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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE

CHRISTIAN WIRTH, BRANDON TREIBER, GIANCARLO MONROY, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act;

Plaintiffs,

vs.

MB2 RACEWAY, INC., a California corporation; MB2 RACEWAY T.O., INC., a California corporation; and DOES 1 through 100, inclusive;

Defendants.

Case No. 20STCV22600

Honorable Elihu M. Berle
Department 6

CLASS ACTION

DECLARATION OF RYAN SLINGER IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT

[Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement; Declarations of Proposed Class Representatives (Christian Wirth, Brandon Treiber & Giancarlo Monroy); and [Proposed] Order filed concurrently herewith]

Date:	May 24, 2024
Time:	10:00 a.m.
Department:	6
Complaint Filed:	June 11, 2020
FAC Filed:	January 13, 2021
Trial Date:	None Set

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DECLARATION OF RYAN SLINGER

I, Ryan Slinger**,** hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiffs Christian Wirth, Brandon Treiber and Giancarlo Monroy ("Plaintiffs" or "Class Representatives") in the above-captioned action. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is the attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. The firm is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act ("PAGA") representative actions. Lawyers *for* Justice, PC has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiffs in connection with the resolution of the above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

3. Edwin Aiwazian is the Managing Member and Shareholder of Lawyers for Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior

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Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the Ninth Circuit. From approximately June 2002 to approximately August 2002, he served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District. In December of 2004, he obtained a license to practice law from the California State Bar. For over a decade, through his work at Lawyers *for* Justice, PC, he has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Together with other attorneys at the firm, and in many cases in conjunction with co-counsel, he has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. Under his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by contested motion practice in approximately fifteen (15) cases in the last decade, and litigated over 1,000 class action or representative action cases.

4. Arby Aiwazian is a Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from University of California, Los Angeles and graduated magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School. From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District. From approximately August 2008 to approximately December 2008 he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit. He was admitted to practice law in California in 2010. He is admitted to practice before all courts of the State of California and all United States District Courts in the State of California. He has worked on many wage-and-hour class action and representative action cases, taking the lead in taking and defending depositions, arguing motions, and attending mediations. He has played an integral role in preparing matters for class certification, including and not limited to, successful

certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No. RG13680477). He has worked on over one hundred (100) class action or representative action cases which have resulted in settlement, including, and not limited to those listed in paragraph 7 herein.

5. Joanna Ghosh is a Senior Member of Lawyers *for* Justice, PC. She received a Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of Science degree from the London School of Economics in 2007, and a Juris Doctor degree from Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010) and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme Court. She has taken and defended dozens of depositions and successfully handled motion practice in class action cases regarding discovery (including and not limited to, regarding class contact information), class certification (both contested class certification and stipulated class certification), arbitration agreements, coordination, and intervention. She has successfully handled briefing and oral argument on appeal, and obtained notable decisions regarding the Private Attorneys General Act ("PAGA") and employer efforts to compel arbitration of PAGA claims, e.g., *Roberto Betancourt v. Prudential Overall Supply* (Cal., May 24, 2017) 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court* 8 Cal.5th175 (2019). She also has extensive experience with class action and/or representative action settlements. Under her, Edwin Aiwazian, and Arby Aiwazian's supervision, the firm has handled the class certification and court approval process for hundreds of class action and/or representative action matters that have successfully resolved. She is a member of the California Employment Lawyers Association.

6. I am a Member of Lawyers *for* Justice, PC. I received my Bachelor of Arts degree from the University of Michigan in 2020, and I earned my Juris Doctor degree from Loyola Law School in 2023. I was admitted to practice law in California in 2023. I am admitted to practice

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before all courts of the State of California. I have worked on many wage-and-hour class action and PAGA representative cases, and my work on these cases has included preparing pleadings and motions, making court appearances, drafting and finalizing settlement agreements.

EXAMPLES OF RESULTS IN WAGE-AND-HOUR CLASS ACTION AND REPRESENTATIVE ACTION CASES

7. What follows are just a few examples of the type of results Lawyers *for* Justice, PC ("LFJ") has achieved on behalf of its clients:

a) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a major property management company involving allegations of misclassification of various "manager" positions. On September 20, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC400414.

b) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of household items involving allegations of misclassification of the "Assistant Store Manager" position. On October 28, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC413498.

c) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national property management company involving allegations of misclassification of the "Property Manager" position. On May 23, 2012, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC430918.

d) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the "Store Manager" position. On June 10, 2011, the court granted plaintiffs' motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a bank, involving allegations of misclassification of the "Assistant Branch Manager" position. On August 27, 2013, the court granted final approval of the class and PAGA representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried "manager" positions. On May 22, 2014, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class action against a multinational corporation that provides global workplace solutions, involving allegations of misclassification of the "Operations Manager" position. On September 16, 2014, the court granted plaintiff's motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

h) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

i) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action involving allegations of misclassification of the salaried residential "Property Manager" position. On September 17, 2015, the court granted plaintiff's motion for class certification. On October 20, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC474784.

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j) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of upscale hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council Coordination Proceeding Number is 4794.

k) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC488069.

l) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel, accessories, and home products, involving allegations of misclassification of the "Department Manager" position. On August 12, 2016, the court granted the plaintiffs' motion for class certification in part and certified a class. On August 6, 2019, the court granted final approval of the class action settlement. The Alameda County Superior Court Case Number is RG13680477.

m) LFJ represented the plaintiff in a PAGA representative action against a real estate and property management company, on behalf of non-exempt employees. On November 4, 2016, the court granted approval of the PAGA representative action settlement. The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

n) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-exempt employees. On November 18, 2016, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a foodservice distributor, on behalf of non-exempt employees. On

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January 26, 2017, the court granted final approval of the class and PAGA representative action settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, which resulted in a published opinion by the California Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal. App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

q) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a consumer packaging company, on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC590429.

r) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a manufacturer of food service industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final approval of the class and PAGA representative action settlement. The Orange County Superior Court Case Number is 30-2015-00810013-CU-OE-CXC.

s) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a lumber and hardware company on behalf of non-exempt employees. On April 26, 2017, the court granted final approval of the class and PAGA representative action settlement. The Orange County Superior Court Case Number is 30-2014-00747750-CU-OE-CXC.

t) LFJ represented the plaintiff in a wage-and-hour class and PAGA representative action against a property management company, on behalf of non-exempt employees. On June 14, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC586234.

u) LFJ represented the plaintiff in a wage-and-hour class and PAGA representative action against a food company on behalf of non-exempt employees. On June 30, 2017, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2015-00175871.

v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a chocolate company on behalf of non-exempt employees. On July 19, 2017, the court granted final approval of the class and PAGA representative action settlement. The Alameda County Superior Court Case Number is RG15764300.

w) LFJ represented the plaintiff in a PAGA representative action, against the parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On October 18, 2017, the court granted approval of the PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC569664.

x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a manufacturer of plastic containers on behalf of non-exempt employees. On October 31, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC577233.

y) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt employees. On December 11, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC569646.

z) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a property management company on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County

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Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding Number is 4819.

aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a global provider of flexible office space solutions. On February 15, 2018, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC498401.

bb) LFJ, in association with co-counsel therein, represents the plaintiff in a wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees. On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare County Superior Court Case Number is VCU264528.

cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a behavioral health service provider on behalf of non-exempt employees. On November 13, 2018, the court granted final approval of the class and PAGA representative action settlement. The Alameda County Superior Court Case Number is RG16811450.

dd) LFJ, in association with co-counsel therein, represented the plaintiff in a PAGA representative action against a global provider of products and services to the energy industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court granted approval of the PAGA representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-280215-SDC.

ee) LFJ, in association with co-counsel therein, represents the plaintiff in a wage-and-hour class action against a parking company on behalf of non-exempt employees. On September 3, 2019, the court granted the plaintiff's motion for class certification and certified a class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial Council Coordination Proceeding Number is 4886.

ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt

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employees. On September 27, 2019, the court granted the plaintiffs' motion for class certification in part and certified a class. The Alameda County Superior Court Case Number is RG15757606 and the Judicial Council Coordination Proceeding Number is 4921.

gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

hh) LFJ, in association with co-counsel therein, represents the plaintiff in a wage-and-hour class and PAGA representative action against a medical equipment supplier on behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion for class certification and certified a class. The San Bernardino County Superior Court Case Number is CIVDS1505744.

ii) LFJ, in association with co-counsel therein, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a notable decision from the California Supreme Court clarifying the law regarding PAGA claims, *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted approval of the PAGA representative action settlement. The San Diego County Superior Court Case Number is 34-2015-00175330.

jj) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a large national drug testing laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the plaintiff's motion for class certification and certified a class. On October 28, 2022, the court granted final approval of the class and PAGA representative action settlement. The San Diego County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

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kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of sportswear, footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the court granted in part the plaintiff's motion for class certification and certified a class. The Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the Judicial Council Coordination Proceeding Number is 4930.

ll) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against manufacturer and supplier of power products and services on behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion for class certification and certified a class. On August 27, 2021, the court granted final approval of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-00025968-CU-OE-CTL.

mm) LFJ represents the plaintiff in a wage-and-hour class action against a nutritional products manufacturer on behalf of non-exempt production line employees. On December 13, 2021, the court granted the plaintiff's motion for class certification in part and certified a class. The Solano County Superior Court Case Number is FCS051001.

nn) LFJ represents the plaintiffs in a wage-and-hour class action against a manufacturer and distributor of commercial dish and glass cleaning machines and supplies for the restaurant and hospitality industries, on behalf of hourly-paid or non-exempt employees. On July 13, 2023, the court granted plaintiffs' motion for class certification and certified a class. The Los Angeles County Superior Court Case Number is BC707670.

THE SETTLEMENT AND SUMMARY OF WORK PERFORMED

8. Marked and attached hereto as "**EXHIBIT 1**" is a true and correct copy of the fully executed Class Action and PAGA Settlement ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiffs Christian Wirth, Brandon Treiber and Giancarlo Monroy, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendants MB2 Raceway, Inc. and MB2 Raceway T.O., Inc. ("Defendants"), on the other hand (collectively, the "Parties"). The Parties and their counsel have

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approved the proposed Notice of Class Action Settlement ("Class Notice"), which is attached to the Settlement Agreement and Proposed Order as "Exhibit A", and respectfully request that the Court approve it as well.

9. Based on information provided by Defendants, as of October 22, 2023, the Class is estimated to consist of approximately three hundred fifty (350) individuals.

10. The effectiveness of Lawyers *for* Justice, PC ("Plaintiffs' Counsel" or "Class Counsel") in prosecuting this matter has translated into tangible monetary benefits in the following respects: (1) Class Members, the State of California, and Aggrieved Employees recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result that compares favorably with other similar complex wage-and-hour class action and/or representative action settlements of this type, given the strengths and weaknesses of the case; and (3) significant savings in attorneys' fees and/or costs that would have only increased substantially had the case progressed through certification, trial, and/or appeals.

11. Class Counsel has litigated the case for over three (3) years and was actively preparing the matter for class certification and trial. The Parties have engaged in extensive settlement negotiations and participated in a formal, full-day mediation conducted by Henry Bongiovi, Esq., a well-respected mediator experienced in mediating complex labor and employment matters. Prior to and during the mediation and settlement discussions, the Parties exchanged extensive information and engaged in discussions regarding their evaluations of the case and various aspects of the case, including but not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with class certification and/or representative adjudication, the law relating to off-the-clock theory, meal and rest periods, PAGA representative actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed, and the possibility of appeals, among other things. During all settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial position. Arriving at a settlement that was acceptable to both Parties was not easy. Defendants and their counsel felt strongly about their ability to prevail on the merits and at certification, and Plaintiffs and Class Counsel believed that they would be able to obtain class certification and prevail at trial. After conducting extensive

investigations, formal and informal discovery, exchange of information, and extensive settlement negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the costs and risks to both sides that would attend further litigation. The Settlement is a fair, reasonable, and adequate resolution of the Released Class Claims of Plaintiffs and Settlement Class Members, and of the Released PAGA Claims of the Aggrieved Employees and the State of California, against the Released Parties.

12. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength, and scope of the claims, and were preparing the matter for class certification and trial. Class Counsel conducted significant investigation and informal discovery regarding the facts of the cases, including and not limited to, the exchange, review, and analysis of a large volume of information, documents, and data obtained from Defendants, Plaintiffs, and other sources. Lawyers *for* Justice, PC propounded multiple sets of written discovery requests on Defendants (specifically, Special Interrogatories (Set One), Special Interrogatories (Set Two), Special Interrogatories (Set Three) and Form Interrogatories (Set One) and reviewed Defendants' responses thereto. The volume of data and documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiffs' employment records, a detailed sampling of Plaintiffs' and other Class Members' time and pay data, Employee Non-Disclosure Agreement, Employee Handbook, Employee Handbook Addendum, company policy acknowledgments, forms, procedures and policies (including, but not limited to, Phone Monitoring Policy, Email, Internet and Computer Use Policy, Kart Safety Practice and Procedure, Negligence Policy, Track Conduct During Races & Meal Period Information), among other information and documents. Class Counsel had the opportunity to interview Plaintiffs and other Class Members to gather facts and to identify potential witnesses. Counsel for the Parties met and conferred on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the production of documents and data prior to the mediation. Class Counsel also drafted Plaintiffs' mediation brief and prepared for and attended court proceedings, settlement negotiations, and the mediation, among other tasks.

13. Counsel for the Parties have also invested time researching and investigating the

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applicable law, which is constantly evolving as it relates to certification, representative PAGA claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement, Plaintiffs' claims and damages, and Defendants' defenses thereto, as well as facts discovered. Based on Class Counsel's analysis, the result achieved in this litigation is fair, adequate, and reasonable.

14. The Settlement provides for a Total Settlement Amount of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) on a non-reversionary basis. The Net Settlement Amount is the Total Settlement Amount less the Court approved Settlement Administration Costs, Attorneys' Fees and Costs, Enhancement Awards and PAGA Penalty Amount. Assuming that the amounts allocated under the Settlement toward these payments are awarded by the Court, the Net Settlement Amount that will be available for distribution to the Settlement Class Members is currently estimated to be Seventy-Eight Thousand Five Hundred Dollars and Zero Cents (78,500.00). Additionally, 75% of the PAGA Penalty Amount (i.e., the LWDA Payment), which is $18,750.00, will be distributed to the Labor and Workforce Development Agency ("LWDA") and 25% of the PAGA Penalty Amount, which is $6,250.00, will be distributed to Aggrieved Employees on a *pro rata* basis. The Net Settlement Amount will be fully distributed in accordance with the terms of the Settlement and there is no reversion to Defendants.

15. The Parties have agreed to retain Phoenix Class Action Administration Solutions ("Phoenix" or "Settlement Administrator") to handle the notice and settlement administration process. The Parties respectfully request that the Court appoint Phoenix to handle these procedures and serve as the Settlement Administrator. Defendants will provide the Settlement Administrator with a list of Class Members that Defendants will compile from their records, which will include each Class Member's last-known full name, mailing address, telephone number, Social Security Number, weeks worked as a non-exempt employee of Defendants in California employed at either the Thousand Oaks or Sylmar locations during the Class Release Period of June 11, 2016, to October 22, 2023, and during the PAGA Release Period of April 2, 2019, to October 22, 2023, if applicable ("Class List"). The Settlement Administrator will calculate each Settlement Class Member's estimated *pro rata* share of the Net Settlement Amount ("Individual Settlement Share")

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and each Aggrieved Employee's estimated *pro rata* share of the Aggrieved Employee Amount ("Individual PAGA Payment"). The Settlement Administrator will be responsible for the following: printing, distributing, and tracking Class Notices and other documents for this settlement; calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances; providing necessary reports and declarations; and other duties and responsibilities as set forth in the Settlement. Settlement Administration Costs are currently estimated not to exceed Nine Thousand Dollars and Zero Cents ($9,000.00) and will be paid out of the Total Settlement Amount, subject to approval of the Court.

16. Based on investigation and information discovered, Class Counsel believes that there is sufficient evidence to support the allegations made in the lawsuit, including the allegations that Defendants, with respect to Plaintiffs and the putative class members, *inter alia*, failed to properly pay overtime and minimum wages, failed to provide compliant meal and rest periods and to pay associated premium pay, failed to timely pay wages during employment and upon termination of employment, failed to provide compliant wage statements, failed to maintain requisite payroll records, and failed to reimburse necessary business expenses, and thereby engaged in unfair business practices in violation of California Business and Professions Code section 17200, *et seq*. and conduct giving rise to penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiffs also asserted that they and other putative class members and aggrieved employees were expected to perform similar job duties and were subject to the same or similar operations and employment policies, practices, and procedures. Plaintiffs also contend that Defendants' payroll and recordkeeping practices with respect to Plaintiffs, the Class Members, and Aggrieved Employees were substantially the same during the time period at issue. As a result of the alleged uniform practices, Plaintiffs claim that they and putative class members and aggrieved employees were uniformly not paid all compensation due to them from Defendants during the time period at issue. Thus, in Class Counsel's view, it is clear that the outcome of this litigation would be determined by Defendants' uniform operations and employment practices, policies, and procedures that Plaintiffs allege

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applied across their hourly-paid or non-exempt employees in California during the relevant time period.

17. Class Counsel is aware of the defenses and position of Defendants but believes that Plaintiffs could potentially obtain class certification despite many obstacles. Class Counsel have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation, including those involved in class certification and/or representative adjudication. Class Counsel further recognizes the burdens of proof necessary to establish liability, Defendants' defenses, and the difficulties in establishing entitlement to monetary recovery. Class Counsel have also considered the Parties' settlement discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in complex labor and employment matters.

18. Defendants, on the other hand, denied and continues to deny any liability and wrongdoing of any kind associated with the claims alleged in the lawsuit, and further deny that the lawsuit is appropriate for class treatment or representative adjudication for any purpose other than this Settlement. Defendants believe that it would ultimately succeed in the matter. Both sides have also had the opportunity to conduct investigations and gather documents and information relating to Plaintiffs', Class Members', and Aggrieved Employees' employment with Defendants, and Defendants' operations and employment policies, practices, and procedures. Counsel for the Parties also reviewed and analyzed a large volume of information, documents and data, including but not limited to a detailed sampling of Class Members' and Aggrieved Employees' time and pay information, to determine the potential value and strength of the claims. The available information enabled Class Counsel to assess the value the class and PAGA claims and prepare violation, damages, and penalties analyses and models. Accordingly, counsel for the Parties have conducted adequate investigation and discovery to be sufficiently informed of the nature and extent of the class and PAGA claims, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and reasonableness. The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded at certification, trial, and/or appeals.

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19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees in an amount of up to thirty-five percent (35%) of the Total Settlement Amount (i.e., $87,500.00), and expenses and costs in an amount not to exceed Thirty-Five Thousand Dollars ($35,000.00), which will be paid out of the Total Settlement Amount, subject to approval by the Court. It should be noted that Class Counsel has borne all of the risks and costs of litigation and will not receive any compensation until recovery is obtained.

20. The Settlement Agreement provides for payment of up to Five Thousand Dollars and Zero Cents ($5,000.00) to each Plaintiff (for a total of $15,000.00) as an Enhancement Award to be paid out of the Total Settlement Amount subject to approval by the Court. Plaintiffs spent considerable time and effort to produce relevant documents and past employment records and to provide the facts and evidence necessary to attempt to prove the allegations. Plaintiffs were available whenever Class Counsel needed them and actively tried to obtain information that would facilitate the prosecution of this matter. Accordingly, it is appropriate and just for Plaintiffs to receive an Enhancement Award, in addition to their individual settlement payments, for services performed in this matter on behalf of the Class, State of California, and Aggrieved Employees.

21. On April 2, 2020, Plaintiff Wirth provided written notice to the LWDA by certified mail and to Defendants of the specific provisions of the California Labor Code that Defendants are alleged to have violated (Wirth PAGA Notice) .On May 8, 2020, Plaintiff Treiber provided notice by electronic upload to the Labor and Workforce Development Agency and written notice by certified mail to Defendants of the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Order that are alleged to have been violated by Defendants ("Treiber PAGA Notice"). On June 12, 2020, Plaintiff Monroy provided notice by electronic upload to the Labor and Workforce Development Agency and written notice by certified mail to Defendants of the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Order that are alleged to have been violated by Defendants ("Monroy PAGA Notice")(collectively, the Wirth PAGA Notice, Treiber PAGA Notice, and the Monroy PAGA Notice are herein referred to as "PAGA Notices"). A true and correct copy of the PAGA Notices is attached hereto as "**EXHIBIT 2**."

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22. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is in the best interest of Plaintiffs, the Class, Aggrieved Employees, and the State of California. Class Counsel further submits that the Settlement is within an acceptable range of recovery for this type of litigation given the strengths and weaknesses of the case, the inherent costs and risks of further litigation, and the costs and risks associated with class certification, representative adjudication, trial, and/or appeals.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 13th day of May 2024, at Glendale, California.

Ryan Slinger

Ryan Slinger

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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT

This Class Action and PAGA Settlement ("Settlement," "Agreement" or "Settlement Agreement") is made and entered into by and between Plaintiffs Christian Wirth, Brandon Treiber, and Giancarlo Monroy ("Plaintiffs" or "Class Representatives"), individually, on behalf of all others similarly situated and on behalf of the State of California with respect to the Aggrieved Employees (as defined herein), and Defendants MB2 Raceway, Inc. and MB2 Raceway T.O., Inc. ("Defendants") (collectively, Plaintiffs and Defendants are referred to as the "Parties").

This Class Action and PAGA Settlement shall be binding on Plaintiffs, Class Members (as defined herein), the State of California with respect to Aggrieved Employees (as defined herein) and on Defendants, subject to the terms and conditions hereof and the approval of the Court.

RECITALS

1. On April 2, 2020, Plaintiff Wirth provided notice by electronic upload to the Labor and Workforce Development Agency and written notice by certified mail to Defendants of the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Order that are alleged to have been violated by Defendants ("Wirth PAGA Notice"). On April 17, 2020, Plaintiff Wirth sent an additional, follow-up correspondence to the Labor and Workforce Development Agency and Defendants regarding the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Orders that are alleged to have been violated by Defendants ("PAGA Notice Returned Resend Letter"). On June 11, 2020, Plaintiffs Wirth and Treiber filed a Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq*., thereby commencing a putative class action entitled *Wirth, et al. v. MB2 Raceway, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 20STCV22600 ("Action") against Defendant MB2 Raceway, Inc. On May 08, 2020, Plaintiff Treiber provided notice by electronic upload to the Labor and Workforce Development Agency and written notice by certified mail to Defendants of the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Order that are alleged to have been violated by Defendants ("Treiber PAGA Notice"). On June 12, 2020, Plaintiff Monroy provided notice by electronic upload to the Labor and Workforce Development Agency and written notice by certified mail to Defendants of the specific provisions of the California Labor Code and Industrial

Welfare Commission Wage Order that are alleged to have been violated by Defendants ("Monroy PAGA Notice"). On January 13, 2021, Plaintiffs filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq*. in the Action. Together, the Wirth PAGA Notice, Treiber PAGA Notice, and the Monroy PAGA Notice are herein referred to as "PAGA Notices".

2. Defendants deny all material allegations set forth in the Action and have asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendants desire to fully and finally settle the Action, the Released Class Claims, and the Released PAGA Claims.

3. Class Counsel in the Action diligently investigated the claims against Defendants, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents, and review of corporate policies and practices.

4. On January 3, 2022, the Parties participated in a Mandatory Settlement Conference with the Honorable Zaven Sinanian, but were not able to resolve the matter.

5. On July 10, 2023, the Parties participated in mediation with Henry Bongiovi, Esq. (the "Mediator"), a respected mediator of complex wage and hour actions, and with the assistance of the Mediator's evaluations, the Parties reached the settlement that is memorialized herein. The settlement discussions were conducted at arm's-length, and the Settlement is the result of an informed and detailed analysis of Defendants' potential liability and exposure in relation to the costs and risks associated with continued litigation. Based on the documents produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel believes that the settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members and the State of California in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendants.

6. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendants. If for any reason the Settlement Agreement is not approved,

it will be of no force or effect, and the Parties shall be returned to their original respective positions.

DEFINITIONS

7. The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

a. "Attorneys' Fees and Costs" means attorneys' fees for Class Counsel's litigation and resolution of the Action and all actual costs incurred and to be incurred by Class Counsel in the Action, as set forth in Paragraph 11 below.

b. "Class Counsel" means Arby Aiwazian, Joanna Ghosh, and Ryan Slinger of Lawyers *for* Justice, PC, who will seek to be appointed counsel for the Class.

c. "Class List" means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include each Class Member's last-known full name, mailing address, telephone number, Social Security Number, weeks worked as a non-exempt employee of Defendants in California employed at either the Thousand Oaks or Sylmar locations during the Class Release Period.

d. "Class Member(s)" or "Class" means all current and former hourly-paid or non-exempt employees of Defendants in California employed at either the Thousand Oaks or Sylmar locations during the Class Release Period. Defendants represent that the number of Class Members is approximately 350 individuals, as of October 22, 2023.

e. "Class Notice" means the Notice of Class Action Settlement, attached hereto as "**Exhibit A**."

f. "Class Release Period" means the time period from June 11, 2016, through October 22, 2023.

g. "Class Representatives" or "Plaintiffs" means Christian Wirth, Brandon Treiber, and Giancarlo Monroy.

h. "Class Settlement" means the settlement and resolution of all Released Class Claims.

i. “Court” means the Superior Court of the State of California, County of Los Angeles.

j. “Defendants” means collectively MB2 Raceway, Inc. and MB2 Raceway T.O., Inc.

k. “Defendants’ Counsel” means Kathleen M. Hartman of Callahan, Thompson, Sherman & Caudill, LLP.

l. “Effective Date” means the later of (a) the last day on which any appeal might be filed with respect to the Final Approval Order and Judgment, assuming no appeal is filed, or (b) the date of successful resolution of any appeal(s) with respect to Final Approval Order and Judgment – including expiration of any time to seek reconsideration of further review.

m. “Employer Taxes” means the employers’ share of payroll taxes in connection with the wages portion of Individual Settlement Shares, which shall be paid by Defendants in addition to the Total Settlement Amount.

n. “Enhancement Awards” means the amounts to be paid to Plaintiffs in recognition of their effort and work in prosecuting the Action on behalf of the Class Members and State of California with respect to Aggrieved Employees.

o. “Final Approval” means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

p. “Final Approval Hearing” means the hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.

q. “Individual PAGA Payment” means the *pro rata* share of the Aggrieved Employee Amount that Aggrieved Employees may be eligible to receive for the PAGA Settlement, to be calculated in accordance with Paragraph 16.

r. “Individual Settlement Payment” means the net payment of each Settlement Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share, as provided in Paragraph 26 below.

s. “Individual Settlement Share” means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive for the Class Settlement, to be calculated in accordance with Paragraph 15.

t. "LWDA Payment" means the amount of Eighteen Thousand Seven Hundred Fifty Dollars and no Cents ($18,750.00), i.e., 75% of the PAGA Penalty Amount, that the Parties have agreed to pay to the California Labor and Workforce Development Agency ("LWDA") for the PAGA Settlement, as set forth in Paragraph 14.

u. "Total Settlement Amount" means the amount of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) to be paid by Defendants in full resolution of all Released Class Claims, Released PAGA Claims, and the Action, which includes all Attorneys' Fees and Costs, Enhancement Awards, PAGA Penalty Amount, Net Settlement Amount to be paid to the Settlement Class Members, and Settlement Administration Costs. Defendants shall pay the Employer portion of any payroll taxes for amounts designated as wages separately and in addition to the Total Settlement Amount. The Total Settlement Amount is subject to increase only as provided in Paragraph 37 below.

v. "Net Settlement Amount" means the portion of the Total Settlement Amount that is available for distribution to Settlement Class Members, which is the Total Settlement Amount less the Court-approved Enhancement Awards, Settlement Administration Costs, PAGA Penalty Amount, and Attorneys' Fees and Costs.

w. "Objection" means a Class Member's written objection to the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

x. "PAGA Penalty Amount" means the allocation of Twenty-Five Thousand Dollars and Zero Cents ($25,000.00) from the Total Settlement Amount for the settlement and resolution of the Released PAGA Claims. Seventy-five percent (75%) of the PAGA Penalty Amount, or $18,750.00, will be paid to the LWDA (i.e., the LWDA Payment) and the remaining twenty-five percent (25%), or Six Thousand Two Hundred Fifty Dollars and Zero Cents ($6,250.00), will be distributed to Aggrieved

Employees (i.e., the Aggrieved Employees Amount).

y. "Aggrieved Employees" means all current and former hourly-paid or non-exempt employees who of Defendants in California employed during the PAGA Release Period.

z. "Aggrieved Employee Amount" means the amount of Six Thousand Two Hundred Fifty Dollars and Zero Cents ($6,250.00), i.e., 25% of the PAGA Penalty Amount, to be distributed to Aggrieved Employees on a *pro rata* basis based on their Workweeks.

aa. "PAGA Release Period" means the time period from April 2, 2019 through October 22, 2023.

bb. "PAGA Settlement" means the settlement and resolution of Released PAGA Claims.

cc. "Parties" means Plaintiffs and Defendants, collectively, and "Party" means either Plaintiffs or Defendants.

dd. "Preliminary Approval" means entry of the Court order granting preliminary approval of the Settlement Agreement.

ee. "Released Class Claims" means all causes of action and factual or legal theories that were alleged in the Operative Complaint or reasonably could have been alleged based on the facts and legal theories contained in the Action, for violations of the California Labor Code, including *inter alia* sections 201, 202, 203, 204, 226(a), 226(h), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 10-2001, Business & Professions Code section 17200 et seq., including all of the following claims for relief: (a) failure to pay all and overtime wages due; (b) failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; (c) failure to provide proper rest periods, and to properly provide premium pay in lieu thereof; (d) failure to pay all minimum wages due; (e) failure to pay all wages timely during employment; (f) failure to pay all wages timely at the time of termination; (g) failure to provide complete, accurate or properly formatted wage statements; (h) failure to keep complete and accurate payroll records; (i) failure to reimburse business expenses; (j) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action, or legal theories of relief pleaded in the

Operative Complaint; (k) any other claims or penalties under the wage and hour laws pleaded in the Action; and (l) all damages, penalties, interest, and other amounts recoverable under said claims, causes of action or legal theories of relief.

ff. “Released PAGA Claims” means all causes of action and factual or legal theories for civil penalties under the California Labor Code Private Attorneys General Act of 2004 against any of the Released Parties that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the PAGA Notices and Action for violations of the California Labor Code, including *inter alia* sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including inter alia, Wage Orders 4-2001 and 10-2001, including all of the following: (a) failure to pay all and overtime wages due; (b) failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; (c) failure to provide proper rest periods, and to properly provide premium pay in lieu thereof; (d) failure to pay all minimum wages due; (e) failure to pay all wages timely during employment; (f) failure to pay all wages timely at the time of termination; (g) failure to provide complete, accurate or properly formatted wage statements; (h) failure to keep complete and accurate payroll records; (i) failure to reimburse business expenses.

gg. “Released Parties” means MB2 Raceway, Inc. and MB2 Raceway T.O, Inc. and each of their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

hh. “Request for Exclusion” means a Class Member’s written letter indicating a request to be excluded from the Class Settlement, which must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a clear written statement indicating that the Class Member seeks exclusion from the Class Settlement; and (d) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

ii. “Response Deadline” means the deadline by which Class Members must submit a Request for Exclusion, Objection, and/or Workweeks Dispute, which shall be the date that is forty-five (45) calendar days from the initial mailing of the Class Notice by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. In the event that a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be extended by fifteen (15) calendar days from the initial Response Deadline.

jj. "Settlement Administrator" means Phoenix Class Action Administration Solutions, or any other third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering this Settlement. The Parties and their counsel each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest. Defendants and Defendants' counsel shall not enter into any contractual relationship with the Settlement Administrator.

kk. "Settlement Administration Costs" means the costs payable from the Total Settlement Amount, subject to Court approval, to the Settlement Administrator for administering this Settlement, as set forth in Paragraph 13 below.

ll. "Settlement Class Members" means all Class Members who do not submit a timely and valid Request for Exclusion.

mm. "Workweeks" means the number of weeks each Class Member worked for any of the Defendants as an hourly-paid or non-exempt employee of Defendants in California at either the Thousand Oaks and Sylmar locations during the Class Release Period, which will be calculated by Defendants by identifying, for each Class Member, each day during the Class Release Period he or she recorded time worked, and crediting him/her with one week worked for each calendar week during the Class Release Period in which he/she recorded any time worked.

nn. "Workweeks Dispute" means a Class Member's written letter disputing the pre-printed information on the Class Notice as to his or her Workweeks, which must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) clearly state that the Class Member disputes of the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her; (d) attach any documentation that he or she has to support the dispute; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

CLASS CERTIFICATION

8. For the purposes of this settlement only, the Parties stipulate to the certification of the Class.

9. The Parties agree that certification for the purpose of settlement is not an admission that certification is proper under Rule 23 of the Federal Rules of Civil Procedure, California Code of Civil Procedure section 382, or any State or Federal case or statutory law. Should, for whatever reason, the Court not grant Preliminary Approval or Final Approval of the Settlement, the Parties' stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible in connection with, the issue of whether or not certification would be appropriate or inappropriate in a non-settlement context.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

10. Funding and Disbursement of the Total Settlement Amount.

a. After Preliminary Approval, and prior to mailing of the Class Notice, the Settlement Administrator will provide the Parties with an accounting estimate of the contemplated amounts to be paid by Defendants pursuant to the terms of the Settlement Agreement and establish a qualified settlement account for administration of the Settlement. The Settlement Administrator will not provide the Class Member names or contact information to Plaintiffs.

b. Within ten (10) calendar days after the Court grants Preliminary Approval, Defendants will make a deposit of the One Hundred Twenty-Five Thousand Dollars and Zero Cents ($125,000.00), into the qualified settlement account established by the Settlement Administrator ("First Installment).

c. Within ten (10) calendar days after the Court grants Final Approval, Defendants will make a deposit of One Hundred Twenty-Five Thousand Dollars and Zero Cents ($125,000.00) plus an amount sufficient for Employer's Taxes, into the qualified settlement account established by the Settlement Administrator ("Second Installment").

d. Within seven (7) calendar days of the funding of the Effective Date (and the settlement being fully funded), the Settlement Administrator will issue payments due under the Settlement and approved by the Court, as follows: (a) Individual Settlement Payments to Settlement Class Members; (b) Individual PAGA Payments to Aggrieved Employees; (c) LWDA Payment to the LWDA; (d) Enhancement Awards to Plaintiffs; (e) Attorneys' Fees and Costs to Class Counsel; and (f) Settlement Administration Costs to itself (the Settlement Administrator). The Settlement Administrator will also undertake filings and remittances in connection with the employee's share of taxes on the wages portion of Individual Settlement Shares and the Employer Taxes, that are necessary for administration of the Settlement.

11. Attorneys' Fees and Costs. Class Counsel will request and Defendants will not oppose attorneys' fees of up to thirty-five percent (35%) of the Total Settlement Amount (i.e., up to $87,500.00 if the Total Settlement Amount is $250,000.00) and reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action, supported by declaration, in an amount not to exceed Thirty-Five Thousand Dollars ($35,000), both of which will be paid from the Total Settlement Amount subject to Court approval. These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the litigation of the Action, including without limitation all work performed and costs incurred to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. With respect to the Attorneys' Fees and Costs to Class Counsel, the Settlement Administrator may purchase an annuity to utilize United States Treasuries and bonds or utilize other attorney fee deferral vehicles, for Class Counsel and any additional expenses for doing so shall be paid separately by Class Counsel and shall not be included within the Settlement Administration Costs. Defendants and Defendants' Counsel shall not be liable for any expenses associated with the purchase or use of any attorney fee deferral vehicles for Class Counsel by the

Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Attorneys' Fees and Costs to Class Counsel, neither Plaintiffs nor Class Counsel shall have the right to revoke this Agreement, and it will remain binding. Any portion of the Attorneys' Fees and Costs not awarded to Class Counsel shall be a part of the Net Settlement Amount for the benefit of Settlement Class Members.

12. Enhancement Awards. In recognition of their efforts and work in prosecuting the Action, Defendants agree not to oppose or impede any application or motion for Enhancement Awards to Plaintiffs in an amount up to Five Thousand Dollars ($5,000.00) each (for a total of $15,000.00). The Enhancement Awards, which will be paid from the Total Settlement Amount, subject to Court approval, will be in addition to Plaintiffs Individual Settlement Payment and Individual PAGA Payment that is to be paid pursuant to the Settlement. The Settlement Administrator will issue an IRS Form 1099 to Plaintiffs for their Enhancement Awards, and Plaintiffs shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Should the Court not approve the Enhancement Awards to Plaintiffs, or approve it in an amount that is less than that set forth above, Plaintiffs shall not have the right to revoke this Agreement, it will remain binding, and the difference between the amount approved by the Court (if any) and the amount allocated toward the Enhancement Awards will be part of the Net Settlement Amount for the benefit of Settlement Class Members.

13. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Thousand Dollars ($9,000.00). These costs, which will be paid from the Total Settlement Amount, subject to Court approval, will include, *inter alia*, printing, distributing, and tracking Class Notices and other documents for this Settlement, calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Total Settlement Amount, subject to approval by the Court.

Any portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not in fact required to fulfill payment to the Settlement Administrator to undertake the requirement settlement administration duties will be part of the Net Settlement Amount for the benefit of Settlement Class Members. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the Settlement payments or the development of the list of recipients of Settlement payments.

14. PAGA Penalty Amount. Subject to approval by the Court, the Parties agree that the amount of Twenty Five Thousand Dollars ($25,000.00) from the Total Settlement Amount will be allocated toward penalties under the Private Attorneys General Act, California Labor Code Section 2698, *et seq*. (i.e., the PAGA Penalty Amount), of which seventy-five percent (75%), or $18,750.00, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) or, $6,250.00, will be distributed to Aggrieved Employees (i.e., the Aggrieved Employee Amount) on a *pro rata* basis, based on Workweeks during the PAGA Release Period (i.e., the Individual PAGA Payment).

15. Individual Settlement Share Calculations. Individual Settlement Shares will be calculated and apportioned from the Net Settlement Amount based on the Class Members' number of Workweeks, as follows:

a. After Preliminary Approval of the Settlement, the Settlement Administrator will divide the estimated Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share.

b. After Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.

16. Individual PAGA Payment Calculations. Individual PAGA Payments will be calculated and apportioned from the Aggrieved Employee Amount based on the Aggrieved Employees' number of Workweeks during the PAGA Release Period as follows: The Settlement Administrator will divide the Aggrieved Employee Amount, i.e., 25% of the PAGA Penalty Amount, by the total number of

Workweeks of all Aggrieved Employees during the PAGA Release Period to yield the "PAGA Workweek Value," and multiply each Aggrieved Employee's individual Workweeks during the PAGA Release Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment.

17. Settlement Awards Do Not Trigger Additional Benefits. All payments made under the Settlement shall be deemed to be paid to the payee solely in the year in which such payments actually are issued to the payee. It is expressly understood and agreed that payments made under this Settlement shall not in any way entitle Plaintiffs, Settlement Class Members, or Aggrieved Employees to additional compensation or benefits under any new or additional compensation or benefits, or any bonus, contest or other compensation or benefit plan or agreement in place during the Class Release Period, nor will it entitle Plaintiffs, Settlement Class Members, or Aggrieved Employees to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the Class Release Period).

18. Notice of Proposed PAGA Settlement to LWDA.

a. Pursuant to Cal. Labor Code § 2699(l)(2), Class Counsel, either on their own or through the Settlement Administrator, will submit a copy of this Settlement Agreement to the California Labor Workforce and Development Agency at the same time that it is submitted to the Court for preliminary approval. Class Counsel shall be responsible for the fees and costs associated with this submission.

b. Class Counsel will confirm in their declaration in support of the Motion for Preliminary Approval that this Settlement Agreement has been submitted to the California Labor and Workforce Development Agency and that the requirements of Cal. Labor Code § 2699(l)(2) have been satisfied.

19. Delivery of the Class List. Within twenty-one (21) calendar days of Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator.

20. Notice by First-Class U.S. Mail.

a. Within fourteen (14) calendar days after receiving the Class List from Defendants, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice (in the form attached as **Exhibit A** to this Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

b. With respect to Class Notices that are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days.

c. Dispute Regarding Workweeks. The Class Notice will include the procedure by which a Class Member may dispute the number of Workweeks allocated to him or her by submitting a timely and valid Workweeks Dispute. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of Defendants' records and data as they pertain to the number of Workweeks to be credited to a disputing Class Member, Defendants' records will be presumed correct and determinative of the dispute. However, if a Class Member produces information and/or documents to the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member and the Settlement Administrator will resolve and determine the number of eligible Workweeks that the disputing Class Member should be credited with under the Settlement. The Settlement Administrator's decision on such disputes will be final and non-appealable.

21. Settlement Checks. The Settlement Administrator will be responsible for undertaking appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the PAGA Employees in accordance with this Settlement Agreement. When issuing payments, the Settlement Administrator may combine the Individual Settlement Payment and Individual PAGA Payment into one check if the intended recipient for both payments is one individual. Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be cancelled. All funds remaining in the Qualified Settlement Fund in connection with cancelled checks shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California

Civil Code § 1500 *et seq*., for the benefit of those Settlement Class Members who did not cash, deposit, or otherwise negotiate their checks until such time that they claim their property. The Settling Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid out to Settlement Class Members, whether or not they all cash their Settlement Checks. Therefore, Defendants will not be required to pay any interest on said amounts. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation of any Individual Settlement Payment or Individual PAGA Payment checks. Settlement Class Members whose Individual Settlement Payment checks are cancelled, shall, nevertheless, be bound by this Settlement Agreement and the Final Approval Order and Judgment will have claim preclusive impact with respect to them and all Settlement Class Members with respect to the Released Class Claims. The Final Approval Order and Judgment will have claim preclusive impact on the Aggrieved Employees with respect to the Released PAGA Claims irrespective of whether their Individual PAGA Payment checks are cancelled.

22. Procedures for Requesting Exclusion from the Class Settlement. Any Class Member wishing to be excluded from the Class Settlement must submit a Request for Exclusion to the Settlement Administrator, by mail, on or before the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendants' Counsel the Requests for Exclusion that were timely submitted, and also identify the individuals who have submitted a timely and valid Request for Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing. Any Class Member who submits a timely and valid Request for Exclusion is prohibited from making any objection to the Class Settlement. Any Class Member who submits a timely and valid Request for Exclusion will not be bound by the Class Settlement and will not be issued an Individual Settlement Payment. All Aggrieved Employees will be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion and the Final Approval Order and Judgment will have claim preclusive impact on the Aggrieved Employees with respect to the Released PAGA Claims.

23. Procedures for Objecting to the Class Settlement. To object to the Class Settlement, Class Members who have not opted out of the Class Settlement (i.e., Settlement Class Members) must submit a timely and complete Objection to the Settlement Administrator, by mail, on or before the Response Deadline. The Objection must be signed by the Settlement Class Member and contain all information required by this Settlement Agreement. The postmark date will be deemed the exclusive means for determining that the Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement Agreement or appeal from the Final Approval Order and Judgment. Settlement Class Members may also present their objection orally at the Final Approval Hearing, irrespective of whether they submit an Objection. The Settlement Administrator will certify jointly to Class Counsel and Defendants' Counsel the Objections that were timely submitted, and also attach them as exhibits to a declaration that is to be filed with the Court in advance of the Final Approval Hearing.

24. Reports by the Settlement Administrator Regarding Settlement Administration. The Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted a Workweeks Dispute; (b) the number of Class Members who have submitted timely and valid Requests for Exclusion or timely and complete Objections; and (c) the number of undeliverable and re-mailed Class Notices. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement.

25. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

26. Treatment of Individual Settlement Payments and Individual PAGA Payments. Each Individual Settlement Share will be allocated as follows: twenty percent (20%) wages and eighty percent (80%) penalties, interest, and non-wage damages. The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to penalties, interest, and non-wage damages will be

reported on an IRS Form-1099 by the Settlement Administrator. The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). The Employer Taxes will be paid separately and in addition to the Total Settlement Amount. Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties and will be reported on an IRS Form-1099 (if applicable) by the Settlement Administrator.

27. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiffs, Settlement Class Members, Aggrieved Employees, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement Agreement. The Settlement Administrator will also be responsible for forwarding all payroll taxes, contributions, and withholdings to the appropriate government authorities.

28. Tax Liability. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied on as such. Plaintiffs, Settlement Class Members, and Aggrieved Employees understand and agree that, except for Defendants' payment of Employer Taxes, they will be solely responsible for correctly characterizing any compensation received under the Settlement on his/her personal income tax returns and paying any and all taxes due for any and all amounts paid to them under the Settlement.

29. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT 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 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 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 TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT ENTERED INTO THIS SETTLEMENT 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 PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

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

31. Release of Claims by Settlement Class Members and the State of California.

a. Class Settlement Release. Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiffs and all Class Members who do not submit a timely and valid Request for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims whether known or unknown. However, to be clear, the scope of the release is limited to the Released Class Claims. The period of this release shall extend to the limits of the Class Release Period. The res judicata effect of the Final Approval Order and Judgment will be the same as that of this release. Defendants shall be entitled to a release of Released Class Claims which occurred during the Class Period only during such time that the Settlement Class Member was classified as non-exempt, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period. By virtue of this Agreement, Plaintiffs and the Settlement Class Members shall be deemed to have, and by operation of the final judgment approved by the Court, shall have, fully, finally, and forever settled and released all of the Released Class Claims. The parties understand and specifically agree that the scope of the release described in this Paragraph is a material part of the consideration for this Agreement; was critical in justifying the agreed upon economic value of this settlement and without it Defendants would not have agreed to the consideration provided; and is narrowly drafted and necessary to ensure that Defendants are obtaining peace of mind regarding the resolution of claims that were or could have been alleged based on the facts, causes of action, and legal theories contained in the Action.

b. PAGA Settlement Release. Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiffs and the State of California will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims pertaining to Plaintiffs and the Aggrieved Employees, whether known or unknown. However, to be clear, the scope of the release is limited to the Released PAGA Claims. The period of this release shall extend to the limits of the PAGA Release Period. The res judicata effect of the Final Approval Order and Judgment will be the same as that of this release of Released PAGA Claims. Defendants shall be entitled to a release of Released PAGA Claims which occurred during the PAGA Release Period only during such time that Aggrieved Employees were classified as non-exempt, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside of the PAGA Release Period. By virtue of this Agreement, Plaintiffs and the State of California shall be deemed to have, and by operation of the final judgment approved by the Court, shall have, fully, finally, and forever settled and released all of the Released PAGA Claims. The parties understand and specifically agree that the scope of the release described in this Paragraph is a material part of the consideration for this Agreement; was critical in justifying the agreed upon economic value of this settlement and without it Defendants would not have agreed to the consideration provided; and is narrowly drafted and necessary to ensure that Defendants are obtaining peace of mind regarding the resolution of claims that were or could have been alleged based on the facts, causes of action, and legal theories contained in the Action.

32. General Release of Claims by Plaintiffs. In addition, upon the Effective Date and full funding of the Total Settlement Amount, Plaintiffs will be deemed to have fully released and discharged the Released Parties of and from all claims arising from their employment with Defendants, separation of employment from Defendants, and any acts that have or could have been asserted in any legal action or proceeding against Defendants, whether known or unknown, arising under any federal, state, or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date of execution of the Settlement Agreement. With respect to those claims released by Plaintiffs in an individual capacity, Plaintiffs acknowledge and waive any and all rights and benefits available under California Civil Code section 1542, which provides:

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

Plaintiffs understand and agree that claims or facts in addition to or different from those which are now known or believed by him to exist may hereafter be discovered. It is Plaintiffs' intention to settle fully and release all claims they now have against the Released Parties, whether known or unknown, suspected or unsuspected, upon the Effective Date and full funding of the Total Settlement Amount. Notwithstanding the above, the general release by Plaintiffs shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

33. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement. Upon execution of this Settlement Agreement, Plaintiffs shall promptly obtain a hearing date for Plaintiffs' motion for preliminary approval of the Settlement, which Plaintiffs and Class Counsel will be responsible for drafting, and submit this Settlement Agreement to the Court in support of said motion. Class Counsel will provide Defendants' Counsel a draft of the preliminary approval motion for review and approval at least two (2) business days before filing it with the Court. Defendants agree not to oppose the motion for preliminary approval of the Settlement consistent with this Settlement Agreement. Defendants agree to provide Class Counsel a draft of any required declarations, if any are mutually deemed necessary, in support of Plaintiffs' motion for preliminary approval at least two (2) business days before Plaintiffs' deadline to file the motion for preliminary approval. Said motion shall apply to the Court for the entry of an order ("Preliminary Approval Order"), which shall be mutually agreed upon by the Parties, seeking the following:

a. Conditionally certifying the Class for settlement purposes only;

b. Granting Preliminary Approval of the Settlement;

c. Preliminarily appointing Plaintiffs as representatives of the Class;

d. Preliminarily appointing Class Counsel as counsel for the Class;

e. Approving, as to form and content, the mutually-agreed upon and proposed Class Notice and directing its mailing to the Class by First-Class U.S. Mail;

f. Approving the manner and method for Class Members to request exclusion from or object to the Class Settlement as contained herein and within the Class Notice; and

g. Scheduling a Final Approval Hearing at which the Court will determine whether the Settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class Members and Aggrieved Employees.

34. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After the Response Deadline, and with the Court's permission, a Final Approval Hearing will be conducted to determine whether Final Approval of the Settlement should be granted, along with the amounts properly payable for (a) Individual Settlement Payments; (b) Individual PAGA Payments; (c) LWDA Payment;

(d) Attorneys' Fees and Costs; (e) Enhancement Awards; and (f) Settlement Administration Costs. The Final Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Plaintiffs and Class Counsel will be responsible for drafting the motion seeking Final Approval of the Settlement. Class Counsel will provide Defendants' Counsel a draft of the final approval motion for review and approval at least two (2) business days before filing it with the Court. By way of said motion, Plaintiffs will apply for the entry of the mutually-agreed-upon proposed order and judgment ("Final Approval Order and Judgment"), which will provide for, in substantial part, the following:

a. Approval of the Settlement as fair, reasonable, and adequate, and directing consummation of its terms and provisions;

b. Certification of the Settlement Class;

c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;

d. Approval of the application for Enhancement Awards to Plaintiffs;

e. Setting a date when the Settlement Administrator shall report to the Court the completion of the distribution process and the total amount that was actually paid to the Settlement Class Members;

f. Directing Defendants to fund all amounts due under the Settlement Agreement and ordered by the Court; and

g. Entering judgment in this Action, while maintaining continuing jurisdiction to implement the Settlement, in conformity with the Settlement Agreement.

35. <u>Termination or Revocation of Settlement</u>.

a. If ten percent (10%) or more of the Class Members submit timely and valid Requests for Exclusion, Defendants may elect to rescind the Settlement Agreement by way of writing that is provided to Class Counsel within ten (10) calendar days after the Settlement Administrator notifies the Parties of the total number of timely and valid Requests for Exclusion received by the Response Deadline. If Defendants exercise this option, Defendants shall pay any costs of settlement administration incurred by the Settlement Administrator up until the date that Defendants gives notice to the Settlement Administrator that it is exercising its right to rescind the Settlement pursuant to this Paragraph.

b. If the Court fails or refuses to issue the Final Approval Order and Judgment or fails to approve any material condition of this Settlement Agreement which effects a fundamental change of the Settlement Agreement (unless explicitly excepted herein), by way of writing that is provided to the other Party within ten (10) calendar days thereof, the entire Settlement Agreement shall be rendered voidable and unenforceable as to all Parties herein at the option of either Party.

36. Effects of Termination of the Settlement. Termination of the Settlement Agreement shall have the following effects:

a. The Settlement Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;

b. In the event the Settlement Agreement is terminated, Defendants shall have no obligation to make any payments to any Party, Class Member, or attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Settlement has been terminated;

c. The Preliminary Approval Order, Final Approval Order and Judgment, including any order certifying the Class, shall be vacated;

d. The Settlement Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Action prior to the execution of the Settlement Agreement;

e. Neither this Settlement Agreement, nor any ancillary documents, actions, statements or filings in furtherance of the Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Action or any other action for any purpose whatsoever; and

f. Any documents generated to bring the Settlement into effect, will be null and void, and any order or judgment entered by the Court in furtherance of this Settlement Agreement will likewise be treated as void from the beginning.

g. If the Settlement is voided or fails for any reason other than revocation by Defendants, pursuant to Paragraph 35(a), above, any costs incurred by the Settlement Administrator shall be borne equally by the Parties.

37. Escalator Clause. Defendants represent that, during the period from June 11, 2016 to July 10, 2023, the Class Members worked, collectively, approximately 22,000 Workweeks. Should the qualifying workweeks increase beyond 5% worked by the Class Members during the period from June 11, 2016, to October 22, 2023, (i.e., more than 1,100 workweeks), Defendants shall increase the Total Settlement Amount on a pro-rata basis equal to the percentage increase in the number of workweeks worked by the Class Members above five percent (5%), meaning Defendants will increase the Total Settlement Amount by the percentage amount above five percent (5%) (e.g., if the number of workweeks increases by 6% to 23,320 workweeks, the Total Settlement Amount will increase by one percent (1%)).

38. Continued Jurisdiction. After entry of judgment pursuant to the Settlement, the Court will have continuing jurisdiction, for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

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

40. Limitation on Publicity. Plaintiffs and Class Counsel agree not to disclose or publicize the Settlement, including the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, except potential class members and as shall be contractually required to effectuate the terms of the Settlement. For the avoidance of doubt, this Paragraph means Plaintiffs and Class Counsel agree not to issue press releases, communicate with, or respond to any media or publication entities, publish information in manner or form, whether printed or electronic, on any medium or otherwise communicate, whether by print, video, recording or any other medium, with any person or entity concerning the Settlement, including the fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except as shall be contractually required to effectuate the terms of the Settlement. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the name of the Parties in the Action and the venue/case number of the Action (but not any other settlement details) for such purposes. Furthermore, Plaintiffs and Class Counsel will undertake any and

all disclosures and submissions required to be made to the LWDA in conformity with PAGA.

41. Entire Agreement. This Settlement Agreement and any attached exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code section 1625 and California Code of Civil Procedure section 1856(a), and any other provisions of state or federal law, which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Settlement Agreement. This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein.

42. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Action (including, and not limited to, the deadline to bring the Action to trial under California Code of Civil Procedure section 583.310), except such proceedings necessary to implement and complete the Settlement Agreement, pending the Final Approval Hearing to be conducted by the Court.

43. Amendment. Prior to the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all Parties. After the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all of the Parties and subject to Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision. Material terms of this agreement may only we waived subject to Court approval.

44. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have

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

45. Signatories. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each Class Member execute this Settlement Agreement. The Class Notice will advise all Class Members of the binding nature of the Class Settlement as to the Settlement Class Members, and the release shall have the same force and effect as if this Settlement Agreement were executed by each Settlement Class Member.

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

47. California Law Governs. All terms of this Settlement Agreement and attached exhibits hereto will be governed by and interpreted according to the laws of the State of California.

48. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile, electronic, and scanned copies of the signature page, will be deemed to be one and the same instrument.

49. Acknowledgment that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action, Released Class Claims, and Released PAGA Claims, and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement. In addition, if necessary to obtain approval of the Settlement, the Mediator may execute a declaration supporting the Settlement and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

50. Invalidity of Any Provision. Before declaring any provision of this Settlement

Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to find all provisions of this Settlement Agreement valid and enforceable.

51. Plaintiffs' Cooperation. Plaintiffs agree to sign this Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms herein and agrees to fully cooperate to implement the Settlement.

52. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Settlement Agreement, Defendants do not admit, and specifically deny, that they have violated any state, federal, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendants of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its terms and provisions shall not be offered as evidence in any action or proceeding to establish any liability or admission on the part of Defendants or to establish the existence of any condition constituting a violation of, or a non-compliance with state, federal, local or other applicable law.

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

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

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

56. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

57. Notices. All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by overnight mail at the addresses set for below, or such other addresses as either Party may designate in writing from time to time:

To Plaintiffs and Class Counsel:

Arby Aiwazian, Esq.
Joanna Ghosh, Esq.
Ryan Slinger, Esq.
LAWYERS *for* JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

To Defendants:

Kathleen Hartman
CALLAHAN THOMPSON SHERMAN & CAUDILL LLP
2601 Main Street, Suite 800
Irvine, California 92614

58. Final Approval Order and Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment to the Class will be required.

59. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

60. No Unalleged Claims. Plaintiffs and Class Counsel represent that they, as of the date of

execution of this Settlement, are not currently aware of any: (a) unalleged claims in addition to, or different from, those which are finally and forever settled and released against the Released Parties by this Settlement; and (b) unalleged facts or legal theories upon which any claims or causes of action could be brought against Defendants, except such facts and theories specifically alleged in the Action. Plaintiffs and Class Counsel further represent that, other than the Action, they have no current intention of asserting any other claims against Defendants in any judicial or administrative forum, and that they do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendants. The Parties acknowledge, understand, and agree that the representations described in this Paragraph are essential to the Agreement and that this Agreement would not have been entered into were it not for these representations.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Class and PAGA Settlement and Release between Plaintiffs and Defendants:

IT IS SO AGREED.

PLAINTIFF CHRISTIAN WIRTH

Electronically Signed 2024-05-01 00:04:53 UTC - 99.50.110.8

Dated: 04/30/2024, 2024

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Christian Wirth, Plaintiff

PLAINTIFF BRANDON TREIBER

Electronically Signed 2024-05-07 23:50:14 UTC - 47.181.129.183

Dated: 05/07/2024, 2024

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Brandon Treiber, Plaintiff

PLAINTIFF GIANCARLO MONROY

Electronically Signed 2024-05-01 01:50:12 UTC - 76.176.240.96

Dated: 04/30/2024, 2024

Nintex AssureSign® e4f4982e-928d-4d6b-be6f-b162013439b3

Giancarlo Monroy, Plaintiff

Dated: May 6, 2024

DEFENDANT MB2 RACEWAY, INC.

Full Name: Jared Sheff

Title: General Manager
On behalf of MB2 RACEWAY, INC.

DEFENDANT MB2 RACEWAY T.O, INC.

Dated: May 6, 2024

Full Name: Jared Sheff

Title: General Manager
On behalf of MB2 RACEWAY T.O., INC.

APPROVED AS TO FORM

LAWYERS *for* JUSTICE. PC

Dated: May 9, 2024

Ryan Slinger

Arby Aiwazian
Joanna Ghosh
Ryan Slinger
Attorneys for Plaintiffs Christian Wirth, Brandon Treiber, and Giancarlo Monroy

CALLAHAN THOMPSON SHERMAN & CAUDILL LLP

Dated: May 7, 2024

Kathleen Hartman
Attorneys for Defendants MB2 RACEWAY, INC., and MB2 RACEWAY, T.O., INC.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the below-referenced cases.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiffs Christian Wirth, Brandon Treiber, and Giancarlo Monroy ("Plaintiffs") and Defendants MB2 Raceway, Inc. and MB2 Raceway T.O. Inc. ("Defendants") (Plaintiffs and Defendants are collectively referred to as the "Parties") in the case entitled: *Wirth, et al. v. MB2 Raceway, Inc.*, Superior Court of California for the County of Los Angeles, Case No. 20STCV22600, which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"**Aggrieved Employees**" means all current and former hourly-paid or non-exempt employees of Defendants in California employed during the PAGA Release Period.

"**Class**" means all current and former hourly-paid and non-exempt employees of Defendants in California employed at either the Thousand Oaks or Sylmar locations during the Class Release Period.

"**Class Member**" means a member of the Class.

"**Class Release Period**" is the time period from June 11, 2016 through October 22, 2023.

"**Class Settlement**" means the settlement and resolution of all Released Class Claims.

"**PAGA Release Period**" means the time period from April 2, 2019 through October 22, 2023.

"**PAGA Settlement**" means the settlement and resolution of the Released PAGA Claims.

II. BACKGROUND OF THE LAWSUIT

On April 2, 2020, Plaintiff Wirth provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code that Plaintiff contends were violated ("Wirth PAGA Notice"). On June 11, 2020, Plaintiffs Wirth and Treiber commenced a putative class action lawsuit by filing a Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq., in the Los Angeles County Superior Court, Case No. 20STCV22600 ("Action") against MB2 Raceway, Inc. On May 8, 2020, Plaintiff Treiber provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code that Plaintiff contends were violated ("Treiber PAGA Notice"). On June 12, 2020, Plaintiff Monroy provided written notice to the California Labor and Workforce Development Agency ("LWDA") and Defendants of the specific provisions of the California Labor Code that Plaintiff contends were violated ("Wirth PAGA Notice").

On January 13, 2021, Plaintiffs filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq.

Plaintiffs allege that Defendants failed to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, and reimburse business expenses, and thereby engaged in unfair business practices in violation of California Business & Professions Code Section 17200, *et seq*., and conduct that gives rise to penalties under California Labor Code Sections 2698, *et seq*. ("PAGA"). Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendants have denied and continues to deny all the allegations in the Action or that it violated any law and contends that at all times it has complied with the law.

The Parties participated in mediation with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Class Action and PAGA Settlement ("Settlement," "Agreement," or "Settlement Agreement").

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has preliminarily appointed Phoenix Class Action Administration Solutions as the administrator of the Settlement ("Settlement Administrator") and Plaintiffs as the representatives of the Class ("Class Representatives"), and the following Plaintiffs' attorneys as counsel for the Class ("Class Counsel"):

Arby Aiwazian
Joanna Ghosh
Ryan Slinger
Lawyers *for* Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object or seek exclusion from the PAGA Settlement and all Aggrieved Employees will be bound to the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that the claims in the Action have merit or that Defendants have any liability to Plaintiffs, Class Members, the State of California, or Aggrieved Employees. Plaintiffs and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members, the State of California, and Aggrieved Employees. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The Total Settlement Amount is $250,000.00. The portion of the Total Settlement Amount that is available for payment to Class Members is referred to as the "Net Settlement Amount." The Net Settlement Amount will be the Total Settlement Amount less the following payments: (1) attorneys' fees, in an amount not to exceed 35% of the Total Settlement Amount (i.e., $87,500.00 if the Total Settlement Amount remains $250,000.00) and reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action, in an amount up to Thirty-Five Thousand Dollars ($35,000.00) (collectively, "Attorneys' Fees and Costs") to Class Counsel; (2) Enhancement Awards in an amount not to exceed Five Thousand Dollars ($5,000.00) to each Plaintiffs for their services in the Action; (3) the amount of Twenty-Five Thousand Dollars ($25,000.00) allocated toward civil penalties under the Private Attorneys General Act ("PAGA Penalty Amount"), of which the LWDA will be paid 75% (i.e., $18,750.00) ("LWDA Payment") and the remaining 25% (i.e., $6,250.00) will be distributed to Aggrieved Employees ("Aggrieved Employee Amount"); (4) Settlement Administration Costs in an amount not to exceed Nine Thousand Dollars ($9,000.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement

Amount ("Individual Settlement Share") based on the number of weeks each Class Member worked for any of the Defendants as an hourly-paid or non-exempt employee of Defendants in California at either the Thousand Oaks and/or Sylmar locations during the Class Period ("Workweeks"). The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiplied each Class Member's individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion ("Settlement Class Members") will be issued payment of their final Individual Settlement Payment.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages, which will be reported on an IRS Form W-2, and eighty percent (80%) penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099 (if applicable). The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). The Employer Taxes will be paid separately and in addition to the Total Settlement Amount.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the Aggrieved Employee Amount ("Individual PAGA Payment") based on the number of Workweeks each Aggrieved Employee was employed by Defendants as an hourly paid or non-exempt employee in California during the PAGA Release Period. The Settlement Administrator has divided the 25% of the PAGA Penalty Amount by the total number of Workweeks of all Aggrieved Employees during the PAGA Release Period to yield the "PAGA Workweek Value," and multiplied each Aggrieved Employee's individual Workweeks during the PAGA Release Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment (which is listed in Section III.C below). Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, following the Effective Date (as defined in the Settlement), Defendant will fund the Total Settlement Amount as follows:

- After Preliminary Approval, and prior to the mailing of the Class Notice, the Settlement Administrator will provide the Parties with an accounting estimate of the contemplated amounts to be paid by the Defendant and establish a qualified settlement account for administration of the Settlement.
- Within ten (10) calendar days after the Court grants Preliminary Approval, Defendants will make a deposit of One Hundred Twenty-Five Thousand Dollars ($125,000.00), into the qualified settlement account established by the Settlement Administrator ("First Installment").
- Within ten (10) calendar days after the Court grants Final Approval, Defendants will make a deposit of One Hundred Twenty-Five Thousand Dollars ($125,000.00) plus an amount sufficient for Employer's Taxes, into the qualified settlement account established by the Settlement Administrator ("Second Installment").
- Within seven (7) calendar days of the funding of the Effective Date (and the settlement being fully funded), the Settlement Administrator will issue payments due under the Settlement and approved by the Court, as follows: (a) Individual Settlement Payments to Settlement Class Members; (b) Individual PAGA Payments to Aggrieved Employees; (c) LWDA Payment to the LWDA; (d) Enhancement Awards to Plaintiffs; (e) Attorneys' Fees and Costs to Class Counsel; (f) Settlement Administration Costs to itself.

The timing of these distributions will depend on the date of Final Approval of the Settlement and the dates on which Defendants fund the Total Settlement Amount.

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendants' Records

The Workweeks of each Class Member and Aggrieved Employee were calculated based on Defendants' records. According to Defendants' records,

- **From July 11, 2016 through October 22, 2023 (i.e., the Class Release Period), you are credited as having worked [_____] Workweeks.**
- **Between April 2, 2019 through October 22, 2023 (i.e., the PAGA Release Period), you are credited as having worked [_____] Workweeks.**

If you wish to dispute the Workweeks credited to you, you may submit your dispute by way of written letter that is sent to the Settlement Administrator, which must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) clearly state that the Class Member disputes of the number of Workweeks credited to him or her and what he or she contends is the correct number to be credited to him or her; (d) attach any documentation that he or she has to support the dispute; (e) be submitted by mail to the Settlement Administrator at the specified address listed in Section IV.B below, postmarked **on or before** **[Response Deadline]**.

C. Your Estimated Individual Settlement Share and/or Individual PAGA Payment

As explained above, your estimated Individual Settlement Share and/or Individual PAGA Payment (if applicable) is based on the number of Workweeks credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be $___________. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be $___________ and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment (if applicable) reflected in this Notice is only an estimate. Your actual Individual Settlement Share and/or Individual PAGA Payment (if applicable) may be higher or lower.

D. Release of Claims

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff and all Settlement Class Members (i.e., Class Members who do not submit a timely and valid Request for Exclusion) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims whether known or unknown.

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff and the State of California will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims pertaining to Plaintiff and the Aggrieved Employees, whether known or unknown.

> "Released Class Claims" means all causes of action and factual or legal theories that were alleged in the Operative Complaint or reasonably could have been alleged based on the facts and legal theories contained in the Action, for violations of the California Labor Code, including *inter alia* sections 201, 202, 203, 204, 226(a), 226(h), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001, and 10-2001, Business & Professions Code section 17200 et seq., including all of the following claims for relief: (a) failure to pay all and overtime wages due; (b) failure to provide proper meal periods, and to properly provide premium pay in lieu thereof; (c) failure to provide proper rest periods, and to properly provide premium pay in lieu thereof; (d) failure to pay all minimum wages due; (e) failure to pay all wages timely during employment; (f) failure to pay all wages

timely at the time of termination; (g) failure to provide complete accurate or properly formatted wage statements; (h) failure to keep complete and accurate payroll records; (i) failure to reimburse business expenses; (j) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action, or legal theories of relief pleaded in the Operative Complaint; (k) any other claims or penalties under the wage and hour laws pleaded in the Action; and (l) all damages, penalties, interest, and other amounts recoverable under said claims, causes of action or legal theories of relief.

"Released PAGA Claims" means all causes of action and factual or legal theories for civil penalties under the California Labor Code Private Attorneys General Act of 2004 against any of the Released Parties that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the PAGA Notices and Action for violations of the California Labor Code, including inter alia sections 201, 202, 203, 204, 226(a), 226.7, 510, 512 (a), 1174 (d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including inter alia, Wage Orders 4-2001 and 10-2001, including all of the following: (a) failure to pay all and overtime wages due; (b) failure to provide proper meal periods and to properly provide premium pay in lieu thereof; (c) failure to provide proper rest periods, and to properly provide premium pay in lieu thereof; (d) failure to pay all minimum wages due; (e) failure to pay all wages timely during employment; (f) failure to pay all wages timely at the time of termination; (g) failure to provide complete, accurate or properly formatted wage statements; (h) failure to keep complete and accurate payroll records; and (i) failure to reimburse business expenses.

"Released Parties" means MB2 Raceway, inc. and MB2 Raceway T.O., Inc., and each of their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

E. <u>Attorneys' Fees and Costs to Class Counsel</u>

Class Counsel will request and Defendants will not oppose attorneys' fees in an amount of up to thirty-five percent (35%) of the Total Settlement Amount (i.e., up to $87,500.00 if the Total Settlement Amount remains $250,000.00) and reimbursement of actual litigation costs and expenses in an amount not to exceed Thirty-Five Thousand Dollars ($35,000.00) (collectively, "Attorneys' Fees and Costs"), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Total Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiffs, Class Members, and Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. <u>Enhancement Awards to Plaintiffs</u>

Plaintiffs will seek the amounts of up to Five Thousand Dollars ($5,000.00) ("Enhancement Awards"), in recognition of his services in connection with the Action. The Enhancement Awards will be paid from the Total Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiffs in addition to their individual settlement payments that they are entitled to under the Settlement.

G. <u>Settlement Administration Costs to the Settlement Administrator</u>

Payment to the Settlement Administrator is estimated not to exceed Nine Thousand Dollars ($9,000.00) ("Settlement Administration Costs") for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Objections, and Workweeks Dispute, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Total Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released Class Claims described in Section III.D above.

If you are an Aggrieved Employee, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.D above.

As a Class Member and Aggrieved Employee (if applicable), you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Class Settlement

Class Members may request to be excluded from the Class Settlement by submitting a letter indicating a request to be excluded from the Class Settlement ("Request for Exclusion") to the Settlement Administrator.

A Request for Exclusion must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a clear written statement indicating that the Class Member seeks exclusion from the Class Settlement; and (d) be submitted by mail to the Settlement Administrator at the specified address below, postmarked **on or before** [**Response Deadline**].

Phoenix Class Action Settlement Solutions
P.O. Box 7208
Orange, California 92863

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a timely and valid Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. Aggrieved Employees will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the Class Settlement as long as you have not submitted a Request for Exclusion from the Class Settlement, by submitting a written objection ("Objection") to the Settlement Administrator or presenting your objection at the Final Approval Hearing.

An Objection must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security Number; (c) contain a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) contain copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by mail to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked **on or before** [**Response Deadline**].

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, on [**date**], at [**time**], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and grant the Attorneys' Fees and Costs to Class Counsel, Enhancement Awards to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator.

The Final Approval hearing may be continued without further notice to Class Members and Aggrieved Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear by audio or video if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action for a fee by visiting the civil clerk's office, office during business hours (you must make an appointment prior to visiting the civil clerk's office), located at the Stanley Mosk Courthouse, 111 North Hill Street, California, 90012, or by online by visiting the following website: https://www.lacourt.org/casesummary/ui.

Please note, due to COVID-19, there are limitations on personal appearances and telephonic appearances are an option. You can find information regarding the Court's most current COVID-19 guidelines online at: https://www.lacourt.org/. You can find information regarding appearing remotely through LA CourtConnect online at: http://www.lacourt.org/lacceligibility/ui/civil.aspx?casetype=ci. Please note that there may be deadlines to reserve a remote appearance and reservation fees or charges may apply.

P**LEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.**

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT].

EXHIBIT 2

LAWYERS FOR
JUSTICE
A PROFESSIONAL CORPORATION

April 2, 2020

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: ***MB2 RACEWAY, INC.***

Dear Representative:

Christian Wirth seeks penalties against MB2 Raceway, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as "MB2") for violations of California wage-and-hour laws. Mr. Wirth seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Wirth seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

MB2 employed Mr. Wirth as an hourly-paid, non-exempt employee from approximately August 2018 to approximately April 2019, in the State of California.

The "aggrieved employees" that Mr. Wirth may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, MB2 has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, and 10-2001.

MB2 required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, responding to work related inquiries from managers/supervisors, running cars, setting up cars for races, helping guests, helping managers and other coworkers, coverage, maintenance work, cleaning, and setting up race schedules.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Wirth and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Wirth and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, MB2 required Mr. Wirth and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, MB2 failed to pay Mr. Wirth and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, MB2 failed to pay Mr. Wirth and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, MB2 did not provide Mr. Wirth and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from MB2 were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Wirth and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars ($50) for each aggrieved employee per pay period for the initial violation and one hundred dollars ($100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Wirth and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Wirth and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Wirth and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Wirth and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, MB2 failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Wirth and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, MB2 did not provide Mr. Wirth and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, and 10-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, MB2 failed to pay Mr. Wirth and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Wirth and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, MB2 failed to pay Mr. Wirth and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Wirth and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Wirth and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by MB2. These costs include, but are not limited to, the use of a personal cell phone for business related purposes.

Therefore, on behalf of all aggrieved employees, Mr. Wirth seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

MB2 Raceway, Inc.
c/o Martine Brooks
Agent for Service of Process
28143 Caraway Lane
Saugus, CA 91350

(By U.S. Mail – Under Separate Cover with Filing Fee Enclosed)

Department of Industrial Relations Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102

LAWYERS FOR
JUSTICE
A PROFESSIONAL CORPORATION

May 8, 2020

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: ***MB2 RACEWAY, INC.***

Dear Representative:

We have been retained to represent Brandon Treiber against MB2 Raceway, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as "MB2") for violations of California wage-and-hour laws. Mr. Treiber seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Treiber seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

MB2 employed Mr. Treiber as an hourly-paid, non-exempt employee from approximately April 2018 to approximately July 2019, in the State of California.

The "aggrieved employees" that Mr. Treiber may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California, including, but not limited to all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California who earned shift differentials/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of pay used to calculate the overtime rate.

Based on the following facts and theories, MB2 has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, and 10-2001.

MB2 required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, responding to work related inquiries from managers/supervisors, running cars, setting up cars for races, helping guests, helping managers and other coworkers, coverage, maintenance work, cleaning, and setting up race schedules.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Treiber and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Treiber and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, MB2 required Mr. Treiber and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, MB2 failed to pay Mr. Treiber and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, MB2 failed to pay Mr. Treiber and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, MB2 did not provide Mr. Treiber and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from MB2 were in violation of California Labor

Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Treiber and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars ($50) for each aggrieved employee per pay period for the initial violation and one hundred dollars ($100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Treiber and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Treiber and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Treiber and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Treiber and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, MB2 failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Treiber and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, MB2 did not provide Mr. Treiber and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, and 10-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, MB2 failed to pay Mr. Treiber and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which

Mr. Treiber and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, MB2 failed to pay Mr. Treiber and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Treiber and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Treiber and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by MB2. These costs include, but are not limited to, the use of a personal cell phone for business related purposes.

Therefore, on behalf of all aggrieved employees, Mr. Treiber seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested and General Logistics Systems)

MB2 Raceway, Inc.
c/o Martine Brooks
Agent for Service of Process
28143 Caraway Lane
Saugus, CA 91350

(By U.S. Mail – Under Separate Cover with Filing Fee Enclosed)

Department of Industrial Relations Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102

LAWYERS FOR
JUSTICE
A PROFESSIONAL CORPORATION

June 12, 2020

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: ***MB2 RACEWAY, INC.; MB2 RACEWAY T.O., INC.***

Dear Representative:

Giancarlo Monroy seeks penalties against MB2 Raceway, Inc., and MB2 Raceway T.O., Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as "MB2") for violations of California wage-and-hour laws. Mr. Monroy seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Monroy seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

MB2 employed Mr. Monroy as an hourly-paid, non-exempt employee from approximately May 2018 to approximately July 2019, in the State of California.

The "aggrieved employees" that Mr. Monroy may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, MB2 has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, and 10-2001.

MB2 required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, responding to work related inquiries from managers/supervisors, running cars, setting up cars for races, helping guests, helping managers and other coworkers, coverage, maintenance work, cleaning, and setting up race schedules.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Monroy and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Monroy and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, MB2 required Mr. Monroy and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, MB2 failed to pay Mr. Monroy and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

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Therefore, on behalf of all aggrieved employees, Mr. Monroy seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

MB2 Raceway, Inc.
c/o Martine Brooks
Agent for Service of Process
28143 Caraway Lane
Saugus, CA 91350

MB2 Raceway T.O., Inc.
c/o Dusti Fishback
Agent for Service of Process
13943 Balboa Blvd.
Sylmar, CA 91342

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Department of Industrial Relations Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102