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on behalf of himself and others similarly situated

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

EDWARD MORALES TELLEZ, an
individual, on behalf of himself and others
similarly situated,

Plaintiff,

vs.

PICK-YOUR-PART AUTO WRECKAGE, a
California corporation; and DOES 1 through
50, inclusive,

Defendants.

Case No. CIVDS2017040

Hon. David Cohn

**DECLARATION OF DAVID YEREMIAN
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION TO APPROVE
THE PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT AND RELEASE
UNDER CALIFORNIA LABOR CODE §§
2698 et. seq.**

*[filed concurrently with Plaintiff's Notice of
Motion and Motion; Memorandum of Points and
Authorities; Declaration of Roman Shkodnik;
and [Proposed] Order]*

Date: November 8, 2021
Time: 10:00 a.m.
Dept.: S-26

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1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals.

3. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I have represented Plaintiff and the aggrieved employees since the inception of this matter. I submit this Declaration in support of Plaintiff's Motion to Approve Settlement Agreement and PAGA Claims under California Labor Code 2698 *et seq.*

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YEREMIAN DECLARATION IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT

1 of lower wages, and Plaintiffs gave notice to Defendant. *See Exhibit 1.* The LWDA did not
2 respond to the LWDA letter and did not notify Plaintiff or Defendant that it intended to
3 investigate Plaintiff's allegations.

4 5. On August 6, 2020, after 65 days from the mailing of the first notice to the LWDA,
5 Plaintiff filed a PAGA Complaint against Defendant in the Superior Court for the State of
6 California, in San Bernardino, Case Number CIVDS2017040, alleging claims for (1) failure to
7 pay minimum wages; (2) failure to pay wages and overtime; (3) failure to provide meal breaks;
8 (4) failure to provide rest breaks; (5) failure to furnish accurate itemized wage statements; (6)
9 unlawful deductions; (7) failure to timely pay final wages upon termination or separation; and (8)
10 failure to reimburse business expenses. On November 5, 2020, Plaintiff filed a First Amended
11 Complaint that dismissed the claim for unlawful deductions. On September 20, 2021, the Court
12 granted Plaintiff leave to file a Second Amended Complaint ("SAC") to add claims for unlawful
13 discount of wages, unlawful deductions, and secret payment of lower wages.

14 6. Before filing the lawsuit, my firm investigated and researched the facts and
15 circumstances underlying the pertinent issues and the law applicable thereto. This required
16 thorough discussions and interviews between our firm and Plaintiff, as well as preliminary
17 research into the various legal issues involved in the case. After conducting our initial
18 investigation, we determined that Plaintiff's claims were well-suited for representative action
19 adjudication owing to what appeared to be a common course of conduct affecting a similarly
20 situated group of employees.

21 7. After filing the lawsuit, my firm conducted a thorough investigation of the facts and
22 claims giving rise to the action, including: (1) conducting informal discovery, and meeting and
23 conferring with defense counsel about same; (2) reviewing and analyzing time and pay records as
24 well as employment handbooks, Plaintiff's personnel files, relevant policies and other
25 documentation; (3) researching the applicable law and potential defenses; (4) constructing
26 damage models based on interpretations of California law; and (5) reviewing information
27 provided by Defendant at the mediation.

28 8. Defendant, for its part, vigorously contested liability, the amount of claimed damages.

1 In addition, informal discovery revealed that Plaintiff, as well as many other Aggrieved
2 Employees, signed an arbitration agreement during their employment with Defendant. The
3 arbitration agreement precludes Plaintiff, or any employee who signed the arbitration agreement,
4 from bringing class claims against Defendant.

5 9. Given the arbitration agreement signed by the Aggrieved Employees, Plaintiff
6 continued proceeding with the claims under Labor Code § 2699. After Plaintiff's Counsel
7 analyzed the relevant documents and other gathered data, Counsel believed that this case was
8 appropriate for resolution via mediation. With the discovery in hand, the parties were able to
9 engage in meaningful settlement discussions, in an attempt to resolve the claims remaining in the
10 Action.

11 **SETTLEMENT NEGOTIATIONS AND TERMS**

12 10. On July 28, 2021, the parties mediated this case with Todd A. Smith, Esq., a respected
13 and highly experienced mediator in wage and hour class and PAGA actions. During mediation,
14 the parties discussed all aspects of further litigation, the claims, including the claims not raised in
15 the First Amended Complaint which were subsequently added in the SAC, Defendant's defenses
16 and exchanged further information. The parties recognized that the issues presented in the Action
17 are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that
18 further litigation will lead to inconvenience, distraction, disruption, delay and expense
19 disproportionate to the potential benefits of litigation. The parties took into account the risk and
20 uncertainty of the outcome inherent in any litigation.

21 11. As a result of the mediation, the parties agreed to settle the lawsuit according to the
22 terms set forth in the Private Attorney General Act Settlement Agreement ("Settlement
23 Agreement" or "Settlement"), attached hereto as **Exhibit 2**.

24 12. For purposes of the Settlement, Aggrieved Employees are defined as: all individuals
25 who are or were employed by Defendant as non-exempt employees within the State of California
26 during the period from March 3, 2019, through Settlement approval by the Court. In this case,
27 there are 746 Aggrieved Employees.

28 13. The Settlement Agreement requires Defendant to pay a total sum of Six Hundred

1 Eighty-Four Thousand Dollars and Zero Cents (\$684,000.00) (the “Gross Settlement Amount”) in
2 exchange for a release of Plaintiff’s Representative PAGA claims asserted in the operative
3 Complaint and the LWDA letters. The Gross Settlement Amount will be allocated as follows,
4 pending Court approval:

- 5 a) Attorneys’ fees of up to 35% of the Gross Settlement Amount which is Two
6 Hundred Thirty-Nine Thousand Four Hundred Dollars and Zero Cents
7 (\$239,400.00) (“PAGA Counsel’s Fees”) (see Exhibit 2, at ¶ 4(a) and PAGA
8 Counsel’s litigation costs incurred in this matter which is Four Thousand Seven
9 Hundred Thirty-Nine and Eight-Four Cents (\$4,739.84) (“PAGA Counsel’s
10 Costs) (see Exhibit 2, at ¶ 4(a)).
- 11 b) Administration costs of no more than Nine Thousand and Five Hundred Dollars
12 and Zero Cents (\$9,500.00) to be paid to the Settlement Administrator
13 (“Administration Costs”) for sending notices and for calculating settlement
14 shares and preparing all checks and mailings (see Exhibit 2, at ¶ 4(b)); and
- 15 c) The remainder of the Gross Settlement Amount (the “PAGA Fund”) after
16 deducting the above costs is approximately Four Hundred and Thirty Thousand
17 Three Hundred Three Hundred Sixty Dollars and Sixteen Cents (\$430,360.16)
18 and shall be designated as PAGA Penalties to be allocated between the LWDA
19 and the Aggrieved Employees pursuant to Labor Code section 2699(i), with
20 75% of the PAGA Fund or the gross amount of (\$322,770.12) paid to the
21 LWDA (the “LWDA PAGA Portion) and 25% of the PAGA Fund or the gross
22 amount of (\$107,590.04) paid to the Aggrieved Employees (the “Aggrieved
23 Employees’ PAGA Portion”) on a pro-rata basis (See Exhibit 2 at ¶ 4(c)).

24 14. From PAGA Counsel’s review of the facts, strengths, and weaknesses of the case, the
25 risks and delays posed by further litigation, and PAGA Counsel’s own prior litigation experience,
26 PAGA Counsel believes that the recovery for each Aggrieved Employee is fair and reasonable
27 taking into consideration the amounts received in other PAGA actions, the risks inherent in
28 litigation of this genre, and the reasonable tailoring of each Aggrieved Employee’s claim to the

1 settlement award he or she will receive. Further, and based on the settlement negotiations, which
2 were extensive and conducted in good faith and at arm's length between attorneys with
3 substantial experience litigating PAGA actions, the Settlement Agreement was the product of a
4 non-collusive settlement process in which the parties were forced to make significant
5 compromises in the interest of reaching a full and complete settlement of the lawsuit.

6 **THE STRENGTH OF PLAINTIFF'S CASE**
7 **IN LIGHT OF THE SETTLEMENT AMOUNT**

8 15. Plaintiff alleges that Defendant violated various provisions of California law and seeks
9 civil penalties for the foregoing violations pursuant to Labor Code § 2699 *et seq.*

10 16. Under Labor Code § 2699, specifically, Plaintiff alleged that the Aggrieved Employees
11 were not paid all wages they were owed, including for all work performed and for all overtime
12 hours worked. Specifically, when Aggrieved Employees arrived to work, they had to walk over to
13 the timekeeping station and allegedly had to wait in line to undergo security checks before they
14 could clock in. Moreover, Defendants had an agreement with a payroll service provider for the
15 issuance of payroll cards to Aggrieved Employees that required Aggrieved Employees to incur a
16 fee in order to access their full wages in violation of California Labor Code § 212 and 213.
17 Aggrieved Employees would not be able to withdraw their entire wages in one transaction via an
18 ATM because ATM's only disburse cash in limited denominations and do not dispense exact
19 change. Moreover, Aggrieved Employees had to abide by business hours of a specific bank chain
20 and had limited locations with limited business hours that created additional obstacles and hurdles
21 to access their entire wages without discount and without delay. Additionally, Defendants
22 provided Aggrieved Employees with payroll debit cards as payment of their wages. Under this
23 payroll debit card program, Aggrieved Employees were assessed various fees in connection with
24 their use of the payroll debit cards. Aggrieved Employees were required to pay per-transaction
25 fees. ATM fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and
26 due wages. The fees charged to Aggrieved Employees resulted in a discount of their wages.
27 Defendants' payroll debit card program, which resulted in a discount of wages to employees, is
28 tantamount to taking deductions from Aggrieved Employees' paychecks without their written

1 authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor
2 Code § 221 and 224. Furthermore, Defendants willfully and systemically issued payroll debit
3 cards to Aggrieved Employees that discounted their wages by charging various fees in connection
4 with the use of the payroll debit cards. Defendants' payroll debit card program resulted in the
5 payment of less than statutorily required wages to Aggrieved Employees. In doing so, Defendants
6 acted with the intent to deprive Aggrieved Employees of statutory wages, including but not
7 limited to, overtime wages and minimum wages to which they were entitled to under California
8 law. Defendants paid other aggrieved employees lower wages than those they were entitled to
9 while purporting that other aggrieved employees were properly paid. On top of these violations,
10 Plaintiff alleged that Aggrieved Employees often were not allowed to take legally compliant meal
11 and rest breaks due to the demands of the job. Additionally, Plaintiff alleged that alleged that to
12 the extent they were able to take a break, it was often interrupted. Moreover, Defendant paid
13 incentive and other bonuses to employees but failed to factor these nondiscretionary bonuses into
14 the regular rate when calculating overtime pay. Additionally, Defendant failed to reimburse
15 Plaintiff and Aggrieved Employees for cellphone expenses and mechanical overalls that were
16 used in the course of performing their job duties for Defendant.

17 17. Plaintiff also contends that Defendant failed to provide their employees with accurate,
18 itemized wage statements, in writing, as required by California Labor Code § 226(a). Section
19 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized
20 statement in writing showing the gross and net earnings, total hours worked, and the
21 corresponding number of hours worked at each hourly rate. Labor Code § 226(a). These
22 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
23 serves to pay the employee's wages, or, if wages are paid by cash or personal check, these
24 statements may be given to the employee separately from the payment of wages. *Id.* In either case
25 the employer must give the employee these statements twice a month or each time wages are
26 paid. *Id.* As a direct and proximate cause of Defendant's alleged violation of Labor Code §
27 226(a), employees allegedly suffered injuries, including not being paid their wages and overtime,
28 confusion over whether they received all wages owed them, the difficulty and expense involved

1 in reconstructing pay records, and forcing them to make mathematical computations to analyze
2 whether the wages paid in fact compensated them for all hours worked. Specifically, the wage
3 statements allegedly failed to accurately account for unpaid wages and overtime due to the off the
4 clock work. Moreover, the wage statements allegedly failed to account for premium pay for
5 deficiently provided meal and rest periods. As a result, Defendant allegedly failed to provide
6 employees with accurate, itemized wage statements in writing, as required by the Labor Code.

7 18. By allegedly failing to pay the Plaintiff and Aggrieved Employees their minimum
8 wages, overtime wages, all discussed above, Plaintiff and formerly employed Aggrieved
9 Employees would be due all wages at the time of termination or within seventy-two (72) hours of
10 resignation, as required under Labor Code § 203.

11 19. Defendant denied and continues to deny all of the claims made by Plaintiff in this
12 Action and contends it acted at all relevant times in conformance with the law. Defendant
13 contends Plaintiff and all putative Aggrieved Employees were provided lawfully compliant meal
14 and rest periods and that any deviations were at the voluntary election of the Plaintiff and/or the
15 putative Aggrieved Employees and not at the request of Defendant or due to work; that the
16 deposit of wages onto pay cards for those that elected to receive their wages through that method,
17 complied with the law; that Defendant paid all wages due, at the correct hourly rate and on a
18 timely basis; that Defendant's wage statements complied with the law; and that neither Plaintiff
19 nor any putative Aggrieved Employee incurred reasonable business related expenses for which
20 they were not reimbursed. Finally, Defendant disputes and denies having engaged in any alleged
21 unlawful discount of wages, unlawful deductions, and/or alleged secret lowering of paid wages
22 due to pay cards. As a result of Defendant's arguments Plaintiff's Counsel had to apply
23 appropriate discounts in light of the facts and law as discussed above.

24 **PAGA Penalties**

25 20. The Private Attorneys General Act, Labor Code § 2699 et seq., allows Plaintiff to
26 obtain civil penalties on behalf of themselves and other aggrieved employees for Defendant's
27 violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil
28 penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties

1 are recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100)
2 for each aggrieved employee per pay period for the initial violation and two hundred dollars
3 (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to
4 Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to
5 the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25)
6 percent allocated to the affected employees. However, under *Amaral v. Cintas*, 163 Cal. App. 4th
7 1157, 1207-09 (2008) the Court held that a lower penalty amount of \$100 per violation applies in
8 the absence of a determination that a violation actually occurred.

9 21. Based on the foregoing facts and law, PAGA Counsel estimated Defendant's maximum
10 total exposure on the PAGA claim at approximately \$2,159,000. The provisions of the Labor
11 Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code
12 §§ 201, 202, 203, 204, 212, 213, 218.6, 221, 223, 224, 225.5, 226, 226.3, 226.7, 510, 512, 558,
13 1174, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, 2802. Specifically, the total
14 exposure on the PAGA claim was calculated by multiplying the total number of pay periods
15 (21,590) by \$100 per violation. Plaintiff's calculation of the total exposure on the PAGA claim is
16 for one PAGA penalty per pay period (*i.e.*, Plaintiff did not stack the penalties in their
17 calculation). Plaintiff's claims giving rise to the penalties include the following: (1) Defendant's
18 alleged failure to pay, timely or otherwise, all wages due and owing ; (2) Defendant's alleged
19 failure to provide all the legally required unpaid, off-duty meal periods to the Aggrieved
20 Employees; (3) Defendant's alleged failure to provide all the legally required paid, off-duty rest
21 periods; (4) Defendant's alleged failure to provide accurate wage statements; (5) Defendant's
22 alleged failure to reimburse for all reasonably incurred business expenses; (6) the alleged debit
23 card charges and (7) Defendant's alleged failure to timely pay formerly employed Aggrieved
24 Employees all wages due and certain at the time of termination or within seventy-two hours of
25 resignation as required by Labor Code §§ 201-203.

26 22. Case law supports the notion that it is inappropriate to "stack" penalties for multiple
27 violations, particularly when those violations all stem from the same alleged "injury" *Aguirre v.*
28 *Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189

1 Cal.App.4th 562, 577 (2010)). (“One injury gives rise to only one claim for relief... The violation
2 of one primary right constitutes a single cause of action.”; *Crowley v. Kattleman*, 8 Cal. 4th 666,
3 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012)
4 (“There is no authority that “would permit double recovery of essentially the same penalties.”)

5 23. PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that
6 “a court may award a lesser amount than the maximum civil penalty amount specified by this part
7 if, based on the facts and circumstances of the particular case, to do otherwise would result in an
8 award that is unjust, arbitrary and oppressive, or confiscatory.” (See *Thurman v. Bayshore* (2012)
9 203 Cal. App. 4th 1112 (*substantially* reducing PAGA penalties by 30% under this provision)
10 (emphasis added); see also *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 529 (2018)
11 (affirming penalty reduction of 90% for practice that resulted in meal periods occasionally
12 starting minutes after the fifth hour of work); *Sanchez v. McDonald’s Corp.* (2017), LASC Case
13 No. No. BC 499888 (98% reduction from \$41 million to \$775,000); *Ghrdilyan v. RJ Financial*
14 (2012), LASC Case No. BC430633 (94% reduction from \$5.4 million to \$325,000); *Fleming v.*
15 *Covidien, Inc.* (2011), USDC Case No. ED CV 10-01487-RGK (OPx) (87% reduction from \$2.8
16 million to \$375,000).). Defendant maintains that it would be unjust to award maximum PAGA
17 penalties and that stacking of penalties was not appropriate.

18 **REQUEST FOR ATTORNEYS’ FEES AND COSTS**

19 24. Under the Settlement, the PAGA Counsel requests, without opposition from
20 Defendant, an award of (1) attorney’s fees of up to Two Hundred Thirty-Nine Thousand Four
21 Hundred Dollars and Zero Cents (\$239,400.00) (“PAGA Counsel’s Fees) and (2) reimbursement
22 of reasonable costs (“PAGA Counsel’s Costs) of Four Thousand Seven Hundred Thirty-Nine and
23 Eight-Four Cents (\$4,739.84) (See Exhibit 2, at ¶ 4(a)). Attached hereto and incorporated herein
24 as **Exhibit 3** is my firm’s cost log, showing total costs of Four Thousand Seven Hundred Thirty-
25 Nine and Eight-Four Cents (\$4,739.84).

26 25. PAGA Counsel respectfully requests an order approving its attorneys’ fees and costs
27 pursuant to the Settlement Agreement.

28 26. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the

1 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
2 the first place. The attorneys' fees award is intended to reimburse Counsel for all uncompensated
3 work that they have already done and for all the work they will continue to do in carrying out and
4 overseeing the notification to the Aggrieved Employees, communicating with Aggrieved
5 Employees regarding their claims, and assisting in the administration of the settlement if it is
6 approved.

7 27. My firm took this case on a contingent-fee basis against a business represented by a
8 reputable defense firm. When we take contingent cases, we must pay careful attention to the
9 economics involved or one bad case can destroy years of work. Accordingly, when we take
10 contingency cases, we anticipate that we shall, if successful, receive a fee that exceeds our normal
11 hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the
12 number of hours in a day is limited. Because of this, when we take on one particular matter, we
13 are unable to take on other matters. When my firm became involved in this case, we realized the
14 time commitment that it would entail and we were forced to turn down matters that we otherwise
15 should have been able to handle.

16 28. Contingent-fee cases present the very real risk of working hundreds if not thousands of
17 hours that may never be entirely compensated. Moreover, while the case is being litigated,
18 counsel must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases
19 pay the out-of-pocket expenses incurred on the plaintiff's behalf. And the prospect of a court-
20 awarded fee does not greatly reduce the risk posed by these cases. In many cases, the prospect is
21 nothing more than a potential that never materializes. First, you must win the case to get a court-
22 awarded fee; even those cases that seem strongest at the onset can be lost and sometimes are lost.
23 Second, there are always the pitfalls and unforeseen obstacles that arise along the way, such as
24 settlement offers that the client may accept without ensuring that we receive a reasonable fee or
25 changes in the law that substantially affect the merits of the case, or other uncertainties involving
26 the client. Finally, there is the great risk inherent in advancing tens if not hundreds of thousands
27 of dollars in out-of-pocket expenses. If that money were to be invested in some sort of financial
28 investment, one would expect a reasonable rate of return on that investment. Here, however, the

1 best we can hope to recover is our money, and then only if we are substantially successful; if we
2 are not, all or part of this “investment” can be lost.

3 29. PAGA Counsel is well acquainted with the contingent-fee market throughout
4 California, particularly as it pertains to PAGA and class-action litigation. PAGA Counsel has
5 negotiated numerous contingency-fee agreements with plaintiffs, both as individuals and as
6 representatives in class-action and PAGA suits. Many of those agreements required that counsel
7 receive a fee under certain scenarios that exceeds one-third of the recovery. PAGA Counsel’s
8 recent attorneys’ fees awards in similar wage-and-hour class and PAGA actions have been 35%
9 of the recovery.

10 30. Attorney’s fees payable from this settlement amount to our office in no way
11 undermined our fiduciary duties to the putative class.

12 31. PAGA counsel in contingency-fee cases typically receive attorneys’ fees equal to or
13 greater than forty percent of the gross settlement amount. *See Crandall v. U-Haul* (Los Angeles
14 County Super. Ct., Case No. BC178775), the Honorable Steven Czuleger awarded a 40% attorney
15 fee request in an overtime-exemption class action; in *Bushnell v. Cremer, Inc.* (Orange County
16 Super. Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys’ fees in
17 the amount of 38%; in *Abzug v. Kerkorian* CA000981 (Los Angeles County Super. Ct.,
18 November 1990), the Honorable R. William Schoettler awarded a 45% fee; in *Haitz v. Meyer, et*
19 *al.*, Alameda County Super. Court, 8-20-1990 No. 572968-3, the court awarded a 40% fee; in
20 *Elliott v. Clothestime* (Orange County Super. Ct., Case No. 01-CC00333) the Honorable Jonathan
21 Cannon awarded a 40% fee in a wage-and-hour class action which had not yet proceeded to the
22 class certification stage; in both *Rippee v. Boston Market Corporation*, Case No.: 05 CV 1359
23 BTM (JMA) and *Barile v. Boston Market Corporation*, Case No.: 05 CV 1360 BTM (JMA), the
24 Honorable Judge Barry T. Moskowitz awarded a 40% fee to plaintiffs’ counsel in wage-and-hour
25 class actions that had not proceeded to the class-certification stage.

26 32. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting
27 the initial complaint, PAGA Counsel conducted informal discovery, reviewed and analyzed time
28 and pay records, employment handbooks, Plaintiff’s personnel file, relevant policies and other

1 documentation, researched the applicable law and potential defenses, constructed damage models
2 based on interpretations of California law, reviewed information provided by Defendant at the
3 mediation, engaged in meet and confer efforts with Defendant, and ultimately drafted and revised
4 the settlement agreement. PAGA Counsel conservatively estimates that it invested over 209 hours
5 of attorney time in this matter. David Yeremian's billing rate is \$750 per hour (18 years out of
6 law school and is less than the Laffey Matrix rate of \$759.00), and he spent approximately 81
7 hours on this matter. Roman Shkodnik's billing rate is \$575.00 (9 years out of law school, Laffey
8 Matrix rate of \$672.00), and he spent approximately 75 hours on this matter. Jason Rothman's
9 billing rate is \$450.00 (6 years out of law school, Laffey Matrix rate of \$450.00), and he spent
10 approximately 53 hours on this matter. See **Exhibits 4 and 5** (David Yeremian's and Jason
11 Rothman's Time and Task Summaries) and **Exhibit 1** to the Declaration of Roman Shkodnik
12 concurrently filed herewith. The lodestar for Plaintiff's counsel is \$127,721 (\$60,750 for David
13 Yeremian's time on the case, \$43,125 for Roman Shkodnik's time on the case, and \$23,850 for
14 Jason Rothman's time on the case). The fee request of \$239,400 results in a multiplier of
15 approximately 1.87 further evidencing the reasonableness of the request.

16 33. In light of the foregoing, the fee request in an amount equal to 35% of the settlement in
17 this case is well within the bounds that have been established by the above-cited authority.
18 Defendant has no objection to an award of fees in the amount requested.

19 **EXPERIENCE AND VIEWS OF COUNSEL**

20 34. I have been practicing law since 2003. During my career I have represented employees
21 in over 150 wage-and-hour class and/or representative actions as lead or co-lead counsel
22 (including in the Central, Southern, Eastern and Northern Districts of California), and I have
23 obtained six and seven figure settlements against a range of defendants, including Fortune 500
24 companies.

25 35. My firm is well qualified because of our experience, knowledge, and resources to act as
26 counsel and represent Plaintiff and the Aggrieved Employees in this action. A substantial
27 percentage of our practice is devoted to litigating wage, hour, and working-conditions violations,
28 and the bulk of these cases are class and PAGA actions.

1 36. I am experienced in prosecuting employment matters, particularly class and
2 representative PAGA actions. In addition to the present case, I am also class or PAGA counsel for
3 other wage-and-hour class-action lawsuits pending in various counties throughout California
4 (including in federal courts). There follows a list of some of our recent class-action settlements
5 that have received preliminary or final approval: *Galavis v. Patina Restaurant Group, LLC*
6 (LASC BC375225; class size approx. 10,000; co-counsel); *Milford v. ADT Security Services, Inc.*
7 (CACD CV08-2236; class size approx. 2,000; lead counsel); *Carreon v. Wolfgang Puck Catering*
8 *and Events, LLC* (LASC BC398569; class size approx. 1,400; lead counsel); *Fluke v. RFG Oil,*
9 *Inc.* (LASC BC403354; class size approx. 1,400; lead counsel); *Urena v. Camachos Restaurant*
10 *(LASC BC365913; class size approx. 887; lead counsel); Smith v. Rio Rancho Pontiac GMC*
11 *Buick Inc.* (LASC BC391187; class size approx. 860; lead counsel); *Callela v. Dolce Group*
12 *(LASC BC364711; class size approx. 600; lead counsel); Vasquez v. The Hollywood Pig n*
13 *Whistle LP* (LASC BC335075; class size approx. 600; lead counsel); *Goldman v. Aorta*
14 *Restaurant Operating LP* (LASC BC379688; class size approx. 300; lead counsel); *Sink-Crilly v.*
15 *Centex Homes* (CACD CV09-2476; class size approx. 250; lead counsel); *Utley v. Cranbrook*
16 *Partners Inc.* (LASC BC392813; class size approx. 200; lead counsel); *Garcia v. California*
17 *Credits Group* (LASC BC353213; class size approx. 160; lead counsel); *Afanasyev v. Miller*
18 *Infiniti, Inc.* (LASC BC350788; class size approx. 160; lead counsel); *Morris v. Gymboree, Inc.*
19 *(LASC BC393270; class size approx. 150; lead counsel); Ortega v. AJC Sandblasting, Inc.*
20 *(LASC BC378806; class size approx. 140; lead counsel); Lulejyan v. Jim Falk Motors of Beverly*
21 *Hills, Inc.* (LASC BC398459; class size approx. 72; lead counsel); *Rylko v. The Griddle Café,*
22 *Inc.* (LASC BC386126; class size approx. 70; lead counsel); *Healy v. Siemens IT Solutions and*
23 *Services, Inc.* (Santa Clara Superior Court 108CV113479; class size approx. 60; lead counsel).

24 37. This experience is helpful in assessing the reasonableness of settlements such as the
25 one at issue here, and from this experience Plaintiff's Counsel concluded that this lawsuit could
26 not have been settled on better terms than provided under the present settlement agreement given
27 the financial limitations of Defendant.

28 38. In sum, Plaintiff's Counsel is experienced in employment class and PAGA action

1 litigation and is adequate to represent the Aggrieved Employees in the instant action.

2 **SUMMARY**

3 39. If the Court approves each of the foregoing payments, approximately (\$430,360.16
4 remains in the net settlement fund. Of that 75% (approximately (\$322,770.12) must be paid to the
5 Labor and Workforce Development Agency per Labor Code § 2699 et seq. and 25%
6 (approximately (\$107,590.04) shall be shared by the Aggrieved Employees.

7 40. Concurrently with the filing of the Settlement Agreement with this Court, Plaintiff's
8 counsel will submit the Stipulation to the LWDA.

9 41. Plaintiff has not served notice on the unnamed Aggrieved Employees and Plaintiff's
10 counsel is unaware of anyone who has relied upon the existence of this action in lieu of pursuit of
11 her individual or PAGA claims against Defendant.

12 42. On October 14, 2021 my office submitted the proposed PAGA Settlement to the
13 LWDA in connection with the PAGA case opened by Plaintiff. Attached hereto as **Exhibit 6** is a
14 true and correct copy of the confirmatory email my office received from the LWDA after
15 submission of the PAGA Settlement.

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

18 Executed this 14th day of October, 2021, at Glendale, California.

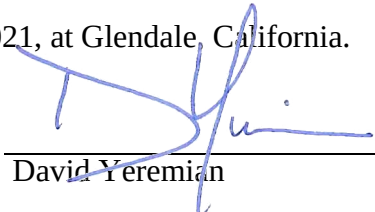
19 
20 _____
21 David Yerman
22
23
24
25
26
27
28

EXHIBIT 1

THE LAW OFFICES OF

**DAVID YEREMIAN
& ASSOCIATES INC**

535 N BRAND BLVD STE 705
GLENDALE CA 91203

818 230 8380

818 230 0308 FAX

DAVID@YEREMIANLAW.COM; JASON@YEREMIANLAW.COM

May 13, 2020

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

PICK-YOUR-PART AUTO WRECKAGE

Corporate Creations California Inc., Agent for Service of Process
4640 Admiralty Way, 5th Floor
Marina Del Rey, CA 90262

Certified Mail Tracking Number: 7019 2970 0001 5087 7775

**Re: Labor Code § 2698, *et seq.* Penalties – PAGA Notice Letter
*Edward Tellez v Pick-Your-Part Auto Wreckage, et al.***

Gentlepersons:

This office represents Plaintiff Edward Morales Tellez (“Plaintiff”) and other aggrieved employees (Plaintiff and aggrieved employees are collectively hereinafter referred to as “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 218.6, 221, 226, 226.7, 510, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 2802, 2698 and 2699, *et seq.*; and provisions of the Industrial Welfare Commission (IWC) Wage Order(s) and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”). Plaintiff wishes to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendant PICK-YOUR-PART AUTO WRECKAGE, a California corporation, and DOES 1 through 50 inclusive (defendants being referred to herein collectively as “Defendants”).

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee. Aggrieved Employees include all of Defendants’ non-exempt hourly employees in the state of California from one year prior to the date of this letter and continuing through the present.

Aggrieved Employees consistently worked at Defendants' behest, under their control, and subject to their policies and practices without being paid all wages due.

Defendants' employment practices resulted in in (i) Aggrieved Employees performing off-the-clock post-shift work, (ii) the under-recording of hours worked, all while under the control of Defendants due to Defendants systematic practice of rounding down all hours worked, (iii) failure to provide timely, uninterrupted meal and rest breaks, (iv) failure to pay minimum wages for all hours worked, (v) failure to furnish accurate wage statements, and (vi) failure to reimburse all necessary incurred business related expenses. Defendants conduct thus violated various provisions of the California Labor Code and applicable Wage Orders.

Aggrieved Employees performed their jobs but were not paid the minimum wages, overtime wages, and double time wages, to which they were entitled to because of Defendants' systematic policies and practices of rounding and failing to properly compensate Aggrieved Employees for all hours worked. More specifically, Aggrieved Employees would clock in upon arriving to Defendants facilities. Upon information and belief this time keeping system would then round the time inputted to the nearest quarter of an hour, regardless of time entered by Aggrieved Employees. These same time-keeping machines would also round the hours recorded to the nearest quarter of an hour upon Aggrieved Employees clocking in and out for meal breaks, and at the end of their shift when they punched out.

Upon information and belief, Defendants had the ability to record hours worked to the exact minute but instead chose to round the hours worked to the nearest quarter of an hour in order to secure a discount upon Aggrieved Employees. Defendants' willful actions resulted in the systematic underpayment of wages to Aggrieved Employees, including underpayment of overtime and double time pay to Aggrieved Employees over a period of time.

Defendants also failed to pay Aggrieved Employees all wages due and owing for post-shift hours worked in the form of a security inspection, time for which Aggrieved Employees were under Defendants control and not compensated. Plaintiff was scheduled to work, on average, six (6) days per week, Monday to Saturday, from 6:00 a.m. to 2:30 p.m. Yet at the end of Aggrieved Employees scheduled shifts they would first have to clock out before passing through Defendants security system. Defendants security system took the form of a bag check in which a security guard would check customers and employees bag's as they left Defendants premises to confirm that no items were being taken off site that were not included as a listed item on that person's receipt. While this bag check took anywhere from one (1) minute or longer per person, this off the clock work was exacerbated by the fact that both customers and employees had to wait in the same line. This resulted in Aggrieved Employees typically waiting anywhere from five (5) to ten (10) minutes per day, depending on the length of the security check line, before they were able to leave Defendant's premises

This was an intentional and calculated practice of Defendants to avoid paying Aggrieved Employees all duly owed wages. Thus, Aggrieved Employees worked longer hours than recorded by Defendants. This off-the-clock work also resulted in overtime hours accruing earlier than when Defendants started paying them in a work shift. Defendants therefore unlawfully deducted wages earned by and owed to the Aggrieved Employees, in violation of

Labor Code § 221. Defendants' common policy and/or practice of understating the hours worked by Aggrieved Employees has given rise to further ongoing violations of Labor Code § 221.

Due to the work demands and pressures from managers and supervisors, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of ten (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Employee's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided. For example, Aggrieved Employees each had a daily quota they had to meet depending on their specific duties, such as, but not limited to, needing to strip a certain amount of cars a day. In order to meet this daily quota Aggrieved Employees often had to work through their lawful meal breaks or take them after the fifth hour worked.

Furthermore, when Aggrieved Employees punched out for lunch after the 5th hour worked, Defendants time clock system recorded a "LONG1" next to that punch entry. This "LONG1" meant that the Aggrieved Employee punched out for lunch after the 5th hour of working. Yet, upon information and belief, Defendants did not pay Aggrieved Employees premium pay for any missed, late, or shortened meal breaks

Aggrieved Employees were regularly required by Defendants to work through or during their rest breaks, and were not provided with one hour's wages in lieu thereof as required by Labor Code and IWC Wage Orders. Aggrieved Employees were also restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not authorized and permitted to take duty-free rest periods. Aggrieved Employees were also unable to leave Defendants premises during rest breaks.

On occasions when the Aggrieved Employees worked over ten (12) hour shifts, they were, upon information and belief, not authorized and permitted to take a third timely and uninterrupted, duty-free rest break.

As a result of the above described requirements to work off the clock, rounding and/or under recording of hours worked, the failure to calculate and pay wages at the correct rates, and the other wage violations they endured at Defendants' hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants for all hours they worked and were under Defendants' control, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. The Aggrieved Employees were therefore entitled to receive overtime wages from Defendants, which they were consistently denied in violation of the Labor Code and applicable paragraphs of the IWC Wage Orders.

In addition to the systematic underpayment of wages and unlawful meal and rest breaks, Defendants automatically deducted thirty (30) minutes from Aggrieved Employees' pay, even though thirty (30) minute meal breaks were not provided. Therefore, Defendants unlawfully

deducted wages earned by and owed to the Aggrieved Employees, in violation of Labor Code § 221.

Defendants' management also did not reimburse Aggrieved Employees for all necessarily incurred expenses in performance of their job duties. Plaintiff incurred personal cellular phone expenses and clothing related charges in the performance of his job duties that were uncompensated for. In regards to non-reimbursed clothing related changes, Plaintiff had to buy select clothing items, such as mechanic overalls, without reimbursement from Defendants.

In regards to Aggrieved Employees non-reimbursed personal cellular phone usage, Plaintiff was required to use his cellular phone to look up specific mechanical issues for select cars. Due to the quota put upon Plaintiff he was unable to afford the time to ask other employees for assistance or management for help. The fastest way for Plaintiff to find mechanical related answers was through his personal cellular phone use

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). The wage statements are required to show the total hours worked by Aggrieved Employees, amongst other items detailed below, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Moreover, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203.

As addressed above, Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control and due to the work demands placed upon them by Defendants' management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the

Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Plaintiff and the Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or to attend and participate in company required activities or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked

overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Meal-Period Liability Under Labor Code § 226.7

Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with timely and uninterrupted meal periods of not less than thirty (30) minutes, as required under Labor Code §§ 226.7 and 512 and applicable Wage Orders. Specifically, meal periods Aggrieved Employees were provided were consistently less than 30 minutes or were taken after their fifth consecutive hour of work, or interrupted by job requirements, all in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Rest-Break Liability Under Labor Code § 226.7

Defendants have consistently failed to provide Aggrieved Employees with duty-free, paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours, or major fraction thereof, as required under Labor Code § 226.7. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. See Labor Code § 226.7(c). In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." As discussed above, Defendants unlawfully received and/or collected wages from Aggrieved Employees by understating their hours worked and automatically deducting time for unlawfully provided meal periods. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

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Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish accurate, itemized wage statements in writing to its employees. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

For example, the wage statements are required to show the total hours worked by Aggrieved Employees, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Therefore, Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e), Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf of himself and the other Aggrieved Employees.

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have followed a consistent policy of failing to pay all wages earned and owed to Aggrieved Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek

penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis, as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Reimbursement of Necessary Expenditures Under Labor Code § 2802

Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

In the present case, as discussed above, Aggrieved Employees incurred necessary expenditures in the performance of their job duties for Defendants, in the form of personal cellular phone usage and clothing related charges. Thus Aggrieved Employees were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the daily hours worked by employees and the wages paid to them. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.*

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

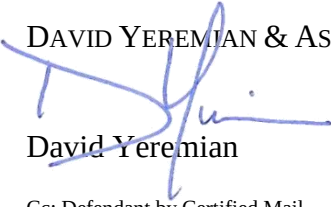
Conclusion

This letter therefore provides the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against PICK YOUR PART AUTO WRECKAGE. To prevent the violations described in the Complaint and herein from continuing, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty (60) days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and Aggrieved Employees should include them as a Labor Code § 2698 claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Defendant by Certified Mail

THE LAW OFFICES OF

**DAVID YEREMIAN
& ASSOCIATES INC**

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October 23, 2020

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

PICK-YOUR-PART AUTO WRECKING

Corporate Creations Network, Inc., Agent for Service of Process
4640 Admiralty Way, 5th Floor
Marina Del Rey, CA 90262
Certified Mail Tracking Number: 7019 2970 0000 5058 3011

**Re: Labor Code § 2698, *et seq.* Penalties –
Amended PAGA Notice Letter to LWDA (originally dated May 13, 2020)
Edward Tellez v Pick-Your-Part Auto Wrecking, et al.
Superior Court for the County of San Bernardino, Case No. CIVDS2017040
LWDA Case No. LWDA-CM-786536-20**

Gentlepersons:

This office represents Plaintiff Edward Morales Tellez (“Plaintiff”) and other aggrieved employees (Plaintiff and aggrieved employees are collectively hereinafter referred to as “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 218.6, 226, 226.7, 510, 512, 558, 1174, 1185, 1194, 1194.2, 1197, 2802, 2698 and 2699, *et seq.*; and provisions of the Industrial Welfare Commission (IWC) Wage Order(s) and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”), and to supplement and amend Plaintiff’s original PAGA Notice Letter to the LWDA, submitted **May 13, 2020** (LWDA Case No. LWDA-CM-786536-20). Plaintiff wishes to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendant PICK-YOUR-PART AUTO WRECKING, a California corporation, and DOES 1 through 50 inclusive (defendants being referred to herein collectively as “Defendants”).

Additionally, this correspondence will serve to satisfy the notice requirements under the Act, along with Plaintiff's Representative Complaint, filed on **August 6, 2020**, in San Bernardino County (Case No. CIVDS2017040), and Plaintiff's First Amended Representative Complaint, attached to this Notice letter and filed **October 215, 2020**. The allegations and claims and provisions as set forth in the Complaint, the First Amended Complaint, and the original PAGA Notice Letter are incorporated into this Amended PAGA Notice Letter.

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee. Aggrieved Employees include all of Defendants' non-exempt hourly employees in the state of California from one year prior to the date of this letter and continuing through the present.

Aggrieved Employees consistently worked at Defendants' behest, under their control, and subject to their policies and practices without being paid all wages due.

Defendants' employment practices resulted in in (i) Aggrieved Employees performing off-the-clock post-shift work, (ii) the under-recording of hours worked, all while under the control of Defendants due to Defendants systematic practice of rounding down all hours worked, (iii) failure to provide timely, uninterrupted meal and rest breaks, (iv) failure to pay minimum wages for all hours worked, (v) failure to furnish accurate wage statements, and (vi) failure to reimburse all necessary incurred business related expenses. Defendants conduct thus violated various provisions of the California Labor Code and applicable Wage Orders.

Aggrieved Employees performed their jobs but were not paid the minimum wages, overtime wages, and double time wages, to which they were entitled to because of Defendants' systematic policies and practices of rounding and failing to properly compensate Aggrieved Employees for all hours worked. More specifically, Aggrieved Employees would clock in upon arriving to Defendants facilities. Upon information and belief this time keeping system would then round the time inputted to the nearest quarter of an hour, regardless of time entered by Aggrieved Employees. These same time-keeping machines would also round the hours recorded to the nearest quarter of an hour upon Aggrieved Employees clocking in and out for meal breaks, and at the end of their shift when they punched out.

Upon information and belief, Defendants had the ability to record hours worked to the exact minute but instead chose to round the hours worked to the nearest quarter of an hour in order to secure a discount upon Aggrieved Employees. Defendants' willful actions resulted in the systematic underpayment of wages to Aggrieved Employees, including underpayment of overtime and double time pay to Aggrieved Employees over a period of time.

Defendants also failed to pay Aggrieved Employees all wages due and owing for post-shift hours worked in the form of a security inspection, time for which Aggrieved Employees were under Defendants control and not compensated. Plaintiff was scheduled to work, on average, six (6) days per week, Monday to Saturday, from 6:00 a.m. to 2:30 p.m. Yet at the end of Aggrieved Employees scheduled shifts they would first have to clock out before passing through Defendants security system. Defendants security system took the form of a bag check in which a security guard would check customers and employees bag's as they left

Defendants premises to confirm that no items were being taken off site that were not included as a listed item on that person's receipt. While this bag check took anywhere from one (1) minute or longer per person, this off the clock work was exacerbated by the fact that both customers and employees had to wait in the same line. This resulted in Aggrieved Employees typically waiting anywhere from five (5) to ten (10) minutes per day, depending on the length of the security check line, before they were able to leave Defendant's premises

This was an intentional and calculated practice of Defendants to avoid paying Aggrieved Employees all duly owed wages. Thus, Aggrieved Employees worked longer hours than recorded by Defendants. This off-the-clock work also resulted in overtime hours accruing earlier than when Defendants started paying them in a work shift. Defendants therefore unlawfully deducted wages earned by and owed to the Aggrieved Employees.

Due to the work demands and pressures from managers and supervisors, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of ten (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Employee's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided. For example, Aggrieved Employees each had a daily quota they had to meet depending on their specific duties, such as, but not limited to, needing to strip a certain amount of cars a day. In order to meet this daily quota Aggrieved Employees often had to work through their lawful meal breaks or take them after the fifth hour worked.

Furthermore, when Aggrieved Employees punched out for lunch after the 5th hour worked, Defendants time clock system recorded a "LONG1" next to that punch entry. This "LONG1" meant that the Aggrieved Employee punched out for lunch after the 5th hour of working. Yet, upon information and belief, Defendants did not pay Aggrieved Employees premium pay for any missed, late, or shortened meal breaks

Aggrieved Employees were regularly required by Defendants to work through or during their rest breaks, and were not provided with one hour's wages in lieu thereof as required by Labor Code and IWC Wage Orders. Aggrieved Employees were also restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not authorized and permitted to take duty-free rest periods. Aggrieved Employees were also unable to leave Defendants premises during rest breaks.

On occasions when the Aggrieved Employees worked over ten (12) hour shifts, they were, upon information and belief, not authorized and permitted to take a third timely and uninterrupted, duty-free rest break.

As a result of the above described requirements to work off the clock, rounding and/or under recording of hours worked, the failure to calculate and pay wages at the correct rates, and the other wage violations they endured at Defendants' hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants for all hours they worked and were under Defendants' control, including when working more than eight (8)

hours in any given day and/or more than forty (40) hours in any given week. The Aggrieved Employees were therefore entitled to receive overtime wages from Defendants, which they were consistently denied in violation of the Labor Code and applicable paragraphs of the IWC Wage Orders.

In addition to the systematic underpayment of wages and unlawful meal and rest breaks, Defendants automatically deducted thirty (30) minutes from Aggrieved Employees' pay, even though thirty (30) minute meal breaks were not provided.

Defendants' management also did not reimburse Aggrieved Employees for all necessarily incurred expenses in performance of their job duties. Plaintiff incurred personal cellular phone expenses and clothing related charges in the performance of his job duties that were uncompensated for. In regards to non-reimbursed clothing related changes, Plaintiff had to buy select clothing items, such as mechanic overalls, without reimbursement from Defendants.

In regards to Aggrieved Employees non-reimbursed personal cellular phone usage, Plaintiff was required to use his cellular phone to look up specific mechanical issues for select cars. Due to the quota put upon Plaintiff he was unable to afford the time to ask other employees for assistance or management for help. The fastest way for Plaintiff to find mechanical related answers was through his personal cellular phone use

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). The wage statements are required to show the total hours worked by Aggrieved Employees, amongst other items detailed below, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Moreover, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203.

As addressed above, Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work

hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control and due to the work demands placed upon them by Defendants' management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Plaintiff and the Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment, Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete

their daily job duties or to attend and participate in company required activities or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Meal-Period Liability Under Labor Code § 226.7

Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with timely and uninterrupted meal periods of not less than thirty (30) minutes, as required under Labor Code §§ 226.7 and 512 and applicable Wage Orders. Specifically, meal periods Aggrieved Employees were provided were consistently less than 30 minutes or were taken after their fifth consecutive hour of work, or interrupted by job requirements, all in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Rest-Break Liability Under Labor Code § 226.7

Defendants have consistently failed to provide Aggrieved Employees with duty-free, paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours, or major fraction thereof, as required under Labor Code § 226.7. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. See Labor Code § 226.7(c). In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish accurate, itemized wage statements in writing to its employees. These statements must be appended to the detachable

part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

For example, the wage statements are required to show the total hours worked by Aggrieved Employees, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Therefore, Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e), Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf of himself and the other Aggrieved Employees.

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have followed a consistent policy of failing to pay all wages earned and owed to Aggrieved Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis, as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Reimbursement of Necessary Expenditures Under Labor Code § 2802

Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

In the present case, as discussed above, Aggrieved Employees incurred necessary expenditures in the performance of their job duties for Defendants, in the form of personal cellular phone usage and clothing related charges. Thus Aggrieved Employees were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the daily hours worked by employees and the wages paid to them. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.*

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

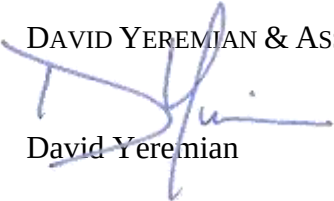
Conclusion

This letter, along with the original PAGA Notice Letter, the Complaint, and the First Amended Complaint pending in San Bernardino County, therefore provides the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against PICK YOUR PART AUTO WRECKING. To prevent the violations described in the Representative Complaint, First Amended Representative Complaint, original PAGA Notice Letter, and herein from continuing, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty (60) days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and Aggrieved Employees should include them as a Labor Code § 2698 claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Defendant by Certified Mail

THE LAW OFFICES OF

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August 20, 2021

VIA ON-LINE SUBMISSION ONLY TO:

<https://dir.tfaforms.net/128>

Private Attorneys General Act
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San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

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Certified Mail Tracking Number: 7019 2970 0000 5059 6714

**Re: Labor Code § 2698, et seq. Penalties –
Amended PAGA Notice Letter to LWDA (originally dated May 13, 2020)
Edward Tellez v Pick-Your-Part Auto Wrecking, et al.
Superior Court for the County of San Bernardino, Case No. CIVDS2017040
LWDA Case No. LWDA-CM-786536-20**

Gentlepersons:

This office represents Plaintiff Edward Morales Tellez (“Plaintiff”) and other aggrieved employees (Plaintiff and aggrieved employees are collectively hereinafter referred to as “Aggrieved Employees”) for, *inter alia*, violations of California Labor Code §§ 201, 202, 203, 204, 212, 213, 218.6, 221, 223, 224, 225.5, 226, 226(a) 1-2,4-5,8,9, 226(a), 226.7, 510, 512, 558, 1174, 1182.12 1185, 1194, 1194.2, 1197, 1197.1, 2802, 2698 and 2699, *et seq.*; and provisions of the Industrial Welfare Commission (IWC) Wage Order(s) including (“Wage Orders 4,7 and 9”), Sections 3, 7,11,1215 and California Business & Professions Code § 17200 *et seq.*

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* (“the Act”), and to supplement and amend Plaintiff’s original PAGA Notice Letter to the LWDA, submitted **May 13, 2020** (LWDA Case No. LWDA-CM-786536-20). Plaintiff wishes to bring a representative action, pursuant to the Act, on behalf of himself and all other similarly situated Aggrieved Employees, and the State of California, against Defendant PICK-YOUR-PART AUTO WRECKING, a California

corporation, and DOES 1 through 50 inclusive (defendants being referred to herein collectively as “Defendants”).

Relevant Facts

Plaintiff was employed by Defendants as a non-exempt hourly employee. Aggrieved Employees include all of Defendants’ non-exempt hourly employees in the state of California from one year prior to the date of this letter and continuing through the present.

Aggrieved Employees consistently worked at Defendants’ behest, under their control, and subject to their policies and practices without being paid all wages due.

Defendants’ employment practices resulted in in (i) Aggrieved Employees performing off-the-clock post-shift work, (ii) the under-recording of hours worked, all while under the control of Defendants due to Defendants systematic practice of rounding down all hours worked, (iii) failure to provide timely, uninterrupted meal and rest breaks, (iv) failure to pay minimum wages for all hours worked, (v) failure to furnish accurate wage statements, and (vi) failure to reimburse all necessary incurred business related expenses. Defendants conduct thus violated various provisions of the California Labor Code and applicable Wage Orders.

Aggrieved Employees performed their jobs but were not paid the minimum wages, overtime wages, and double time wages, to which they were entitled to because of Defendants’ systematic policies and practices of rounding and failing to properly compensate Aggrieved Employees for all hours worked. More specifically, Aggrieved Employees would clock in upon arriving to Defendants facilities. Upon information and belief this time keeping system would then round the time inputted to the nearest quarter of an hour, regardless of time entered by Aggrieved Employees. These same time-keeping machines would also round the hours recorded to the nearest quarter of an hour upon Aggrieved Employees clocking in and out for meal breaks, and at the end of their shift when they punched out.

Upon information and belief, Defendants had the ability to record hours worked to the exact minute but instead chose to round the hours worked to the nearest quarter of an hour in order to secure a discount upon Aggrieved Employees. Defendants’ willful actions resulted in the systematic underpayment of wages to Aggrieved Employees, including underpayment of overtime and double time pay to Aggrieved Employees over a period of time.

Defendants also failed to pay Aggrieved Employees all wages due and owing for post-shift hours worked in the form of a security inspection, time for which Aggrieved Employees were under Defendants control and not compensated. Plaintiff was scheduled to work, on average, six (6) days per week, Monday to Saturday, from 6:00 a.m. to 2:30 p.m. Yet at the end of Aggrieved Employees scheduled shifts they would first have to clock out before passing through Defendants security system. Defendants security system took the form of a bag check in which a security guard would check customers and employees bag’s as they left Defendants premises to confirm that no items were being taken off site that were not included as a listed item on that person’s receipt. While this bag check took anywhere from one (1) minute or longer per person, this off the clock work was exacerbated by the fact that both customers and employees had to wait in the same line. This resulted in Aggrieved Employees

typically waiting anywhere from five (5) to ten (10) minutes per day, depending on the length of the security check line, before they were able to leave Defendant's premises

This was an intentional and calculated practice of Defendants to avoid paying Aggrieved Employees all duly owed wages. Thus, Aggrieved Employees worked longer hours than recorded by Defendants. This off-the-clock work also resulted in overtime hours accruing earlier than when Defendants started paying them in a work shift. Defendants therefore unlawfully deducted wages earned by and owed to the Aggrieved Employees.

Due to the work demands and pressures from managers and supervisors, Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes, and shifts in excess of ten (10) hours without providing them with second meal periods of not less than thirty minutes; nor did Defendants pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Employee's effective hourly rate of pay, for each meal period that Defendants failed to provide or deficiently provided. For example, Aggrieved Employees each had a daily quota they had to meet depending on their specific duties, such as, but not limited to, needing to strip a certain amount of cars a day. In order to meet this daily quota Aggrieved Employees often had to work through their lawful meal breaks or take them after the fifth hour worked.

Furthermore, when Aggrieved Employees punched out for lunch after the 5th hour worked, Defendants time clock system recorded a "LONG1" next to that punch entry. This "LONG1" meant that the Aggrieved Employee punched out for lunch after the 5th hour of working. Yet, upon information and belief, Defendants did not pay Aggrieved Employees premium pay for any missed, late, or shortened meal breaks

Aggrieved Employees were regularly required by Defendants to work through or during their rest breaks, and were not provided with one hour's wages in lieu thereof as required by Labor Code and IWC Wage Orders. Aggrieved Employees were also restricted in their ability to take their full ten (10) minutes net rest time or were otherwise not authorized and permitted to take duty-free rest periods. Aggrieved Employees were also unable to leave Defendants premises during rest breaks.

On occasions when the Aggrieved Employees worked over ten (12) hour shifts, they were, upon information and belief, not authorized and permitted to take a third timely and uninterrupted, duty-free rest break.

As a result of the above described requirements to work off the clock, rounding and/or under recording of hours worked, the failure to calculate and pay wages at the correct rates, and the other wage violations they endured at Defendants' hands, Aggrieved Employees were not properly paid all wages earned and all wages owed to them by Defendants for all hours they worked and were under Defendants' control, including when working more than eight (8) hours in any given day and/or more than forty (40) hours in any given week. The Aggrieved Employees were therefore entitled to receive overtime wages from Defendants, which they were consistently denied in violation of the Labor Code and applicable paragraphs of the IWC Wage Orders.

In addition to the systematic underpayment of wages and unlawful meal and rest breaks, Defendants automatically deducted thirty (30) minutes from Aggrieved Employees' pay, even though thirty (30) minute meal breaks were not provided.

Defendants' management also did not reimburse Aggrieved Employees for all necessarily incurred expenses in performance of their job duties. Plaintiff incurred personal cellular phone expenses and clothing related charges in the performance of his job duties that were uncompensated for. In regards to non-reimbursed clothing related changes, Plaintiff had to buy select clothing items, such as mechanic overalls, without reimbursement from Defendants.

In regards to Aggrieved Employees non-reimbursed personal cellular phone usage, Plaintiff was required to use his cellular phone to look up specific mechanical issues for select cars. Due to the quota put upon Plaintiff he was unable to afford the time to ask other employees for assistance or management for help. The fastest way for Plaintiff to find mechanical related answers was through his personal cellular phone use

Defendants also consistently failed to issue accurate itemized wage statements as required by Labor Code § 226(a). The wage statements are required to show the total hours worked by Aggrieved Employees, amongst other items detailed below, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Moreover, Defendants failed to pay Aggrieved Employees all wages owed, as detailed above, at the time of their termination or within seventy-two (72) hours of their resignation, as required under Labor Code § 203.

Moreover, Defendants had an agreement with a payroll service provider for the issuance of payroll cards to Aggrieved Employees that required Aggrieved Employees to incur a fee in order to access their full wages in violation of California Labor Code § 212 and 213. Aggrieved Employees would not be able to withdraw their entire wages in one transaction via an ATM because ATM's only disburse cash in limited denominations and do not dispense exact change. Moreover, Aggrieved Employees had to abide by business hours of a specific bank chain and had limited locations with limited business hours that created additional obstacles and hurdles to access their entire wages without discount and without delay. Finally, when Aggrieved Employees used their paycard they would incur a fee for each transaction, including even to withdrawal their wages at an ATM.

Moreover, Defendants provided Aggrieved Employees with payroll debit cards as payment of their wages. Under this payroll debit card program, Aggrieved Employees were assessed various fees in connection with their use of the payroll debit cards. Aggrieved Employees were required to pay per-transaction fees, ATM fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Aggrieved Employees resulted in a discount of their wages. Defendants' payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from Aggrieved Employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code § 221 and 224.

During the relevant time period, Defendants willfully and systemically issued payroll debit cards to Aggrieved Employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. Defendants' payroll debit card program resulted in the payment of less than statutorily-required wages to Aggrieved Employees. In doing so, Defendants acted with the intent to deprive Aggrieved Employees of statutory wages, including but not limited to, overtime wages and minimum wages to which they were entitled to under California law. Defendants paid other aggrieved employees lower wages than those they were entitled to while purporting that other aggrieved employees were properly paid.

As addressed above, Aggrieved Employees complain of the following violations committed by Defendants:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders.

Defendants failed to pay Employees minimum wages they were owed, including by their consistent policy of failing to pay Employees for all hours worked. Employees would work hours and not receive wages, including as alleged above in connection with off the clock work, including all the time required to remain on duty and under Defendants' control and due to the work demands placed upon them by Defendants' management and due to unlawful rounding. Defendants, and each of them, have also intentionally and improperly rounded, changed, adjusted and/or modified Employee hours, or required Employees to do so, and imposed difficult to attain job and shift scheduling requirements on Plaintiff and the Aggrieved Employees, which resulted in off the clock work and underpayment of all wages owed to Employees over a period of time, while benefiting Defendants. During the relevant time period, Defendants thus regularly failed to pay minimum wages to Plaintiff and the Aggrieved Employees, including by requiring systematic off the clock work. Defendants' uniform pattern of unlawful wage and hour practices manifested, without limitation, applicable to the Aggrieved Employees as a whole, as a result of implementing a uniform policy and practice that denied accurate compensation to Plaintiff and the other Aggrieved Employees as to minimum wage pay.

In light of the forgoing, the Aggrieved Employees seek to recover wages and penalties. Plaintiff and the Aggrieved Employees are entitled to recover the unpaid minimum wages (including double minimum wages), liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory and civil penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions. To the extent minimum wage compensation is determined to be owed to the Aggrieved Employees who have terminated their employment,

Defendants' conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under California Labor Code § 203, which penalties are sought herein on behalf of these Aggrieved Employees. Defendants' failure to timely pay all wages owed also violated Labor Code § 204 and resulted in violations of Labor Code § 226 because they resulted in the issuance of inaccurate wage statements. Defendants' conduct as alleged herein was willful, intentional and not in good faith. Further, Plaintiff and other Aggrieved Employees are entitled to seek and recover statutory costs.

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. Specifically, Defendants had a consistent policy of not paying Employees wages for all hours worked, including hours at their required regular, overtime, and double-time rates. Defendants, and each of them, have intentionally and improperly rounded, changed, adjusted and/or modified certain employees' hours, including Plaintiff's, or required Plaintiff and the Aggrieved Employees to do so, or otherwise caused them to work off the clock to avoid paying Plaintiff and the Aggrieved Employees all earned and owed straight time and overtime wages and other benefits, in violation of the California Labor Code, the California Code of Regulations and the IWC Wage Orders and guidelines set forth by the Division of Labor Standards and Enforcement. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated non-exempt employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties or to attend and participate in company required activities or remain under Defendant's control. When considered in combination with the unlawful rounding to their detriment, Aggrieved Employees were not properly compensated, nor were they paid overtime rates for hours worked in excess of eight hours in a given day, and/or forty hours in a given week. Based on information and belief, Defendants did not make available to Employees a reasonable protocol for correcting time records when Employees worked overtime hours or to fix incorrect time entries or those that Defendants unlawfully under-recorded to the Employee's detriment. Defendants have also violated these provisions by requiring Plaintiff and other similarly situated Aggrieved Employees to work through meal periods when they were required to be clocked out or to otherwise work off the clock to complete their daily job duties.

In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, 1174, 1194, 1198, 1199, and the relevant paragraphs of the IWC Wage Orders, including paragraphs 2(K), 2(S), 3(A), 4, and 20. Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Meal-Period Liability Under Labor Code § 226.7

Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours without providing them with timely and uninterrupted meal periods of not less than thirty (30) minutes, as required under Labor Code §§ 226.7 and 512 and applicable Wage

Orders. Specifically, meal periods Aggrieved Employees were provided were consistently less than 30 minutes or were taken after their fifth consecutive hour of work, or interrupted by job requirements, all in violation of the Labor Code and applicable Wage Orders. On shifts over ten hours, second meal periods were not provided. Defendants also failed to pay Aggrieved Employees “premium pay,” i.e. one hour of wages at each Aggrieved Employee’s effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Rest-Break Liability Under Labor Code § 226.7

Defendants have consistently failed to provide Aggrieved Employees with duty-free, paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours, or major fraction thereof, as required under Labor Code § 226.7. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. See Labor Code § 226.7(c). In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Unlawful Discount of Wages in Violation of Under Labor Code §§ 212 and 213

Defendants had an agreement with a payroll service provider for the issuance of payroll cards to Aggrieved Employees that required Aggrieved Employees to incur a fee in order to access their full wages in violation of California Labor Code § 212 and 213. Aggrieved Employees would not be able to withdraw their entire wages in one transaction via an ATM because ATM’s only disburse cash in limited denominations and do not dispense exact change. Moreover, Aggrieved Employees had to abide by business hours of a specific bank chain and had limited locations with limited business hours that created additional obstacles and hurdles to access their entire wages without discount and without delay. Finally, when Aggrieved Employees used their paycard they would incur a fee for each transaction, including even to withdrawal their wages at an ATM. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Unlawful Deductions in Violation of Labor Code §§ 221 and 224

Defendants provided Aggrieved Employees with payroll debit cards as payment of their wages. Under this payroll debit card program, Aggrieved Employees were assessed various fees in connection with their use of the payroll debit cards. Aggrieved Employees were required to pay per-transaction fees. ATM fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to Aggrieved Employees resulted in a discount of their wages. Defendants’ payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from Aggrieved Employees’ paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code § 221 and 224. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Secret Payment of Lower Wages in Violation of Labor Code § 226.7

Labor Code § 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages. During the relevant time period, Defendants willfully and systemically issued payroll debit cards to Aggrieved Employees that discounted their wages by charging various fees in connection with the use of the payroll debit cards. Defendants’ payroll debit card program resulted in the payment of less than statutorily-required wages to Aggrieved Employees.

In doing so, Defendants acted with the intent to deprive Aggrieved Employees of statutory wages, including but not limited to, overtime wages and minimum wages to which they were entitled to under California law. Defendants paid other aggrieved employees lower wages than those they were entitled to while purporting that other aggrieved employees were properly paid. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Failure to Issue Accurate Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish accurate, itemized wage statements in writing to its employees. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee's wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid. As a direct and proximate cause of Defendants' violation of Labor Code § 226(a), Aggrieved Employees suffered injuries, including among other things confusion over whether they received all wages owed them, the difficulty and expense involved in reconstructing pay records, and forcing them to make mathematical computations to analyze whether the wages paid in fact compensated them correctly for all hours worked.

For example, the wage statements are required to show the total hours worked by Aggrieved Employees, which they do not. The absence of showing total hours worked, combined with Defendants practice of paying all double time hours worked by Aggrieved Employees at their standard hourly rate lead to confusion about how many hours were actually worked and at which rates per pay period.

Therefore, Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, as discussed above. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e), Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys' fees.

Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226." To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf of himself and the other Aggrieved Employees.

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Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants' employ. Based on the forgoing, Defendants have followed a consistent policy of failing to pay all wages earned and owed to Aggrieved Employees at the time of their termination or within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558 and further specifically seek penalties and wages under Labor Code § 203, which provides that an employee's wages shall continue until paid for up to thirty (30) days from the date they were due.

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis, as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Aggrieved Employees seek to recover wages and penalties pursuant to Labor Code § 558.

Reimbursement of Necessary Expenditures Under Labor Code § 2802

Under Labor Code § 2802(a) an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

In the present case, as discussed above, Aggrieved Employees incurred necessary expenditures in the performance of their job duties for Defendants, in the form of personal cellular phone usage and clothing related charges. Thus, Aggrieved Employees were not reimbursed for those lawful and necessary work related expenses or losses incurred in direct discharge of their job duties during employment with Defendants and at the direction of the Defendants pursuant to Labor Code § 2802(a) and the applicable IWC Wage Orders, paragraph 9.

Failure to Keep Records In Accordance With Labor Code § 1174

Labor Code § 1174 requires employers to keep records showing payroll data and the daily hours worked by employees and the wages paid to them. By failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.*

Unfair Competition Under Business and Professions Code § 17200, et seq.

Consequently, Defendants' conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

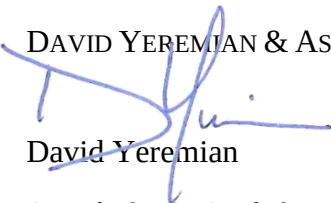
Conclusion

This letter, along with the original PAGA Notice Letter, the Complaint, and the First Amended Complaint pending in San Bernardino County, therefore provides the requisite notice under the Act to the LWDA and Defendants by setting forth the specific provisions of the Labor Code and related provisions Plaintiff alleges have been violated, including the facts and relevant theories alleged against PICK YOUR PART AUTO WRECKING. To prevent the violations described in the Representative Complaint, First Amended Representative Complaint, original PAGA Notice Letter, and herein from continuing, and to remedy past violations, Plaintiff respectfully requests that the LWDA conduct an investigation into Defendants' employment practices in accordance with the Act.

Wherefore we request that you advise us, by certified mail within sixty (60) days of the postmark on this letter, whether you intend to proceed with these claims or whether Plaintiff and Aggrieved Employees should include them as a Labor Code § 2698 claim under the Act in an amended Complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Defendant by Certified Mail

EXHIBIT 2

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

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff Edward Tellez (“Plaintiff”), on behalf of the other aggrieved employees (the “Aggrieved Employees,” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the Private Attorneys’ General Act (“PAGA”) on the one hand, and Defendant Pick-Your-Part Auto Wrecking, (“Defendant”) on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

This Agreement, and the settlement embodied herein, shall be binding on Plaintiff, the Aggrieved Employees he represents, and Defendant subject to the approval of the Court.

WHEREAS, on May 13, 2020, Plaintiff sent notice to the Labor and Workforce Development Agency (“LWDA”) of his intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004, as codified in California Labor Code §2698 *et seq.* (“PAGA”), on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees (the “PAGA Notice”).

WHEREAS, on August 6, 2020, Plaintiff filed a PAGA representative action in the Superior Court of California County of San Bernardino entitled *Edward Morales Tellez v. Pick-Your-Part Auto Wrecking.*, Case No. CIVDS 2017040 alleging seven causes of action for penalties under the Private Attorney’s General Act of 2002 against Defendant for: (1) Failure to Pay Minimum Wages, (2) Failure to Pay Wages and Overtime Under Labor Code § 510, (3) Meal Period Liability Under Labor Code §§ 226.7, 512, (4) Rest-Break Liability Under Labor Code § 226.7, (5) Violation of Labor Code §226(a); (6) Violation of Labor Code § 203; and (7) Failure to Reimburse Necessary Business Expenditures Under Labor Code § 2802 (“PAGA Action” or “PAGA Claims”).

WHEREAS, the Parties have agreed to settle Plaintiff’s individual claims as well as the Plaintiff’s Representative PAGA Claims.

WHEREAS, On July 28, 2021, the Parties attended an all-day mediation with experienced wage-and-hour mediator Todd Smith. At the mediation, the Parties agreed to settle Plaintiff’s Representative PAGA claims in light of all known facts and circumstances – including the difficulty of proving some of Plaintiff’s claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, the financial condition of Defendant, and numerous potential appellate issues. The Parties also agreed to settle Plaintiff’s individual claims separately.

WHEREAS, for purposes of this settlement, the Aggrieved Employees are defined as: “All individuals who are or were employed by Defendant as non-exempt employees within the State of California from March 3, 2019 through preliminary approval.”

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff's PAGA Claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the PAGA Claims that Plaintiff and the Aggrieved Employees have against Defendant and Defendant's past or present parents, subsidiaries, and affiliates, and/or any officers, directors, employees, partners, agents, insurers, and/or any other individual or entity that could be liable for the acts of omissions of Defendant. The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant of any wrongdoing or liability. Specifically, Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Complaint. Defendant, among other things, contends that it has complied at all times with the California Labor Code and all applicable California laws.

WHEREAS, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, California Labor Code § 2699(k)(2) requires Court review and approval of any settlement of a civil action filed pursuant to PAGA.

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiff and their respective counsel are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances, including the financial condition of Defendant, and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff, David Yeremian of David Yeremian & Associates Inc., believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

WHEREAS, the Parties: (1) believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Claims, (2) have investigated the facts relevant to this settlement and this Agreement, and all matters pertaining thereto, to the full extent that each Party deems necessary, and (3) have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

WHEREAS, the Parties recognize that in accordance with Labor Code section 2699(I), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) ("PAGA authorizes a representative action without the need for class certification."); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) ("a PAGA suit is fundamentally different than a class action" in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531,

546-47 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class.”).

Therefore, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

1. Effective Date. The effective date (“Effective Date”) of this Agreement shall mean the following: (a) the date of service of notice of entry of the order approving this Agreement and the PAGA Settlement if no objections are filed to this settlement or if all objections are withdrawn prior to the Court ruling on them; or, (b) sixty-one (61) days after the date of service of notice of entry of the settlement approval order if objections are filed and overruled and no appeal is taken from the order approving the settlement; or (c) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected, the settlement is upheld, and the settlement approval order is no longer subject to further judicial review.

2. Released Claims/Effect of Judgment on Aggrieved Employees and LWDA. The Parties agree and acknowledge that, to the maximum extent permitted by law, the final judgment entered pursuant to this settlement will bind all those who would be bound by a judgment if the action had been brought by the California Labor & Workforce Development Agency (“LWDA”), including Plaintiff, the LWDA, and the Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code § 2698, *et. seq.* only, against Defendant and its past or present parents, subsidiaries, and affiliates, officers, directors, employees, partners, agents, insurers, and/or any other individual or entity that could be liable for the acts or omissions of Defendant (“Released Parties”). It is expressly understood and agreed that this settlement only includes a full release of the PAGA claim for penalties the period of March 3, 2019 through preliminary approval for violations of Labor Code §§ 201, 202, 203, 204, 212, 221, 223, 224, 226, 226.3, 226.7, 510, 512, 558, 1174, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, 2802, violation of Business & Professions Code § 17200 *et seq.* as well as the applicable provisions of the Industrial Wage Orders and for any other PAGA violations that could have been asserted in the action based on the factual assertions and legal assertions in the Complaint. This settlement agreement shall not impact Aggrieved Employees ability to assert Labor Code claims other than PAGA claims specifically identified herein.

3. Notice to LWDA. Pursuant to California Labor Code § 2699(k)(2), the Parties shall submit to the LWDA a copy of this Agreement at the same time that the Parties submit it to the Court for approval.

4. Total Settlement Amount. Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of Six Hundred Eighty Four Thousand Dollars and Zero Cents (\$684,000.00) (the “Gross Settlement Amount”) in full settlement of the PAGA Action. The Gross Settlement Amount will be allocated as follows:

a. PAGA Counsel's attorneys' fees request of up to 35% of the Gross Settlement Amount which is Two Hundred Thirty-Nine Thousand Four Hundred Dollars and Zero Cents (\$239,400.00) ("PAGA Counsel's Fees") and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter of up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) ("PAGA Counsel's Costs"). Defendant will not oppose these requests. To the extent that the Court approves less than the amount of attorney's fees and costs that Plaintiff's counsel requests, any reduced amount shall be allocated to the settlement fund for the Aggrieved Employees;

b. Administration costs of no more than Ten Thousand Dollars and Zero Cents (\$10,000.00) to be paid to the Settlement Administrator ("Administration Costs");

c. The remainder of the Gross Settlement Amount (the "PAGA Fund") after deducting items (a) and (b) is approximately Four Hundred Nineteen Thousand Six Hundred Dollars and Zero Cents (\$419,600.00), and shall be designated as "PAGA Penalties" to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% (\$314,700.00) paid to the LWDA (the "LWDA PAGA Portion") and 25% (\$104,900.00) paid to the Aggrieved Employees (the "Aggrieved Employees' PAGA Portion") on a pro-rata basis.

5. Allocation and Calculation of the PAGA Penalties. Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. The allocation among the Aggrieved Employees shall be determined by dividing the entire Aggrieved Employees' PAGA Portion (*i.e.* approximately \$140.00 by dividing the number of paychecks each individual Aggrieved Employee received during the applicable time period by the total number of paychecks received by all Aggrieved Employees during the applicable time period.) All Individual settlement payments made to Aggrieved Employees will be reported on an IRS Form 1099.

6. Tax Treatment of Settlement Amounts. With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued, if applicable. Nothing in this settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that they have obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the settlement amounts in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to Plaintiff counsel's fees and costs will be reflected in a Form 1099 to counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

7. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH

PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING 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 AGREEMENT.

8. PAGA Settlement Payment Procedures.

a. Within 60 days of the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator.

b. Within 10 business days of the Effective Date, Defendant shall also provide the Settlement Administrator with a list of all Aggrieved Employees with each listed employee’s full name, last known mailing address, social security number, and number of qualifying paystubs in the PAGA period. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information

Within 10 business days of Defendant depositing the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator shall:

i. Remit the Aggrieved Employees’ PAGA Portion to the Aggrieved Employees to be distributed on a pro-rata basis (as set forth herein), along with the employee letter (attached hereto as **Exhibit A**). Aggrieved Employees shall not be required to make claims, but shall simply be delivered a check for their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee’s address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. If

Settlement Checks are returned to the administrator, either within 30 days from the mailing, or thereafter, the Settlement Administrator will attempt to locate an updated address for the Aggrieved Employee and re-mail the check if an updated address is located.

ii. Remit PAGA Counsel's Fees and Costs, as approved by the Court.

c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) days from the date they are mailed by the Settlement Administrator. All uncashed settlement checks shall be sent to the State Controller's Office Unclaimed Property Fund.

d. Neither Defendant nor Plaintiff shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

9. Settlement Administrator. The Settlement Administrator shall be responsible for sending notices and for calculating the pro-rata amount of the Aggrieved Employees' PAGA Portion to be paid to each Aggrieved Employee and preparing all checks and mailings and comply with all requirements set forth in Paragraph 9. The costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount. The Parties agree a mutually acceptable Settlement Administrator. Defendant is not responsible or liable for any errors in the calculation of paystubs or settlement amounts to be awarded to each Aggrieved Employee. Defendant is also not liable or responsible for any errors made by the Settlement Administrator in the administration of the settlement.

10. Duties of the Parties Prior to Approval. Promptly upon execution of this Agreement, Plaintiff's counsel will prepare and file a motion for approval of the settlement the entry of an order approving this Agreement as required by Labor Code section 2699(1). The Approval Stipulation will request Court approval of the following: (1) the terms of this Agreement, (2) the amount of fees and costs to Plaintiff's counsel, (3) final judgment, and (4) request dismissal of the Class Action and PAGA Action claims with prejudice pursuant to California Rules of Court Rule 3.770. In conjunction with the Motion for Approval, Plaintiff shall submit a proposed Final Judgment requesting the entry of judgment. Plaintiff's counsel will also prepare a letter to accompany payments made to the Aggrieved Employees. In the event a Labor Code provision referenced in the LWDA letter attached as Exhibit A is not already part of the complaint, Plaintiff will amend the complaint and/or take whatever other action is necessary to ensure the court approves a release of all the claims asserted in the complaint and the LWDA letter. Moreover, the Parties will stipulate to allow Plaintiff to amend the complaint to allow the PAGA period to commence March 3, 2019, and to include all Labor Code provisions included in the LWDA letter filed by Corina Rios Vera and attached as Exhibit B hereto.

11. Duties of the Parties After Approval. Promptly upon the Court's entry of an order approving this Agreement and dismissing the Class Action and PAGA Action claims with prejudice, Plaintiff shall file a motion requesting dismissal of the Class Action and PAGA Action claims with prejudice pursuant to California Rules of Court Rule 3.770.

12. Non-Admission of Wrongdoing. The Parties agree that this Agreement does not constitute an admission by Defendant or any Released Party, of any of the matters alleged in the PAGA Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant, or Defendant's parents, subsidiaries, divisions, affiliated corporations, trustees, directors, officers, shareholders, agents, attorneys, insurers, or employees.

13. Conditional Settlement. This agreement is expressly conditioned upon the court approving the settlement and upon the Court allowing Plaintiff to amend the complaint to include all claims alleged in the LWDA letters attached as Exhibits A and B herein and to allow the release period to begin March 3, 2019.

14. Waiver and Amendment. The Parties may not waive, amend, or modify any provision of this Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

15. Communications. All communications to be provided concerning this Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

To Defendant: Lonnie D. Giamela, Fisher & Phillips, LLP, 444 S. Flower Street, Suite 1500, Los Angeles, California 90071

To Plaintiff: David Yeremian, David Yeremian & Associates Inc., 535 N. Brand Blvd., Suite 705, Glendale, CA 91203.

16. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. Any representation, promise or agreement not specifically included in this Agreement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Agreement unless in writing and signed by the Parties.

17. Severability. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provisions or application and to this end the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable Released Party.

18. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis that the Party was the drafter.

19. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

20. **Counterparts.** This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

21. **Enforcement of Settlement.** This Agreement is admissible and subject to disclosure for purposes of enforcing this Agreement pursuant to California Code of Civil Procedure Section 664.6, or any other procedure permitted by law. The Parties agree that, under California Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction to enforce the terms of this Agreement.

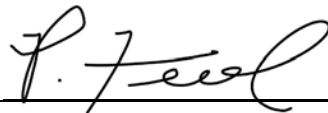
22. **Cooperation.** Plaintiff and Plaintiff's counsel will cooperate in assisting the Defendant in submitting whatever paperwork may be necessary to get the related case of Corina Rios-Vera v. Pick Your Part Auto Wrecking (Case No. 20STCV09782) ("Rios Action") dismissed, including but not limited to submitting declarations in support of any dispositive motion confirming the arms-length negotiations and that the Tellez settlement covers all claims alleged in the Rios Action as well. Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

Dated: July 30, 2021

DocuSigned by:

956F47CF8F3146E...

Edward Tellez, PGA Representative



Dated: July 31, 2021

Pick-Your-Part Auto Wrecking

By: Patrick Ferrell

Its: Deputy General Counsel

APPROVED AS TO FORM AND CONTENT:

Dated: July 30, 2021

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian, Esq.
Attorneys for Plaintiff Edward Tellez

Dated: Aug. 3, 2021

FISHER & PHILLIPS, LLP



Lonnie D. Giamela, Esq.
Lizbeth Ochoa, Esq.
Sean T. Kingston, Esq.
Attorneys for Defendant Pick-Your-Part
Auto Wrecking

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

**NOTICE OF PAGA SETTLEMENT AND
RELEASE**

Dear [NAME]:

The enclosed check is your proportionate share of a court-approved representative action settlement between Plaintiff Edward Morales Tellez (“Plaintiff”) and Defendant Pick-Your-Part Auto Wrecking (“Defendant”). Plaintiff filed a lawsuit against Defendant as the representative of the State of California and Defendant’s other current and former employees who performed work in California, San Bernardino County Superior Court Case No. CIVDS2017040. Plaintiff asserted claims against Defendant under California Labor Code § 2698 et seq., also known as the Private Attorneys General Act (“PAGA”), based on the alleged failure by Defendant to pay for all time worked, pay all overtime wages, provide appropriate meal and rest breaks, provide accurate itemized wage statements, timely pay upon termination, reimburse necessary business expenses, and for alleged unlawful discount and deduction of wages. Defendant denies that it violated the law in any way but agreed to enter into a settlement to avoid the cost and disruption of litigation.

As a current or former employee of Defendant between March 3, 2019 and [], 2021, you are covered by this settlement. Per the Court’s final judgment in this case, all people covered by the settlement have released any and all claims for civil penalties under PAGA arising from alleged violations of Labor Code §§ 201, 202, 203, 204, 212, 213, 218.6, 221, 223, 224, 225.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 2698, 2699, 2802, Business & Professions Code § 17200 et seq., as well as the applicable provisions of the Industrial Wage Orders. This means that you are not able to pursue a PAGA lawsuit against Defendant based on such claims. The only individual claims that have been released are those of Plaintiff Edward Morales Tellez; no other individual claims are released.

The enclosed check is your share of the settlement. The payment amount was calculated based on the number of pay periods you worked for Defendant during the period between March 3, 2019 and [], 2021. Because this calculation was approved by the Court, the amount of your payment is final and cannot change. Enclosed with your check is an IRS Form 1099. Please note that no taxes were withheld from your payment, so it will be your responsibility to pay any taxes that may be due. You should consult with your own tax accountant with regard to any questions that you may have concerning any taxes that may be due. Further, you are bound by the settlement and release of claims based on the Court’s final judgment whether or not you cash or deposit the enclosed check. Please cash or deposit the check on or before its printed void date. Checks will not be reissued after the void date.

If you have any questions or would like more information about the settlement or this lawsuit, you may contact the Claims Administrator at [Claims Administrator], [Address], [Telephone Number]. Please note that the Settlement Administrator cannot provide tax advice.

EXHIBIT 3

Cost report for TELLEZ v. PICK-YOUR-PART AUTO WRECKING

<i>Date</i>	<i>TaskCode</i>	<i>Payee</i>	<i>Description</i>	<i>Cost</i>	<i>Acct/Check No</i>
5/13/2020		LWDA	PAGA LETTER	\$75.00	PAGA LETTER 4169
8/6/2020		Rapid Legal	SUMMONS & COMPLAINT - filing fee and complex fee advanced	\$549.29	filing
9/16/2020		Rapid Legal	PROCESS OF SERVICE - PICK-YOUR-PART AUTO WRECKAGE	\$83.12	SERVICE
10/16/2020		Rapid Legal	POS OF SUMMONS (INVOICE NO. 3932115)	\$67.11	Filing
10/21/2020		Rapid Legal	FAC	\$100.15	Filing
11/5/2020		Rapid Legal	FAC - complex fee advanced	\$1,132.65	Filing
1/22/2021		Rapid Legal	JOINT STATUS REPORT IN ADVANCE OF ISC (2.8.21)	\$67.11	Filing
3/2/2021		Rapid Legal	NTC OF INITIAL CMC (04.22.21)	\$67.11	Filing
4/20/2021		Rapid Legal	JOINT STATUS REPORT (4.22.21)	\$69.18	Filing
4/26/2021		Courtcall	CMC (4.22.21)	\$94.00	COURTCALL
5/7/2021		Rapid Legal	NTC OF APPEARANCE & WITHDRAWAL OF COUNSEL	\$69.18	Filing
8/2/2021		BERGER CONSULTIN	EXPERT ANALYSIS	\$1,350.00	EXPERT ANALYSIS
8/17/2021		Rapid Legal	JOINT STATUS REPORT (8.23.21)	\$74.34	Filing
8/24/2021		Courtcall	CMC (8.23.21)	\$94.00	COURTCALL
8/24/2021		Rapid Legal	JOINT STIP TO FILE SAC; [P]O + COURTESY COPY	\$209.60	Filing
10/15/2021		Courtcall	FINAL ACCOUNTING HRNG - future hrng	\$94.00	COURTCALL
10/15/2021		Courtcall	HRNG ON PAGA APPROVAL MTN	\$94.00	COURTCALL
10/15/2021		Rapid Legal	MTN FOR PAGA APPROVAL + COURTESY COPY - mtn fee advanced	\$375.00	Filing
10/15/2021		Rapid Legal	NTC OF ENTRY OF ORDER AND JUDGMENT	\$75.00	Filing
TOTAL COST				\$4,739.84	

Total Cost By Account

COURTCALL	\$376.00
EXPERT ANALYSIS	\$1,350.00
filing	\$2,855.72
PAGA LETTER	\$75.00
SERVICE	\$83.12

EXHIBIT 4

Tellez v. Pick-Your-Part Auto Wreckage
San Bernardino County Case No. CIVDS2017040
Detailed Time and Task Summary – David Yeremian

Tasks Performed	Atty Hours Est.	Date range
<u>1. Pre-Filing and Investigation Tasks –</u> - Conference with client; review client docs; interview re: facts of case - Research case law and other cases, and research Defendant Pick-Your-Part Auto Wrecking (“Defendant”) Corporation and its operations and prior litigations - Draft retainer and opening file documents - Reviewed associate’s factual and legal research into the merits of Plaintiff’s claims	5	January 2020 – March 2020
<u>2. Filing the Complaint and Drafting and Sending the LWDA Letter Notice</u> - Review and revise complaint - Review and revise LWDA exhaustion letter re: PAGA Notice and claims and facts and theories and grounds for recovering civil penalties	8	April 2020
<u>3. Initial conferences and correspondence with Defendant’s counsel and Initial scheduling conference</u> - Review case initiation documents, conformed copies, and review initial Case Management Conference order and draft notice of CMC - Confer with defense counsel regarding notice and acknowledgement	6	April 2020 – August 2020
<u>4. Potential ADR Discussions and initial informal discovery requests</u> - Confer with defense counsel and exchange e-mails regarding decision to proceed with mediation and status of discovery and how to approach in light of agreement - Confer and correspond with Defendant and mediators regarding mediator selection and availability and scheduling - Agree upon Todd Smith for mediation in July and draft multiple e-mails and respond regarding scheduling - Confer with Plaintiff regarding mediation and availability, and review multiple correspondences from Plaintiff regarding ongoing claims and issues to address with Defendant - Confer with statistical analysis expert regarding production and review and information and items needed to provide conclusions and recommendations and provide documents to him; discuss case claims and approach to damages	15	September 2020 – March 2021
<u>5. Complete Initial Informal Discovery, Mediation Preparation, and Conduct Mediation and further discovery meet and confer –</u> - Complete informal discovery and production of documents and Aggrieved Employees’ data - Review all production and file documents and policy documents and compile key exhibits and documents for mediation - Confer and correspond with Defendant’s counsel regarding Aggrieved Employees’ data and numbers agreed upon and extrapolated for mediation - Complete and draft calculations of Defendant’s potential liability exposure and summarize defenses to each and alleged bases for	41	July 2021

Tellez v. Pick-Your-Part Auto Wreckage
San Bernardino County Case No. CIVDS2017040
Detailed Time and Task Summary – David Yeremian

reduction in calculated numbers • Provide Aggrieved Employees data and documents as necessary to expert and confer with expert regarding conclusions and numbers for Aggrieved Employees based on the provided information • Review and revise mediation brief, address background and procedure and discovery completed, address relevant policies of Defendant and each of Plaintiff's claims, and the facts and law supporting them, and research and calculate potential estimated damages and penalties exposure • Attend mediation • Conferences with defense counsel regarding Settlement and general terms • Review correspondence following mediation with mediator and confer regarding continued efforts to finalize settlement terms		
<u>6. Finalizing Settlement Agreement and Terms –</u> • Review and revise Memorandum of Agreement; conferences with counsel re same • Review stipulation to continue case management conference to complete Settlement Agreement and attend to filing • Review and revise long form Settlement Agreement and conduct multiple conferences and correspondence with defense counsel regarding detailed terms and revisions • Multiple correspondence and conferences with defense counsel regarding settlement terms and revisions and additions • Review Aggrieved Employees Notice and e-mails regarding same and finalizations after editing • Review administrator quotations and discuss with associate	3	July 2021 – September 2021
<u>7. Motion for PAGA Settlement Approval:</u> • Review and revise motion for PAGA approval of the Settlement and supporting documents and declarations and attend to filing • Review entire file, emails, and compile time summary	3	September 2021
TOTAL:	81 Hrs.	

EXHIBIT 5

Tasks Performed	Atty Hours Est.	Date range
<u>1. Pre-Filing and Investigation Tasks –</u> • Research case law and similar cases • Research Defendant Pick-Your-Part Auto Wrecking (“Defendant”) and its operations and prior litigations • Confer with client and review documents with client, including personnel file request and production – send records request and confer with Client and Defendant regarding personnel file • Set up new file and file opening documents, including atty-client agreement, responsibilities of a class rep. and wage statements and personnel file documents • Research California Secretary of State filings for Defendant • Conduct factual and legal research into the merits of Plaintiff’s claims • Conduct multiple conferences discussing the facts and allegations with Plaintiff, addressing conduct of litigation, time frame for events and initial actions to commence litigation.	12	March 2020 – April 2020
<u>2. Filing the Complaint and Drafting and Sending the LWDA Letter Notice</u> • Conduct further research regarding Defendant and policies and practices and confer with client and draft detailed file notes • Draft Complaint • Draft LWDA Letter and correspondence to LWDA and Defendant re: PAGA Notice and claims and facts and theories and grounds for recovering civil penalties • Confer and correspond with client regarding Complaint and review and approval of factual allegations and attend to filing	23	April 2020 – August 2020
<u>3. Initial conferences and correspondence with Defendant’s counsel and Initial scheduling conference</u> • Further conferences with client re status of case • Meet & confer with defense counsel re: case management, theories of liability and discovery issues • Draft amended LWDA Letter and amended complaint • Multiple conferences with defense counsel re case management, discovery and mediation	18	September 2020 – March 2021
TOTAL:	53 Hrs.	

EXHIBIT 6