payment,
18 the settlement administration costs, and any other information that the Parties
19 mutually agree to include or that the Court orders the Settlement Administrator to
20 provide.

21 2. Final Approval Order. The Parties shall present a proposed Final Approval Order
22 to the Court, consistent with the terms and conditions of this Agreement, for the
23 Court's approval and judgment thereon.

24 Q. Option to Revoke Settlement. Defendant has the unilateral right to revoke this
25 Agreement if, after the Response Deadline, the number of Class Members who have
26 submitted timely and valid written Requests for Exclusion equals at least 10% of all Class
27 Members. If Defendant exercises the option to terminate this Agreement, (a) Defendant
28 shall provide written notice to Class Counsel within 15 calendar days after the Response

1 Deadline, at which time this Agreement shall be void ab initio, (b) Defendant shall pay
2 all settlement administration costs incurred up through that date and/or as a result of the
3 termination, and (c) the Parties shall proceed in all respects as if this Agreement had not
4 been executed.

5 R. Interim Stay of Proceedings. Pending the final approval hearing to be conducted by the
6 Court, the Parties agree to stay all proceedings in the Action, except such proceedings as
7 are necessary or desirable to implement and complete the Settlement.

8 S. Nullification of Settlement Agreement. In the event that (i) the Court denies preliminary
9 approval with prejudice, (ii) the Court denies final approval with prejudice, (iii) the Court
10 does not enter a final judgment as provided in this Stipulation, or (iv) the Settlement does
11 not become final for any other reason, this Agreement shall be null and void and any
12 order or judgment entered by the Court in furtherance of this Settlement shall be treated
13 as void from the beginning. In such a case, the Parties shall be returned to their
14 respective statuses as of the date and time immediately before the execution of this
15 Agreement, and the Parties shall proceed in all respects as if this Agreement had not been
16 executed, except that any costs already incurred by the Settlement Administrator shall be
17 paid by equal apportionment among the Parties, except as otherwise specified in
18 Paragraph III.S. If an appeal is filed from the Court's final judgment, or any other
19 appellate review is sought, administration of the Settlement shall be stayed pending final
20 resolution of the appeal or other appellate review. In that event, within 30 calendar days
21 of that notification, the Parties shall pay any costs by equal apportionment that were
22 incurred by the Settlement Administrator before it was notified of the filing of an appeal
23 from the Court's final judgment or of any other appellate review.

24 T Headings. The descriptive headings of any paragraphs or sections of this Agreement are
25 inserted for convenience of reference only and do not constitute a part of this Agreement.

26 U. Amendment or Modification. This Agreement may be amended or modified only by a
27 written instrument that: (1) is signed by counsel for all Parties or their successors-in-
28

1 interest; (2) is signed by the Parties or their successors-in-interest; and (3) if the Court's
2 approval is required, is as approved by the Court.

3 V. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
4 Agreement among these Parties.

5 W. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
6 represent that they are expressly authorized by the Parties whom they represent to
7 negotiate this Agreement, to take all appropriate actions required or permitted to be taken
8 by those Parties under this Agreement to effectuate its terms, and to execute any other
9 documents required to effectuate the terms of this Agreement. The person signing this
10 Agreement on behalf of Defendant represents and warrants that he or she is authorized to
11 sign this Agreement on behalf of Defendant. Plaintiff represents and warrants that he is
12 authorized to sign this Agreement and that he has not assigned or transferred to any third-
13 party or encumbered any claim, or part of a claim, demand, cause of action or any rights
14 herein released and discharged or covered by this Agreement.

15 X. Binding on Successors and Assigns. The provisions of this Settlement Agreement shall
16 run in perpetuity. This Agreement shall be binding upon and inure to the benefit of the
17 successors or assigns of the Parties to this Agreement, including the Settlement Class
18 Members and the LWDA.

19 Y. California Law Governs. All terms of this Agreement and its Exhibits and any disputes
20 arising under this Agreement shall be governed by and interpreted in accordance with the
21 laws of the State of California.

22 Z. Counterparts. This Agreement may be executed in one or more counterparts and may by
23 electronically signed. All executed counterparts and each of them shall be deemed to be
24 one and the same instrument, provided that counsel for the Parties to this Agreement shall
25 exchange among themselves copies or originals of the signed counterparts.

26 AA. This Settlement Is Fair, Adequate, and Reasonable. The Parties believe this Settlement to
27 be a fair, adequate, and reasonable settlement of this Action and have arrived at this
28 Agreement after extensive arm's-length negotiations, taking into account all relevant

factors, present and potential. The Parties further agree that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement Agreement.

BB. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith. The Parties to this Agreement and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in connection with this Agreement.

CC. Invalidity of Any Provision. Before declaring any provision of this Agreement to be invalid, the Court first shall attempt to construe that provision as valid to the fullest extent possible consistent with applicable precedents so as to hold all provisions of this Agreement valid and enforceable.

DD. Waiver of Certain Appeals. Provided that the Court does not materially modify the terms of this Agreement, the Parties: (1) agree to waive all appeals from any orders of the Court before final approval of the Settlement; and (2) further agree to waive all appeals from the Court's final approval of the Settlement.

EE. Confidentiality of Documents. After the expiration of any appeals period, Plaintiff, the Settlement Administrator, and Class Counsel shall maintain the confidentiality of all settlement-related documents and other information obtained from the other Party in the Action, unless necessary for appeal or such documents are ordered to be disclosed by the Court or by a subpoena.

FF. No Admissions by the Parties. Plaintiff has asserted and continues to assert that the Released Claims and the PAGA Released Claims have merit and give rise to liability on Defendant's part. Defendant has asserted and continues to assert that the Released Claims and the PAGA Released Claims have no merit and do not give rise to liability. This Agreement is a compromise of disputed claims. Nothing contained in this

1 Agreement, no documents referred to in this Agreement and no action taken to carry out
2 this Agreement may be construed or used as an admission by or against the Defendant or
3 Plaintiff or Class Counsel as to the merits or lack of merit of the claims asserted.
4 Moreover, nothing contained in this Agreement is a waiver as to any positions, remedies,
5 or other rights of enforcement related to any claims or events not expressly resolved
6 herein.

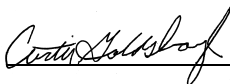
7
8 By signing below, the Parties indicate their approval of the form of this Settlement
9 Agreement and its exhibits.

10
11 IN WITNESS WHEREOF, this Joint Stipulation of Class and PAGA Action Settlement
12 and Release of Claims is executed by the Parties and their duly authorized attorneys as of the day
13 and year set forth below.

14 **IT IS SO AGREED:**

15
16 DATED: April 15, 2025

**NATIONAL INSURANCE INSPECTION
SERVICES, INC.**

18
19 By: , President

20
21 DATED: _____, 2025

CARLA COLLINS

22
23
24 By: _____

25
26 **APPROVED AS TO FORM:**

1 Agreement, no documents referred to in this Agreement and no action taken to carry out
2 this Agreement may be construed or used as an admission by or against the Defendant or
3 Plaintiff or Class Counsel as to the merits or lack of merit of the claims asserted.
4 Moreover, nothing contained in this Agreement is a waiver as to any positions, remedies,
5 or other rights of enforcement related to any claims or events not expressly resolved
6 herein.

7
8 By signing below, the Parties indicate their approval of the form of this Settlement
9 Agreement and its exhibits.

10
11 IN WITNESS WHEREOF, this Joint Stipulation of Class and PAGA Action Settlement
12 and Release of Claims is executed by the Parties and their duly authorized attorneys as of the day
13 and year set forth below.

14 **IT IS SO AGREED:**

15
16 DATED: _____, 2025

**NATIONAL INSURANCE INSPECTION
SERVICES, INC.**

18
19
20 By: _____

21 3/28/2025
22 DATED: _____, 2025

CARLA COLLINS

23
24
25 By:  _____
119B21DD24CC40B...

26 **APPROVED AS TO FORM:**

1
2 DATED: March 28, 2025

KELLER GROVER LLP

3
4 By: 
5 ERIC A. GROVER
6 ROBERT W. SPENCER

7 Attorneys for Plaintiff
8 *CARLA COLLINS*

9
10 DATED: _____, 2025

**DAVENPORT GERSTNER & MCCLURE,
APC**

11
12 By: _____
13 JEFFREY G. MCCLURE
14 ANNE KELSON HUMMEL

15 Attorneys for Defendant
16 *National Insurance Inspection Services, Inc.*

1
2 DATED: _____, 2025

KELLER GROVER LLP

3
4 By: _____

ERIC A. GROVER
ROBERT W. SPENCER

Attorneys for Plaintiff
CARLA COLLINS

5
6
7
8
9 DATED: 4/15, 2025

**DAVENPORT GERSTNER & MCCLURE,
APC**

10
11
12 By: _____

JEFFREY G. MCCLURE
ANNE KELSON HUMMEL

Attorneys for Defendant
National Insurance Inspection Services, Inc.

EXHIBIT 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES
Collins v. National Insurance Inspection Services, Inc.
Case No. 20STCV15619

NOTICE OF CLASS ACTION SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

This class and PAGA action settlement will affect your rights if you worked as a real property inspector in California who contracted with National Insurance Inspection Services, Inc. at any time during the period from and including April 22, 2016 through January 22, 2025.

- Former real property inspector Carla Collins ("Class Representative" or "Plaintiff") sued National Insurance Inspection Services, Inc. ("NIIS" or "Defendant") on behalf of herself and current and former real property inspectors in California and has alleged that Defendant violated the California Labor Code and the California Unfair Competition Law.
- The complaint also alleges that Plaintiff is entitled to recover civil penalties for aggrieved individuals under the California Private Attorneys General Act of 2004 ("PAGA").
- Plaintiff and Defendant have entered a settlement agreement ("Settlement") that settles the Class and PAGA claims brought by the Class Representative on behalf of the current and former real property inspectors who performed inspections in California for NIIS during the period from and including April 22, 2016 through January 22, 2025. The Court has preliminarily approved the Settlement.
- If you performed real property inspections in California for NIIS at any time during the period from and including April 22, 2016 through May 30, 2024 and did not previously sign an individual release of claims, you are a class member ("Class Member"). If you qualify as a Class Member, you could receive money from the Settlement.
- If you performed real property inspections in California for NIIS at any time during the period from and including April 16, 2019 through January 22, 2025, you are considered an "Aggrieved Individual" under PAGA portion of the Settlement. If you qualify as an Aggrieved Individual, you will receive money from the Settlement of the PAGA claim.
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.

WHAT ARE YOUR OPTIONS?

DO NOTHING	If you qualify as a Class Member and do nothing, you will receive a Class Settlement payment if the Court approves the Settlement. In exchange for this payment, you will give up any rights to sue for the same claims that are released as part of this Settlement.
EXCLUDE YOURSELF	Give up all benefits, including money, from the Class Settlement. Retain all rights you may have against NIIS, as explained below. <u>NOTE:</u> Aggrieved Individual may not opt out of the PAGA portion of the Settlement.
OBJECT	If you qualify as a Class Member, write to the Court about why you don't agree with the Settlement. The Court may or may not agree with your

	objection. If the Court approves the settlement, you will receive a Settlement payment.
--	---

HOW MUCH CAN I GET FROM THE CLASS ACTION SETTLEMENT?	Based on NIIS' records, your Individual Settlement Payment is estimated to be \$ _____. This is based on your total Qualified Inspections performed during the Class Period: _____. NOTE: If you only worked for NIIS in California on or after April 1, 2024, you are not a Class Member entitled to an Individual Settlement Payment related to the settlement of the class claims.
HOW MUCH CAN I GET FROM THE PAGA SETTLEMENT?	Based on NIIS' records, your Individual PAGA Payment is estimated to be \$ _____. This is based on your total Qualified Pay Periods during the PAGA Period: _____. NOTE: If you only worked for NIIS in California prior to April 16, 2019, you are not an Aggrieved Individual entitled to a PAGA Payment related to the settlement of the PAGA claims.

- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still must decide whether to grant final approval of the Settlement. If the Court approves the Settlement and after any appeals are resolved, payments will be made to (a) Settlement Class Members who do not opt out of the Class Settlement; and (b) all Aggrieved Individuals.

WHY AM I RECEIVING THIS NOTICE?

Defendant's records show that you performed real property inspections in California for NIIS during the period from and including April 22, 2016 through January 22, 2025. You received this Notice because you have a right to know about a proposed settlement of a class and PAGA action lawsuit and about your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

WHAT IS THIS LAWSUIT ABOUT?

Plaintiff filed a putative class action lawsuit on April 22, 2020 in Los Angeles County Superior Court (the "lawsuit") asserting causes of action against Defendant on a class-wide and PAGA representative basis for Defendant's alleged misclassification of real property inspectors as independent contractors and claims for: (1) failure to pay meal period premiums; (2) failure to pay rest period premiums; (3) failure to pay minimum wages; (4) failure to pay all wages owed upon separation of employment; (5) failure to timely pay wages during employment; (6) failure to reimburse business expenses; (7) unfair business practices; and (8) civil penalties under the PAGA.

DO I HAVE AN ATTORNEY?

You do not need to hire your own attorney. You are already represented by Class Counsel (see below for their contact information). However, you may hire your own attorney at your own expense if you choose.

Questions? Call <<SETTLEMENT ADMIN PH NO>>

WHAT IS THE CASE STATUS?

In January 2024, the Court decided that Plaintiff's claims could proceed on a class-wide basis. Following that decision, the parties agreed to a settlement after mediation using a neutral third-party mediator. The certified class claims and the PAGA claims were settled because Class Counsel and the Class Representative believe that the terms of the Settlement are fair and reasonable in light of the strengths and weaknesses of the claims and other factors.

The Court has not ruled on the merits of Plaintiff's claims. NIIS denies all of Plaintiff's allegations, or that it violated any law, and contends that at all times it complied with federal, state, and local laws. The Settlement is not an admission by NIIS of any wrongdoing or an indication that any law was violated.

WHO IS IN THE CLASS?

You are part of the Settlement if you are a member of the Class, which includes all individuals who performed real property inspections in California for NIIS at any time during the period from and including April 22, 2016 through May 30, 2024.

A Class Member may also be a member of the group of Aggrieved Individuals, who are defined to include all current and former real property inspectors who performed inspections in California for NIIS at any time during the period from and including April 16, 2019 through January 22, 2025.

WHAT ARE THE TERMS OF THE SETTLEMENT?

In exchange for the release of claims against it, Defendant will pay a Maximum Settlement Amount of \$950,000, which includes \$935,500 in new money in addition to the sum of \$14,500 it previously paid to certain real property inspectors that have released their claims. This amount is inclusive of all payments contemplated by the Settlement, including all payments to Class Members, an incentive award to Plaintiff, Class Counsel's attorneys' fees and costs, inspector-side taxes, a payment to the California Labor and Workforce Development Agency ("LWDA") as part of the settlement of the PAGA claim, all payments to Aggrieved Individuals, and settlement administration costs. The "Net Settlement Amount" is the amount remaining after deduction of Class Counsel's attorneys' fees and costs, the incentive award to Plaintiff, the PAGA Payment, and the settlement administration costs, all of which will be distributed to Aggrieved Individuals and Class Members who do not opt out.

Subject to Court approval, the Maximum Settlement Amount will be allocated as follows:

- **Individual Settlement Payments:** Class Members who do not opt out ("Settlement Class Members") are eligible to receive money from the Net Settlement Amount as an Individual Settlement Payment, which is calculated as described below. The Net Settlement Amount is estimated to be approximately \$498,833. If you qualify as a Class Member, your estimated gross Individual Settlement Payment from the Net Settlement Amount is listed on the second page of this Notice.
- **Class Representative Incentive Award:** Plaintiff will request from the Court an award of \$10,000 in recognition of her efforts and the risks in assisting with the prosecution of the lawsuit and in return for executing a General Release of claims against Defendant. This amount will be paid from

the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.

- **Class Counsel Award:** Class Counsel will request that the Court approve up to 33-1/3% of the Maximum Settlement Amount (\$316,667 of the \$950,000 settlement) as attorneys' fees for litigation and resolution of this Action and actual costs and expenses (estimated not to exceed \$75,000), as supported by declaration. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- **Settlement Administration:** The cost of settlement administration shall not exceed \$10,000, which pays for tasks such as mailing and tracking this Notice, tracking Requests for Exclusion and Notices of Objection, mailing checks and tax forms, and reporting to the parties and the Court.
- All checks issued to Settlement Class Members shall remain valid and negotiable for 120 calendar days after the date of their issuance. Any undeliverable or uncashed checks will then be voided and sent to St. Jude's Children's Research Hospital.
- The \$25,000 PAGA Payment is required by law to be split 75% to the LWDA and 25% to the Aggrieved Individuals. Therefore, \$18,750 will be distributed to the LWDA and \$6,250 will be distributed to Aggrieved Individuals. If you qualify as an Aggrieved Individual, your estimated Individual PAGA Payment is listed on the first page of this Notice.

WHAT CAN I RECEIVE FROM THE SETTLEMENT?

If you qualify as a Class Member and do not opt out of the Settlement, you will automatically receive your share of the Net Settlement Fund if the Court approves the Settlement. Your estimated share, that is your estimated gross Individual Settlement Payment, and your total Qualified Inspections from NIIS' records used to calculate it, are listed on the second page of this Notice.

HOW IS MY PORTION OF THE SETTLEMENT CALCULATED?

Your Individual Settlement Payment is your pro rata share of the Net Settlement Amount based on your total Qualified Inspections, which is the total number of inspections that you performed in California on behalf of NIIS (based on Defendant's records) during the Class Period (April 22, 2016 through May 30, 2024, inclusive). Your Qualified Inspections will be divided by the total number of Qualified Inspections for all Settlement Class Members, resulting in your Payment Ratio-Class Member. The Payment Ratio-Class Member then will be multiplied by the Net Settlement Amount to determine your gross Individual Settlement Payment, except that no gross Individual Settlement Payment will be less than \$25.

Your Individual Settlement Payment may vary from the estimated payment listed on this form if any Class Members opt out of the Settlement and depending upon the amounts that the Court approves for awards to Class Counsel, the Class Representative, and the Settlement Administrator.

ONLY if you disagree with the Qualified Inspections stated on page two of this Notice, mail a letter to the Settlement Administrator explaining why you disagree. Be as specific as possible and include copies of any supporting documents, such as inspection reports. The decision of the Settlement Administrator will be final. Disputes must be mailed to the address below and must be postmarked no later than [insert same date as objection and opt-out deadline]:

Questions? Call <<SETTLEMENT ADMIN PH NO>>

Settlement Administrator

<<Address>>

Phone: () ***-******

Facsimile: () ***-******

WHAT WILL I RECEIVE FROM THE PAGA SETTLEMENT?

Real property inspectors who qualify as Aggrieved Individuals also will receive an Individual PAGA Payment. Your Individual PAGA Payment will be based on your pro rata share of the 25% of the PAGA Payment (\$6,250) based on your number of Qualified Pay Periods during the PAGA Period, which is April 16, 2019 through January 22, 2025, inclusive. Your total Qualified Pay Periods will be divided by the total Qualified Pay Periods for all Aggrieved Individuals, resulting in your Payment Ratio-Aggrieved Individual. The Payment Ratio-Aggrieved Individual will then be multiplied by \$6,250 to determine your Individual PAGA Payment.

WHAT HAPPENS IF I DO NOTHING?

If you qualify as a Class Member and/or an Aggrieved Individual and do nothing and the Court approves the Settlement at the Final Approval Hearing, you will be issued your Individual Settlement Payment and/or your Individual PAGA Payment in one check without any further action needed from you.

To ensure receipt of your settlement payment, you must notify the Settlement Administrator of any change in your name, mailing address and/or telephone number. **It is your responsibility to keep the Settlement Administrator informed of your updated information, and your settlement payment will be mailed to the last known address that the Settlement Administrator has on file for you.**

WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on **<<date>>** in Department 9 of the California Superior Court for the County of Los Angeles, 312 North Spring Street, Los Angeles, California 90012, to decide whether to approve the Settlement.

Please be advised that the date of the final approval hearing may change without further notice to the class. Class Members are therefore advised to check the Court's website or contact the Settlement Administrator to confirm that the date and location has not changed.

WHAT CLAIMS AM I GIVING UP IF I REMAIN PART OF THE SETTLEMENT?

If you qualify as a Class Member, unless you exclude yourself, you will be considered a Settlement Class Member, and you will be bound by the terms of the Settlement, including the Release of the Released Claims as described below. That means you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released Claims

The "Released Claims" means and includes any and all causes of action, claims, rights, statutory damages, penalties, liabilities, expenses, and losses against the Released Parties arising between April 22, 2016 and

Questions? Call **<<SETTLEMENT ADMIN PH NO>>**

May 30, 2024, inclusive, under state, federal, or local law, whether statutory or otherwise, arising out of the claims expressly pleaded in the Complaint (i.e., Labor Code §§ 201, 202, 203, 204, 221, 224, 226, 226.3, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2750.3, and 2802 and Business & Professions Code §§ 17200, *et seq.* based on alleged violations of these Labor Code provisions) and all other potential claims reasonably related to or arising out of the same set of facts pleaded in the Complaint, such as those under the California Labor Code, Wage Orders, regulations, and/or other provisions of law. The time period of the Released Claims shall be for the entirety of the Class Period.

“Released Parties” shall mean Defendant National Insurance Inspection Services, Inc. and all of its parent companies, subsidiaries, divisions, concepts, related or affiliated companies, clients, and its or their shareholders, officers, directors, employees, agents, principals, representatives, attorneys, accountants, partners, investors, administrators, insurers, predecessors, successors and assigns, and any individual or entity that could be liable for any of the Released Claims.

WHAT CLAIMS ARE RELEASED BY THE SETTLEMENT OF PAGA CLAIMS?

If this Settlement is approved, then Plaintiff, individually and as representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, agrees to release the Released Parties of and from any and all any and all claims for civil penalties under PAGA based on the labor code violations alleged in each and every PAGA notice sent by Plaintiff to the LWDA as well as all facts, theories, or claims for civil penalties that would be considered administratively exhausted under applicable law by the PAGA notices Plaintiff sent to the LWDA.

WHAT SHOULD I DO IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you qualify as a Class Member and do not wish to participate in the Class Settlement, you may exclude yourself (generally called “opting out”) by submitting a written Request for Exclusion to the Settlement Administrator. Your request to opt-out must: (a) be in writing; (b) state your name, address, and the last four digits of your social security number; and (c) include a typed or handwritten statement requesting exclusion from the Settlement Class and stating in substance: “I wish to opt out of the settlement of the class action lawsuit entitled *Collins v. NIIS*.”

You must personally sign the Request for Exclusion and may not have someone sign for you, nor may you submit a Request for Exclusion on behalf of a group or anyone else. Your Request for Exclusion must be signed and mailed via United States first class mail postmarked no later than <<Date>> [45 calendar days after initial mailing] to:

Settlement Administrator

<<Address>>

Phone: (***) ***-****

If you submit a timely Request for Exclusion, then upon its receipt you shall not be a member of the Settlement Class, you shall be barred from participating in any portion of the Settlement, and you may not object to the Settlement.

If you submit a timely Request for Exclusion, you may then pursue, at your own expense, any claims you may have against NIIS. If you do not submit a complete and timely written Request for Exclusion, you will be included in the Settlement Class and be bound by the terms of the Settlement (including the Released Claims described above), whether or not you objected to the Settlement.

Questions? Call <<SETTLEMENT ADMIN PH NO>>

NOTE: Aggrieved Individuals in a PAGA action may not opt-out of a PAGA settlement. Thus, in a settlement involving both class and PAGA claims, inspectors may only opt-out from participating in the class portion of the settlement. If you submit a timely Request for Exclusion and are an Aggrieved Individual, you will still receive an Individual PAGA Payment representing your portion of the PAGA Payment.

WHAT SHOULD I DO IF I WANT TO OBJECT TO THE SETTLEMENT?

Any Settlement Class Member who has not asked to be excluded from this Settlement may object to the Settlement. Keep in mind that objecting is not the same as requesting to be excluded. Submitting an objection will **not** exclude you from the Settlement Class. **If your objection is overruled, you will still be bound by the Settlement.**

If you qualify as a Class Member and wish to object to the Settlement, you may submit your written Notice of Objection to the Settlement Administrator stating the basis or reason(s) for your objection to the Settlement. You may object to any of the terms in the Settlement Agreement, including but not limited to the proposed Class Counsel Award, the Class Representative Incentive Award, or the Settlement Administrator's payment. A written Notice of Objection must be signed by you and include: (1) the name and case number of this Action, (2) your full name and most current address, (3) the last four digits of your Social Security number; (4) the basis for the objection; and (5) a statement of whether you intend to appear at the Final Approval Hearing. The failure to submit a written objection does not waive a Settlement Class Member's right to appear and orally object at the final approval hearing.

The written Notice of Objection must be mailed via United States first class mail postmarked no later than **<<Date>>** [45 calendar days after initial mailing] to:

Settlement Administrator

<<Address>>

Phone: (*) ***-******

If you have submitted a written objection, you may also appear at the Final Approval Hearing set for **<<date>>** in Department 9 of the California Superior Court for the County of Los Angeles, 312 North Spring Street, Los Angeles, California 90012, and discuss your objections with the Court and the Parties. The Final Approval Hearing may be continued to another date without further notice.

You have the right to retain your own attorney, at your own expense, to submit a Notice of Objection or appear on your behalf at the Final Approval Hearing.

If the Court approves the Settlement despite any objections, and you have not opted out of the Settlement, you will receive your Individual Settlement Payment and will be bound by the terms of the Settlement (including the Released Claims described above).

You cannot both object and opt-out. If you submit both a Request for Exclusion and a Notice of Objection, the Notice of Objection will be invalid, while the Request for Exclusion will be valid.

HOW DO I GET ADDITIONAL INFORMATION?

Questions? Call **<<SETTLEMENT ADMIN PH NO>>**

This Notice only summarizes the proposed Settlement and its terms. For more information, contact Class Counsel at the below address or phone number. You may also access the Court docket by visiting the office of the Clerk of the California Superior Court for the County of Los Angeles, 312 North Spring Street, Room 255, Los Angeles, California 90012. You may also pay to review documents online by accessing the Los Angeles County Superior Court online case access portal at <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> and enter the case number "20STCV15619."

If you have further questions regarding this case or Settlement, you may contact Class Counsel, whose contact information is provided below:

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In addition to contacting Class Counsel, you may contact the Settlement Administrator at (800) ____.

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE SETTLEMENT PROCESS.

Questions? Call <<SETTLEMENT ADMIN PH NO>>

EXHIBIT B

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10 Attorneys for Plaintiff
11 CARLA COLLINS

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

14 CARLA COLLINS on behalf of herself, and all)
15 others similarly situated, and all aggrieved)
16 employees,)

17 Plaintiff,

18 v.

19 NATIONAL INSURANCE INSPECTION)
20 SERVICES, INC.; and DOES 1 through 50,)
21 inclusive,)

22 Defendants.)

Case No: 20STCV15619

CLASS & REPRESENTATIVE ACTION

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. UNFAIR BUSINESS PRACTICES;
2. VIOLATIONS OF THE LABOR CODE;
3. PENALTIES; and
4. ATTORNEYS' FEES.

DEMAND FOR JURY TRIAL

By Fax

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JUN 24 2020

Sherri R. Carter, Executive Officer/Clerk of Court
By: Isaac Lovo, Deputy

1 Plaintiff CARLA COLLINS, on behalf of herself and all others similarly situated, and all
2 aggrieved employees, complains against Defendants NATIONAL INSURANCE INSPECTION
3 SERVICES, INC., and Does 1 through 50 (all referred to collectively as “Defendants” or “NIIS”)
4 as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court has subject matter jurisdiction over Plaintiff’s claims, based on, among
7 other statutes, California Business & Professions Code §§ 17200, *et seq.*, and California Labor
8 Code §§ 201-203, 204, 221, 224, 226(a), 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198,
9 1199, 2750.3 and 2802. In particular, Plaintiff has complied with all California Labor Code §
10 2699.3 requirements for commencing a civil action under the California Private Attorneys
11 General Act of 2004, California Labor Code §§ 2698, *et seq.* (“PAGA”).

12 2. This Court has personal jurisdiction over the parties because at all times relevant
13 hereto Plaintiff was a California resident who worked in California for Defendants and
14 Defendants have systematically and continuously conducted business in the State of California.

15 3. Venue is proper in this Court pursuant to California Code of Civil Procedure §
16 395.5 because (a) Plaintiff performed part of her duties in Los Angeles County, (b) part of the of
17 the obligations of the parties arises in Los Angeles County, (c) part of Defendants’ liability arises
18 in Los Angeles County, and (d) breaches by Defendants occurred in connection with work
19 performed partly in Los Angeles County

20 **II. PARTIES AND BACKGROUND**

21 4. Plaintiff CARLA COLLINS is an adult who worked for Defendants as a purported
22 independent contractor real property inspector from approximately October 2019 through the
23 present in Los Angeles County.

24 5. Defendant NATIONAL INSURANCE INSPECTION SERVICES, INC. is a
25 California Corporation doing business throughout California and is a “person” as defined by
26 California Labor Code § 18 and California Business and Professions Code § 17201. In addition,
27 it is an “employer” as that term is used in the California Labor Code and in the California
28 Industrial Welfare Commission’s Orders regulating wages, hours, and working conditions.

1 6. Plaintiff alleges that NIIS is a “labor contractor” and State Farm General Insurance
2 Company, Geico Insurance Agency, Inc., Pacific Specialty Insurance Company, USAA Casualty
3 Insurance Company, Arrowhead General Insurance Agency, Inc., and Berkshire Hathaway
4 Homestate Insurance Company are all “client employers” within the meaning of Labor Code §
5 2810.3. State Farm General Insurance Company, Geico Insurance Agency, Inc., Pacific
6 Specialty Insurance Company, USAA Casualty Insurance Company, Arrowhead General
7 Insurance Agency, Inc., and Berkshire Hathaway Homestate Insurance Company will be referred
8 to hereinafter collectively as “Client Employers.” Labor Code § 2810.3(b) provides that “client
9 employers” share liability for the payment of wages to all workers provided by a “labor
10 contractor.” In this case, the Client Employers all share civil legal responsibility and civil
11 liability for the payment of any wages due and owing by NIIS to Plaintiff and the putative class.
12 By letter dated April 16, 2020, Plaintiff provided the Client Employers with the 30-day notice
13 required by Labor Code § 2810.3(d).

14 7. Plaintiff is ignorant of the true names and capacities of Defendants sued as Does 1
15 through 50, inclusive, and therefore sue those Defendants by those fictitious names. Plaintiff will
16 amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is
17 informed and believes and on that ground alleges that each of the fictitiously named Defendants is
18 responsible in some manner for the occurrences alleged and that Plaintiff’s damages and other
19 losses as alleged are proximately caused by those occurrences.

20 8. Plaintiff brings this action on behalf of a proposed state-wide class of purported
21 independent contractor real property inspectors who worked for NIIS in California to challenge
22 Defendants’ (a) policy and practice of misclassifying real property inspectors as “independent
23 contractors,” (b) policy and practice of failing to pay any wages whatsoever, including the
24 minimum wage, to real property inspectors, for all hours worked; (c) policy and practice of
25 violating California Labor Code § 510 and IWC Wage Order 4-2001 by failing to pay overtime
26 wages to employees who worked more than eight hours in a day or 40 hours in a week; (d) policy
27 and practice of violating California Labor Code §§ 226.7 and 512, and IWC Wage Order 4-2001
28 by failing to provide meal periods to real property inspectors, (e) policy and practice of violating

California Labor Code § 226.7 and IWC Wage Order 4-2001 by failing to authorize and permit paid rest periods to real property inspectors; (f) policy and practice of violating California Labor Code § 226 by failing to provide real property inspectors complete and accurate itemized wage statements; (g) policy and practice of violating California Labor Code §§ 201-203 by failing to pay former real property inspectors all wages due and owing at the time of discharge or voluntary quit, and (h) policy and practice of failing to reimburse real property inspectors for all necessary expenditures and losses incurred at the direction of Defendants.

9. Plaintiff brings this action on behalf of herself and a proposed class of all purported independent contractor real property inspectors that performed work on behalf of NIIS within the State of California at any time during the applicable limitations period preceding the original filing of this Complaint up to the present and until compliance with the law. Plaintiff seeks recovery of all allowable compensation and other sums for the violations described above, including unpaid minimum and overtime wages, penalties/premium pay for missed meal breaks and paid rest periods, reimbursement of business expenses, restitution and restoration of sums owed and property unlawfully withheld, statutory penalties, declaratory and injunctive relief, interest, attorneys' fees, and costs.

III. FACTUAL ALLEGATIONS

10. This is a putative class action seeking relief from Defendants' affirmative decision to misclassify NIIS' real property inspectors as "independent contractors." By misclassifying the real property inspectors as independent contractors, Defendants have sought to increase their profits while avoiding various duties and obligations owed to employees under the Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Order.

11. NIIS provides real property inspection services throughout California on behalf of its insurance company customers, including the Client Employers.

12. At all relevant times, Plaintiff performed work on behalf of NIIS as a purported independent contractor real property inspector. During her employment with NIIS, Plaintiff worked approximately four to five days a week, and worked approximately 10 hours a day on the weekends.

1 13. **ABC Test:** On April 30, 2018, the California Supreme Court adopted the ABC
2 test to determine whether a worker should be classified as an employee or an independent
3 contractor. *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal. 5th 903. The
4 California government then codified the ABC test as Labor Code § 2750.3.

5 14. The ABC test: (1) places the burden on the hiring entity to establish that the
6 worker is an independent contractor who was not intended to be included within the wage order's
7 coverage, and (2) requires the hiring entity, in order to meet this burden, to establish each of the
8 three factors embodies in the ABC test – namely: (A) that the worker is free from the control and
9 direction of the hiring entity in connection with the performance of the work, both under the
10 contract for the performance of the work and in fact, and (B) that the worker performs work that
11 is outside the usual course of the hiring entity's business, and (C) that the worker is customarily
12 engaged in an independently established trade, occupation, or business of the same nature of the
13 work performed. *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903, 955-956
14 (2018).

15 15. Under factor A, Plaintiff and other putative class members were not free from the
16 control of NIIS. Among other things, NIIS contracts directly with its clients – including the Client
17 Employers -- for the work performed by Plaintiff and other putative class members. NIIS
18 unilaterally determines which clients – such as the Client Employers -- are served by Plaintiff and
19 putative class members. NIIS assigned Plaintiff and other putative class members work through
20 an online portal which had no “decline” button to turn down assignments. NIIS required Plaintiff
21 and other putative class members to perform the work within very specific time windows. NIIS
22 also required that Plaintiff and other putative class members upload reports through its intranet
23 system upon completion of the project. Further, NIIS supervises Plaintiff and other putative class
24 members by checking on the status of their work via email and telephone.

25 16. Under factor B, Plaintiff and other putative class members performed work that
26 was within the usual course of NIIS' business. Plaintiff and other putative class members
27 perform work that is within the usual course of the hiring entities' business. NIIS exists for the
28 sole purpose of providing real property inspection services to its clients (including the Client

Employers), Plaintiff and the other putative class members were and are the entire labor force performing such inspection services.

17. Under factor C, Plaintiff and other putative class members were not customarily engaged in an independently established trade, instead being governed in all material respects by NIIS.

18. **Borello Factors:** Further, Plaintiff and the other putative class members also were misclassified under the previous multi-factor test established by the California Supreme Court in *S.G. Borello & Sons, Inc. v Department of Industrial Relations* (1989) 48 Cal.3d 341 (“*Borello*”). Under *Borello*, a court first examines whether the alleged employer has the “right to control” the work performed. *Id.* at 350. Here, acting in accordance with its written agreements with Plaintiff and the other putative class members, NIIS exercises thorough and complete control over them as explained in the detailed discussion of the ABC test above.

19. *Borello* also held that, after examining the right to control, a court should look at “secondary factors” that include: 1) whether the person performing services is engaged in a distinct occupation or business, 2) the skill required in the particular occupation, 3) whether the work is part of the regular business of the principal, and 4) the method of payment, whether by the time spent or by the job. *Id.* at 351.

20. Here, Plaintiff and the other putative class members were not involved in a distinct occupation or business. NIIS provides real property inspection services to insurance companies, including the Client Employers. Plaintiff and the other putative class members are the labor force that provide those services. Further, inspecting property does not require any special skills. The real property inspectors take pictures of the sides of the buildings and an address verification picture. The real property inspectors then upload the pictures as well as fill out and upload a required report. This does not require any special skills or training. Moreover, the work performed by Plaintiff and the other putative class members is part of the regular business of the principal: they are simply the labor force that provides the services to NIIS’ clients. Additionally, the method of payment favors employee status as well. Plaintiff and the other putative class members are paid on a piece-rate basis; they are not paid a flat fee for their labor.

21. *Borello* also approvingly cited five factors adopted in other jurisdictions. Those factors include (1) the alleged employee's opportunity for profit or loss depending on his managerial skill, (2) the alleged employee's investment in equipment or materials required by his task, or his employment of helpers, (3) whether the service rendered requires a special skill, (4) the degree of permanence of the working relationship, and (5) whether the service rendered is an integral part of the alleged employer's business. *Id.* at 354-355.

22. Here, there is no true opportunity for profit or loss, as NIIS performs all of the negotiating with its clients, including the price of services as well as the schedule. With regard to the other putative class members' investment in equipment and materials, NIIS provides no reimbursements to Plaintiff and the other putative class members. Plaintiff and other putative class members are required to use their personal vehicles to drive to NIIS' assignments and to have cellular telephone service and home internet service. This is just one more example of NIIS shifting its costs of doing business onto its labor force. Additionally, as noted above, performing property inspections requires no special skills. Lastly, the service provided by Plaintiff and other putative class members is integral to NIIS' business: NIIS must have a labor force to perform inspections or it will go out of business.

23. **Claims:** Defendants have implemented a policy and practice of failing to pay Plaintiff and other putative class members for all hours worked by failing to pay them their entire hourly rate and/or premium wages and, at times, any wages at all, including the minimum wage, for compensable time spent under the direction and control of NIIS. For example, NIIS does not pay real property inspectors for drive time between client locations and time spent performing required clerical tasks at home. Furthermore, NIIS pays merchandisers a flat rate for projects, regardless of the time worked. As a result of these arbitrary policies and practices implemented by Defendants, NIIS does not pay Plaintiff and other putative class members for all time spent on travel, work related telephone calls, reading and responding to business emails and electronic messages, scheduling, preparing and uploading mandatory reports, and uploading photographs. NIIS also does not pay premium wages for any hours worked over eight in work day or 40 in a work week.

24. At all times relevant hereto, Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order required employers to provide employees with a first meal period of not less than 30 minutes during which they are relieved of all duty (hereinafter referred to as “duty-free”) before working more than five hours, and a second duty-free meal period of not less than 30 minutes before working more than 10 hours per day. Defendants implemented a policy and practice of intentionally and improperly designating Plaintiff and other putative class members as independent contractors in order to avoid providing meal periods and/or paying meal period premiums for such periods not provided, in violation of the Labor Code and applicable IWC Wage Order.

25. At all times relevant hereto, Labor Code § 226.7 and the applicable IWC Wage Order required employers to authorize and permit a paid rest break of at least 10 minutes for every four hours of work performed or major fraction thereof. An employee working over ten hours in a single day workday is owed three paid rest breaks of at least 10 minutes. Defendants implemented a policy and practice of intentionally and improperly designating Plaintiff and other putative class members as independent contractors in order to avoid permitting and authorizing paid rest breaks and/or paying rest break premiums for such breaks not provided, in violation of the Labor Code and applicable IWC Wage Order.

26. Labor Code § 226 provides that every employer is required, “semimonthly or at the time of each payment of wages,” to provide each employee an itemized wage statement, including, *inter alia*, the total hours worked by the employee (except for salaried employees), and “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.” Lab. Code § 226(a). Defendants implemented a policy and practice of failing to provide complete and accurate itemized wage statements to Plaintiff and other putative class members as required by Labor Code § 226 in that the wage statements provided did not, among other things, display the total hours worked during the payroll period and the piece rate units earned and the applicable piece rate. Labor Code § 226(a).

27. Defendants implemented a policy and practice of violating California Labor Code §§ 201- 203 by failing to pay Plaintiff and other putative class members all wages due and owing

at the time of discharge or voluntary quit.

28. Defendants implemented a policy and practice of failing to reimburse Plaintiff and other putative class members for necessary expenditures and losses as required by Labor Code § 2802. During the course of their employment with NIIS, Plaintiff and other putative class members have been required to use their personal vehicles for business purposes. Plaintiff and other putative class members have also been required to make purchases of office-related items such as paper and printer ink to conduct company business from home. Plaintiff and other putative class members have also been required to have a cellular telephone and home internet service. Plaintiff and other putative class members have not received full reimbursement and/or indemnity for all necessary expenditures or losses incurred in connection with the purchase of the items above.

IV. CLASS ACTION ALLEGATIONS

29. Plaintiff brings this action on behalf of herself and as a class action under Code of Civil Procedure § 382 on behalf of a class of similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California. Specifically, Plaintiff seeks to represent the class of similar situated real property inspectors and other workers in substantially similar positions classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law. Plaintiff also seeks to represent the following subclasses of employees who worked for NIIS at job sites within the State of California:

- (a) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who were not paid any wages whatsoever, including minimum wage, for certain hours worked, including time spent on work related travel, and uploading mandatory reports and

1 photographs;

2 (b) All similar situated real property inspectors classified by Defendants as
3 independent contractors that performed work for Defendants in the State of
4 California at any time during the applicable limitations period preceding
5 the original filing of this Complaint and up to the present and until
6 compliance with the law, inclusive, who were not paid in accordance with
7 Labor Code § 510 when they worked more than eight hours in a day;

8 (c) All similar situated real property inspectors classified by Defendants as
9 independent contractors that performed work for Defendants in the State of
10 California at any time during the applicable limitations period preceding
11 the original filing of this Complaint and up to the present and until
12 compliance with the law, inclusive, who worked more than six hours in a
13 day and were not provided all meal periods;

14 (d) All similar situated real property inspectors classified by Defendants as
15 independent contractors that performed work for Defendants in the State of
16 California at any time during the applicable limitations period preceding
17 the original filing of this Complaint and up to the present and until
18 compliance with the law, inclusive, who were not provided with required
19 rest periods;

20 (e) All similar situated real property inspectors classified by Defendants as
21 independent contractors that performed work for Defendants in the State of
22 California at any time during the applicable limitations period preceding
23 the original filing of this Complaint and up to the present and until
24 compliance with the law, who did not receive complete and accurate wage
25 statements;

26 (f) All similar situated real property inspectors classified by Defendants as
27 independent contractors that performed work for Defendants in the State of
28 California at any time during the applicable limitations period preceding

the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who were not paid all wages due upon discharge or voluntary quit as required by Labor Code §§ 201-203; and

(g) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, who were not reimbursed for necessary expenditures and losses incurred at the direction of Defendants;

30. The class and sub-classes Plaintiff seeks to represent contain numerous members and are clearly ascertainable. Plaintiff reserves the right under Rule 3.765 of the California Rules of Court to amend or modify the class and sub-class descriptions with greater specificity or further division into additional sub-classes or limitation to particular issues.

31. By their unlawful practices and policies, Defendants have violated the rights of employees under the laws and regulations of the State of California. The questions raised are, therefore, of common or general interest to the class members, who have a well-defined community of interest in the questions of law and fact raised in this action.

32. Plaintiff's claims are typical of those of the class, as Plaintiff now suffers and has suffered in the past from the same violations of the law as other members of the proposed class. Plaintiff has retained competent counsel to represent her and the class, and Plaintiff will fairly and adequately represent the interests of the class.

33. This action may properly be maintained as a class action under Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the proposed class and sub-classes are easily ascertainable.

Numerosity

34. The members of the proposed class are so numerous that joinder of all class members is impracticable. While the precise number of class members has not been determined at this time, Plaintiff is informed and believes that Defendants have employed as many as 200 or

more real property inspectors in the relevant time period.

35. Plaintiff alleges that Defendants' employment records would contain relevant information as to the number of members of the proposed class.

Commonality

36. There are questions of law and fact common to the class that predominate over any questions affecting only individual class members. Those common questions of law and fact include, without limitation, the following:

- (a) Whether Defendants had a policy or practice of failing to pay class members for all straight and overtime hours worked;
- (b) Whether Defendants had a policy and practice of failing to provide class members with all of their required meal periods;
- (c) Whether Defendants had a policy and practice of failing to provide class members with all of their required paid rest periods;
- (d) Whether Defendants had a policy and practice of violating Labor Code § 226 by failing to provide required information on wage statements, such as pay rates, hours worked, piece rates, and piece rate units;
- (e) Whether Defendants had a policy and practice of violating Labor Code §§ 201-203 by failing to pay departing class members all wages due at the time of discharge or voluntary quit;
- (f) Whether Defendants violated Labor Code section 2802 by failing to reimburse merchandisers for all necessary expenditures and losses incurred in the direct consequence of the discharge of their duties; and
- (g) Whether Plaintiff and the members of the class are entitled to equitable relief under Business and Professions Code §§ 17200, *et seq.*

Typicality and Adequacy of Representation

37. Plaintiff's claims are typical of the claims of the proposed class. Plaintiff and all members of the proposed class sustained injuries and economic loss arising out of and caused by Defendants' common course of conduct in violation of laws and regulations alleged in this

1 complaint.

2 38. Plaintiff will fairly and adequately protect the interests of all proposed class
3 members. Plaintiff has no interests that are antagonistic to those of the proposed class and is not
4 subject to any unique defenses. Plaintiff also has retained counsel experienced in class actions
5 and in representing employees and protecting employees' rights.

6 **Superiority of Class Action**

7 39. A class action is superior to other available means for the fair and efficient
8 adjudication of this controversy. Individual joinder of all proposed class members is not
9 practicable, and questions of law and fact common to the class predominate over any questions
10 affecting only individual members of the class. Each member of the class has been damaged and
11 is entitled to recovery by reason of Defendants' illegal policies and/or practices.

12 40. Class action treatment will allow those similarly-situated persons to litigate their
13 claims in the manner that is most effective and economical for the parties and the judicial system.
14 Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this
15 action that would preclude its maintenance as a class action.

16 41. A class action is superior to other available methods for the fair and efficient
17 adjudication of this controversy because individual litigation of the claims of all proposed class
18 members is impractical. Even if every proposed class member could afford individual litigation,
19 the court system could not. It would be unduly burdensome to the courts if individual litigation
20 of numerous cases were to be required. Individualized litigation also would present the potential
21 for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to
22 all parties and to the court system resulting from multiple trials of the same complex factual
23 issues. By contrast, the conduct of this action as a class action with respect to some or all of the
24 issues presented herein gives rise to fewer management difficulties, conserves the resources of the
25 court system and the parties and protects the rights of each proposed class member. Further, it
26 prevents the very real harm that would be suffered by numerous putative class members who
27 simply will be unable to enforce individual claims of this size on their own, and by Defendants'
28 competitors, who will be placed at an unfair competitive disadvantage as their punishment for

obeying the law. Plaintiff does not anticipate difficulties in the management of this action.

V. REPRESENTATIVE ACTION ALLEGATIONS

42. Plaintiff seeks to represent all aggrieved employees within the meaning of Labor Code §§ 2698, *et seq.* who performed work for NIIS as independent contractor real property inspector in California within the applicable limitations period, up to the present and until compliance with the law. Plaintiff alleges that NIIS willfully misclassified these aggrieved employees as independent contractors.

43. On behalf of all aggrieved employees, Plaintiff seeks PAGA penalties pursuant to Labor Code §§ 226.3, 226.8(b) and (c), and 2699(f), as applicable, for each violation of Labor Code, including:

- (a) § 226.8 (willful misclassification of employees as independent contractors);
- (b) §§ 1194, 1198 and 1999 (failure to pay minimum wages and overtime);
- (c) §§ 226.7, 512(a), 1198 and 1199 (failure to provide meal periods);
- (d) §§ 226.7, 1198 and 1199 (failure to provide rest breaks);
- (e) § 226(a) (failure to provide itemized wage statements);
- (f) §§ 201-203 (failure to pay wages upon termination);
- (g) § 204 (failure to pay wages in a timely manner)
- (h) § 2802 (failure to reimburse business expenses); and
- (i) § 432.5 (requiring employees to agree to unlawful terms and conditions).

44. There is a well-defined community of interest in the questions of law and fact affecting the aggrieved employees whom Plaintiff seeks to represent. The aggrieved employees' claims against Defendants involve questions of common or general interest, including, but not limited to: (1) willfully improperly classified real property inspectors as independent contractors in violation of the Labor Code; (2) violated the Labor Code and applicable IWC Wage Order by failing to pay real property inspectors their proper wage rate for all straight time and overtime hours worked; (3) violated the Labor Code and applicable IWC Wage Order by failing to pay any wages, including minimum wages, to real property inspectors for various hours worked, including

1 their dive time and time spent performing administrative tasks at home; (4) violated the Labor
2 Code and applicable IWC Wage Order by failing to provide real property inspectors with all of
3 their required off-duty meal periods, nor paying the required meal period premiums for each meal
4 period not provided; (5) violated the Labor Code and applicable IWC Wage Order by failing to
5 authorize and permit real property inspectors with all of their required paid rest breaks, nor
6 paying the required rest break premium for each paid rest break not allowed or permitted; (6)
7 violated Labor Code § 226 by failing to provide real property inspectors with accurate and
8 itemized wage statements; (7) violated Labor Code §§ 201-203 by failing to pay departing real
9 property inspectors all wages due at the time of discharge or voluntary quit; (8) violated Labor
10 Code § 204 by failing to pay real property inspectors their wages in a timely manner as required
11 by this section; (9) violated Labor Code § 2802 by failing to reimburse real property inspectors
12 for all necessary expenditures and losses incurred in the direct consequence of the discharge of
13 their duties; and (10) violated Labor Code § 432.5 by requiring aggrieved employees to agree in
14 writing to unlawful terms and conditions.

15 45. Plaintiff's claims are typical of the claims of the aggrieved employees whom
16 Plaintiff seeks to represent on a representative basis and their interests are consistent with, and not
17 antagonistic to, those of the other aggrieved employees. Plaintiff will fairly and adequately
18 represent the interests of the aggrieved employees whom she seeks to represent because Plaintiff
19 is also an aggrieved employee and her claims are typical of those of the aggrieved employees.
20 Plaintiff has retained attorneys who are experienced in the prosecution of representative actions,
21 and Plaintiff intends to prosecute this action vigorously.

22 46. Common questions of law and fact exist as to all aggrieved employees that
23 predominate over any other questions affecting only individual aggrieved employees.

24 47. Plaintiff requests permission to amend the Complaint to include additional
25 representatives if Plaintiff is deemed not to be an adequate representative of the aggrieved
26 employees.

27 //

28 //

VI. FIRST CAUSE OF ACTION

(UNFAIR BUSINESS PRACTICES – CAL. BUS. & PROF. CODE §§ 17200, *et seq.*)

48. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

49. California Business and Professions Code §§ 17200, *et seq.*, prohibit unfair competition in the form of any unlawful, unfair, deceptive, or fraudulent business act or practice.

50. Beginning at an exact date unknown to Plaintiff, but at least during the four-year period preceding the filing of this Complaint and up to the present, Defendants committed unlawful acts and practices as defined by California Business and Professions Code §§ 17200, *et seq.* Defendants have had a policy and practice of engaging in unlawful and unfair business practices including, but not limited to, violations of:

- (a) Labor Code § 1194 (failure to pay all wages due, including minimum, overtime, and double-time wages);
- (b) Labor Code §§ 226.7 and 512 (failure to provide meal periods and authorize and permit paid rest breaks);
- (c) Labor Code § 226 (failure to provide accurate itemized wage statements);
- (d) Labor Code §§ 201-203 (failure to pay all wages at time of discharge);
- (e) Labor Code § 2802 (failure to reimburse business expenses); and
- (f) Industrial Welfare Commission IWC Wage Order No. 4-2001.

51. The violations of those laws and the acts and practices described in this Complaint constitute unlawful, unfair, deceptive and fraudulent business acts and practices and unfair competition within the meaning of Business and Professions Code §§ 17200, *et seq.*

52. As a direct and proximate result of those acts and practices, Defendants have received and continue to hold as ill-gotten gains money and property belonging to Plaintiff and the class, in that Defendants have profited in those amounts from their unlawful practices.

53. Business and Professions Code § 17203 provides that the Court may restore to any person in interest any money or property which may have been acquired by means of unfair competition and order restitution by Defendants to Plaintiff for the practices alleged in this

1 complaint. Plaintiff and putative class members are entitled under Business and Professions Code
2 §§ 17203 and 17208 to restitution and restoration of all wages unlawfully withheld at any time
3 during the four-year period preceding the filing of this Complaint and up through the present and
4 until the violations have been corrected, together with all civil penalties owed in connection with
5 those violations. Plaintiff will, upon leave of the Court, amend this Complaint to state those
6 amounts when they are ascertained.

7 54. Plaintiff's success in this action will enforce important rights affecting the public
8 interest and, in that regard, Plaintiff sues on behalf of the proposed class as well as on behalf of
9 herself and the general public. Plaintiff seeks and is entitled to unpaid wages, injunctive relief,
10 and any other remedy owing to Plaintiff and all others similarly situated.

11 55. Injunctive relief is necessary and appropriate to prevent Defendants from repeating
12 or continuing their wrongful business practices alleged above.

13 56. In order to prevent Defendants from profiting and benefiting from their wrongful
14 and illegal policies and practices, an order requiring Defendants to restore to Plaintiff all monies
15 and property unlawfully gained through Defendants' unlawful practices is appropriate and
16 necessary.

17 57. Plaintiff takes upon herself enforcement of these laws and lawful claims. There is
18 a financial burden incurred in pursuing this action and it would be against the interests of justice
19 to penalize Plaintiff by forcing her to pay attorneys' fees from the recovery in this action.
20 Therefore, an award of attorneys' fees is appropriate under California Code of Civil Procedure §
21 1021.5.

22 Wherefore, Plaintiff prays for relief as set forth below.

23 **VII. SECOND CAUSE OF ACTION**

24 **(UNPAID WAGES, OVERTIME PAY, MINIMUM WAGES AND LIQUIDATED**
25 **DAMAGES – LABOR CODE §§ 510, 1194 AND 1194.2,**

26 **Los Angeles Citywide Minimum Wage Ordinance, Los Angeles County Minimum Wage**
27 **Ordinance, San Francisco City and County Minimum Wage Ordinance)**

28 58. Plaintiff repeats and realleges each and every paragraph above as though fully set

1 forth herein.

2 59. Labor Code § 1194 allows an individual a private right of action to pursue unpaid
3 wages, including unpaid minimum wages and overtime. If an employer does not pay an
4 employee at least the minimum wage for all hours worked, Labor Code § 1194.2 allows an
5 employee to recover liquidated damages equal to the amount up unpaid wages.

6 60. Labor Code § 510 and IWC Wage Order 4-2001, require, among other things:

7 (a) One and one-half times the employee's regular rate of pay for all hours
8 worked in excess of eight hours and up to and including 12 hours in any
9 workday, and for the first eight hours worked on the seventh consecutive
10 day of work in a workweek; and

11 (b) Double the employee's regular rate of pay for all hours worked in excess of
12 12 hours in any workday and for all hours worked in excess of eight hours
13 on the seventh consecutive day of work in a workweek.

14 61. Defendants had a policy and practice of failing to pay Plaintiff and other putative
15 class members for all hours worked by failing to pay them any wages, including minimum wages
16 and overtime pay, for any hours worked, including time spent on travel and uploading mandatory
17 reports and photographs.

18 62. Plaintiff seeks to recover all unpaid wages and overtime pay due to Plaintiff and
19 other putative class members, as well as minimum wages and liquidated damages, if appropriate,
20 and interest, under Labor Code §§ 218.6, 1194 and 1194.2 (as well as the higher minimum wage
21 rates established by the Los Angeles Citywide Minimum Wage Ordinance, and the Los Angeles
22 County Minimum Wage Ordinance, and the San Francisco City and County Minimum Wage
23 Ordinance, for those real property inspectors who worked in those jurisdictions).

24 63. Plaintiff seeks attorneys' fees and costs under Labor Code § 1194, which provides
25 for a private right of action to recover unpaid minimum wage and overtime compensation and
26 also provides for the recovery of attorneys' fees and costs.

27 Wherefore, Plaintiff prays for relief as set forth below.

28 //

VIII. THIRD CAUSE OF ACTION

**(UNPAID WAGES, OVERTIME PAY AND MINIMUM WAGES –
LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

64. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

65. California Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties on their own behalf and on behalf of other current and former employees.

66. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations were committed.

67. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 1194.

68. By the actions alleged herein, Defendants misclassified Plaintiff and other aggrieved employees as independent contractors and failed to pay Plaintiff and other aggrieved employees any wages, including minimum wages and overtime pay, for certain hours worked, all in violation of Labor Code §§ 1194, 1198 and 1199.

69. Therefore, Plaintiff and all current and former aggrieved employees demand the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 1194, 1198 and 1199.

70. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

IX. FOURTH CAUSE OF ACTION

(FAILURE TO PROVIDE MEAL PERIODS)

71. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

72. At all relevant times, the Defendants were “employers” of Plaintiff and members of the proposed class within the meaning of Labor Code §§ 226.7 and 512, and IWC Wage Order

1 4-2001, § 2(H).

2 73. At all relevant times, Plaintiff and members of the proposed class were
3 “employees” of Defendants within the meaning of Labor Code §§ 226.7 and 512, and IWC Wage
4 Order 4-2001, § 2(F). Plaintiff and members of the proposed class also were employed by
5 Defendants in “Professional, Technical, Clerical, Mechanical, and Similar Occupations” as
6 defined in and within the meaning of IWC Wage Order 4-2001, § 2(O).

7 74. At all relevant times, Labor Code §§ 226.7 and 512, and IWC Wage Order 4-2001,
8 § 11 provide that employees must receive a first meal period of not less than 30 minutes before
9 working more than five hours, and a second meal period of not less than 30 minutes before
10 working more than 10 hours in a day.

11 75. As alleged above, Defendants had a policy and practice of refusing and/or failing
12 to provide employees all of their required duty-free meal periods as mandated by Labor Code §§
13 226.7 and 512, and IWC Wage Order 4-2001, § 11(B). Plaintiff alleges that she and, on
14 information and belief, other members of the proposed class did not waive their rights to their
15 meal periods.

16 76. Defendants’ practices of failing to provide employees timely and uninterrupted
17 meal periods of not less than 30 minutes and of requiring employees to work through those meal
18 periods, violate Labor Code §§ 226.7 and 512(a), and IWC Wage Order 4-2001, § 11(B).

19 77. Plaintiff and members of proposed class have lost money as a direct result of
20 Defendants’ unlawful practices as alleged above in that they were not provided their required
21 meal periods, and were not compensated correctly for not having been provided such meal
22 periods, respectively. Accordingly, Plaintiff and members of the proposed class are entitled to
23 proper compensation, restitution and premium pay for each meal period that was not provided as
24 required by law and to the waiting time penalties attached to those violations.

25 78. Plaintiff is entitled to an award of attorneys’ fees and costs and expenses incurred
26 in this action under Code of Civil Procedure § 1021.5.

27 Wherefore, Plaintiff prays for relief as set forth below.

28 //

X. FIFTH CAUSE OF ACTION

(FAILURE TO PROVIDE MEAL PERIODS –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

79. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

80. California Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties on their own behalf and on behalf of other current and former employees.

81. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

82. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 226.7, 1198 and 1199.

83. By the actions alleged herein, Defendants misclassified Plaintiff and other aggrieved employees as independent contractors and failed to authorize and permit the required meal periods in violation of Labor Code §§ 226.7, 1198 and 1199.

84. Therefore, Plaintiff and all current and former aggrieved employees demand the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 226.7, 1198 and 1199.

85. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

XI. SIXTH CAUSE OF ACTION

(FAILURE TO AUTHORIZE AND PERMIT PAID REST PERIODS)

86. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

87. As alleged above, Defendants had a policy and practice of failing to authorize and permit Plaintiff and other putative class member to take discrete paid rest breaks of at least 10 minutes for every four hours worked or major fraction thereof as required by Labor Code § 226.7

1 and IWC Wage Order 41-2001, § 12(A).

2 88. Defendants' practices of failing to authorize and permit employees to take discrete
3 paid rest breaks of not less than 10 minutes for every four hours worked or major fraction thereof,
4 and of requiring employees to work through their rest breaks, violate Labor Code § 226.7 and
5 IWC Wage Order 4-2001, § 12(A).

6 89. Plaintiff and other putative class members lost money as a direct result of
7 Defendants' unlawful practices as alleged above in that they were not provided adequate paid rest
8 breaks and were not compensated correctly for not having been provided their paid rest breaks.
9 Accordingly, Plaintiff and other putative class members are entitled to proper compensation,
10 restitution and premium pay for each rest period that was not provided as required by Labor Code
11 § 226.7.

12 90. Plaintiff is entitled to an award of attorneys' fees and costs and expenses incurred
13 in this action under Code of Civil Procedure § 1021.5.

14 Wherefore, Plaintiff prays for relief as set forth below.

15 **XII. SEVENTH CAUSE OF ACTION**

16 **(FAILURE TO AUTHORIZE AND PERMIT THIRD REST PERIODS –**
17 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

18 91. Plaintiff repeats and realleges each and every paragraph above as though fully set
19 forth herein.

20 92. California Labor Code § 2699(f) permits "aggrieved employees" to recover certain
21 penalties on their own behalf and on behalf of other current and former employees.

22 93. Plaintiff is an "aggrieved employee" as that term is defined in the Labor Code
23 Private Attorneys General Act of 2004 because she is a person who was employed by the alleged
24 violators and against whom one or more of the alleged violations was committed.

25 94. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil
26 action against Defendants for violations of Labor Code §§ 226.7, 1198 and 1199.

27 95. By the actions alleged herein, Defendants misclassified Plaintiff and other
28 aggrieved employees as independent contractors and failed to authorize and permit the required

rest periods in violation of Labor Code §§ 226.7, 1198 and 1199.

96. Therefore, Plaintiff and all current and former aggrieved employees demand the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 226.7, 1198 and 1199.

97. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below

XIII. EIGHTH CAUSE OF ACTION
(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS)

98. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

99. As alleged above, during all or some portion of the proposed class period, Defendants violated Labor Code § 226 through their practice of failing to provide their employees, including Plaintiff and members of the proposed class, with complete and accurate itemized wage statements. Among other things, the wage statements provided by Defendants violated Labor Code § 226(a) by failing to state the total hours worked as well as the applicable piece rate units earned and the applicable piece rates.

100. Under Labor Code § 226(e), Plaintiff and members of the proposed class are entitled to recover the greater of actual damages or \$50 for the initial pay period in which a violation occurred and \$100 for each subsequent pay period in which Defendants failed to comply with the statute, up to a maximum of \$4,000 per employee.

101. Under Labor Code § 226(g), Plaintiff is entitled to injunctive relief and an order of this Court requiring Defendants to comply with all provisions of Labor Code § 226. Plaintiff also is entitled under Labor Code § 226(g) to an award of attorneys' fees and costs incurred in bringing this action.

Wherefore, Plaintiff prays for relief as set forth below.

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XIV. NINTH CAUSE OF ACTION

**(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS –
LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

102. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

103. California Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties on their own behalf and on behalf of other current and former employees.

104. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

105. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 226(a) and 226.3.

106. By the actions alleged herein, Defendants misclassified Plaintiff and other aggrieved employees as independent contractors and failed to comply with Labor Code §§ 226(a) and 226.3 as it relates to Plaintiff and the other aggrieved employees. As alleged above, NIIS implemented a policy and practice of failing to provide complete and accurate itemized wage statements to Plaintiff and other aggrieved employees as required by Labor Code § 226 in that the wage statements provided did not, among other things, display the total hours worked during the payroll period and the piece rate units earned and the applicable piece rate. In doing so, Defendants have violated Labor Code § 226(a) and 226.3.

107. Therefore, Plaintiff, for herself and all current and former aggrieved employees, demands the penalties provided by Labor code § 2699(f) for violations of Labor Code §§ 226(a) and 226.3.

108. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

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XV. TENTH CAUSE OF ACTION

(LABOR CODE §§ 201-203)

109. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

110. Labor Code §§ 201 and 202 require an employer to pay its employees all wages due within the time specified by law. Labor Code § 203 provides that if an employer willfully fails to pay those wages within the time specified by Labor Code §§ 201 or 202, the employer must continue to pay the subject employees' wages day-by-day, weekends included, until the back wages are paid in full or an action is commenced, up to a maximum of thirty days of wages.

111. Defendants unfairly and unlawfully have had a policy and practice of violating Labor Code §§ 201 and 202 by failing to pay Plaintiff and the class all wages earned in their employment within the time specified by those sections.

112. Plaintiff and all other putative class members who ceased employment with Defendants are entitled to unpaid compensation but thus far have not received that compensation.

113. More than 30 days have passed since Plaintiff and certain class members left Defendants' employ.

114. As a consequence of Defendants' willful failure to compensate Plaintiff and putative class members timely for all hours worked, Plaintiff and class members whose employment ended at any time the during the four-year period preceding the filing of this Complaint and up through the present and until compliance with the law are entitled to 30 days' wages under Labor Code § 203, together with interest.

Wherefore, Plaintiff prays for relief as set forth below.

XVI. TWELFTH CAUSE OF ACTION

(LABOR CODE §§ 201-203 –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

115. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

116. California Labor Code § 2699(f) permits "aggrieved employees" to recover certain

penalties on their own behalf and on behalf of other current and former employees.

117. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

118. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 201-203.

119. By the actions alleged herein, Defendants misclassified Plaintiff and other aggrieved employees as independent contractors and failed to comply with Labor Code §§ 201-203 as they relate to Plaintiff and the other aggrieved employees.

120. Therefore, Plaintiff, for herself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 201-203.

121. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

XVII. THIRTEENTH CAUSE OF ACTION

(FAILURE TO REIMBURSE BUSINESS EXPENSES – LABOR CODE § 2802)

122. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

123. At all relevant times, Labor Code § 2802 has required an employer to reimburse an employee for necessary expenditures and losses incurred by an employee in the direct consequence of the discharge of his or her duties.

124. As alleged above, during all or some portion of the proposed class period, NIIS violated Labor Code § 2802 through its practice of failing to reimburse Plaintiff and proposed class members for all necessary expenditure and losses.

125. Defendants’ failure to comply with Labor Code § 2802 has damaged Plaintiff and proposed class members. Plaintiff and proposed class members seek reimbursement for the expenditure and losses incurred in the discharge of their respective duties and/or on behalf of

Defendants, together with interest and attorneys' fees as provided by Labor Code §§ 218.6 and 2802(c).

126. Defendants' violations of Labor Code § 2802 as alleged above are ongoing and will continue unless and until the Court enter an injunction barring those violations.

Wherefore, Plaintiff prays for relief as set forth below.

XVIII. FOURTEENTH CAUSE OF ACTION

(LABOR CODE § 2802 –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

127. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

128. Labor Code § 2699(f) permits "aggrieved employees" to recover certain penalties on their own behalf and on behalf of other current and former employees.

129. Plaintiff is an "aggrieved employee" as that term is defined in PAGA because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

130. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 2802.

131. By their actions as alleged herein, Defendants have failed to comply with Labor Code § 2802 as it relates to Plaintiff and other aggrieved employees.

132. Plaintiff, for herself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 2802.

133. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

XIX. FIFTEENTH CAUSE OF ACTION

(LABOR CODE § 204 –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

134. Plaintiff repeats and realleges each and every paragraph above as though fully set

1 forth herein.

2 135. California Labor Code § 2699(f) permits “aggrieved employees” to recover certain
3 penalties on their own behalf and on behalf of other current and former employees.

4 136. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code
5 Private Attorneys General Act of 2004 because she is a person who was employed by the alleged
6 violators and against whom one or more of the alleged violations was committed.

7 137. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil
8 action against Defendants for violations of Labor Code § 204.

9 138. By the actions alleged herein, Defendants misclassified Plaintiff and other
10 aggrieved employees as independent contractors and Defendants have failed to comply with
11 Labor Code § 204 as they relate to Plaintiff and the other aggrieved employees.

12 139. Therefore, Plaintiff, for herself and all current and former aggrieved employees,
13 demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code § 204

14 140. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code §
15 2699(g)(1).

16 Wherefore, Plaintiff prays for relief as set forth below.

17 **XX. SIXTEENTH CAUSE OF ACTION**

18 **(WILLFUL MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT**
19 **CONTRACTORS- LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF**
20 **2004)**

21 141. Plaintiff repeats and realleges each and every paragraph above as though fully set
22 forth herein.

23 142. PAGA provides that, any provision of law under the Labor Code that provides for
24 a civil penalty to be assessed and collected by the Labor and Workforce Development Agency for
25 violation of the Labor Code, may, as an alternative, be recovered through a civil action brought
26 by an aggrieved employee pursuant to the procedures outlined in Labor Code § 2699.3.

27 143. Plaintiff is an “aggrieved employee” as that term is defined in PAGA because she
28 is a person who was employed by the alleged violators and against whom one or more of the

alleged violations was committed.

144. Labor Code Labor Code § 226.8(a)(1) makes it unlawful for any person or employer to willfully misclassify an individual as an independent contractor. Labor Code § 226.8(a)(2) makes it unlawful for any person or employer to charge an individual who has been willfully misclassified as an independent contractor a fee, or make any deductions from their compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment when any of those acts would have violated the law if the individual had not been misclassified.

145. At all relevant times, Defendants violated Labor Code § 226.8 by willfully misclassifying Plaintiff and other aggrieved employees as independent contractors.

146. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 226.8.

147. Therefore, Plaintiff, for herself and all current and former aggrieved employees, demands the maximum penalties provided by Labor Code §§ 226.8(b) and (c) and 2699(f) for violations of Labor Code § 226.8.

148. Plaintiff, for herself and all current and former aggrieved employees, requests the Court order Defendants to place the notice required by Labor Code § 226.8(e) on NIIS' websites.

149. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

XXI. SEVENTEENTH CAUSE OF ACTION
(REQUIRING EMPLOYEES TO AGREE TO UNLAWFUL TERMS AND
CONDITIONS - LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF
2004)

150. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

151. California Labor Code § 2699(f) permits "aggrieved employees" to recover certain penalties on their own behalf and on behalf of other current and former employees.

152. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because she is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

153. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 432.5.

154. By the actions alleged herein, Defendants misclassified Plaintiff and other aggrieved employees as independent contractors and Defendants have failed to comply with Labor Code § 432.5 as they relate to Plaintiff and the other aggrieved employees.

155. Therefore, Plaintiff, for herself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code § 432.5

156. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

Plaintiff prays for relief as follows:

- i. For an order certifying this action as a class action;
- ii. For disgorgement of profits and restitution and restoration of all costs incurred, sums or property unlawfully withheld and/or losses caused by the policy and practice of failing to pay all minimum wage, overtime and double-time compensation owed to Plaintiff and the class members in violation of Business and Professions Code §§ 17200, *et seq.*;
- iii. For disgorgement of profits and restitution and restoration of all costs incurred, sums or property unlawfully withheld and/or losses caused by the policy and practice of violating Business and Professions Code §§ 17200, *et seq.* by failing to provide proper meal periods and paid rest breaks and to pay all wages due and owing for those failures;
- iv. For disgorgement of profits and restitution and restoration of all costs incurred, sums or property unlawfully withheld and/or losses caused by the

- 1 policy and practice of violating Business and Professions Code §§ 17200,
2 *et seq.* by failing to reimburse employees for their expenditures and losses
3 incurred in the discharge of their respective duties on behalf of Defendants;
4 v. For compensatory damages in amounts according to proof at time of trial
5 representing the amount of unpaid minimum wage, overtime and double-
6 time compensation owed to Plaintiff and the class members for the policy
7 and practice of failing to pay all wages due and owing (as well as the
8 higher minimum wage rates established by the Los Angeles Citywide
9 Minimum Wage Ordinance, and the Los Angeles County Minimum Wage
10 Ordinance, and the San Francisco City and County Minimum Wage
11 Ordinance, for those real property inspectors who worked in those
12 jurisdictions), as well as liquidated damages as appropriate, during the
13 applicable limitations period preceding the original filing of the Complaint
14 and up to and including the present and until the date of compliance with
15 the law;
16 vi. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and
17 each current and former aggrieved employee for each violation of Labor
18 Code § 1194, 1198 and 1199 (failure to pay wages, including minimum
19 wages and overtime, for all hours worked) during the applicable limitations
20 period preceding the filing of the Complaint and up to and including the
21 present and until the date of compliance with the law; For compensatory
22 damages in amounts according to proof at time of trial representing the
23 amount of unpaid compensation owed to Plaintiff and class members for
24 missed meal periods and paid rest breaks due and owing during the
25 applicable limitations period preceding the original filing of the Complaint
26 and up to and including the present and until the date of compliance with
27 the law;
28

- vii. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code §§ 226.7, 512(a), 1198 and 1199 (missed meal periods) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- viii. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code §§ 226.7, 1198 and 1199 (missed rest periods) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- ix. For compensatory damages in amounts according to proof at trial owed to Plaintiff and class members representing the amount of unpaid reimbursement for the expenditures and losses incurred in the discharge of their respective duties on behalf of Defendants in violation of Labor Code § 2802 during the applicable limitations period preceding the original filing of the Complaint and up to and including the present and until the date of compliance with the law;
- x. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code § 2802 (unreimbursed business expenses) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- xi. For compensatory damages to Plaintiff and class members in an amount according to proof at time of trial for the policy and practice of failing to provide accurate, itemized wage statements during the applicable limitations period preceding the original filing of this Complaint and up through the present and until the date of compliance with the law;

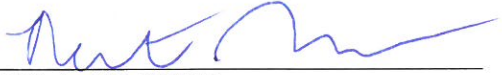
- xii. For the statutory amounts provided by Labor Code § 226(e) for Plaintiff and class members during the applicable limitations period preceding the original filing of this Complaint and up through and including the present and until the date of compliance with the law;
- xiii. For civil penalties as specified by Labor Code § 226.3 for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the original filing of the Complaint. (Should Labor Code § 226.3 be found not to apply to Defendants' violations of Labor Code § 226(a), Plaintiff alternatively seeks the civil penalties specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the original filing of the Complaint.)
- xiv. For waiting time penalties as provided by Labor Code § 203 for Plaintiff and class members;
- xv. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code §§ 201-203 (failure to pay departing employees all wages due and owing) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law
- xvi. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code § 204 (failure to pay wages in a timely manner) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;

- xvii. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current and former aggrieved employee for each violation of Labor Code § 226.8 (willful misclassification of employees as independent contractors) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- xviii. For civil penalties as allowed by Labor Code § 226.8 for Plaintiff and each current and former aggrieved employee during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- xix. For an order by the Court commanding Defendants to place the notice required by Labor Code § 226.8(e) on applicable websites.
- xx. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code § 432.5 (requiring employees to agree to unlawful terms and conditions) during the applicable limitations period preceding the filing of the Complaint and up to and including the present and until the date of compliance with the law;
- xxi. For reasonable attorneys' fees and costs as allowed by Labor Code §§ 226(e), 226(g), 1194(a), Labor Code § 2699(g)(1) and Code of Civil Procedure § 1021.5;
- xxii. For all interest as required by Labor Code § 218.6 and other applicable law;
- xxiii. For all costs of this suit as allowed by law, including Labor Code §§ 226(e), 226(g), and 1194; and
- xxiv. For such other and further relief as the Court may deem proper.

1 Dated: June 23, 2020

2 Respectfully submitted,

3 **KELLER GROVER LLP**

4
5 By: 

6 ERIC A. GROVER

7 ROBERT SPENCER

8 Attorneys for Plaintiff and the Proposed Class

9 **JURY TRIAL DEMAND**

10 Plaintiff demands a trial by jury as to all issues so triable.

11 Dated: June 23, 2020

12 **KELLER GROVER LLP**

13
14 By: 

15 ERIC A. GROVER

16 ROBERT SPENCER

17 Attorneys for Plaintiff and the Proposed Class

PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **June 23, 2020** in the case of *Collins v. National Insurance Inspection Services, Inc.* Los Angeles Superior Court Case Number 20STCV15619, I served the foregoing document(s):

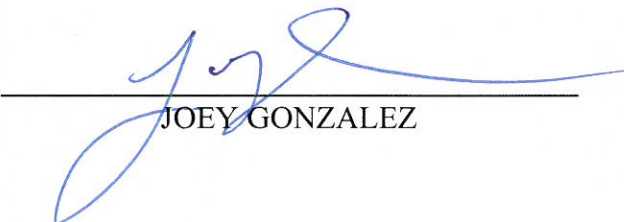
FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) below, using the following means:

Jeffrey McClure, Esq.
DAVENPORT GERSTNER &
MCCLURE, APC
2540 Camino Diablo, Suite 200
Walnut Creek California 94597

Attorneys for Defendant
**National Insurance Inspection
Services, Inc.**

☒	(BY UNITED STATES MAIL) I sealed the envelope(s), with postage thereon fully prepaid, and on the date below, following ordinary business practices, I placed it for collection and mailing in the United States Postal Service, in San Francisco, California.
☒	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



JOEY GONZALEZ

EXHIBIT C

08/08/2023

David W. Slayton, Executive Officer / Clerk of Court

FINAL RULINGS/ORDERS RE: MOTION FOR CLASS CERTIFICATION

Marriga

Deputy

Collins vs. National Insurance Inspection Services, Inc., Case
No.: 20STCV15619

Plaintiff's Motion for Class Certification is **GRANTED** on the condition that Plaintiff's counsel file and serve an adequate Trial Plan satisfying the superiority (manageability) element for class certification.

Plaintiff's Request for Judicial Notice is **GRANTED**.

Plaintiff must file and serve a brief by **September 8, 2023**.

Opposition brief must be filed and served by **September 18, 2023**.

Reply brief must be filed and served by **September 25, 2023**.

The Court sets a **Non-Appearance Case Review Re: Filing and Serving of Supplemental Briefing to Unconditionally Grant the Motion for Class Certification for October 2, 2023, 8:30 AM, Department 9**.

I.
INTRODUCTION

This is a putative wage-and-hour class action. Plaintiff Carla Collins alleges that she and the putative class members are and were employed by Defendant National Insurance Inspection Services, Inc. Plaintiff also alleges that Defendant violated the Labor Code, Industrial Welfare Commission wage orders, and the Business and Professions Code.

On April 22, 2020, Plaintiff filed a class action complaint. On June 24, 2020, Plaintiff filed a first amended complaint (FAC). In the FAC, Plaintiff asserts causes of action for (1) unfair business practices; (2) unpaid wages, overtime pay, and minimum wages; (4) failure to provide meal periods; (6) failure to authorize and permit rest periods; (8) failure to provide accurate itemized wage statements; (10) waiting time penalties; and (13) failure to reimburse business expenses. For these causes of action, Plaintiff also asserts derivative causes of action under the Private Attorneys General Act (PAGA) (causes

of action (3), (5), (7), (9), (12), and (14)). Plaintiff further asserts independent PAGA causes of action for (15) failure to timely pay wages; (16) willful misclassification of employees as independent contractors; and (17) requiring employees to agree to unlawful terms and conditions.¹

On May 16, 2023, Plaintiffs filed the pending motion for class certification.

II. DISCUSSION

A. Request for Judicial Notice.

Plaintiff requests judicial notice of Exhibit Q: Statement of Decision dated September 9, 2016 in Clothier v. Spar Marketing Services, Inc., Alameda Superior Court Case No. RG12639317.

Courts may take judicial notice of court records, but not of the truth of matters asserted in such documents if those matters are reasonably disputable. Evid. Code, § 452(d); Fremont Indemnity Co. v. Fremont General Corp. (2007) 148 Cal.App.4th 97, 113. Pursuant to Evidence Code § 452(d), the Court will take judicial notice of Exhibit Q, but not of the truth of any reasonably disputable matters contained in the document.

B. Defendant's Sur-Reply.

As an initial matter, the Court will disregard Defendant's sur-reply and accompanying declaration. Neither the Code of Civil Procedure nor the Rules of Court contemplate or permit sur-reply briefs. A party must seek leave of court before filing a sur-reply. Jacobs v. Coldwell Banker Residential Brokerage Co. (2017) 14 Cal.App.5th 438, 449. Thus, the Court has discretion to disregard Defendant's sur-reply and accompanying declaration.

C. General Standards on Motions for Class Certification

Code of Civil Procedure § 382 allows a court to certify a class action "when the question is one of a common interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court . . .".

¹ The FAC does not include an eleventh cause of action.

Additionally, "[t]here must be questions of law or fact common to the class that are substantially similar and predominate over the questions affecting the individual members; the claims of the representatives must be typical of the claims or defenses of the class; and the class representatives must be able to fairly and adequately protect the interests of the class." Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 237-238.

Stated differently, there are two broad requirements for a class action: (1) an ascertainable class; and (2) a well-defined community of interest. Hicks v. Kaufman & Broad Home Corp. (2001) 89 Cal.App.4th 908, 913. See also Brinker Restaurant Corp. v. Superior Court (2012) 53 Cal.4th 1004, 1021 (a plaintiff seeking certification "must demonstrate the existence of an ascertainable and sufficiently numerous class, a well-defined community of interest, and substantial benefits from certification that render proceeding as a class superior to the alternatives").

In determining whether the class is ascertainable, courts consider the size of the class, the class definition, and the means to identify class members. Reyes v. San Diego County Bd. of Supervisors (1987) 89 Cal.App.3d 1263, 1274. The community of interest factor is established by showing: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class. Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435.

Further, under California law, a class action is not "superior" where there are numerous and substantial questions affecting each class member's right to recover, following determination of liability to the class as a whole. City of San Jose v. Superior Court (1974) 12 Cal.3d 447, 459.

California follows the procedures set forth under Federal Rules of Civil Procedure 23 for class actions, whenever California authority is lacking. City of San Jose, 12 Cal.3d at 453. The potentially mandatory and discretionary factors applicable to class certification include:

- whether there is an ascertainable class (mandatory);
- whether there is a well-defined community of interest as to common questions of law or fact that predominate (mandatory);
- whether the class is so numerous that joinder of all members is impractical;

- whether the claims of the representative plaintiff are typical of the class;
- whether substantial benefits accrue to the litigants and courts;
- whether the proposed class is manageable;
- whether the person representing the class is able to protect the interests of the class fairly and adequately; and
- whether a class action is superior (including whether individual plaintiffs would bring claims for small sums).

E.g., Feitelberg v. Credit Suisse First Boston, LLC (2005) 134 Cal.App.4th 997, 1014; Linder, 23 Cal.4th at 435; Prince v. CLS Transportation, Inc. (2004) 118 Cal.App.4th 1320, 1324; In re Cipro Cases I and II (2004) 121 Cal.App.4th 402, 409; California Practice Guide, Civil Procedure Before Trial (Rutter Group 2020) ¶¶ 14:11-14:50 (Rutter Guide).

The burden of proof on a motion for class certification is on the party seeking certification. Washington Mutual Bank, N.A. v. Superior Court (2001) 24 Cal.4th 906, 922; Soderstedt v. CBIZ S. California, LLC (2011) 197 Cal.App.4th 133, 154. This usually requires demonstration of predominance of common issues of law and fact, and manageability of the proposed class. Lockheed Martin Corp. v. Superior Court (2003) 29 Cal.4th 1096, 1103-1104; Rutter Guide at ¶ 14:99.2.

In making the determination as to whether the requirements for a class action have been met, a court may consider not only the parties' pleadings but also extrinsic evidence, including declarations and discovery responses. Rutter Guide at ¶ 14:99. Importantly, in weighing the evidence, a court does not evaluate whether the claims asserted are legally or factually meritorious. Linder, 23 Cal.4th at 439-440. "However, 'when the merits of the claim are enmeshed with class action requirements, the trial court must consider evidence bearing on the factual elements necessary to determine whether to certify the class.'" Rutter Guide at ¶ 14:100.1 (citing Bartold v. Glendale Federal Bank (2000) 81 Cal.App.4th 816, 829; Brinker, 53 Cal.4th at 1023-1024; J.P. Morgan & Co., Inc. v. Superior Court (2003) 113 Cal.App.4th 195, 222).

D. The Proposed Classes Are Presently Ascertainable.

"Ascertainability requires a class definition that is 'precise, objective and presently ascertainable.' Otherwise, it

is not possible to give adequate notice to class members or to determine after the litigation has concluded who is barred from relitigating.” Rutter Guide, at ¶ 14:23 (citing Global Minerals & Metals Corp. v. Superior Court (2003) 113 Cal.App.4th 836, 858) (emphasis added). The class should be defined in terms of objective characteristics and common transactional facts that will enable identification of the class members when such identification becomes necessary. Hicks, 89 Cal.App.4th at 915.

The goal is to use terminology that will convey sufficient meaning “to enable persons hearing it to determine whether they are members of the class plaintiffs wish to represent.” Global Minerals, 113 Cal.App.4th at 858. Importantly, a class may be ascertainable even if the definition includes ultimate facts or conclusions of law. Hicks, 89 Cal.App.4th at pp. 915-916. “Class members are ‘ascertainable’ where they may be readily identified without unreasonable expense or time by reference to official records. [Citation.]” Thompson v. Automobile Club of Southern California (2013) 217 Cal.App.4th 719, 728 (internal quotations omitted); see also Bridgeford v. PacificHealth Corp. (2012) 202 Cal.App.4th 1034, 1041.

Plaintiffs seek to certify the following class:

All individuals who work or have worked for National Insurance Inspection Services, Inc. in California as real property inspectors and who are or were classified as independent contractors at any time between April 22, 2016 and the present.

Memorandum at 1.

Plaintiffs seek to certify the following subclasses:

Labor Code § 203 subclass. All individuals who have worked for National Insurance Inspection Services, Inc. in California as real property inspectors, who were classified as independent contractors at any time between April 22, 2017 and the present and who no longer work for Defendant.

Labor Code § 226(a) subclass. All individuals who have worked for National Insurance Inspection Services, Inc. in California as real property inspectors, who were classified as independent contractors at any time between April 22, 2019 and the present.

Id.

The putative class and subclass members are readily identifiable from Defendant's business and personnel records. Grover Decl., Exh. B (Pltf. SROG No. 1), Exh. C (Def. Response to SROG 1).

Plaintiff established with substantial evidence that the proposed class and subclasses are ascertainable. Defendant does not contest this issue and appears to have waived it.

E. The Proposed Classes Are Sufficiently Numerous.

No set number is required as a matter of law for the maintenance of a class action. Hebbard v. Colgrove (1972) 28 Cal.App.3d 1017, 1030. California case law indicates that as few as ten (10) or twenty-eight (28) members satisfies numerosity. Bowles v. Superior Court (1955) 44 Cal.2d 574, 578-579; Hebbard, 28 Cal.App.3d at 1030.

The proposed class has at least 402 members. Grover Decl., Exh. B (Pltf. SROG No. 1), Exh. C (Def. Response to SROG 1). Additionally, Defendant does not contest this issue and has waived it. Therefore, the proposed class is sufficiently numerous.

F. Common Issues Predominate Over Individual Issues.

1. General Standards on Commonality

In deciding whether the common questions "predominate," courts must identify the common and individual issues; consider the manageability of those issues; and, taking into account the available management tools, weigh the common issues against the individual issues to determine which of them predominate. Rutter Guide at ¶ 14:16 (citing Dunbar v. Albertson's, Inc. (2006) 141 Cal.App.4th 1422, 1432-1433).

Additionally, a class action is not inappropriate simply because each member of the class may at some point be required to make an individual showing as to his or her eligibility for recovery or as to the amount of his or her damages. Vasquez v. Superior Court (1971) 4 Cal.3d 800, 815-816. However, a class action "will not be permitted . . . where there are diverse factual issues to be resolved, even though there may be many common questions of law." Brown v. Regents of Univ. of

California (1984) 151 Cal.App.3d 982, 988-89. "[E]ach member must not be required to individually litigate numerous and substantial questions to determine his right to recover following the class judgment." City of San Jose, 12 Cal.3d at 460.

In Arenas v. El Torito, Inc. (2010) 183 Cal.App.4th 723, the Court of Appeal observed:

The focus in a class certification dispute is not entirely on the merits but on the procedural issue of what types of questions are likely to arise in the litigation—common or individual. [Citations.] Thus, the existence of some common issues of law and fact does not dispose of the class certification issue. [Citations.] Rather, in order to justify class certification, the Supreme Court held, "[T]he proponent of certification must show . . . that questions of law or fact common to the class predominate over the questions affecting the individual members"

Id. at 732 (emphasis added).

The court in Jaimez v. Daiohs USA, Inc. (2009) 181 Cal.App.4th 1286, 1298 recognized that that "the trial court must evaluate whether the theory of recovery advanced by the plaintiff is likely to prove amenable to class treatment" (quoting Ghazaryan v. Diva Limousine, Ltd. (2008) 169 Cal.App.4th 1524, 1531) (emphasis added).

"Predominance is a comparative concept, and 'the necessity for class members to individually establish eligibility does not mean individual fact questions predominate.' [Citation.]" Medraza v. Honda of North Hollywood (2008) 166 Cal.App.4th 89, 99-100. Common issues are predominant when such issues would be primary to each individual action. Caro v. Procter & Gamble Co. (1993) 18 Cal.App.4th 644, 667-668.

In addressing the commonality element, the Brinker court stated, in pertinent part:

[W]hether common or individual questions predominate will often depend upon resolution of issues closely tied to the merits. [Citations.] To assess predominance, a court "must examine the issues framed by the pleadings and the law applicable to the causes

of action alleged.” [Citation.] It must determine whether the elements necessary to establish liability are susceptible of common proof or, if not, whether there are ways to manage effectively proof of any elements that may require individualized evidence. [Citation.] In turn, whether an element may be established collectively or only individually, plaintiff by plaintiff, can turn on the precise nature of the element and require resolution of disputed legal or factual issues affecting the merits. For example, whether reliance or a breach of duty can be demonstrated collectively or poses insuperable problems of individualized proof may be determinable only after closer inspection of the nature of the reliance required or duty owed and, in some instances, resolution of legal or factual disputes going directly to the merits.

Brinker, 53 Cal.4th at 1024 (emphasis added).

In sum:

Presented with a class certification motion, a trial court must examine the plaintiff’s theory of recovery, assess the nature of the legal and factual disputes likely to be presented, and decide whether individual or common issues predominate. To the extent the propriety of certification depends upon disputed threshold legal or factual questions, a court may, and indeed must, resolve them. Out of respect for the problems arising from one-way intervention, however, a court generally should eschew resolution of such issues unless necessary. [Citation.]

Brinker, 53 Cal.4th at 1025.

2. Commonality as to Misclassification as Independent Contractors.

“An independent contractor is one who renders service in the course of an independent employment or occupation, following his employer’s desires only as to the results of the work, and not as to the means whereby it is to be accomplished. [Citations]” McDonald v. Shell Oil Co. (1955) 44 Cal.2d 785, 788. “The most significant factor in determining the existence of an employer-independent contractor relationship is the right to control the manner and means by which the work is to be

performed. [Citations.]” White v. Uniroyal, Inc. (1984) 155 Cal.App.3d 1, 25 overruled on other grounds by Soule v. General Motors Corp. (1994) 8 Cal.4th 548. “If control may be exercised only as to the result of the work and not the means by which it is accomplished, an independent contractor relationship is established. [Citation.]” Tieberg v. Unemployment Ins. App. Bd. (1970) 2 Cal.3d 943, 946-947.

In Dynamex Operations W. v. Superior Court (2018) 4 Cal.5th 903, the California Supreme Court adopted the “ABC” test to determine whether a worker is misclassified as an independent contractor. Under the “ABC” test,

. . . unless the hiring entity establishes (A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact, (B) that the worker performs work that is outside the usual course of the hiring entity’s business, and (C) that the worker is customarily engaged in an independently established trade, occupation, or business, the worker should be considered an employee and the hiring business an employer under the suffer or permit to work standard in wage orders.

Id. at 964. The California Legislature later codified Dynamex’s holding as Labor Code § 2775(b)(1). In addition, Labor Code §§ 2776 et seq. sets forth numerous occupation-based exceptions to the Dynamex rule. For those occupations where Dynamex does not apply, courts must apply the test set forth in S. G. Borello & Sons, Inc. v. Department of Industrial Relations (1989) 48 Cal.3d 341.

Relevant here is the exception for “underwriting inspector.” Lab. Code, § 2783(a). Here, the parties agree that the Borello test applies in determining whether the inspectors at issue are employees or independent contractors.

a. Control Over Inspectors’ Work.

The Borello test for employment focuses primarily on whether an employer has the right to control an employee’s work. 48 Cal.3d at 350.

Plaintiff presented substantial evidence that whether Defendant retains the right to control inspectors’ work is an

issue susceptible to common proof. First, Defendant requires all prospective inspectors to sign a standardized "Independent Contractor Agreement" (ICA). Grover Decl., Exh. E (Independent Contractor Agreement [Jan. 2020-present] ("2020 ICA"); Exh. F (pre-2020 ICA); Exh. M (PMK Depo.) at 21:14-24:3; Collins Decl., ¶¶ 3, 17-18. The provisions of the ICA and its attached fee schedule are non-negotiable. Id., Exh. M at 29:1-13; Collins Decl., ¶ 18. Both versions of the ICA require inspectors to pay for all business expenses themselves. Id., Exh. F, ¶ 9; Exh. E; Exh. M at 33:8-15.

Second, Defendant negotiates and contracts with insurance carriers to provide real property inspections. Inspectors do not participate in such negotiations. Grover Decl., Exh. M at 20:3-5, 20:12-19.

Third, Defendant has no other workers who perform property inspections. Grover Decl., Exh. M at 29:14-30:2, 30:10-23. Defendant notes that it also contracts with Alternative Field Representatives (AFRs) to inspect properties. However, Defendant has not shown how the inspection work that AFRs perform significantly differs from that performed by the inspectors in the putative class. In other words, it appears that AFRs also must adhere to Defendant's inspection methods, use Defendant's inspection forms, and use Defendant's intranet for assignment scheduling and completion.

Fourth, Defendant's uniform policies and practices dictate how, when, and where inspectors must perform their work. Defendant provides all new inspectors with orientation that includes step-by-step training videos detailing how to perform each aspect of the inspection process. Grover Decl., Exh. N (Training Video Transcript at 2); Exh. M (64:19-65:11, 104:6-107:5, 107:15-143:2). Defendant also has a subset of policies for certain clients such as State Farm. Id., Exh. N at 156:6-168:16.

Each day, Defendant's clients place orders for property inspections with NIIS throughout each day. Defendant's computer system automatically assigns the work to an inspector who works in the zip code where the property is located. If no inspector is located in that zip code, Defendant contacts inspectors to ask if they would be willing to do the inspection. Grover Decl., Exh. N at 43:15-44:11; Exh. M at 34:5-13, 35:10-36:8. To track their work assignments, inspectors access Defendant's intranet, where Defendant provides deadlines for each inspection, the type of inspection required, whether an

appointment is required, the property address, and other necessary details. Grover Decl., Exh. N at 46:20-61:19; Exh. M at 34:14-35:9, 121:3-11.

For each assignment, Defendant generates a checklist inspection form, which is standardized based on the inspection type. Grover Decl., Exh. H (sample inspection form); Exh. M at 54:14-55:19; Exh. N at 9:17-20, 10:5-8, 30:1-34:18; 64:1-65:9. As they perform each inspection task, inspectors check off the corresponding box on in the inspection form.

Defendant also requires inspectors to perform assignments within certain time windows. These time windows are sometimes shorter than client requirements. Grover Decl., Exh. M at 84:24-87:24; Exh. N at 49:1-50:15. If an inspector does not complete the assignment within the time window, Defendant charges a penalty, reducing the amount it pays the inspector. Id., Exh. M at 151:1-24; 163:14- 165:4), Exh. J (Orientation Materials).

The inspections are simple data collection tasks, for which Defendant provides step-by-step training and instruction. Inspection types include observation, exterior, and interior inspections. These tasks do not require specialized skill or training to perform. Defendant provides the training needed to perform all inspection tasks. After completing each assignment, inspectors must input the data they collected into an online inspection form, upload the required photos, and then submit to Defendant for approval. Grover Decl., Exh. M at 40:9-20, 41:7-16, 82:22-83:13; Exh. N at 18:5-8, 21:10-24:21, 25:6-29:2, 34:17-36:3.

Furthermore, Defendant has full-time Quality Assurance (QA) employees who review each inspection form that inspectors submit. Glover Decl., Exh. M at 9:25-10:14, 11:5-7, 16:16-17, 41:7-23); Exh. N at 44:19- 46:19. If the QA team approves an inspection form, it automatically authorizes payment to the inspector. If QA finds a missing item or an error on the inspection form, it will mark the job as incomplete with instructions as to what the inspector must correct. The inspector then must either correct the inspection report or return to the property to gather the missing data and resubmit the inspection form for QA review.

Fifth, Defendant sets the pay rates for all inspectors. Inspectors do not submit invoices to Defendant for each assignment. Glover Decl., Exh. M at 40:5-41:19.

Finally, Defendant controls other aspects of the inspectors' work. Defendant requires inspectors to adhere to its dress code, wear a badge when performing the inspection work, and provides them with business cards. Glover Decl., Exh. J (orientation materials) at CVN 1002; Exh. K (name badge), Exh. L (business card); Exh. M at 128:19-129:14, 160:22-161:22, 165:8-13, 191:25-193:7. NIIS instructs Inspectors to introduce themselves to property owner/occupants as "[name] with National Insurance Inspection Services." Id., Exh. N at 4:7-8, 170:10-12. Defendant can fire inspectors immediately upon written notice. Id., Exh. F (pre-2020 ICA), Exh. E (2020 ICA) at CVN 1010, § 17, "Termination"; Exh. M at 47:7-24.

Defendant contends that certification is not warranted because (1) insurance carriers, rather than Defendant, set inspection parameters; (2) inspectors set their own working days and schedules; (3) inspectors manage their businesses as they deem appropriate, which includes accepting work from other clients and hiring their own employees; (4) inspectors have the right to reject assignments; (5) inspectors have requested increases and decreases in their inspection areas; (6) inspectors can negotiate fees; (7) Defendant's quality control measures ensure that inspection reports meet insurance carrier standards; and (8) the Section 2783 exception is based on Defendant's business model and practices of treating inspectors as independent contractors. However, as discussed more fully below, these contentions do not defeat commonality and instead appear to be defenses more appropriate to the merits stage of the proceedings.

As noted above, common questions predominate as to Defendant's control of inspectors' wages, hours, and working conditions. These questions can be addressed through common evidence such as Defendant's ICAs, fee schedules, form inspection reports, training videos, intranet portal, and QA procedures.

Even if Defendant's work requirements are based on customer demands, such requirements are still evidence of Defendant's control. See, e.g., Narayan v. EGL, Inc. (9th Cir. 2010) 616 F.3d 895, 902 (work requirements "imposed to meet the industry standard, the DOT regulation, and . . . customer's requirements" are evidence of control); Hurst v. Buczek Enterprises, LLC (N.D. Cal. 2012) 870 F.Supp.2d 810, 826 (supervision was evidence of control even if at behest of clients or to comply with government regulations). If employer control were vitiated by

customer demands, then "any worker who completes tasks that are geared toward implementing client requests would become a contractor rather than an employee." Id. at 826. The Hurst court also noted that "at some level, all company control and supervision over its workers are geared toward satisfying its clients and customers." Id.

Defendant also tries to raise individualized issues by pointing to exceptions to its general procedures and practices. For example, Defendant notes several occasions where inspectors negotiated higher fees for assignments that were out-of-town and required the inspectors to drive an unusually long distance, or for exceptionally large properties. Def. Decls.; Exh. B at ¶ 12 (higher fees for remote assignments); Exh. C at ¶ 10 (same); Exh. D at ¶ 12 (same); Exh. E at ¶ 12 (same); Exh. G at ¶ 12 (same); Exh. J at ¶ 11 (same); Exh. H at ¶ 13 (same); Exh. M at ¶ 10; Exh. O at 11 (same); Exh. P at ¶ 11 (same). Yet these limited occasions do not negate the common evidence that Defendant almost always pays inspectors according to a uniform corporate policy and practice, based on a pre-determined rate set by Defendant.

Next, Defendant contends that it does not control the hours that inspectors work because they set their own schedules. However, Defendant imposes its own assignment completion deadlines and charges a penalty if inspectors do not timely complete assignments.

Finally, Defendant's "industry custom" contention is unavailing. Notably, industry custom is not a factor under the Borello test. In addition, Labor Code § 2783 simply states that the Borello test applies to insurance inspectors.

b. Secondary Borello Factors.

Plaintiff has also provided substantial evidence that whether the secondary Borello factors are met is an issue susceptible to common proof. The secondary Borello factors include:

- (a) whether the one performing services is engaged in a distinct occupation or business;
- (b) the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the principal or by a specialist without supervision;
- (c) the skill required in the particular occupation;
- (d) whether the principal or the worker

supplies the instrumentalities, tools, and the place of work for the person doing the work; (e) the length of time for which the services are to be performed; (f) the method of payment, whether by the time or by the job; (g) whether or not the work is a part of the regular business of the principal; and (h) whether or not the parties believe they are creating the relationship of employer-employee.

Borello, 48 Cal.3d at 351; see also Estrada v. FedEx Ground Package System, Inc. (2007) 154 Cal.App.4th 1, 10.

Defendant briefly suggests – without further analysis – that the Court would have to assess inspectors individually to determine whether they were in a distinct occupation or business. However, this issue can be resolved by common proof. As noted above, Defendant provides inspection services to its clients. The inspectors perform the inspections for Defendant as Defendant's labor force. As such, both Defendant and the inspectors are involved in the same occupation and business. Defendant notes that 80% of 105 current inspectors have registered as "dbas" or are incorporated. Goldsborough Decl., ¶ 5. Yet this appears to be additional evidence of control, as the current ICA requires inspectors to form a business association. Grover Decl., Exh. E, § 5.

In addition, the length of time worked by each inspector is a common question. Under the ICA, Defendant assigns work to inspectors until the inspector notifies Defendant to stop doing so or until Defendant terminates the inspector. As such, how long each individual inspector actually worked for Defendant is irrelevant. In any event, the right to discharge at will, without cause, is also strong evidence of an employment relationship. Borello, 48 Cal.3d at 350.

Next, a worker's use of helpers is a further factor that courts consider under Borello. Here, Defendant's supporting class member declarations note the use of helpers, yet these appear to be limited to close relatives. Def. Decls., Exh. B, ¶ 8 (wife assists in uploading photos and doing sketches); Exh. E, ¶ 9 (father and son assist each other with inspections); Exh. P, ¶ 10 (wife assists with submitting reports). Only one of Defendant's declarants, David Randin, attests to having actual employees. Def. Decls., Exh. K, ¶¶ 6-7. This sole outlier (0.002% of the putative class) does not defeat commonality. In any event, Randin also attests that he performs most of the inspection work himself. Id., ¶ 6.

Finally, contrary to Defendant's contention, the parties' subjective beliefs do not weigh against class certification. "The parties' label is not dispositive and will be ignored if their actual conduct establishes a different relationship." Estrada, 54 Cal.App.4th at 10-11.

3. Commonality as to Unpaid Overtime Claim.

Labor Code § 510 requires overtime to be paid to nonexempt employees for all hours worked in excess of eight hours per day and 40 hours per week. "'Hours worked' means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs., tit. 8, § 11040(2)(K); see also Mendiola v. CPS Security Solutions, Inc. (2015) 60 Cal.4th 833, 840. Class certification for a claim of off-the-clock work requires a common policy, a common method of proof, and evidence that an employer "knew or should have known off-the-clock work was occurring[.]" Brinker, 53 Cal.4th at 1051.

Defendant admits that it (1) does not pay inspectors for travel time or clerical tasks; (2) pays a flat rate regardless of time actually worked; (3) does not pay overtime; and (4) does not comply with wage-and-hour laws because it classifies all inspectors as independent contractors. As such, if Plaintiff proves that inspectors are Defendant's employees, whether Defendant failed to pay overtime can be proven on a class basis. Defendant contends that there is insufficient evidence of inspectors' daily hours worked to support an unpaid overtime claim. Defendant also contends that Plaintiff's Exhibit I is a "one-off" document created to estimate how long an inspector worked on a given day, and that such records were not regularly kept during the course of business.

However, the presence or absence of such evidence does not defeat commonality. Whether Defendant had a lawful overtime policy is an issue susceptible to common proof. Plaintiff's claim will depend on common evidence such as Defendant's payroll records, and whether Plaintiff can show that any violations actually occurred will be a question of damages. An employer's liability arises by adopting an unlawful, uniform policy, and whether an individual employee performed unpaid overtime is a question of damages. See, e.g., Faulkinbury v. Boyd & Associates, Inc. (2013) 216 Cal.App.4th 220, 235 (addressing

meal break violations), disapproved on other grounds by Noel v. Thrifty Payless, Inc. (2019) 7 Cal.5th 955.

Plaintiff established with substantial evidence that common questions predominate as to her unpaid overtime claim.

4. Commonality as to Meal and Rest Break Claims.

Under Labor Code § 512(a):

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

Under Brinker, “[a]bsent circumstances permitting an on-duty meal period, an employer’s obligation is to provide an off duty meal period: an uninterrupted 30-minute period during which the employee is relieved of all duty.” The employer “need not ensure that the employee does no work.” Id. at 1034. “Proof an employer had knowledge of employees working through meal periods will not alone subject the employer to liability for premium pay; employees cannot manipulate the flexibility granted them by employers to use their breaks as they see fit to generate such liability.” Id. at 1040. However, “an employer may not undermine a formal policy of providing meal breaks by pressuring employees to perform their duties in ways that omit breaks.” Id.

Generally, an employer must provide paid rest periods of a specified minimum duration, e.g., ten minutes of rest for every four hours worked, or major fraction thereof. See Cal. Code Regs., tit. 8, § 11040, ¶ 12. “During required rest periods, employers must relieve their employees of all duties and relinquish any control over how employees spend their break time.” Augustus v. ABM Security Services, Inc. (2016) 2 Cal.5th at 257, 260.

Defendant admits that it had no meal or rest break policy because it classifies inspectors as independent contractors. Grover Decl., Exh. M at 167:2-12. Thus, Defendant never authorized and inspectors never took uninterrupted, off-duty, 30-minute meal periods. Nor did Defendant authorize or inspectors take periodic rest breaks. As such, any meal or rest breaks the inspectors took were unpaid.

In Bradley v. Networkers Internat., LLC (2012) 211 Cal.App.4th 1129, the employer admitted that it did not comply with the wage and hour laws because it classified its workers as independent contractors. Id. at 1145-47, 1149. The Bradley court held that, pursuant to Brinker, the employer's lack of a meal and rest period policy was an issue susceptible to common proof. Id. at 1149-54. As with Plaintiff's unpaid overtime claim, whether inspectors actually took compliant meal and rest breaks is a question of damages and does not defeat certification.

Plaintiff established with substantial evidence that common questions predominate as to her meal and rest break claims.

5. Commonality as to Wage Statement Claim.

In California, employers must furnish employees with accurate itemized wage statements showing, inter alia, the "total hours worked by the employee," and "all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employees." Lab. Code, § 226(a)(6). Here, because Defendant classifies inspectors as independent contractors, Defendant does not issue paystubs to inspectors in violation of Labor Code § 226. Thus, Defendant's liability under Labor Code § 226 turns on the employee classification question, which is subject to common proof.

Plaintiff established with substantial evidence that common questions predominate as to her wage statement claim.

6. Commonality as to Waiting Time Penalties Claim.

Labor Code §§ 201-202 require an employer to pay departing employees all accrued wages within strict statutory time limits. When the employer willfully fails to do so, the unpaid wages accrue as a penalty for up to 30 days. Lab. Code, § 203.

Defendant classifies inspectors as independent contractors and thus does not pay overtime wages or premiums for missed meal and rest breaks. As such, Defendant has failed to pay all wages due on termination. This issue is appropriate for class treatment.

Plaintiff established with substantial evidence that common questions predominate as to her waiting time penalties claim.

7. Commonality as to Reimbursement Claim.

Under Labor Code § 2802, an employer must indemnify its employees "for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties[.]" Lab. Code, § 2802(a). The elements of a Section 2802(a) cause of action are: "(1) the employee made expenditures or incurred losses; (2) the expenditures or losses were incurred in direct consequence of the employee's discharge of his or her duties, or obedience to the directions of the employer; and (3) the expenditures or losses were necessary." Cassady v. Morgan, Lewis & Bockius LLP (2006) 145 Cal.App.4th 220, 230 (emphasis added).

Defendant admits that it does not reimburse inspectors' business expenses because they are classified as independent contractors. Whether inspectors' business expenses were reasonable and should have been reimbursed can be determined on a class basis because inspectors incur similar business expenses. If Plaintiff establishes that inspectors are employees, the reasonableness of those expenses is a question subject to common proof. Whether individual inspectors' expenses were incurred for their work for Defendant or for other clients is a question of damages and does not defeat certification.

Plaintiff established with substantial evidence that common questions predominate as to her reimbursement claim.

8. Commonality as to UCL Claim.

Under Business and Professions Code § 17200, "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising." Business and Professions Code § 17204, which was amended by Proposition 64, allows a private person to bring an action for violation of the UCL when he "has suffered injury in fact and has lost money or property

as a result of such unfair competition.” Durell v. Sharp Healthcare (2010) 183 Cal.App.4th 1350, 1359 (emphasis added). “[T]his second prong imposes a causation requirement. The phrase ‘as a result of’ in its plain and ordinary sense means ‘caused by’ and requires a showing of a causal connection or reliance on the alleged misrepresentation.” Hall v. Time, Inc. (2008) 158 Cal.App.4th 847, 855.

“Unlike other states’ Acts, the UCL permits a cause of action to be brought if a practice violates some other law. In effect, the ‘unlawful’ prong of § 17200 makes a violation of the underlying law a per se violation of §17200.” Cal. Practice Guide, Business & Professions Code Section 17200 Practice (Rutter Group 2023), ¶ 3:53 (citing Kasky v. Nike, Inc. (2002) 27 Cal.4th 939, 950).

Compensatory damages are not available in a UCL action. Dean Witter Reynolds, Inc. v. Superior Court (1989) 211 Cal.App.3d 758, 774, reh’g denied and opinion modified July 21, 1989. Instead, a court may order the restitution of any money or property acquired as a result of unfair competition. Bus. & Prof. Code, § 17203.

Labor Code violations are actionable under the UCL. “[O]rders for payment of wages unlawfully withheld from an employee are . . . a restitutionary remedy authorized by section 17203.” Cortez v. Purolator Air Filtration Products Co. (2000) 23 Cal.4th 163, 177.

Plaintiff established commonality as to her overtime claim, her meal and rest break claims, her wage statement claim, her waiting time penalties claim, and her reimbursement claim. As such, Plaintiff’s derivative UCL claim is also susceptible to common proof.

Plaintiff established with substantial evidence that common questions predominate as to her Unfair Competition Law (UCL) claim.

G. Plaintiff’s Claims Are Typical.

The purported class representative’s claim must be “typical” but not necessarily identical to the claims of other class members. It is sufficient that the representative is similarly situated so that he or she will have the motive to litigate on behalf of all class members. Classen v. Weller (1983) 145 Cal.App.3d 27, 45. Thus, it is not necessary that

the class representative have personally incurred all of the damages suffered by each of the other class members. Wershba, 91 Cal.App.4th at 228.

Typicality refers to the nature of the claim or defense of the class representative, and not to the specific facts from which it arose or the relief sought. The test of typicality is whether other members have the same or similar injury, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.

Seastrom v. Neways, Inc. (2007) 149 Cal.App.4th 1496, 1502.

"A class representative who does not have a claim against the defendants cannot satisfy the typicality requirement." Martinez v. Joe's Crab Shack Holdings (2014) 231 Cal.App.4th 362, 375. In addition, "the typicality requirement demands that a member of the class be the class representative." 1 Rubenstein, Conte & Newberg, Newberg on Class Actions (5th ed. 2011) § 3:28.

Plaintiff's and the putative class members' claims and injuries are based on the same legal theories and arise out of Defendant's unlawful policies and practices. Plaintiff's claims are therefore typical of the putative class members' claims. Defendant contends that typicality is not satisfied because (1) Plaintiff's inspection practices diverge significantly from the other inspectors; (2) numerous inspectors signed releases; (3) numerous inspectors opted out; and (4) AFRs are atypical of the class.

First, Defendant alludes to "divergent" practices but does not clearly identify examples of such divergence. Although Defendant outlines in its statement of facts a handful of differences between individual inspectors, it is unclear which of these differences defeats typicality. In any event, the issue is whether Plaintiff and the putative class member suffered *similar* injuries, not whether their damages are *identical*. Plaintiff has shown that she and the putative class members may have experienced similar wage-and-hour violations because Defendant allegedly misclassified them as independent contractors.

Second, Plaintiff contends that the purported releases obtained by Defendant should be invalidated because of

Defendant's coercion and because the releases fail to disclose the correct case number, the case name, the contact information of Plaintiff's counsel, or the specific causes of action. The Court declines to invalidate the releases now. However, this is without prejudice to Plaintiff's challenging the validity of the releases during the merits stage, where Defendant may raise the releases as an affirmative defense.

Third, that certain class members opted out from this class action is irrelevant to typicality. Inspectors who opted out are no longer members of the putative class. The typicality inquiry addresses only whether Plaintiff and the remaining members of the putative class are similarly situated. Finally, the existence of AFRs does not defeat typicality. Defendant does not identify any specific policy or practice applicable to inspectors that are different for AFRs.

H. Counsel and Plaintiff Are Adequate Representatives.

"The primary criterion in determining adequacy of representation is whether the representative, through qualified counsel, vigorously and tenaciously protected the interests of the class." Simons v. Horowitz (1984) 151 Cal.App.3d 834, 846. Additionally, the class representative must "raise claims reasonably expected to be raised by the members of the class." City of San Jose, 12 Cal.3d at 464. The fiduciary duty must be undertaken free of demonstrable conflicts of interest with other class members. Amchem Prods. Inc. v. Windsor (1997) 521 U.S. 591, 625-626. The "adequacy of representation" requirement has not been precisely differentiated from the typicality requirement. Caro, 18 Cal.App.4th at 670. Other cases have stated that adequacy of representation depends on whether plaintiff's attorney is qualified to conduct the proposed litigation and plaintiff's interests are not antagonistic to the interests of the class. McGhee v. Bank of America (1976) 60 Cal.App.3d 442, 450.

Plaintiff's counsel has submitted a declaration attesting to their experience and qualifications. Grover Decl., ¶¶ 22-24. Plaintiff's counsel appears qualified to conduct the proposed litigation.

In addition, Plaintiff's claims are typical of the class they seek to represent because they have all been similarly injured by Defendant's conduct. Collins Decl., ¶¶ 4-21; Pltf. Decls., Exhs. 1-5, ¶¶ 4-17. Plaintiff is willing to act as class representative, understands her fiduciary responsibility,

and is committed to actively participating in this case. Collins Decl., ¶¶ 19, 20, 23. There is no potential conflict of interest, as Plaintiff and the putative class members all seek similar relief. Id., ¶ 22.

I. A Class Action Appears To Be A Superior Means Of Resolving This Dispute.

In deciding whether a class action would be “superior” to individual lawsuits, a court will usually consider:

- (1) The interest of each member in controlling his or her own case personally;
- (2) The difficulties, if any, that are likely to be encountered in managing a class action;
- (3) The nature and extent of any litigation by individual class members already in progress involving the same controversy; and
- (4) the desirability of consolidating all claims in a single action before a single court.

Rutter Guide at ¶ 14:16 (citing Federal Rule of Civil Procedure 23(b)(3)); see also Basurco v. 21st Century Ins. Co. (2003) 108 Cal.App.4th 110, 120; Newell v. State Farm Gen. Insurance Co. (2004) 118 Cal.App.4th 1098, 1101; Lee v. Dynamex, Inc. (2008) 166 Cal.App.4th 1325, 1333; Johnson v. GlaxoSmith-Kline, Inc. (2008) 166 Cal.App.4th 1497, 1510; Ghazaryan v. Diva Limousine, Ltd. (2008) 169 Cal.App.4th 1524, 1537.

Furthermore, under California law, a class action is not “superior” where there are numerous and substantial questions affecting each class member’s right to recover, following determination of liability to the class as a whole. City of San Jose, 12 Cal.3d at 459.

In Duran v. U.S. Bank National Assn. (2014) 59 Cal.4th 1, the California Supreme Court noted as follows:

If statistical evidence will comprise part of the proof on class action claims, the court should consider at the certification stage whether a trial plan has been developed to address its use. A trial plan describing the statistical proof a party anticipates will weigh in favor of granting class certification if it shows how individual issues can be managed at trial. Rather than accepting assurances that a statistical plan will eventually be developed,

trial courts would be well advised to obtain such a plan before deciding to certify a class action.

Id. at 31-32 (emphasis in original). Under Duran, “ . . . [i]n wage and hour cases where a party seeks class certification based on allegations that the employer consistently imposed a uniform policy or de facto practice on class members, the party must still demonstrate that the illegal effects of this conduct can be proven efficiently and manageably within a class setting.” Id. at 29 (emphasis added).

Trial courts must pay careful attention to manageability when deciding whether to certify a class action. In considering whether a class action is a superior device for resolving a controversy, the manageability of individual issues is just as important as the existence of common questions uniting the proposed class. If the court makes a reasoned, informed decision about manageability at the certification stage, the litigants can plan accordingly and the court will have less need to intervene later to control the proceedings.

Id.

Here, given the size of the putative class and the well-defined community of interest, class treatment would be superior to individual case-by-case resolution. Individual suits are unlikely because such litigation will cost far more than the relatively small value of the individual claims. For current employees, fear of retaliation “is a justification for class certification in the arena of employment litigation[.]” Gentry v. Superior Court (2007) 42 Cal.4th 443, 460, abrogation on other grounds recognized by Iskanian v. CLS Transportation Los Angeles, LLC (2014) 59 Cal.4th 348, 360. In addition, a class trial will avoid the possibility of multiple actions challenging the same conduct, conserving litigant and Court resources.

In addressing the “manageability” element under the superiority prong, Plaintiff submitted under separate cover a proposed trial plan. In their trial plan, Plaintiff proposes to bifurcate the trial into two phases. Phase One will be a bench trial to resolve whether inspectors are employees under the Borello test. Each side will call a fixed number of witnesses and take a fixed number of depositions. Depositions will be limited to one seven-hour day. Expert witnesses will be disclosed 75 days before trial. Plaintiff proposes a Phase One

trial date in January or February 2024. Plaintiff estimates Phase One will take eight to 12 court days. Misclassification will be established through common evidence, such as Defendant's uniform ICAs, training materials, and inspection forms; testimony from Defendant's person most knowledgeable and class members; and Defendant's records.

Phase Two will be the damages phase. Plaintiff does not object to a jury trial for Phase Two. Defendant's records will provide the evidence necessary for the parties' experts to calculate individual and aggregate damages for the class claims. Plaintiff proposes a four-to-five-day trial for Phase Two. Plaintiff plans to call up no more than two experts to perform damages calculations.

Defendant objects that Plaintiff's proposed trial plan fails to adequately account for individualized issues. The Court agrees in part. Plaintiff's Phase One plan does not explain how Plaintiff intends to address Defendant's anticipated affirmative defenses. According to Defendant, numerous differences between inspectors' work practices will make Phase One unmanageable. However, as noted above, there appears to be substantial evidence of enough common control by Defendant over the inspectors' work to overcome any individual inspectors' different experiences.

As for Phase Two, Plaintiff's trial plan is inadequate as to damages calculations. What opinions will Plaintiff's experts offer? If those experts intend to rely on statistical analysis, what would the sample size be? How does Plaintiff intend to ensure that the sample is random, and how does Plaintiff intend to control the margin of error? How will Plaintiff's experts determine individual and aggregate damages for the class?

The Duran court raised such issues in addressing the proper use of statistical sampling to prove wage-and-hour damages. The Duran court also warned that "[r]ather than accepting assurances that a statistical plan will eventually be developed, trial courts would be well advised to obtain such a plan before deciding to certify a class action." Duran, 59 Cal.4th at 32 (emphasis added). A mere "promise to conduct a statistical analysis in the future is not a trial plan." Modaraei v. Action Property Management, Inc. (2019) 40 Cal.App.5th 632, 644 (internal quotations omitted).

Plaintiff demonstrated with substantial evidence that the elements for class certification are generally satisfied, with

the exception of the "manageability" component of the superiority prong. The Court defers a final ruling on Plaintiff's motion to permit Plaintiff to provide further briefing on a more concrete trial plan.

III.
CONCLUSION

Based upon the foregoing, the Court orders that:

- 1) Plaintiff's Motion for Class Certification is GRANTED on the condition that Plaintiff's counsel file and serve an adequate Trial Plan satisfying the superiority (manageability) element for class certification.
- 2) Plaintiff's Request for Judicial Notice is GRANTED.
- 3) Plaintiff must file and serve a brief by September 8, 2023.
- 4) Opposition brief must be filed and served by September 18, 2023.
- 5) Reply brief must be filed and served by September 25, 2023.
- 6) The Court sets a Non-Appearance Case Review Re: Filing and Serving of Supplemental Briefing to Unconditionally Grant the Motion for Class Certification for October 2, 2023, 8:30 AM, Department 9.

CLERK TO GIVE NOTICE TO MOVING PARTY. THE MOVING PARTY TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: August 8, 2023




YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT
Yvette M. Palazuelos / Judge

EXHIBIT D

RULINGS/ORDERS RE: MOTION FOR CLASS CERTIFICATION

Collins vs. National Insurance Inspection Services, Inc., Case
No.: 20STCV15619

FILED
Superior Court of California
County of Los Angeles

JAN 12 2024

Plaintiff's Motion for Class Certification is
unconditionally GRANTED.

David W. Slayton, Executive Officer/Clerk of Court

Plaintiff filed and served an adequate Trial Plan
satisfying the superiority (manageability) element for class
certification.

By: P. Herrera, Deputy

The following class and subclasses are certified:

Real property inspectors and other workers in substantially
similar positions classified by Defendants as independent
contractors that performed work for Defendants in the State
of California at any time during the applicable limitations
period preceding the original filing of this Complaint.

(a) All similar situated real property inspectors
classified by Defendants as independent contractors
that performed work for Defendants in the State of
California at any time during the applicable
limitations period preceding the original filing of
this Complaint and up to the present and until
compliance with the law, inclusive, who were not paid
any wages whatsoever, including minimum wage, for
certain hours worked, including time spent on work
related travel, and uploading mandatory reports and
photographs.

(b) All similar situated real property inspectors
classified by Defendants as independent contractors
that performed work for Defendants in the State of
California at any time during the applicable
limitations period preceding the original filing of
this Complaint and up to the present and until
compliance with the law, inclusive, who were not paid
in accordance with Labor Code § 510 when they worked
more than eight hours in a day.

(c) All similar situated real property inspectors
classified by Defendants as independent contractors
that performed work for Defendants in the State of

California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who worked more than six hours in a day and were not provided all meal periods.

(d) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who were not provided with required rest periods.

(e) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who did not receive complete and accurate wage statements.

(f) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, inclusive, who were not paid all wages due upon discharge or voluntary quit as required by Labor Code §§201 - 203.

(g) All similar situated real property inspectors classified by Defendants as independent contractors that performed work for Defendants in the State of California at any time during the applicable limitations period preceding the original filing of this Complaint and up to the present and until compliance with the law, who were not reimbursed for necessary expenditures and losses incurred at the direction of Defendants.

The stay is lifted for all purposes and the parties may proceed with merits discovery.

The court sets a **Trial Setting Conference for March 4, 2024, 10:00 AM, Department 9.** All counsel ordered to appear.

The parties must file and serve a joint status report by **February 20, 2024.**

Code of Civil Procedure § 583.310 provides that "[a]n action shall be brought to trial within five years after the action is commenced against the defendant." The parties are reminded that "All case management stays, including stays of discovery issued by the Court, shall not be considered as a stay per Code of Civil Procedure section 583.310 unless specifically ordered by the Court." See ISC order. In the joint status report, counsel must address the 5 year statute for failure to prosecute and include an analysis identifying the last day for trial / date of expiration of the five year statute.

Concurrent with the joint status report, the parties must file and serve:

- a. Joint [Proposed] Notice to the Class.
- b. Joint Discovery Plan and [Proposed Order], (include deadline dates and pretrial motions, if any).

CLERK TO GIVE NOTICE TO PLAINTIFF. PLAINTIFF TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: January 12, 2024



YVETTE M. PALAZUELOS

YVETTE M. PALAZUELOS
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, JOEY GONZALEZ, am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to the within action. My business address is 1965 Market Street, San Francisco, California 94103. On **April 18, 2025**, in the case of *Collins v. National Insurance Inspection Services, Inc.* Los Angeles Superior Court Case Number 20STCV15619, I served the foregoing document(s):

DECLARATION OF ERIC A. GROVER IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT

on the interested party(ies) below, using the following means:
interested party(ies) below, using the following means:

Jeffrey McClure, Esq. Anne Kelson Hummel, Esq. DAVENPORT GERSTNER & MCCLURE, APC 2540 Camino Diablo, Suite 200 Walnut Creek California 94597 jeff@laborcounsel.com akh@laborcounsel.com	<i>Attorneys for Defendant</i> NATIONAL INSURANCE INSPECTION SERVICES, INC.
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☒	(BY ELECTRONIC SERVICE- Case Anywhere) by submitting an electronic version of the documents through the user interface at www.caseanywhere.com and by emailing a word version of the document to the above referenced email addresses.
☒	(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



JOEY GONZALEZ