

1 David Mara, Esq. (SBN 230498)
Matthew Crawford, Esq. (SBN 310230)
2 **MARA LAW FIRM, PC**
2650 Camino Del Rio North, Suite 205
3 San Diego, California 92108
Telephone: (619) 234-2833
4 Facsimile: (619) 234-4048

5 Attorneys for Plaintiffs ALICIA JUAREZ and
KARLA MARTINEZ FLORES, on behalf of
6 themselves and all others similarly situated, and
on behalf of the general public
7

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10 ALICIA JUAREZ, on behalf of herself and all
11 others similarly situated, and on behalf of the
general public,

12 Plaintiff,

13 v.

14 FLOREXPO, LLC; KENDAL FLORAL
15 SUPPLY, LLC; and DOES 1-100,

16 Defendants.
17
18
19
20
21
22
23
24
25
26
27
28

Case No. 37-2020-00015644-CU-OE-CTL

[Consolidated with Case No. 37-2020-00016123-
CU-OE-CTL]

**DECLARATION OF DAVID MARA, ESQ. IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: December 16, 2022

Time: 8:30 a.m.

Judge: Hon. Keri Katz

Dept.: C-74

1 I, DAVID MARA, declare as follows:

- 2 1. I am President of Mara Law Firm, PC and counsel of record for Plaintiffs and the putative class
3 in this matter. I am duly admitted to practice before all the courts of the state of California. The
4 following facts are within my personal knowledge and, if called to testify, I could and would
5 competently testify thereto.
- 6 2. I have been practicing law in California since 2004.
- 7 3. I extensively handle employment cases which involve violations of the California Labor Code
8 and Industrial Welfare Commission Wage Orders, such as wage and hour class actions and cases
9 alleging violations of the Private Attorneys General Act of 2004 ("PAGA").
- 10 4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.*, San Diego Superior Court
11 Case No. GIC834348, which was the underlying case in the California Supreme Court's
12 landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, in
13 which the California Supreme Court delineated the scope of employer obligations to provide, and
14 employee rights to receive, meal and rest periods under California law.
- 15 5. I wrote an Amicus brief on behalf of Consumer Attorneys Of California ("CAOC") in the recent
16 decision by the California Supreme Court in *Augustus v. ABM Security Services, Inc.* (2016) 2
17 Cal.5th 257 (rest breaks must be duty-free and time spent being on call during rest breaks is not
18 considered duty-free).
- 19 6. My firm also wrote an Amicus brief on behalf of CAOC in the recent decision by the California
20 Supreme Court in *Williams v. Superior Court* (2017) 3 Cal. 5th 531 (PAGA and wage and hour
21 class action).
- 22 7. My firm has been granted class certification in both state and federal courts.
- 23 8. I am also Plaintiff's counsel in a host of other class actions involving violations of
24 California's wage and hour laws, many of which involve the transportation industry. For
25 example, I have been and am involved as counsel for plaintiffs in the following class actions
26 involving wage and hour violations under California law: *Davis v. Apria Healthcare Group*
27 (Case No. 37-2015-00007743); *Norona v. B&G Delivery System, Inc.* (Case No. 34-2015-
28 00186826-CU-OE-GDS); *Perez v. City of San Diego* (Case No. 37-2014-00016621); *Cuellar-*
Ramirez v. US Foods, Inc. (Case No. RG15770766); *Peron v. The Vons Companies, Inc.*

(Case No. 37-2014-00006965); *Hilderbrand v. LinkUs Enterprises, LLC* (Case No. DR150155); *Belton v. Pacific Pulmonary Services* (Case No. CGC-15-547564); *Medina v. Central Cal Transportation, Inc.* (Case No. RG15770011); *Dotson v. Asbury Environmental Services* (Case No. 34-2017-00214070-CU-OE-GDS); *Spikes v. Bear Trucking, Inc.* (Case No. CIV17DS1715151); *Montes v. Coram Specialty Infusion Services, Inc.* (Case No. 37-2016-00028950-CU-OE-CTL); *Rodriguez v. Delta Sierra Beverage, LLC* (Case No. 34-2017-00206727); *Clavel v. La Jolla Beach & Tennis Club, Inc.* (Case No. 37-2017-00004802-CU-OE-CTL); *Martin v. Sysco Central California, Inc.* (Case No. 1:16-cv-00990-DAD-SAB).

9. Defendants are wholesale florists who import and distribute flowers on the west coast, including California. In order to carry out their business, Defendants employ hourly non-exempt employees, like Plaintiffs.

10. On March 9, 2020, in compliance with Labor Code § 2699.3(a)(1), Plaintiff Alicia Juarez submitted written notice via online filing to the LWDA, setting forth the facts and theories of the violations alleged against Defendants, claiming that she and others were subject to various wage and hour violations. Plaintiff Alicia Juarez then filed her PAGA action against Defendants on May 26, 2020, in San Diego Superior Court, Case No. 37-2020-00015644-CU-OE-CTL. She alleged causes of action on behalf of herself and other hourly employees seeking civil penalties under PAGA for: (1) Failure to Pay for All Time Worked; (2) Failure to Pay Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Pay All Wages Due at Termination; (6) Failure to Provide Itemized Wage Statements; and (7) Failure to Pay All Wages Owed Twice Per Month.

11. Plaintiff Alicia Juarez filed a class action against Defendants on May 26, 2020, in San Diego Superior Court, Case No. Case No. 37-2020-00016123-CU-OE-CTL. She alleged causes of action on behalf of herself and other hourly employees for: (1) Failure to Pay for All Time Worked; (2) Failure to Pay Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Provide Itemized Wage Statements; (6) Failure to Pay All Wages Due at Termination; and (7) Violation of Unfair Competition Law. As part of the settlement process, the Parties agreed to the filing of the First Amended

1 Complaint in the class action, adding Karla Martinez Flores as a class representative. The
2 agreed upon First Amended Complaint is attached to the Mara Dec. as **Exhibit 2**. Plaintiffs
3 respectfully request that the Court deem filed the First Amended Complaint and deem it
4 answered with the answer currently on file in this action.

5 12. Defendants deny the allegations of the action in its entirety, deny any liability or wrongdoing
6 of any kind associated with the claims alleged in this action, and further deny that, for any
7 purpose other than settling this action, this matter is appropriate for class treatment.
8 Defendants further contend that they have complied with all applicable California laws, the
9 California Labor Code, the applicable California Wage Order(s), and the Unfair Competition
10 Law. Defendants finally contend that, if this matter were to be litigated further, they would
11 have strong defenses to oppose class certification and succeed on the merits of Plaintiffs'
12 causes of action.

13 13. Through discovery, Plaintiff sought numerous documents and substantial amounts of data that
14 were needed to evaluate the case. These documents included requests for time and wage
15 records for the Class, employee handbooks in place during the class period, any policies
16 regarding meal breaks, rest breaks, the payment of wages, and employee training in place
17 during the class period. Plaintiff also requested data surrounding the number of current and
18 former employees, as well as the number of shifts, workweeks, and pay periods worked by
19 Class Members during the relevant time period.

20 14. This discovery, in conjunction with the Parties' meet and confer efforts, resulted in the
21 production of numerous documents and thousands of lines of data. Using the time and wage
22 records for Class Members produced by Defendants, and the data surrounding the number of
23 current and former Class Members, Plaintiffs' expert was able to provide numerous data
24 points used in establishing a potential exposure model in preparation for mediation.

25 15. Plaintiffs contend that based on the information provided from Plaintiffs and numerous class
26 members, Defendants only provide their employees with 10 minutes in which to take a rest
27 period. Defendants instruct employees that their rest period begins immediately upon leaving
28 their workstation, and that they must be at their workstation ready to resume work within 10

1 minutes. This does not account for the time it takes employees to navigate Defendants'
2 massive facility to get to and from a suitable rest area, and thus violates California's mandate
3 that employees be provided a *net* 10 minutes of rest time, exclusive of the time it takes to
4 travel to a suitable rest area, like the breakroom, and back to their workstations.

5 16. Further, Plaintiffs claim that Defendants tell employees that they get one 10 minute rest period
6 when they work an 8 hour shift, and they will receive a second 10 minute rest period when
7 they work a 12 hour shift. Under California law, an employee who works an 8 hour shift
8 would be entitled to two 10 minute rest periods, and an employee who worked a 12 hour shift
9 would be entitled to three 10 minute rest periods.

10 17. Defendants argue that employees were unquestionably provided with legally compliant rest
11 periods in which employees can do whatever they choose, and that these alleged "policies"
12 Plaintiffs have conjured do not exist. Defendants point out that they have a written rest period
13 policy that directly refute Plaintiffs' allegations, as it provides for two 15 minute rest periods,
14 which permits employees plenty of time to take a net 10 minute rest period in suitable rest
15 area, as well as provides the requisite number of rest periods under California law depending
16 on shift length.

17 18. Defendants further argue that even *if* Plaintiffs were subject to some purported unlawful
18 practice in spite of its facially lawful policy (which Defendants deny entirely), these incidents
19 were isolated and limited. Plaintiffs would have to ask each employee what they thought
20 Defendants' rest period policy was, how long they were given to take rest periods, and how
21 many rest periods they received during a shift. Because each employee would have to testify
22 as to their understanding of the policy, individual issues would predominate and any trial
23 would unmanageable.

24 19. Plaintiffs argue that Defendants fail to provide employees with a full 30 minute meal period
25 "in which they are relieved of any duty or employer control." Defendants expect employees to
26 clock out and in for meal periods. However, there are no timeclocks in the breakroom. This
27 means employees must spend several minutes of their meal periods walking back to the
28 timeclock to clock back in for work. To make matters worse, due to the fact that large groups

1 of employees all take meal periods at the same time, employees are required to wait in line in
2 order to clock back in after their meal periods. All of this time spent under Defendants'
3 control cuts into the employee's 30 minute meal period.

4 20. Defendants assert that, just as with rest periods, employees are provided with meal periods in
5 accordance with California law. Defendants once again points out that the policies in their
6 handbook is facially lawful, that nothing in Defendants' meal period policy prevents
7 employees from taking additional time beyond the minimum allocated 30 minutes, and that no
8 one is disciplined for not clocking in precisely at the 30-minute mark upon their return from a
9 meal period, nor would it be feasibly possible to expect employees to do so, highlighting the
10 absurdity of Plaintiffs' claims here. Defendants also argue that Plaintiffs would have to ask
11 each employee whether they thought the policy Plaintiffs rely upon actually meant that
12 employees were required to clock back in to work after a 30-minute meal period, despite
13 Defendant's meal period policy explicitly providing for a minimum of 30 minutes, not a
14 maximum. Because each employee would have to testify as to their understanding of the
15 policy, class certification would be denied for lack of predominance.

16 21. As discussed previously, Defendants do not pay Class Members for the time spent traveling
17 from the breakroom to the timeclock during their unpaid meal periods and waiting in line to
18 clock back in for work during their unpaid meal periods. Additionally, because large groups
19 of employees all begin their shifts at the same time, the line for the timeclock to even start
20 your shift for the day is incredibly long. All of this time is spent under Defendants
21 compensable control, but employees are not paid for this time at all.

22 22. Defendants argue that beyond the limited accusations of Plaintiffs, there is no evidence that
23 Class Members performed *any* work-related tasks for which they were not compensated, and
24 that Defendants have uniform practices and policies *forbidding* employees from working off
25 the clock. Defendant claims that Plaintiffs' "investigation" is wholly inaccurate, and that the
26 time spent engaging in the above activities takes merely seconds, not minutes. Due to this
27 brevity, Defendants assert that it is not reasonably required to compensate employees for this
28 time.

1 23. The Parties agreed to attend mediation with respected wage and hour mediator Mark Rudy on
2 August 25, 2022. After a full day of mediation, the Parties were able to reach a settlement in
3 principle. Since then, the Parties have met and conferred regarding the terms of the settlement
4 and finalized their agreement in the Joint Stipulation. The Parties seek preliminary approval of
5 the Settlement in the instant motion.

6 24. In addition to being able to discover the strengths and vulnerabilities associated with
7 Plaintiffs' claims, Defendants provided Plaintiffs with information and data points which
8 Plaintiffs submitted to an expert to establish a representative damage model, as explained
9 below. At the time of mediation, there were approximately 7,434 Class Members who worked
10 approximately 250,000 workweeks, with an average hourly pay rate of \$14.26.

11 25. Plaintiffs allege that Defendants have failed to provide employees with compliant rest periods
12 because they do not account for the time it takes employees to navigate Defendants' massive
13 facility to get to and from a suitable rest area, and thus violates California's mandate that
14 employees be provided a *net* 10 minutes of rest time, as well as fail to provide the requisite
15 number of rest periods based on shift length. Based on these allegations, for each and every
16 shift worked, Class Members would be entitled to a premium under California Labor Code §
17 226.7 per shift for failure to provide a compliant rest period. Therefore, the *maximum*
18 *potential exposure* under this theory of liability would be **\$14,348,155** (1,006,182 shifts over
19 3.5 hours in length x \$14.26 = \$14,348,155).

20 26. Plaintiffs' rest period claims are subject to risks of obtaining certification and on the merits.
21 Defendants argue that employees were unquestionably provided with legally compliant rest
22 periods. First, Defendants point out that its policy provides for 15-minute, not 10-minute, rest
23 periods, which leaves plenty of time for employees to travel to and from a suitable rest area.
24 Second, despite the written policy in its handbook not explicitly providing for net 10-minute
25 rest periods, nothing in its policy restricts employees from taking net 10-minute rest breaks. In
26 fact, Defendants point out that no one is disciplined for not making it back to their workstation
27 in under 10 minutes because they were taking a net 10-minute rest break, and that
28 individualized issues would predominate because the Court would have to ask each and every

1 class member whether they thought they were not permitted to take a net-10 minute rest break
2 under this policy. Third, Defendants note that their written policy provides the requisite
3 number of rest periods under California law depending on shift length, despite Plaintiffs'
4 allegations of any purported policy to the contrary.

5 27. Due to the risks Plaintiffs' rest period claims face at certification and on the merits, Plaintiffs
6 had to discount the maximum potential exposure of this claim. Taking these considerations
7 into account, as well as Plaintiffs' Counsel's experience, Plaintiffs believes a realistic
8 potential exposure for this claim is **\$2,152,223** which is fifteen percent (15%) of the
9 maximum potential exposure.

10 28. Plaintiffs argue that Defendants fail to provide employees with a full 30 minute meal period
11 "in which they are relieved of any duty or employer control." Defendants expect employees to
12 clock out and in for meal periods. However, there are no timeclocks in the breakroom. This
13 means employees must spend several minutes of their meal periods walking back to the
14 timeclock to clock back in for work and waiting in line in order to clock back in after their
15 meal periods. All of this time spent under Defendants' control cuts into the employee's 30
16 minute meal period. Based on these allegations, for each and every shift worked, Class
17 Members would be entitled to a premium under California Labor Code § 226.7 per shift for
18 failure to provide a compliant meal period. Therefore, the *maximum potential exposure* under
19 this theory of liability would be **\$11,240,915** (788,283 shifts with meal periods of 35 minutes
20 or less x \$14.26 = \$11,240,915).

21 29. Plaintiffs' meal period claims are also subject to risks of obtaining certification and on the
22 merits. Defendants assert that, just as with rest periods, employees are provided with meal
23 periods in accordance with California law. Defendants once again point out that the handbook
24 notes that nothing in Defendants' meal period policy prevents employees from taking
25 additional time beyond the minimum allocated 30 minutes, and that no one is disciplined for
26 not clocking in precisely at the 30-minute mark upon their return from a meal period, nor
27 would it be feasibly possible to expect employees to do so, highlighting the absurdity of
28 Plaintiffs' claims here. Defendants also argue that Plaintiffs would have to ask each employee

1 whether they thought the policy Plaintiffs rely upon actually meant that employees were
2 required to clock back in to work after a 30-minute meal period, despite Defendants' meal
3 period policy explicitly providing for a minimum of 30 minutes, not a maximum. Because
4 each employee would have to testify as to their understanding of the policy, class certification
5 would be denied for lack of predominance.

6 30. Due to the risks Plaintiffs' meal period claims face at certification and on the merits, Plaintiffs
7 had to discount the maximum potential exposure of this claim. Taking these considerations
8 into account, as well as Plaintiffs' Counsel's experience, Plaintiffs believes a realistic
9 potential exposure for this claim is **\$1,124,091** which is ten percent (10%) of the maximum
10 potential exposure.

11 31. Plaintiffs claim that Defendants do not pay Class Members for all time worked. Specifically,
12 they are not paid for the time spent waiting in line to clock in to start their shift, traveling from
13 the breakroom to the timeclock during their unpaid meal periods, and waiting in line to clock
14 back in for work during their unpaid meal periods. All of this time is spent under Defendants'
15 compensable control, but remains unpaid. Based on these allegations, for each and every shift
16 worked, Class Members would be entitled to approximately 10-minutes worth of additional
17 wages per shift. Accordingly, Defendants' *maximum* exposure under Plaintiffs' unpaid wages
18 claim is **\$2,530,981** (1,064,929 shifts x 10 minutes of total unpaid time x \$14.26 =
19 \$2,530,981).

20 32. Defendants argue that beyond the limited accusations of Plaintiffs, there is no evidence that
21 Class Members performed *any* work-related tasks for which they were not compensated, and
22 that Defendants have uniform practices and policies *forbidding* employees from working off
23 the clock. Defendant claims that Plaintiffs' "investigation" is wholly inaccurate, and that the
24 time spent engaging in the above activities takes merely seconds, not minutes. Due to this
25 brevity, Defendants asserts that it is not reasonably required to compensate employees for this
26 time, and would assuredly devolve into individualized issues as to whether an employee
27 actually ever waited in any purported lines.

28 33. Due to the risks Plaintiffs' unpaid wages claims face at certification and on the merits,

1 Plaintiffs had to discount the maximum potential exposure of this claim. Taking these
2 considerations into account, as well as Plaintiffs' Counsel's experience, Plaintiffs believes a
3 realistic potential exposure for this claim is **\$253,098** which is ten percent (10%) of the
4 maximum potential exposure.

5 34. Plaintiffs allege that Defendant has three (3) core violations – unlawful meal periods,
6 unlawful rest periods, and failure to pay all time worked – of the Labor Code sections which
7 give rise to PAGA penalties. The statute of limitations for PAGA violations goes back one
8 year. Plaintiffs calculated Defendants' potential maximum exposure under PAGA as follows:
9 $\$100 \times 3 \text{ PAGA violations} \times 65,893 \text{ pay periods during the one-year statutory period} =$
10 $\$19,767,900$

11 35. Taking the risks Plaintiffs' claims face on the merits, the potential manageability issues, and
12 the fact that the Court may reduce any PAGA penalties awarded, Plaintiffs had to discount the
13 maximum potential exposure of this PAGA claims. Based on these considerations, and based
14 upon Plaintiff's Counsel's experience, a realistic value of these claims is **\$988,395** which
15 represents five percent (5%) of the maximum potential exposure.

16 36. Based upon the risks just discussed, Plaintiffs had to discount their maximum potential
17 exposure. Plaintiffs also had to consider that, should the Court agree with their theories and
18 grant certification as to each of their claims, they may not be awarded the full exposure at
19 trial. All of these factors led Plaintiffs to reduce the realistic potential exposure in order to
20 gain a definite monetary recovery for the class. Therefore, the total reasonable maximum
21 exposure for the core Class and PAGA claims was calculated to be **\$4,517,807**. As a result,
22 Class Counsel believes that the settlement of these claims in an amount of \$2,000,000, which
23 is nearly 45% of the realistic maximum exposure, is in the best interests of the class as fair,
24 reasonable, and adequate.

25 37. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 1**. A true
26 and correct copy of the proposed Class Notice is attached to **Exhibit 1** as **Exhibit A**.

27 38. A true and correct copy of the First Amended Complaint in the Class Action, Case No. 37-
28 2020-00016123-CU-OE-CTL, is attached hereto as **Exhibit 2**.

1 39. A true and correct copy of the filing receipt from Plaintiff's upload of their preliminary
2 approval motion and supporting documents to the LWDA's website is attached as **Exhibit 3**.

3 40. A true and correct copy of the confirmation that the upload of Plaintiff's preliminary approval
4 motion was received by the LWDA is attached as **Exhibit 4**.

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

7
8 Dated: November 22, 2022



9
10 _____
David Mara

Exhibit 1

JOINT STIPULATION AND SETTLEMENT AGREEMENT

Subject to final approval by the Court, this settlement agreement is made between Plaintiffs Alicia Juarez and Karla Martinez Flores (hereinafter “Plaintiffs”), on behalf of themselves and the Class, and Defendants Florexpco, LLC and Kendal Floral Supply, LLC (hereinafter “Defendants”) (collectively Plaintiffs and Defendants are referred to in this Agreement as the “Parties”). This agreement is intended to settle the matters entitled *Alicia Juarez v. Florexpco, LLC; Kendal Floral Supply, LLC*, San Diego Superior Court Case No. 37-2020-00016123-CU-OE-CTL, (the “Class Action”) and *Alicia Juarez v. Florexpco, LLC; Kendal Floral Supply, LLC*, San Diego Superior Court Case No. 37-2020-00015644-CU-OE-CTL, (the “PAGA Action”) (collectively “the Lawsuits”)

I. DEFINITIONS

In addition to the other terms defined in this agreement, the terms below have the following meaning:

1. **Administration Costs**: The costs incurred by the Settlement Administrator, Phoenix Settlement Administrators (“Phoenix”), to administer this Settlement, which shall not exceed \$50,000. All Administration Costs shall be paid from the Gross Settlement Amount. If the actual administration costs are less than the amount allocated in this agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
2. **Agreement, Settlement Agreement, Joint Stipulation, or Settlement**: The settlement agreement reflected in this document, titled “Joint Stipulation and Settlement Agreement.”
3. **Attorneys Fee Award**: The amount of attorneys’ fees approved of by the Court and awarded to Class Counsel. This amount shall not exceed 33.333% of the Gross Settlement Amount. 33.333% of the Gross Settlement Amount is \$666,660. The Attorneys Fee Award shall be paid from the Gross Settlement Amount. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
4. **Class**: All current and former non-exempt, hourly employees of Defendants who were employed in California at any time between May 26, 2016 and the date of Preliminary Approval or November 24, 2022, whichever occurs first.
5. **Class Counsel**: David Mara and Matthew Crawford of Mara Law Firm, PC.
6. **Class Data**: The Class Data Defendants shall deliver to the Settlement Administrator shall be formatted as a Microsoft Excel Spreadsheet and shall

include the following information for each Class Member: (1) first and last name; (2) last known mailing address; (3) social security number; and (4) hire and termination dates during the Class Period. The Class Data shall be based on Defendants' payroll, personnel, and other business records.

7. **Class Member**: Each person eligible to participate in this Settlement who is a member of the Class as defined above.
8. **Class Notices**: The Notice of Class Action Settlement, substantially similar to the form attached hereto as **Exhibit A**, subject to Court approval.
9. **Class Period**: May 26, 2016 and the date of Preliminary Approval or November 24, 2022, whichever occurs first.
10. **Class Representatives or Plaintiffs**: Alicia Juarez and Karla Martinez Flores.
11. **Class Representative Enhancement Payments**: The amount the Court awards to Plaintiffs, which will not exceed \$10,000 each. This payment shall be paid from the Gross Settlement Amount. This payment is being offered in consideration for Plaintiffs executing a general release of claims against Defendants, a release that is broader than any Participating Class Member will provide in consideration for a settlement share. This payment is also offered in consideration for the Plaintiffs' actions in conferring a benefit upon the State of California and the Class, and the time and effort Plaintiffs put into pursuing the litigation. If the Court awards less than the amount requested, any amount not awarded will become part of the Net Settlement Amount for distribution to Participating Class Members.
12. **Cost Award**: The amount that the Court orders Defendants to pay Class Counsel for payment of actual litigation costs, which shall not exceed \$30,000. The Cost Award will be paid from the Gross Settlement Amount and will not be opposed by Defendants. The Cost Award is subject to Court approval. If the actual costs incurred are less than the amount allocated in this Agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this Agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Participating Class Members.
13. **Counsel for Defendant**: Marie Burke Kenny and Ashley Fasano of Procopio, Cory, Hargreaves & Savitch LLP.
14. **Court**: Superior Court of California for the County of San Diego.
15. **Defendants**: Florexpco, LLC and Kendal Floral Supply, LLC

16. **Disbursement of the Settlement:** Within twenty (20) calendar days after the Settlement Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representatives, as approved by the Court; (5) the Administration Costs, as approved by the Court; (6) the LWDA Payment to the LWDA; and (7) Defendants' portion of payroll taxes as the Class Members' current or former employer.
17. **Effective Final Settlement Date:** The effective date of this Settlement will be the date the Court enters the Judgment granting final approval of the settlement.
18. **Eligible Aggrieved Employees:** The aggrieved employees eligible to recover a pro-rata share of the PAGA payment shall consist of all non-exempt employees who worked for Defendant within the State of California at any time during the PAGA Period.
19. **Employer Taxes:** Defendants' portion of payroll taxes as the Class Members' current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) owed to the appropriate local, state, and federal taxing authorities. Defendants will pay their portion of payroll taxes separate and apart from the Gross Settlement Amount.
20. **Final Judgment or Final Approval:** The final order entered by the Court approving this Agreement.
21. **First Amended Complaint:** As part of the Joint Stipulation, at or before Plaintiffs file a motion for preliminary approval, Plaintiffs will file a First Amended Complaint in San Diego County Superior Court, adding Karla Martinez Flores as a class representative in the Class Action.
22. **Funding of Settlement:** Defendants shall wire to the Settlement Administrator the Gross Settlement Amount no later than thirty (30) days of the Effective Final Settlement Date.
23. **Gross Settlement Amount or GSA:** The total value of the Settlement is a non-reversionary Two Million Dollars (\$2,000,000). This is the gross amount Defendants can be required to pay under this Settlement Agreement, with the exception of its obligation to pay Employer Taxes. The Gross Settlement Amount includes without limitation: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) the Administration Costs, as approved by the

Court; and (5) the PAGA Payment to the California Labor Workforce Development Agency and the Eligible Aggrieved Employees, as approved by the Court. Defendants' portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

24. **Individual Class Settlement Share(s)**: The amount payable to each Participating Class Member under the terms of this Settlement Agreement. Class Members are not required to submit a claim form to receive their Individual Class Settlement Shares pursuant to this Agreement. Rather, Participating Class Members will receive an Individual Class Settlement Share automatically, without the return of a claim form.
25. **Individual PAGA Settlement Share(s)**: The amount payable to each Eligible Aggrieved Employee under the terms of this Settlement Agreement. Eligible Aggrieved Employees are not required to submit a claim form to receive their Individual PAGA Settlement Shares pursuant to this Agreement. Also, even if an Eligible Aggrieved Employee requests exclusion from the Class Settlement as described in this Agreement, the Eligible Aggrieved Employee will receive an Individual PAGA Settlement Share. Therefore, Eligible Aggrieved Employees will receive an Individual PAGA Settlement Share automatically, without the return of a claim form and regardless of whether they request to be excluded from the Class Settlement. In addition, Eligible Aggrieved Employees have no right to object to the PAGA portion of the settlement.
26. **LWDA**: California Labor and Workforce Development Agency.
27. **LWDA Payment**: Refers to the Seventy-five percent (75%) of the PAGA Payment (\$200,000) that is to be paid to the LWDA as described in this Settlement.
28. **Net PAGA Settlement Amount or NPSA**: The total amount of money for payout to Eligible Aggrieved Employees, which is the PAGA Payment less the LWDA Payment.
29. **Net Settlement Amount or NSA**: The total amount of money available for payout to Participating Class Members, which is the GSA less the Attorneys Fee Award, Cost Award, Class Representative Enhancement Payments, the PAGA Payment, and Administration Costs. In other words, the NSA is the portion of the GSA that will be distributed to Participating Class Members. The payment of employee payroll taxes on the portion of the settlement shares earmarked as wages shall be paid out of the Net Settlement Amount.
30. **PAGA**: The California Labor Code Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*).

31. **PAGA Payment:** The Parties agree to settle the PAGA claims for \$200,000. 75% of this amount, or \$150,000, shall be paid to the LWDA and is referred to as the PAGA Payment. The remaining 25% of the \$200,000, or \$50,000, shall become part of the Net PAGA Settlement Amount payable to Eligible Aggrieved Employees.
32. **PAGA Period:** March 9, 2019 and the date of Preliminary Approval or November 24, 2022, whichever occurs first.
33. **Participating Class Members:** All Class Members who do not submit a valid and timely request to exclude themselves from this Settlement.
34. **Parties:** Plaintiffs Alicia Juarez and Karla Martinez Flores and Defendants Florexpco, LLC and Kendal Floral Supply, LLC.
35. **Preliminary Approval or Preliminary Approval Order:** The Court's order preliminarily approving the Class Settlement.
36. **Released Claims:** The Released Class Claims and the Released PAGA Claims.
37. **Released Class Claims:** All members of the Class, except for those who timely request exclusion, will release and discharge the Released Parties from any and all wage-and-hour claims, rights, demands, liabilities and causes of action of every nature and description whether pled or could have been pled based on the factual allegations made in the Lawsuits against Defendants, for the duration of the Class Period, based upon the following categories of allegations: failure to pay minimum wages, failure to pay overtime wages, failure to pay doubletime wages, failure to pay for off-the-clock work, failure to provide meal periods or meal period premium payments, failure to provide rest periods or rest period premium payments, failure to provide accurate itemized wage statements, failure to properly calculate, provide and pay paid sick leave, failure to timely pay wages due during employment, and failure to pay all wages due upon termination of employment, violation of the applicable provisions of the California Labor Code, violation of applicable portions of the California Code of Regulations, Title 8, section 11040, violation of California's unfair business practices and unfair competition laws to the extent they arise from violations of the Labor Code provisions alleged in the Lawsuits. As of the Effective Final Settlement Date, the Class Members, including Plaintiffs, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns are voluntarily and knowingly barred from bringing the Released Class Claims during the Class Period.
38. **Released PAGA Claims:** Eligible Aggrieved Employees will specifically release and discharge Defendants for any and all claims for civil penalties under the California Labor Code and the Private Attorneys General Act ("PAGA") predicated upon the Labor Code violations that were asserted in the Lawsuits

as well as any potential penalties, interest or attorneys' fees associated with those violations under California law. As of the Effective Final Settlement Date, the LWDA and each Eligible Aggrieved Employee, including Plaintiffs, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns are voluntarily and knowingly barred from bringing the Released PAGA Claims during the PAGA Period. The release of the Released PAGA Claims is effective, regardless of whether the Eligible Aggrieved Employee purports to submit a timely and valid request for exclusion.

- 39. **Released Parties:** Defendants, and any of their former and present members, owners, directors, officers, subsidiaries, affiliates, successors, predecessors, related entities, and joint venturers, and each of their respective present and former officers, directors, stockholders, managers, agents, employees, assigns or legal representatives.
- 40. **Response Deadline:** Sixty (60) calendar days from the initial mailing of the Class Notices.
- 41. **Settlement Administrator:** The third party administrator agreed upon by Parties to administer this Settlement is Phoenix.
- 42. **Workweeks:** A week in which a Class Member works one or more days during the Class Period.

II. **RECITALS**

- 43. A PAGA representative action complaint against Defendants was filed in the San Diego County Superior Court on May 26, 2020 (Case No. 37-2020-00015644-CU-OE-CTL). The complaint alleged the following causes of action against Defendants: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay all wages at the time of termination of employment; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) failure to pay all wages owed twice per month, on behalf of hourly non-exempt employees.
- 44. A class action complaint against Defendants was filed in the San Diego County Superior Court on May 26, 2020 (Case No. 37-2020-00016123-CU-OE-CTL). The complaint alleged the following causes of action against Defendant: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) knowing and intentional failure to comply with itemized employee wage statement provisions; (6) failure to pay all wages at the time of termination of employment; and (7) violation of Unfair Competition Law, on behalf of hourly non-exempt employees.

45. The parties met and conferred regarding the cases on multiple occasions and then agreed to attend a mediation. Prior to the mediation, Defendants provided class-wide data, documents, and information permitting Plaintiffs and their lawyers to fully evaluate class-wide exposure.
46. On August 25, 2022, the parties participated in a full-day mediation with respected wage and hour mediator, Mark Rudy, which resulted in the settlement that is reflected in this Agreement.
47. **Benefits of Settlement to Class Members.** Plaintiffs and Class Counsel recognize the expense and length of continued proceedings necessary to continue the litigation against Defendants through trial and through any possible appeals. Plaintiffs and Class Counsel also have taken into account the uncertainty and risk of further litigation, the potential outcome, and the difficulties and delays inherent in such litigation. Plaintiffs and Class Counsel have conducted extensive settlement negotiations. Based on the foregoing, Plaintiff sand Class Counsel believe the Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the best interests of the Class Members.
48. **Plaintiffs' Claims.** Plaintiffs assert that Defendants' defenses are without merit. Neither this Agreement nor any documents referred to or contemplated herein, nor any action taken to carry out this Agreement is, may be construed as, or may be used as an admission, concession or indication by or against Plaintiffs, Class Members, or Class Counsel as to the merits of any claims or defenses asserted, or lack thereof, in the Action. However, in the event that this Settlement is finally approved by the Court, the Plaintiffs, Class Members, and Class Counsel will not oppose Defendants' efforts to use this Agreement to prove that Plaintiffs and Class Members have resolved and are forever barred from re-litigating the Released Claims.
49. **Defendants' Denial of Wrongdoing.** Defendants generally and specifically deny any and all liability or wrongdoing of any sort with regard to any of the claims alleged, make no concessions or admissions of liability of any sort, and contends that for any purpose other than settlement, the Action is not appropriate for class treatment. Defendants assert a number of defenses to the claims, and have denied any wrongdoing or liability arising out of any of the alleged facts or conduct in the Action. Defendants adopted a comprehensive timekeeping and meal period compliance program years before the Action was filed which includes procedures to (1) encourage employees to report timekeeping and meal or rest period problems and (2) require supervisors and payroll employees to address and correct such problems. This uniquely demonstrates Defendants' good faith efforts to comply with California wage and hour law. Neither this Agreement, nor any document referred to or contemplated herein, nor any action taken to carry out this Agreement, is or

may be construed as, or may be used as an admission, concession, or indication by or against Defendants or any of the Released Parties of any fault, wrongdoing, or liability whatsoever. Nor should the Agreement be construed as an admission that Plaintiffs can serve as adequate Class Representatives. There has been no final determination by any court as to the merits of the claims asserted by Plaintiffs against Defendants or as to whether a class or classes should be certified, other than for settlement purposes only.

- 50. Defendants' Reasons for Settlement.** Defendants recognize that the defense of this litigation will be protracted and expensive. Substantial amounts of time, energy, and resources of Defendants have been and, unless this Settlement is made, will continue to be devoted to the defense of the claims asserted by Plaintiffs. Defendants, therefore, have agreed to settle in the manner and upon the terms set forth in this Agreement to put to rest the Released Claims.

III. SETTLEMENT TERMS AND CONDITIONS

- 51. Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the maximum Gross Settlement Amount, that Defendants is obligated to pay under this Settlement Agreement is \$2,000,000. The Gross Settlement Amount includes, but is not limited to: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Attorneys Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (3) the Class Representative Enhancement Payments paid to the Class Representatives, as approved by the Court; (4) the Administration Costs, as approved by the Court; and (5) the PAGA Payment, as approved by the Court. Defendants' portion of payroll taxes as the Class Members' current or former employer will be paid outside of and in addition to the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

A. Plaintiffs' Right to Cancel. Defendants estimate that the total workweeks worked by putative class members from May 26, 2016 to August 25, 2022 is approximately 250,000. In the event that, within 90 days of August 26, 2022, the number of workweeks is determined to be more than 10% higher than 250,000 (i.e., if there are 275,000 or more workweeks), the parties shall renegotiate the amount of the Gross Settlement Amount. If the renegotiation is unsuccessful, Plaintiffs shall have the right to declare the settlement null and void.

- 52. Class Certification.** Solely for the purposes of this Settlement, the Parties stipulate and agree to certification of the claims asserted on behalf of Class Members. As such, the Parties stipulate and agree that in order for this Settlement to occur, the Court must certify the Class as defined in this Agreement.

- 53. Conditional Nature of Stipulation for Certification.** The Parties stipulate and agree to the certification of the claims asserted on behalf of Plaintiffs and Class Members for purposes of this Settlement only. If the Settlement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall not be admissible or used in any way in connection with, the question of whether the Court should certify any claims in a non-settlement context in this Action or in any other lawsuit. If the Settlement does not become effective, Defendants reserve the right to contest any issues relating to class certification and liability.
- 54. Appointment of Class Representatives.** Solely for the purposes of this Settlement, the Parties stipulate and agree Plaintiffs Alicia Juarez and Karla Martinez Flores shall be appointed as representatives for the Class.
- 55. Appointment of Class Counsel.** Solely for the purpose of this Settlement, the Parties stipulate and agree that the Court appoint Class Counsel to represent the Class.
- 56. Individual Class Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual Class Settlement Share from the Net Settlement Amount to each Participating Class Member.

A. Calculation.

- i. **Individual Class Settlement Share Calculation.** Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks they worked for Defendants in California, in an hourly, non-exempt position, based on the Class Data provided by Defendants, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Class Settlement Share ties directly to the amount of weeks that they worked.

- B. Tax Withholdings.** Each Class Member's Individual Class Settlement Share will be apportioned as follows: 15% wages, 40% interest, and 45% penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other

than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be from each Class Member's Individual Class Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount. Participating Class Members will be responsible for the payment of any taxes and penalties assessed on the Individual Settlement Shares and will be solely responsible for any penalties or other obligations resulting from their personal tax reporting of Individual Settlement Shares. Class Counsel and Defendants' Counsel do not intend this Settlement Agreement to constitute legal advice relating to the tax liability of any Settlement Class Member. To the extent that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

- 57. Individual PAGA Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay an Individual PAGA Settlement Share from the Net PAGA Settlement Amount to each Eligible Aggrieved Employee.

A. Calculation.

- i. **Individual PAGA Settlement Share Calculation.** Each Eligible Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of weeks they worked for Defendants in California, in an hourly, non-exempt position, based on the Class Data provided by Defendants, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Eligible Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of weeks that they worked.

- B. Tax Withholdings.** Each Eligible Aggrieved Employee's Individual PAGA Settlement Share will be apportioned as 100% penalties. The Individual PAGA Settlement Shares shall therefore be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Eligible Aggrieved Employees will be responsible for the payment of any taxes and penalties assessed on the Individual PAGA Payments and will be solely responsible for any penalties or other

obligations resulting from their personal tax reporting of Individual PAGA Payments. Class Counsel and Defendants' Counsel do not intend this Settlement Agreement to constitute legal advice relating to the tax liability of any Eligible Aggrieved Employee. To the extent that this Settlement Agreement, or any of its attachments, is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

58. Constituents of Gross Settlement Amount Disbursement. Subject to the terms and conditions of this Agreement, the Settlement Administrator shall disburse the Gross Settlement Amount as directed later on herein to the following:

- A. **To the Named Plaintiffs:** In addition to their Individual Settlement Shares, and subject to the Court's approval, the named Plaintiffs, Alicia Juarez and Karla Martinez Flores, will receive up to \$10,000 each in consideration for providing Defendants a General Release, a release that is broader than the claims released by Participating Class Members. Defendants shall not oppose this request. The Settlement Administrator will pay the Class Representative Enhancement Payments out of the Gross Settlement Amount. Payroll tax withholdings and deductions will not be taken from the Class Representative Enhancement Payments. An IRS Form 1099 will be issued to Plaintiffs with respect to his Class Representative Enhancement Payments. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payments and shall hold harmless Defendants, Class Counsel and the Released Parties from any claim or liability for taxes, penalties, or interest arising as a result of the Class Representative Enhancement Payments. In the event the Court does not approve the entirety of the application for the Class Representative Enhancement Payments, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Plaintiffs, the difference shall become part of the NSA and will be distributed to Participating Class Members. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiffs shall not have the right to revoke the Settlement, and it will remain binding, nor will Plaintiffs seek, request, or demand an increase in the Gross Settlement Amount on that basis or any basis.

To Class Counsel. At the Final Approval Hearing, Class Counsel will apply to the Court for an Attorneys Fee Award not to exceed 33.333% of the GSA (which equates to \$666,660) and a Cost Award not to exceed \$30,000.

Defendants shall not oppose this request. The Settlement Administrator will pay the Court approved amounts for the Attorneys Fee Award and Cost Award out of the Gross Settlement Amount. Payroll tax withholding and deductions will not be taken from the Attorneys Fee Award or the Cost Award. IRS Forms 1099 will be issued to Class Counsel with respect to the Attorneys Fee Award. In the event the Court does not approve the entirety of the application for the Attorneys Fee Award and/or Cost Award, the Settlement Administrator shall pay whatever amount the Court awards, and neither Defendants nor the Settlement Administrator shall be responsible for paying the difference between the amount requested and the amount awarded. If the amount awarded is less than the amount requested by Class Counsel for the Attorneys Fee Award and/or Cost Award, the difference shall become part of the NSA and be available for distribution to Participating Class Members. The approved Fee Award and Class Counsels' Costs, even if less than what Class Counsel request, shall constitute full satisfaction of Defendants' obligations to pay amounts to Class Counsel for attorneys' fees or costs in this Action on behalf of Named Plaintiffs and Settlement Class Members, and shall relieve Defendants from any other claims or liability to Class Counsel for any attorneys' fees or costs to which they may claim to be entitled on behalf of Named Plaintiffs or any other Settlement Class Member. If the Court approves a Fee Award and/or Class Counsels' Costs in amounts less than what Class Counsel request, the reduction in the Fee Award and/or Class Counsels' Costs shall not be a basis for nullification of this Settlement. Nor shall a reduction in the Fee Award and/or Class Counsels' Costs in any way delay or preclude the judgment from becoming a final judgment or the Settlement from becoming Effective. Class Counsel represents that they are not aware of any other attorney or person who may assert any potential claim for attorneys' fees or costs incurred in connection with the Action.

- B. To the Responsible Tax Authorities.** The Settlement Administrator will pay the amount of the Participating Class Members' portion of normal payroll withholding taxes out of each Class Member's Individual Settlement Share. Defendants' portion of payroll taxes as the current or former employer (including the employer's payment of applicable FICA, FUTA, and SUI contributions, etc.) will be paid outside of and in addition to the GSA. The Settlement Administrator will calculate the amount of the Participating Class Members' and Defendants' portion of payroll withholding taxes and will forward the amount of the Participating Class Members' portion of normal payroll withholding taxes to the appropriate taxing authorities.
- C. To the Settlement Administrator.** The Settlement Administrator – Phoenix – will pay to itself Administration Costs (reasonable fees and expenses) approved by the Court not to exceed \$50,000. This will be paid out of the Gross Settlement Amount. If the actual amount of Administration

Costs is less than the amount estimated and/or requested, the difference shall become part of the NSA and be available for distribution to Participating Class Members.

D. To the LWDA. The Settlement Administrator will pay \$150,000 of the Gross Settlement Amount to the LWDA. This is 75% of the \$200,000 allocated to satisfy the PAGA penalties claim. The remaining 25% of the PAGA Payment (which equates to \$50,000) shall become part of the NPSA and be available for distribution to Eligible Aggrieved Employees.

E. To Participating Class Members. The Settlement Administrator will pay Participating Class Members according to the Individual Class Settlement Share calculations set forth above. All payments to Participating Class Members shall be made from the Gross Settlement Amount.

F. To Eligible Aggrieved Employees. The Settlement Administrator will pay Eligible Aggrieved Employees according to the Individual PAGA Settlement Share calculations set forth above. All payments to Eligible Aggrieved Employees shall be made from the Gross Settlement Amount.

59. Appointment of Settlement Administrator. Solely for the purposes of this Settlement, the Parties stipulate and agree that Phoenix shall be retained to serve as Settlement Administrator. The Settlement Administrator shall be responsible for preparing, printing, and mailing the Class Notice to the Class Members; keeping track of any objections or requests for exclusion from Class Members; performing skip traces and re-mailing Class Notices and Individual Settlement Shares to Class Members; calculating any and all payroll tax deductions as required by law; calculating each Class Member's Individual Settlement Share; calculating Eligible Aggrieved Employees' Individual PAGA Payment; providing weekly status reports to Defendant's Counsel and Class Counsel, which is to include updates on any objections or requests for exclusion that have been received; providing a due diligence declaration for submission to the Court prior to the Final Approval hearing; mailing Individual Settlement Shares to Participating Class Members; mailing Individual PAGA Payments to Eligible Aggrieved Employees; mailing the portion of the PAGA Payment due to the LWDA to the LWDA; distributing the Attorney Fee Award and Cost Award to Class Counsel; printing and providing Class Members, Eligible Aggrieved Employees and Plaintiff with W-2s and 1099 forms as required under this Agreement and applicable law; providing a due diligence declaration for submission to the Superior Court upon the completion of the Settlement; providing any funds remaining in the GSA as a result of uncashed checks to the charity designated by Defendants, the Monarch School, which qualifies under California Code of Civil Procedure section 384 as a *cy pres* recipient, including the administration of related tax reimbursements; and for such other tasks as the Parties mutually agree. The Parties each represent that they do not have any financial interest in Phoenix or otherwise have a relationship with Phoenix that could create a conflict of interest.

- A. The Settlement Administrator shall be the only entity authorized to make withdrawals or payments from the GSA Account. The Settlement Administrator will: (a) acknowledge that it has fiduciary obligations to the Parties, and will attest that it will not allow any disbursements to be made from the Settlement Fund except as expressly authorized by this Stipulation; (b) agree that it will receive no disbursements or fees from the GSA Fund Account for actions undertaken or expenses incurred without prior approval by Defense and Class Counsel; and (c) acknowledge its obligations to return the entire Settlement Fund to Defendants (less any administrative expenses incurred by the Settlement Administrator) in the event this Stipulation: (i) does not receive final approval by the Court; (ii) is modified or reversed on appeal; and/or (iii) is otherwise rendered null and void.
- B. The Settlement Administrator shall report the Individual Settlement Shares to all required taxing and other authorities, withhold the standard employer's and employee's share of payroll taxes from the wage portion of each Individual Settlement Awards, and transmit these amounts to the taxing authorities, and issue IRS Forms W-2 and 1099s. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to the Court and counsel for all Parties. The Settlement Administrator shall also provide any and all documentation to Defendants necessary to demonstrate that all duties have been performed under this section.

60. Procedure for Approving Settlement.

- A. **Amending the Complaint.** Prior to filing Plaintiffs' Motion for Preliminary Approval or at the time preliminary approval is sought, Plaintiffs will file the First Amended Complaint in the Class Action.
- B. **Motion for Preliminary Approval and Conditional Certification.**
 - i. Plaintiffs will move for an order: (1) conditionally certifying the Class for settlement purposes only; (2) granting Preliminary Approval of the Settlement; (3) setting a date for the Final Approval hearing; (4) and approving the Class Notice.
 - ii. At the same time that Plaintiffs files their Motion for Preliminary Approval, Plaintiffs shall send a copy of the Agreement to the LWDA pursuant to the 2016 amendments to PAGA.
 - iii. At the Preliminary Approval hearing, Plaintiffs will appear, support the granting of the motion, and submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives,

Class Counsel, and Settlement Administrator; approving the Class Notice; and setting the Final Approval hearing.

- iv. **Effect of Denial of Preliminary Approval.** Should the Court decline to conditionally certify the Class or to Preliminarily Approve all material aspects of the Settlement, the Settlement Agreement will be null and void, and the Parties will have no further obligations under it. Provided, however, that the amounts of the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall be determined by the Court, and the Court's determination on these amounts shall be final and binding, and that the Court's approval or denial of any amount requested for these items are not conditions of this Settlement Agreement, and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Settlement Agreement. Any order or proceeding relating to an application for the Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments shall not operate to terminate or cancel this Settlement Agreement. Nothing in this Agreement shall limit Plaintiffs' or Class Counsel's ability to appeal any decision by the Court to award less than the requested Attorneys Fee Award, Cost Award, Administration Costs, and Class Representative Enhancement Payments.

C. Notice to Class Members. After the Court enters its Preliminary Approval Order, every Class Member will be provided with the Class Notice in accordance with the following procedure:

- i. **Delivery of Class Data.** Within twenty (20) days after entry of the Preliminary Approval Order, Defendants shall deliver to the Settlement Administrator the Class Data, which will list the following information for each Class Member and Eligible Aggrieved Employee: (1) first and last name; (2) last known mailing address; (3) social security number; and (4) hire and termination dates. If any or all of this information is unavailable to Defendants, Defendants will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon how to deal with the unavailable information. The Settlement Administrator will conduct a skip trace for the address of all former Defendant employee Class Members and Eligible Aggrieved Employees. The Class Data shall be based on Defendants' payroll, personnel, and other business records. The Settlement Administrator shall maintain the Class Data and all information contained within the Class Data as private and confidential.

- ii. **Preparation of Class Notices.** Based on the information in the Class Data and the Individual Settlement Share Calculations above, the Settlement Administrator shall promptly calculate the workweeks based on the Class Data and the estimated Individual Settlement Shares for every Class Member and Eligible Aggrieved Employee, to be included in the individualized Class Notices to be sent to that Class Member/Eligible Aggrieved Employee, and shall prepare and mail a spreadsheet setting forth those calculations to Class Counsel and Defense Counsel no fewer than five (5) days before mailing the Class Notices. The Class Notices will inform each Class Member of their right to do nothing, dispute the number of work weeks worked, opt out of the Settlement, or object to the Settlement. It will also inform Class Members that if they first request exclusion from the Settlement and then object, the objections would not be considered valid. In addition, if the Class Members object and then request exclusion from the Class Settlement, the Class Members would be deemed to have waived their objection.
- iii. **Mailing of Class Notices.** Within fourteen (14) days after receipt of the Class Data, the Settlement Administrator will mail via first-class regular U.S. Mail the Class Notice to all identified Class Members using the mailing address information provided by Defendants and the results of the skip trace performed on all former Defendants employee Class Members.
- iv. **Returned Notices.** If a Class Notice is returned because of an incorrect address, within five (5) business days from receipt of the returned notice, the Settlement Administrator will conduct a search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the National Change of Address Database and skip traces to attempt to find the current address. The Settlement Administrator will be responsible for taking reasonable steps to trace the mailing address of any Class Member for whom a Class Notice is returned by U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail, performing address searches for all mail returned without a forwarding address, and promptly re-mailing to Class Members for whom new addresses are found.
- v. **Undeliverable Notices.** If the Settlement Administrator is unable to locate a better address through a database search or skip trace, the Settlement Administrator shall the Class Notice shall be re-mailed to the original address. If the Class Notice is re-mailed,

the Settlement Administrator will note for its own records the date and address of each remailing. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or forwarded mail, will have an additional ten (10) days to postmark an Exclusion Form, or file and serve an objection to the Settlement or dispute the information provided in their Class Notice. The Settlement Administrator shall mark on the envelope whether the Class Notice is a re-mailed notice.

- vi. **Weekly Status Reports.** The Settlement Administrator shall provide a weekly status report to the Parties. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendants' Counsel of the number of Notices mailed, the number of Notices returned as undeliverable, the number of Notices re-mailed, and the number of requests for exclusion or objections received.
- vii. **Settlement Administrator's Declaration.** No later than fourteen (14) calendar days after the Response Deadline, or on a date mutually agreed upon by the Parties and the Settlement Administrator, the Settlement Administrator will serve on the Parties a declaration of due diligence setting forth its compliance with its obligations under this Agreement. The declaration from the Settlement Administrator shall also be filed with the Court by Class Counsel at the same time as the final approval motion is filed. Before the Final Approval hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

D. Objections to Settlement. The Class Notice will provide that the Class Members who wish to object to the Settlement must do so in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than the Response Deadline. The timeframe to submit an objection will not be increased for returned mailings.

- a. **Format.** Any Objections shall state: (a) the objecting person's full name, address, and telephone number; (b) the words "Notice of Objection" or "Formal Objection;" (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) the objector may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the Final Approval hearing.

- b. Notice of Intent to Appear.** Objecting Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel. Objecting Class Members are permitted to appear regardless of whether they submitted a written objection.

E. Request for Exclusion from the Settlement ("Opt-Out"). The Class Notice will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator a signed written request for exclusion. The written request for exclusion must: (a) state the Class Member's name, address, telephone number, and the last four digits of the Class Member's social security number or employee identification number; (b) state the Class Member's intention to exclude themselves from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator; (d) be signed by the Class Member or his or her lawful representative; and (e) must be postmarked no later than the Response Deadline.

- i. Effect of "Opt-Out."** Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Class Settlement Share or any benefit of the Class Settlement. If the Class Member is also an Eligible Aggrieved Employee as defined in this Agreement, they will still be bound by the PAGA Settlement and will receive an Individual PAGA Settlement Share as approved by the Court. Eligible Aggrieved Employees have no rights to opt-out of the PAGA Settlement.
- ii. Confirmation of Authenticity.** If there is a question about the authenticity of a signed request for exclusion, the Settlement Administrator may demand additional proof of the Class Member's identity. Any Class Member who returns a timely, valid, and executed request for exclusion will not participate in or be bound by the Settlement and subsequent judgment and will not receive an Individual Settlement Share. A Class Member who does not complete and mail a timely request for exclusion will automatically be included in the Settlement, will receive an Individual Settlement Share, and be bound by all terms and conditions of the Settlement, if the Settlement is approved by the Court, and by the subsequent judgment, regardless of whether they has objected to the Settlement.
- iii. Defendants' Right to Cancel.** If more than 5% of the Class chooses to opt out, Defendants shall have the right to declare the settlement null and void.

- iv. **Class Member Disputes.** If a Class Member who receives a Class Notice wishes to dispute the number of work weeks listed on the Class Notice, the Class Member may notify the Settlement Administrator by mail or telephone no later than the Response Deadline and should produce any available supporting evidence, such as wage statements, offers of employment, termination letters, and/or other employment records, to the Settlement Administrator showing that the information on the Class Notice is inaccurate. The documentation should provide evidence of the dates the Class Member contends they worked for Defendant during the Class Period. The Settlement Administrator shall then provide the documentation provided by the Class Member to Defendant. Defendant shall review its records, the documentation provided by the Class Member, and shall provide information to the Settlement Administrator in response to any such disputed claim. Defendant's records shall be presumed to be determinative. However, if a Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted by the Class Member and will make the final decision as to the number of eligible weeks that should be applied and/or the Individual Settlement Share to which the Class Member may be entitled.

F. Report. No later than five (5) business days after the Response Deadline, the Settlement Administrator will provide the Parties with a complete and accurate accounting of the number of Notices mailed to Class Members, the number of Notices returned as undeliverable, the number of Notices re-mailed to Class Members, the number of re-mailed Notices returned as undeliverable, the number of Class Members who objected to the Settlement and copies of their submitted objections, the number of Class Members who returned valid requests for exclusion, and the number of Class Members who returned invalid requests for exclusion

G. No Solicitation of Objection or Requests for Exclusion. Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, request exclusion from the Settlement, or appeal from the Judgment.

H. Motion for Final Approval.

- i. Class Counsel will file unopposed motions and memoranda in support thereof for Final Approval of the Settlement and the following payments in accord with the terms of the Settlement: (1) the Attorneys Fee Award; (2) the Cost Award; (3) Administrative Costs; (4) the Class Representative Enhancement Payments; and (5) PAGA Payment. Class Counsel will also move the Court for

an order of Final Approval (and associated entry of Judgment) releasing and barring any Released Claims of the Participating Class Members.

- ii. **Denial or Appeal of Final Approval.** If the Court does not grant Final Approval of the Settlement, or if the Court's Final Approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will become null and void. If that occurs, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Further, should this occur, the Parties agree they shall be equally responsible for the Settlement Administrator's Administration Costs through that date. An award by the Court of a lesser amount than sought by Plaintiffs and Class Counsel for the Class Representative Enhancement Payments, Attorneys Fee Award, Cost Award, will not constitute a material modification to the Settlement within the meaning of this paragraph.
- iii. **Proposed Order and Judgment.** Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed Final Approval Order, approving of the Settlement and entering Judgment in accordance therewith. Such entry of final Judgment shall operate to permanently bar and enjoin all Class Members (excluding those who submit a valid and timely Opt-Out form) from instituting, commencing, prosecuting, or pursuing, either directly or in any other capacity, any of the claims, damages, causes of action, or claims for attorneys' fees asserted in the Action or identified as Released Claims in this Agreement. After entry of Judgment, the Court shall have continuing jurisdiction over the action for purposes of: (1) enforcing this Settlement Agreement; (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under Court rules and applicable law.
- iv. **Order Enjoining Plaintiffs and Class Members.** Except as to Class Members who timely submit a valid Exclusion Form the Preliminary Approval Order and Final Judgment will contain provisions enjoining Plaintiffs and the Class Members from prosecuting the Released Class Claims and enjoining Plaintiffs and the Class Members from initiating or continuing other proceedings regarding the Release Class Claims, including but not limited to filing any claims for monetary relief of the Released Claims before the Division of Labor Standards and Enforcement ("DLSE") or in any forum whatsoever. Inclusion of these

provisions in the Order of Preliminary Approval Order and Final Judgment and Order of Final Approval is a material part of the consideration for this Settlement. After approval of the Stipulation of Settlement at the Final Approval Hearing and upon receipt of the final payment, the Class Participants and the Class Representatives each release the Released Parties, and each of them, of and from any and all of the Released Class Claims.

v. Order Enjoining Plaintiffs and Eligible Aggrieved Employees.

The Preliminary Approval Order and Final Judgment will contain provisions enjoining Plaintiffs and the Eligible Aggrieved Employees from prosecuting the Released PAGA Claims and enjoining Plaintiff and the Class Members from initiating or continuing other proceedings regarding the Released PAGA Claims, including but not limited to filing any claims for monetary relief of the Released PAGA Claims before the Division of Labor Standards and Enforcement (“DLSE”) or in any forum whatsoever. Inclusion of these provisions in the Order of Preliminary Approval Order and Final Judgment and Order of Final Approval is a material part of the consideration for this Settlement. After approval of the Stipulation of Settlement at the Final Approval Hearing and upon receipt of the final payment, the Plaintiffs and Eligible Aggrieved Employees each release the Released Parties, and each of them, of and from any and all of the Released PAGA Claims.

- I. Waiver of Right to Appeal.** Provided that the judgment is consistent with the terms and conditions of this Agreement, and if Class Members do not timely object to the Settlement, then the Parties and their respective counsel waive any and all rights to appeal from the judgment, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the judgment will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceeding, or post-judgment proceeding.
- J. Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a notice of appeal, the reviewing Court vacates, reverses, or modifies the judgment such that there is a material modification to the Settlement Agreement, and that Court’s decision is not completely reversed and the judgment is not fully affirmed on review by a higher Court, then this Settlement will become null and void and the Parties will have no further obligations under it. A material modification would include, but not necessarily be limited to, any alteration of the Gross Settlement Amount, an

alteration in the calculation of the Net Settlement Amount, and any change to the calculation of the Individual Settlement Share.

K. Disbursement of Settlement Shares and Payments. Subject to the Court finally approving the Settlement, the Settlement Administrator shall distribute funds pursuant to the terms of this Agreement and the Court's Final Approval Order and Judgment. The Settlement Administrator shall keep Defendants' Counsel and Class Counsel apprised of all distributions from the Gross Settlement Amount. The Settlement Administrator shall respond to questions from Defendants' Counsel and Class Counsel. No person shall have any claim against Defendants, Defendants' Counsel, Plaintiffs, Class Counsel, or the Settlement Administrator based on the distributions and payments made in accordance with this Agreement.

- i. Funding the Settlement:** Defendants shall wire to the Settlement Administrator the Gross Settlement Amount no later than thirty (30) days of the Effective Final Settlement Date.
- ii. Disbursement:** Within twenty (20) calendar days after the Settlement Administrator's receipt of the Gross Settlement Amount, the Settlement Administrator shall disburse: (1) the Net Settlement Amount to be paid to Participating Class Members; (2) the Net PAGA Settlement Amount to Aggrieved Employees; (3) the Attorney Fee Award and Cost Award to Class Counsel for attorneys' fees and costs, as approved by the Court; (4) the Class Representative Enhancement Payment paid to the Class Representatives, as approved by the Court; (5) the Administration Costs, as approved by the Court; (6) the LWDA Payment to the LWDA; and (7) Defendants' portion of payroll taxes as the Class Members' current or former employer.
- iii. Qualified Settlement Fund or QSF:** The Parties agree that the QSF is intended to be a "Qualified Settlement Fund" under Section 468B of the Code and Treasury Regulations § 1.468B-1, 26 C.F.R. § 1.468B-1 *et seq.*, and will be administered by the Settlement Administrator as such. The Parties and Settlement Administrator shall treat the QSF as coming into existence as a Qualified Settlement Fund on the earliest date permitted as set forth in 26 C.F.R. § 1.468B-1, and such election statement shall be attached to the appropriate returns as required by law.

L. Settlement Administrator's Final Report. Within ten (10) business days after the disbursement of all funds, the Settlement Administrator will serve on the Parties a declaration providing a final report on the disbursements of all funds. The Parties shall file this declaration with the Court. The

Settlement Administrator will provide any supplemental declaration required by the Court or the Parties.

M. Uncashed Checks. Participating Class Members and Eligible Aggrieved Employees must cash or deposit their Individual Class Settlement Share and Individual PAGA Settlement Share checks within one hundred and eighty (180) calendar days after the checks are mailed to them.

i. **Reminder Postcard.** If any checks are not redeemed or deposited within ninety (90) calendar days after mailing, the Settlement Administrator will send a reminder postcard indicating that unless the check is redeemed or deposited in the next ninety (90) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced.

ii. If any checks remain uncashed or not deposited by the expiration of the 90-day period after mailing the reminder notice, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, cancel the checks. All funds associated with the Individual Class Settlement Share and Individual PAGA Settlement Share checks shall be paid to the Monarch School, a non-profit organization that qualifies as a *cy pres* beneficiary in compliance with section 384 of the California Code of Civil Procedure.

N. Defendants' Legal Fees. Defendants are responsible for paying for all of Defendants' own legal fees, costs, and expenses incurred in this Action outside of the Gross Settlement Amount.

O. Release of Claims. As of the Effective Final Settlement Date, Class Members who do not submit a timely and valid request for exclusion release the Released Parties from the Released Claims. Participating Class Members agree not to sue or otherwise make a claim against any of the Released Parties for any of the Released Claims.

P. Plaintiffs' Release of Claims and General Release. As of the Effective Final Settlement Date, and in exchange for the Class Representative Enhancement Payments to the named Plaintiffs in an amount not to exceed \$10,000 each, Plaintiffs Alicia Juarez and Karla Martinez Flores shall give the following general release of claims for themselves and their respective spouses, heirs, successors and assigns, forever release the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, penalties and expenses of any nature whatsoever, from the beginning of time through the date of their signatures on this Agreement, known or unknown, suspected or

unsuspected, whether in tort, contract, equity, or otherwise, for violation of any federal, state or local statute, rule, ordinance or regulation, including but not limited to all claims arising out of, based upon, or relating to their employment with Defendants or the remuneration for, or termination of, such employment. Plaintiffs' Release of Claims also includes a waiver of California Civil Code section 1542, which provides as follows:

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

This release excludes any release of any claims not permitted to be released by law.

Q. Miscellaneous Terms

- A. No Admission of Liability.** Defendants make no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendants reserve the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendants deny that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants of liability or wrongdoing. This Settlement and Plaintiffs' and Defendants' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement).
- B. No Effect on Employee Benefits.** The Class Representative Enhancement Payments and/or Individual Settlement Shares paid to Plaintiffs and Participating Class Members shall not be deemed to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacation, holiday pay, retirement plans, etc.) of Plaintiffs or the Participating Class Members. The Parties agree that any Class Representative Enhancement Payments and/or Individual Settlement Shares paid to Plaintiffs or the Participating Class Members under the terms of this Agreement do not represent any modification of Plaintiffs' or Participating Class Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by

Defendants. Further, any Class Representative Enhancement Payments shall not be considered “compensation” in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendants.

- C. Publicity.** Class Counsel and Plaintiffs agree to discuss the terms of this Settlement only in declarations submitted to a court to establish Class Counsel’s adequacy to serve as class counsel, in declarations submitted to a court in support of motions for preliminary approval, Final Approval, for attorneys’ fees/costs, and any other pleading filed with the Court in conjunction with the Settlement, and in discussions with Class Members or Eligible Aggrieved Employees in the context of administering this Settlement until the Preliminary Approval Order is issued. Class Counsel and Plaintiffs agree to decline to respond to any media inquiries concerning the Settlement.

- D. Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire Agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any party concerning this Agreement or its exhibits, other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.

- E. Authorization to Enter Into Settlement Agreement.** Class Counsel and Defendants’ Counsel warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties under this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement this Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the Court, and in all cases, all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement.

- F. Exhibits and Headings.** The terms of this Agreement include the terms set forth in the attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement and must be approved substantially as written. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

- G. Interim Stay of Proceedings.** The Parties agree to stay and hold all proceedings in the Action in abeyance, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.
- H. Amendment or Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by counsel for all Parties or their successors-in-interest.
- I. Agreement Binding on Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of, the successors and assigns of the Parties, as previously defined.
- J. No Prior Assignment.** Plaintiffs hereby represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.
- K. Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
- L. Fair, Adequate, and Reasonable Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
- M. No Tax or Legal Advice.** The Parties understand and agree that the Parties are neither providing tax or legal advice, nor making representations regarding tax obligations or consequences, if any, related to this Agreement, and that Class Members will assume any such tax obligations or consequences that may arise from this Agreement, and that Class Members shall not seek any indemnification from the Parties or any of the Released Parties in this regard. The Parties agree that, in the event that any taxing body determines that additional taxes are due from any Class Member, such Class Member assumes all responsibility for the payment of such taxes.
- N. Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgment entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the

Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Agreement and all orders and judgments in connection therewith.

- O. Invalidity of Any Provision; Severability.** Before declaring any provision of this Agreement invalid, the Parties request that the Court first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Agreement valid and enforceable. In the event any provision of this Agreement shall be found unenforceable, the unenforceable provision shall be deemed deleted, and the validity and enforceability of the remaining provisions shall not be affected thereby.
- P. Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- Q. Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Electronic, facsimile or PDF signatures will be accepted. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

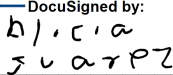
IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel execute this Agreement.

[signatures on the following page]

Dated: 11/11/2022

ALICIA JUAREZ

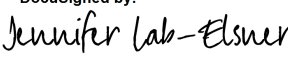
DocuSigned by:

126750BBC70F462...

Dated: _____

KARLA MARTINEZ FLORES

Dated: November 22, 2022

FLOREXPO, LLC

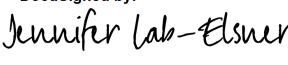
DocuSigned by:

2E0FA156E82F4DD...

Name: Jennifer Lab-Elsner

Title: VP, HR and Administration

Dated: November 22, 2022

KENDAL FLORAL SUPPLY, LLC

DocuSigned by:

2E0FA156E82F4DD...

Name: Jennifer Lab-Elsner

Title: VP, HR and Administration

Dated: 11/16/2022

MARA LAW FIRM, PC



David Mara, Esq.

Matthew Crawford, Esq.

Attorneys for Plaintiffs

Dated: November 22, 2022

**PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP**

DocuSigned by:

78F0477553A54C9...

Marie Burke Kenny, Esq.

Ashley Fasano, Esq.

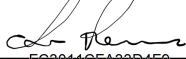
Attorneys for Defendants

Dated: _____

ALICIA JUAREZ

Dated: 11/16/2022

KARLA MARTINEZ FLORES

DocuSigned by:

FC3011CFA33D4F9...

Dated: _____

FLOREXPO, LLC

Name:

Title:

Dated: _____

KENDAL FLORAL SUPPLY, LLC

Name:

Title:

Dated: _____

MARA LAW FIRM, PC

David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiffs

Dated: _____

**PROCOPIO, CORY, HARGREAVES &
SAVITCH LLP**

Marie Burke Kenny, Esq.
Ashley Fasano, Esq.
Attorneys for Defendants

Exhibit A

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN DIEGO
*Alicia Juarez and Karla Martinez Flores, on behalf of themselves, all others similarly situated, and on behalf of
the general public, Plaintiffs, vs. Florexpco, LLC; Kendal Floral Supply, LLC, Defendants*
Case Nos. 37-2020-00016123-CU-OE-CTL and Case No. 37-2020-00015644-CU-OE-CTL

NOTICE OF CLASS ACTION SETTLEMENT

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

TO: All current and former non-exempt, hourly employees of Defendants who were employed in California at any time between May 26, 2016 and November 24, 2022.

The California Superior Court, County of San Diego has granted preliminary approval to a proposed settlement (“Settlement”) of the above-captioned actions (“the Lawsuits”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Class” or “Class Members”):

All current and former non-exempt, hourly employees of Defendants who were employed in California at any time between May 26, 2016 and November 24, 2022.

The purpose of this Notice is to provide a brief description of the claims alleged in the Lawsuits, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

WHAT INFORMATION IS IN THIS NOTICE

1. Why Have I Received This Notice?.....	Page 2
2. What Is This Case About?	Page 2
3. Am I A Class Member? Am I An Eligible Aggrieved Employee?.....	Page 2
4. How Does This Class Action Settlement Work?.....	Page 3
5. Who Are the Attorneys Representing the Parties?	Page 3
6. What Are My Options?.....	Page 3
7. How Do I Opt Out or Exclude Myself From This Settlement?	Page 4
8. How Do I Object to the Settlement?	Page 4
9. How Does This Settlement Affect My Rights?	Page 4
10. How Much Can I Expect to Receive From This Settlement?	Page 5
11. How Will the Attorneys for the Class and the Class Representatives Be Paid?.....	Page 7

PLEASE DO NOT TELEPHONE THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

1. *Why Have I Received This Notice?*

Florexpo, LLC's and/or Kendal Floral Supply, LLC's (hereinafter referred to as "Defendants") records indicate that you may be a Class Member. The settlement will resolve all Class Members' Released Claims, as described in Section No. 9 below, from May 26, 2016 and November 24, 2022 (the "Class Period").

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of San Diego. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2023 at [time a.m./p.m.], before Honorable Keri Katz in Department C-74, located at 330 West Broadway, San Diego, California 92101.

2. *What Is This Case About?*

A class action complaint against Defendants was filed in the San Diego County Superior Court on May 26, 2020 (Case No. 37-2020-00016123-CU-OE-CTL). The complaint alleged the following causes of action against Defendant: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) knowing and intentional failure to comply with itemized employee wage statement provisions; (6) failure to pay all wages at the time of termination of employment; and (7) violation of Unfair Competition Law, on behalf of non-exempt, hourly employees.

A PAGA representative action complaint against Defendants was filed in the San Diego County Superior Court on May 26, 2020 (Case No. 37-2020-00015644-CU-OE-CTL). The complaint sought civil penalties under the PAGA in relation to the following alleged violations suffered by allegedly similar aggrieved employees: (1) failure to pay all straight time wages; (2) failure to pay all overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to pay all wages at the time of termination of employment; (6) knowing and intentional failure to comply with itemized employee wage statement provisions; and (7) failure to pay all wages owed twice per month.

The two cases (Case Nos. 37-2020-00016123-CU-OE-CTL and Case No. 37-2020-00015644-CU-OE-CTL) have been consolidated.

The Court has not made any determination as to whether the claims advanced by the Plaintiffs have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendants expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiffs or to the Class.

3. *Am I A Class Member? Am I An Eligible Aggrieved Employee?*

You are a Class Member if you worked for Defendants in the State of California as a non-exempt, hourly employee from May 26, 2016 and November 24, 2022.

If you worked for Defendants in the State of California as a non-exempt, hourly employee from March 9, 2019 and November 24, 2022, you are also an Eligible Aggrieved Employee under the settlement.

4. *How Does This Class Action Settlement Work?*

Plaintiffs Alicia Juarez and Karla Martinez Flores brings these actions behalf of themselves and all other similarly situated employees who were employed by Defendants a non-exempt, hourly employees in California at any time during the Class Period. Plaintiffs and these other current and former employees comprise a “Class” and are “Class Members.” The settlement of these Lawsuits resolves the Released Claims of all Class Members, as defined in the Settlement Agreement and Final Judgment, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the settlement is fair and reasonable. The Court must also review the terms of the settlement and determine if it is fair and reasonable to the Class. The Court file has the settlement documents, which explain the settlement in greater detail. If you would like copies of the settlement documents, you can obtain them for a nominal fee by visiting the San Diego Superior Court website by visiting <https://roa.sdcourt.ca.gov/roa/> and inputting the case number 37-2020-00016123-CU-OE-CTL, or you can contact Plaintiffs’ counsel, whose contact information is below, and they will provide you with a copy free of charge.

5. *Who Are the Attorneys Representing the Parties?*

Attorneys for Plaintiffs and the Class	Attorneys for Defendants
MARA LAW FIRM, PC David Mara Matthew Crawford 2650 Camino Del Rio North, Suite 205 San Diego, California 92108 Telephone: (619) 234-2833 Facsimile: (619) 234-4048	PROCOPIO, CORY, HARGREAVES & SAVITCH LLP Marie Burke Kenny Ashley Fasano 525 B Street, Suite 2200 San Diego, CA 92101 Telephone: (619) 238-1900 Facsimile: (619) 235-0398

The Court has decided that Mara Law Firm, PC is qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Defendants will not retaliate against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and may receive a payment from the Settlement. You will be bound to the release of the Released Class Claims as defined in the Settlement Agreement and the Final Judgment. You will also give up your right to pursue the Released Class Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “opt out,” which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive a Settlement payment and you will not give up the right to sue Defendants and the Released Parties for the Released Class Claims. If you are an Eligible Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.
- **OBJECT:** You may file a legal objection to the proposed settlement. If you would like to object, you may not opt out of this case.

7. *How Do I Opt Out Or Exclude Myself From This Settlement?*

If you do not want to take part in the Settlement, you must mail a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state your name, address, telephone number, and social security number or employee identification number; (b) state your intention to exclude yourself from or opt-out of the Settlement; (c) be addressed to the Settlement Administrator at [address]; (d) be signed by you or your lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement. If you are an Eligible Aggrieved Employee, you will receive a portion of the PAGA Payment, even if you opt-out of the settlement.

8. *How Do I Object To The Settlement?*

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) your full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection;” (c) describe, in clear and concise terms, the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the Final Approval hearing; and (e) provide true and correct copies of any exhibit(s) you intend to offer at the Final Approval hearing. The objection will not be valid if it objects only to the appropriateness of the actions or their merits.

Class Members may appear at the Final Approval Hearing, either in person or through the objector’s own counsel. If the Court rejects the objection, he/she will receive an Individual Settlement Share payment and will be bound by the terms of the Settlement.

9. *How Does This Settlement Affect My Rights? What are the Released Claims?*

If the proposed settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not opt out of the Settlement will be bound by the Court’s Final Judgment and will release

Defendants and the Released Parties¹ from the Released Class Claims. The Released Class Claims are:

All members of the Class will release and discharge the Released Parties from any and all wage-and-hour claims, rights, demands, liabilities and causes of action of every nature and description whether pled or could have been pled based on the factual allegations made in the Lawsuits against Defendants, for the duration of the Class Period, based upon the following categories of allegations: failure to pay minimum wages, failure to pay overtime wages, failure to pay doubletime wages, failure to pay for off-the-clock work, failure to provide meal periods or meal period premium payments, failure to provide rest periods or rest period premium payments, failure to provide accurate itemized wage statements, failure to properly calculate, provide and pay paid sick leave, failure to timely pay wages due during employment, and failure to pay all wages due upon termination of employment, violation of the applicable provisions of the California Labor Code, violation of applicable portions of the California Code of Regulations, Title 8, section 11040, violation of California's unfair business practices and unfair competition laws to the extent they arise from violations of the Labor Code provisions alleged in the Lawsuits.

If you are an Eligible Aggrieved Employee, you will be bound by the Final Judgment and will release the Released Parties from the Released PAGA Claims, even if you opt-out of the settlement. The Released PAGA Claims include any and all claims for civil penalties under the California Labor Code and the Private Attorneys General Act predicated upon the Labor Code violations that were asserted in the Lawsuits as well as any potential penalties, interest or attorneys' fees associated with those violations under California law.

All Class Members who do not opt out of the Settlement will be enjoined from prosecuting the Released Class Claims and initiating or continuing other proceedings regarding the Release Class Claims, including but not limited to filing any claims for monetary relief of the Released Claims before the Division of Labor Standards and Enforcement ("DLSE") or in any forum whatsoever. All Eligible Aggrieved Employees will be enjoined from prosecuting the Released PAGA Claims and from initiating or continuing other proceedings regarding the Released PAGA Claims, including but not limited to filing any claims for monetary relief of the Released PAGA Claims before the DLSE or in any forum whatsoever.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendants could be required to pay under this Agreement shall be up to but no more than \$2,000,000 ("Gross Settlement Amount" or "GSA").

A. Deductions from the Settlement

The "Net Settlement Amount" or "NSA" means the portion of the Gross Settlement Amount, available for distribution to Class Members after the deduction of (1) the Class Representative Enhance Payments to the named Plaintiffs in an amount up to \$10,000 each, for prosecution of the Lawsuits, risks undertaken for the payment of attorneys' fees and costs, and a general release of all claims; (2) the Settlement Administration Costs to the Settlement Administrator in an amount estimated not to exceed \$50,000; (3) a payment of \$200,000 allocated to the PAGA claims; and (4) payment to Class Counsel in an amount not to exceed \$666,660 (33.333% of the Gross Settlement Amount) for attorneys' fees and an amount not to exceed \$30,000 for litigation costs. All of these payments are subject to court approval.

¹ "Released Parties" means Defendants, and any of their former and present parents, subsidiaries, affiliates and other officers, directors, employees, partners, and agents, and any other successors, assigns, or legal representatives.

B. How Class Member Settlement Payments are Calculated

After deducting the above-referenced items, the remaining Net Settlement Amount, will be proportionately distributed amongst all Class Members who have not opted out. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendants in California, in an hourly, non-exempt position, based on the Class Data provided by Defendants, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Class Member's Individual Class Settlement Share ties directly to the amount of weeks that he or she worked.

C. How Eligible Aggrieved Employees' Settlement Payments are Calculated

If you are an Eligible Aggrieved Employee under the settlement, you will also receive a portion of the PAGA Payment. Pursuant to PAGA, the LWDA will receive a payment of \$150,000 (75% of the \$200,000 total PAGA Payment). The remaining \$50,000 is the "Net PAGA Settlement Amount" or "NPSA" and will be proportionately distributed amongst all Eligible Aggrieved Employees. Each Eligible Aggrieved Employee will receive a proportionate share of the Net PAGA Settlement Amount that is equal to (i) the number of weeks he or she worked for Defendants in California, in an hourly, non-exempt position, based on the Class Data provided by Defendants, divided by (ii) the total number of weeks worked by all Participating Class Members based on the same Class Data, which is then multiplied by the Net PAGA Settlement Amount. One day worked in a given week will be credited as a work week for purposes of this calculation. Therefore, the value of each Eligible Aggrieved Employee's Individual PAGA Settlement Share ties directly to the amount of weeks that he or she worked.

D. Your Estimated Settlement Payment

Although your exact share of the Net Settlement Amount as a Class Member cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Amount, is as follows: \$ [REDACTED], less taxes. This is based on the Class Data which shows you worked [REDACTED] workweeks during the Class Period. The maximum number of workweeks any Class Member may have is [REDACTED].

If you are also an Eligible Aggrieved Employee, you will receive a share of the Net PAGA Settlement Amount. Based upon the calculation above, your approximate share of the Net PAGA Settlement Amount, is as follows: \$ [REDACTED]. This is based on the PAGA Data which shows you worked [REDACTED] workweeks during the PAGA Period. The maximum number of workweeks any Eligible Aggrieved Employee may have is [REDACTED].

E. Tax Treatment of Your Settlement Payments

Each Class Member's Individual Class Settlement Share will be apportioned as follows: 15% wages, 40% interest, and 45% penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. Payment of all amounts will be made subject to backup withholding unless a duly executed W-9 form is received from the payee(s). The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms. Only the employee share of payroll tax withholdings shall be from each Class Member's Individual Class Settlement Share. The employer share of payroll tax withholdings shall be paid separate from and in addition to the Gross Settlement Amount.

If you are an Eligible Aggrieved Employee, your Individual PAGA Settlement Share will be apportioned as 100% penalties. This will not be reduced by payroll tax withholding and deductions. The Settlement Administrator will issue to each Eligible Aggrieved Employee an IRS Form 1099 with respect to his/her Individual PAGA Settlement Share.

Nothing in this Notice is intended to constitute legal advice relating to the tax liability of any Class Member or Eligible Aggrieved Employee. To the extent that this Notice is interpreted to contain or constitute advice regarding any federal, state or local tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any tax liability or penalties.

F. What Happens If You Don't Cash Your Check?

It is strongly recommended that upon receipt of your settlement check, you immediately cash it or cash it before the 180-day void date shown on each check. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will pay over the amount represented by the check to The Monarch School, a non-profit organization that qualifies as a *cy pres* beneficiary in compliance with section 384 of the California Code of Civil Procedure.

11. *How Will the Attorneys for the Class and the Class Representatives Be Paid?*

The attorneys for Plaintiffs and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed 33.333% of the Gross Settlement Amount (\$666,660) for attorney fees and \$30,000 for litigation costs.

Defendants have paid all of their own attorneys' fees and costs.

Plaintiffs will also be paid, subject to Court approval, an amount not to exceed \$10,000 each, as an enhancement for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [\[administrator website\]](#), a website maintained by the Settlement Administrator. Please refer to the Florexpco Class Action Settlement.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, you may obtain the underlying documents and papers on file with the Court for a nominal fee by visiting the San Diego Superior Court website by visiting <https://roa.sdcourt.ca.gov/roa/> and inputting the case number 37-2020-00016123-CU-OE-CTL. You may also contact Plaintiffs' counsel, whose contact information is above, and they will provide you with a copy of the settlement documents or case documents free of charge.

Exhibit 2

David Mara, Esq. (SBN 230498)
Matthew Crawford, Esq. (SBN 310230)
MARA LAW FIRM, PC
2650 Camino Del Rio North, Suite 205
San Diego, California 92108
Telephone: (619) 234-2833
Facsimile: (619) 234-4048

Attorneys for Plaintiffs ALICIA JUAREZ and
KARLA MARTINEZ FLORES, on behalf of
themselves and all others similarly situated, and
on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DEIGO

ALICIA JUAREZ and KARLA
MARTINEZ FLORES on behalf of
themselves, all others similarly situated, and
on behalf of the general public,

Plaintiffs,

v.

FLOREXPO, LLC; KENDAL FLORAL
SUPPLY, LLC; and DOES 1-100,
Defendants.

Case No. 37-2020-00016123-CU-OE-CTL

**PLAINTIFFS' FIRST AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF, DECLARATORY
RELIEF, AND RESTITUTION**

- 1) Failure to Pay All Straight Time Wages;**
- 2) Failure to Pay All Overtime &
Doubletime Wages;**
- 3) Failure to Provide Meal Periods (Cal.
Lab. Code §§ 226.7, 512, IWC Wage
Order No. 7-2001(11); Cal. Code Regs.,
tit. 8 § 11070);**
- 4) Failure to Authorize and Permit Rest
Periods (Cal. Lab. Code § 226.7; IWC
Wage Order No. 7-2001(12); Cal. Code
Regs. Title 8 § 11070);**
- 5) Knowing and Intentional Failure to
Comply with Itemized Employee Wage
Statement Provisions (Cal. Lab. Code §§
226, 1174, 1175);**
- 6) Failure to Pay All Wages Due at the Time
of Termination of Employment (Cal. Lab.
Code §§201-203); and,**
- 7) Violation of Unfair Competition Law
(Bus. & Prof. Code § 17200, et seq.),**

DEMAND FOR JURY TRIAL

1 Plaintiffs ALICIA JUAREZ and KARLA MARTINEZ FLORES (“Plaintiffs”), on behalf of
2 themselves, all others similarly situated, and on behalf of the general public, complains of
3 Defendants FLOREXPO, LLC (“FLOREXPO”) and KENDAL FLORAL SUPPLY, LLC
4 (“KENDAL FLORAL SUPPLY”) (collectively “Defendants”) and/or DOES and for causes of
5 action and alleges:

6 1. This is a class action pursuant to California Code of Civil Procedure section 382 on
7 behalf of Plaintiffs and all hourly non-exempt employees who are presently or formerly
8 employed by Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
9 and/or their subsidiaries or affiliated companies and/or predecessors within the State of
10 California.

11 2. At all times mentioned herein, Defendants FLOREXPO AND KENDAL FLORAL
12 SUPPLY and/or DOES have conducted business in San Diego County and elsewhere
13 within California.

14 3. At all times mentioned herein, Defendants FLOREXPO AND KENDAL FLORAL
15 SUPPLY and/or subsidiaries or affiliated companies and/or DOES, within the State of
16 California, have, among other things, employed current and former non-exempt
17 employees.

18 4. At all times mentioned herein, the common policies and practices of Defendants
19 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES were a direct cause of
20 Defendants’ and/or DOES’ failure to comply with California’s wage and hours laws,
21 Wage Orders, and/or the California Labor Code, as set forth more fully within.

22 5. For at least four (4) years prior to the filing of this action and through to the present,
23 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
24 consistent policy and/or practice of not paying Plaintiffs and its Non-Exempt Employees
25 for all of the hours they worked.

26 6. For at least four (4) years prior to the filing of this action and through to the present,
27 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
28

1 continuous and widespread policy of not paying Plaintiffs and those similarly situated for
2 all hours they worked, including before clocking in for their work shift, after clocking out
3 for their work shift, and during unpaid meal periods. Further, Defendants FLOREXPO
4 AND KENDAL FLORAL SUPPLY and/or DOES have had a continuous and widespread
5 policy to shave the time Plaintiffs and those similarly situated worked (referred to as
6 “time shaving”).

7 7. For at least four (4) years prior to the filing of this action and through to the present,
8 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
9 continuous and widespread policy of “clocking-out” Plaintiffs and those similarly
10 situated for thirty (30) minute meal periods, even though Plaintiffs and those similarly
11 situated were suffered and/or permitted to work during these deduction periods, thereby
12 deducting thirty (30) minutes of paid time, including straight time and overtime.

13 8. For at least four (4) years prior to the filing of this action and through to the present,
14 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
15 consistent policy and/or practice of failing to provide all straight time, overtime, and
16 doubletime wages owed to Non-Exempt Employees, as mandated under the California
17 Labor Code and the implementing rules and regulations of the Industrial Welfare
18 Commission’s (“IWC”) California Wage Orders.

19 9. For at least four (4) years prior to the filing of this action and through to the present,
20 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
21 consistent policy of requiring Non-Exempt Employees within the State of California,
22 including Plaintiffs, to work through meal periods and work at least five (5) hours
23 without a meal period and failing to pay such employees one (1) hour of pay at the
24 employees’ regular rate of compensation for each workday that the meal period is not
25 provided, or other compensation, as required by California’s state wage and hour laws,
26 and automatically deducting a half hours pay from their wages.

27 10. For at least four (4) years prior to filing of this action and through the present, Defendants
28

1 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES did not have a policy of
2 allowing its hourly employees working shifts of ten (10) or more hours in a day to take a
3 second meal period of not less than thirty (30) minutes as required by the applicable
4 Wage Order of the IWC.

5 11. For at least four (4) years prior to the filing of this action and through to the present,
6 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
7 consistent policy of requiring Non-Exempt Employees within the State of California,
8 including Plaintiffs, to work over ten (10) hours without providing an additional,
9 uninterrupted meal period of thirty (30) minutes and failing to pay such employees one
10 (1) hour of pay at the employees' regular rate of compensation for each workday that the
11 meal period is not provided, or other compensation, as required by California's state
12 wage and hour laws.

13 12. For at least four (4) years prior to the filing of this action and through to the present,
14 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have had a
15 consistent policy and/or practice of requiring its Non-Exempt Employees within the State
16 of California, including Plaintiffs, to work for over four hours, or a major fraction
17 thereof, without a 10 minute rest period, and failing to pay such employees one (1) hour
18 of pay at the employees' regular rate of compensation for each workday that the rest
19 period is not provide, or other compensation, as required by California's state wage and
20 hour laws.

21 13. For at least four (4) years prior to the filing of this action and through to the present,
22 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES and/or their
23 officers and/or managing agents have had a consistent policy and/or practice of willfully
24 failing to provide to Plaintiffs and its Non-Exempt Employees, accurate itemized
25 employee wage statements.

26 14. For at least four (4) years prior to the filing of this action and through to the present,
27 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES and/or their
28

1 officers and/or managing agents have had a consistent policy and/or practice of willfully
2 failing to timely pay wages owed to Plaintiffs and those Non-Exempt Employees who left
3 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES employ or
4 who were terminated.

5 15. For at least four (4) years prior to the filing of this action and through to the present,
6 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY, by failing to lawfully pay
7 Plaintiffs and those similarly situated all the wages they are owed, engaged in false,
8 unfair, fraudulent and deceptive business practices within the meaning of the Business
9 and Professions Code section 17200, et seq.

10 16. Throughout the statutory period, Defendants FLOREXPO AND KENDAL FLORAL
11 SUPPLY's and/or DOES' employees, including Plaintiffs and similarly situated Non-
12 Exempt Employees, were not provided all straight time, overtime, and doubletime wages
13 owed, meal periods and rest periods, or compensation in lieu thereof, as mandated under
14 the California Labor Code, and the implementing rules and regulations of the Industrial
15 Welfare Commissions ("IWC") California Wage Orders.

16 17. Throughout the statutory period, Defendants FLOREXPO AND KENDAL FLORAL
17 SUPPLY and/or DOES employees, including Plaintiffs and similarly situated Non-
18 Exempt Employees were not provided with accurate and itemized employee wage
19 statements.

20 18. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to
21 comply with Labor Code section 226, subdivision (a), by itemizing in wage statements all
22 hourly compensation and accurately reporting total hours worked by Plaintiffs and the
23 members of the proposed class. Plaintiffs and members of the proposed class are entitled
24 to penalties not to exceed \$4,000 for each employee pursuant to Labor Code section
25 226(b).

26 19. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have failed
27 to comply with IWC Wage Order 7-2001(7) by failing to maintain accurate time records
28

1 showing hourly compensation, when the employee begins and ends each work day and
2 total daily hours worked by itemizing in wage statements and accurately reporting total
3 hours worked by Plaintiffs and members of the proposed class.

4 20. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' failure to
5 retain accurate records of total hours worked by Plaintiffs and the proposed class was
6 willful and deliberate, was a continuous breach of Defendants FLOREXPO AND
7 KENDAL FLORAL SUPPLY's and/or DOES' duty owed to Plaintiffs and the proposed
8 class.

9 21. Throughout the statutory period, Defendants FLOREXPO AND KENDAL FLORAL
10 SUPPLY's and/or DOES' employees, including Plaintiffs and similarly situated Non-
11 Exempt Employees, were not timely paid all wages owed to them at the time of
12 termination.

13 22. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES are and were
14 aware that Plaintiffs and members of the proposed class were not paid all straight time,
15 overtime, and doubletime wages owed, nor provided meal and rest periods. Defendants
16 FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' denial of wages and
17 other compensation due to Plaintiffs and members of the proposed class was willful and
18 deliberate.

19 23. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, each and
20 collectively, controlled the wages, hours, and working conditions of Plaintiffs and the
21 proposed class, creating a joint-employer relationship over Plaintiffs and the proposed
22 class.

23 24. Plaintiffs, on behalf of themselves and all of Defendants FLOREXPO AND KENDAL
24 FLORAL SUPPLY's and/or DOES' Non-Exempt Employees, bring this action pursuant
25 to California Labor Code sections 218, 218.5, 222, 223, 224, 226, subd. (b), 226.7, 510,
26 512, 515, 1194, 1197, and California Code of Regulations, Title 8, section 11070, seeking
27 unpaid wages, overtime, doubletime, meal and rest period compensation, penalties,
28

injunctive and other equitable relief, and reasonable attorneys' fees and costs.

25. Plaintiffs, on behalf of themselves and all putative Class members made up of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' non-exempt employees, pursuant to California Business and Professions Code sections 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES enjoyed from their failure to pay all straight time wages, overtime wages, doubletime wages, and meal and rest period compensation.

I. VENUE

26. Venue as to each Defendant, FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, is proper in this judicial district, pursuant to Code of Civil Procedure section 395. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES conduct business and commit Labor Code violations within San Diego County, and each Defendant and/or DOE is within California for service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiffs and those similarly situated within the State of California and within San Diego County. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES employ numerous Class members who work in San Diego County, in California.

II. PARTIES

A. Plaintiffs.

27. At all relevant times, herein, Plaintiffs ALICIA JUAREZ and KARLA MARTINEZ FLORES are and were residents of California. At all relevant times, herein, they were employed Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES within the last four (4) years as a non-exempt, hourly worker in California.

28. On information and belief, Plaintiffs and all other members of the proposed class experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' common company policies of failing to pay all straight time, overtime, wages

1 owed.

2 29. On information and belief, Plaintiffs and all other members of the proposed class
3 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
4 DOES' common company policies of illegally deducting wages from employees for meal
5 periods during which they were performing work.

6 30. On information and belief, Plaintiffs and all other members of the proposed class
7 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
8 DOES' common company policies and/or practices of failing to pay all straight time and
9 overtime wages owed, and failing to provide compliant meal periods to employees before
10 the end of their fifth hour of work or a second meal period before the end of the tenth
11 hour or work, or compensation in lieu thereof.

12 31. On information and belief, Plaintiffs and all other members of the proposed class
13 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
14 DOES' common company policies of failing to provide ten (10) minute paid rest breaks
15 to employees whom worked four (4) hours or major fractions thereof.

16 32. On information and belief, Plaintiffs and all other members of the proposed class
17 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
18 DOES' common company policies of failing to provide Non-Exempt Employees with
19 accurate itemized wage statements. On information and belief, Defendants and/or DOES
20 failure to provide to their Non-Exempt Employees, including Plaintiffs, with accurate
21 itemized wage statements was willful.

22 33. On information and belief, Plaintiffs and all other members of the proposed class
23 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
24 DOES' common company policies of failing to timely compensate Non-Exempt
25 Employees all wages owed upon termination. On information and belief, Defendant's
26 and/or DOES' failure to pay, in a timely manner, compensation owed to Non-Exempt
27 Employees, including Plaintiffs, upon termination of their employment with Defendants
28

- 1 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES was willful.
- 2 34. On information and belief, Plaintiffs and all other members of the proposed class
3 experienced Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or
4 DOES' fraudulent and deceptive business practices within the meaning of the Business
5 and Professions Code section 17200, et seq.
- 6 35. Plaintiffs and the proposed class are covered by, inter alia, California IWC Occupational
7 Wage Order No. 7-2001, and Title 8, California Code of Regulations, § 11070.
- 8 **B. Defendants.**
- 9 36. At all relevant times herein, Defendants FLOREXPO AND KENDAL FLORAL
10 SUPPLY and/or DOES engage in the ownership and operation of facilities which are
11 used to assist in the provision of health insurance and other services provided to
12 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES customers
13 in the State of California.
- 14 37. Kendal Floral Supply, LLC is a bouquet manufacturer and Florexpo, LLC is a flower
15 wholesaler and leading importer and distributor of a wide variety of fresh cut flowers of
16 consistent quality.
- 17 38. According Florexpo, LLC's website it introduces innovations and practices to ensure the
18 well-being of its employees and sponsors programs to improve the living standards of
19 employees. *See* Florexpo, LLC, <http://www.florexpo.com/videos> (last visited May 7,
20 2020). According to Kendal Floral Supply, LLC's website, the company promises to
21 employees to be responsible, but notes that it puts service above all else. *See* Kendal
22 Floral Supply, LLC, <https://kendalfloral.com/join-our-team/> (last visited May 7, 2020).
23 Although Defendants' maintain they care passionately about employees and promise
24 responsibility, the companies' passions and responsibilities falter as they do not extend
25 to paying employees their full deserved wages or providing protections afforded by
26 California's Labor Code.
- 27 39. On information and belief, Defendants FLOREXPO AND KENDAL FLORAL SUPPLY
28

1 and/or DOES exercised control over the wages, hours, and/or working conditions of
2 Plaintiffs and members of the proposed class throughout the liability period.

3 40. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES principal
4 place of business is in the State of California.

5 41. The true names and capacities, whether individual, corporate, associate, or otherwise, of
6 Defendants DOES 1-100, inclusive, are presently unknown to Plaintiffs, who therefore
7 sues these Defendants by such fictitious names under Code of Civil Procedure section
8 474. Plaintiffs are informed and believe, and based thereon alleges, that each of the
9 Defendants designated herein as a DOE is legally responsible in some manner for the
10 unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this
11 Complaint to reflect the true names and capacities of the Defendants designated
12 hereinafter as DOES when such identities become known.

13 42. Plaintiffs are informed and believe, and based thereon alleges, that each Defendant and/or
14 DOE acted in all respects pertinent to this action as the agent of the other Defendants
15 and/or DOES, carried out a joint scheme, business plan or policy in all respects pertinent
16 hereto, and the acts of each Defendants and/or DOES are legally attributable to the other
17 Defendants and/or DOES.

18 **III. CLASS ACTION ALLEGATIONS**

19 43. Plaintiffs brings this action on behalf of themselves and all others similarly situated as a
20 class action pursuant to section 382 of the California Code of Civil Procedure. Plaintiff
21 seeks to represent a Class composed of and defined as follows:

22
23 All persons who are employed or have been employed by
24 Defendant in the State of California as hourly non-exempt
25 employees during the period of the relevant statute of limitations.
26 (“Class Members”).
27
28

1 Plaintiffs also seek to represent subclasses composed of and defined as follows:

2
3 All Class Members who worked one (1) or more shifts in excess of
4 five (5) hours.

5
6 All Class Members who worked one (1) or more shifts in excess of
7 six (6) hours.

8
9 All Class Members who worked one (1) or more shifts in excess of
10 ten (10) hours.

11
12 All Class Members who worked one (1) or more shifts in excess of
13 twelve (12) hours.

14
15 All Class Members who worked in excess of (8) eight hours on any
16 seventh day of a workweek.

17
18 All Class Members who worked one (1) or more shifts in excess of
19 three (3) hour and one-half hours, but less than or equal to six (6)
20 hours.

21
22 All Class Members who worked one (1) or more shifts in excess of
23 six (6) hours, but less than or equal to ten (10) hours.

24
25 All Class Members who separated their employment from
26 Defendant.

1 All Class Members who worked one (1) or more shifts in which
2 they received a wage statement for the corresponding pay period.

3
4 All Class Members who were deducted wages for meal periods.

5
6 44. Plaintiffs reserve the right under rule 1855, subdivision (b), California Rules of Court, to
7 amend or modify the Class description with greater specificity or further division into
8 subclasses or limitation to particular issues.

9 45. This action has been brought and may properly be maintained as a class action under the
10 provisions of section 382 of the California Code of Civil Procedure because there is a
11 well-defined community of interest in the litigation and the proposed Class is easily
12 ascertainable.

13 **A. Numerosity.**

14 46. The potential members of the Class and subclasses as defined are so numerous that
15 joinder of all the members of the Class is impracticable. While the precise number of
16 Class and subclass members has not been determined at this time, Plaintiffs are informed
17 and believe that FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
18 currently employ, and during the liability period employed, over two hundred (200)
19 employees, all in the State of California, in positions as hourly non-exempt employees.

20 47. Accounting for employee turnover during the relevant periods increases this number
21 substantially. Upon information and belief, Plaintiffs allege FLOREXPO AND KENDAL
22 FLORAL SUPPLY's and/or DOES' employment records will provide information as to
23 the number and location of all Class members. Joinder of all members of the proposed
24 Class is not practicable.

25 **B. Commonality.**

26 48. There are questions of law and fact common to the Class that predominate over any
27 questions affecting only individual Class members. These common questions of law and
28

fact include, without limitation:

- (1) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay its non-exempt employees all earned wages at the regular rate for all hours worked.
- (2) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay its non-exempt employees all earned wages at the overtime rate for all hours worked.
- (3) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES violated the Labor Code and/or applicable IWC Wage Orders in failing to pay its non-exempt employees all earned wages at the doubletime rate for all hours worked.
- (4) Whether FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' uniform policies and/or practices whereby non-exempt employees were pressured and/or incentivized to forego taking meal and/or rest periods.
- (5) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES violated Labor Code section 226.7, IWC Wage Order No. 7-2001 or other applicable IWC Wage Orders, and/or California Code of Regulations, Title 8, section 11070, by failing to authorize, permit, and/or provide rest periods to its hourly, non-exempt employees for every four (4) hours or major fraction thereof worked and/or failing to pay said employees one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period was not authorized, permitted and/or provided.
- (6) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES willfully failed to pay, in a timely manner, wages owed to members of the proposed Class who left FLOREXPO AND KENDAL FLORAL SUPPLY's

and/or DOES' employ or who were terminated.

(7) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES violated Labor Code section 203, which provides for the assessment of a penalty against the employer, by willfully failing to timely pay all wages owed to employees who left FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' employ or who were terminated.

(8) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES had uniform policies and/or practices of failing to provide employees accurate and itemized wage statements.

(9) Whether FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES had uniform policies and/or practices of failing to timely pay all wages owed to employees who left FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' employ or who were terminated.

49. The answer to each of these respective questions will generate a common answer capable of resolving class-wide liability in one stroke.

50. Said common questions predominate over any individualized issues and/or questions affecting only individual members.

C. Typicality.

51. The claims of the named Plaintiffs are typical of the claims of the proposed class. Plaintiffs and all members of the proposed class sustained injuries and damages arising out of and caused by FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' common course of conduct in violation of laws and regulations that have the force and effect of law and statutes as alleged.

52. Plaintiff ALICIA JUAREZ and KARLA MARTINEZ FLORES were subjected to the same uniform policies and/or practices complained of herein that affected all such employees. Thus, as Plaintiffs were subjected to the same unlawful policies and practices as all hourly non-exempt employees, their claims are typical of the class they seek to

1 represent.

2 **D. Adequacy of Representation.**

3 53. Plaintiffs will fairly and adequately represent and protect the interests of the members of
4 the Class.

5 54. Plaintiffs are ready and willing to take the time necessary to help litigate this case.

6 55. Plaintiffs have no conflicts that will disallow them to fairly and adequately represent and
7 protect the interests of the members of the Class.

8 56. Counsel who represent Plaintiffs are competent and experienced in litigating large
9 employment class actions.

10 57. Specifically, David Mara, Esq. and Matthew Crawford, Esq. are California lawyers in
11 good standing.

12 58. Counsel who represent Plaintiffs are competent and experienced in litigating large
13 employment class actions.

14 59. The lawyers at Mara Law Firm have been named class counsel in numerous cases and
15 Mr. Mara's and Mr. Crawford's practice is primarily focused on representing classes,
16 large and small, on the basis of California Labor Code and IWC Wage Order Violations
17 similar to those alleged herein. The attorneys at the firm are also frequently called upon
18 to and do author amicus briefs on behalf of the Consumer Attorneys of California on
19 cases in the appellate courts and Supreme Court of California involving important issues
20 relating to those alleged herein.

21 60. Mara Law Firm, PC has the resources to take this case to trial and judgment, if necessary.

22 61. Mr. Mara has the experience, ability, and ways and means to vigorously prosecute this
23 case.

24 **E. Superiority of Class Action.**

25 62. A class action is superior to other available means for the fair and efficient adjudication
26 of this controversy. Individual joinder of all Class members is not practicable, and
27 questions of law and fact common to the Class predominate over any questions affecting
28

only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' illegal policies and/or practices of failing to pay all straight time and overtime wages owed, failing to permit or authorize rest periods, failing to provide meal periods, knowingly and intentionally failing to comply with wage statement requirements, and failing to pay all wages due at termination.

63. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

64. Because such common questions predominate over any individualized issues and/or questions affecting only individual members, class resolution is superior to other methods for fair and efficient adjudication.

IV. CAUSES OF ACTION

FIRST CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL SUPPLY AND/OR DOES: Failure to Pay All Straight Time Wages

65. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and every other paragraph in this Complaint herein as if fully plead.

66. Defendant and/or DOES have had a continuous policy of not paying Plaintiffs and those similarly situated for all hours worked.

67. It is fundamental that an employer must pay its employees for all time worked. California Labor Code sections 218 and 218.5 provides a right of action for nonpayment of wages. Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 223 prohibits the pay of less than a statutory or contractual wage scale. Labor Code section 1197 prohibits the payment of less than the minimum wage. Labor Code section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.

1 Labor Code section 224 only permits deductions from wages when the employer is
2 required or empowered to do so by state or federal law or when the deduction is expressly
3 authorized in writing by the employee for specified purposes that do not have the effect
4 of reducing the agreed upon wage.

5 68. Plaintiffs and those similarly situated Class members were employed by Defendants
6 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES at all relevant times.
7 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES were
8 required to compensate Plaintiffs for all hours worked and were prohibited from making
9 deductions that had the effect of reducing the agreed upon wage.

10 69. Defendant and/or DOES have a continuous and consistent policy of clocking-out
11 Plaintiffs and those similarly situated for a thirty (30) minute meal period, even though
12 Plaintiffs and all members of the Class work through their meal periods. Thus,
13 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES do not pay
14 Plaintiffs and each and every member of the Class for all time worked each and every day
15 they work without a meal period and have time deducted.

16 70. Plaintiffs and similarly situated Class members are not paid for all time under Defendants
17 FLOREXPO'S and KENDAL FLORAL SUPPLY'S and/or DOES' control. This
18 includes time under Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
19 DOES before shifts begin. Plaintiffs and similarly situated Class members had to be on
20 time for their scheduled shift. Plaintiffs and similarly situated Class members, however,
21 could not go right to the time clock and clock in without delay, because other employees
22 would be there clocking in as well. So, to not be late on the clock, employees had to get
23 to their shift before it began to accommodate any delay caused by other people clocking
24 in and Defendants FLOREXPO's AND KENDAL FLORAL SUPPLY's and/or DOES
25 demand of clocking in on time for scheduled shift. Defendants FLOREXPO AND
26 KENDAL FLORAL SUPPLY and/or DOES know this because supervisors are there
27 when Plaintiffs and similarly situated Class members are clocking in and can see delays.
28

1 And, again, Plaintiffs and similarly situated Class members are also not paid for all time
2 subject to the control of the employer at other times during the day, such as during unpaid
3 lunches.

4 71. Defendant and/or DOES have a continuous and consistent policy of shaving the time
5 Plaintiffs and those similarly situated work (referred to as “time shaving”).

6 72. Thus, Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
7 shave/steal earned wages from Plaintiffs and each and every member of the Class each
8 and every day they work. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY
9 and/or DOES have not paid Plaintiffs and the members of the Class all straight time
10 wages owed.

11 73. Plaintiffs and the Class members are informed and believe and thereon allege that as a
12 direct result of Defendant’s and/or DOES’ uniform policies and/or practices, Plaintiffs
13 and the Class members have suffered, and continue to suffer, substantial unpaid wages,
14 and lost interest on such wages, and expenses and attorneys’ fees in seeking to compel
15 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES to fully
16 perform their obligations under state law, all to their respective damage in amounts,
17 according to proof at trial.

18 74. As a direct result of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY’s
19 and/or DOES’ policy of illegal wage theft, Plaintiffs and those similarly situated have
20 been damaged in an amount to be proven at trial.

21 75. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
22 below.

23 **SECOND CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL**
24 **SUPPLY AND/OR DOES: Failure to Pay All Overtime and Doubletime Wages**

25 76. Plaintiffs and those similarly situated Class members hereby incorporate by reference
26 each and every other paragraph in this Complaint herein as if fully plead.

27 77. It is fundamental that an employer must pay its employees for all time worked. California
28

Labor Code sections 218 and 218.5 provides a right of action for nonpayment of wages. Labor Code section 222 prohibits the withholding of part of a wage. Labor Code section 223 prohibits the pay of less than a statutory or contractual wage scale. Labor Code section 1197 prohibits the payment of less than the minimum wage. Labor Code section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

78. Cal. Lab. Code § 510 dictates that any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

79. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to pay overtime when employees worked over eight (8) hours per day and when employees worked over forty (40) hours per week. Plaintiffs and those similarly situated Class members worked over 8 hours per day or over 40 hours per week.

80. Plaintiffs and those similarly situated Class members were employed by Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES at all relevant times. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES were required to compensate Plaintiffs for all overtime hours worked and were prohibited from making deductions that had the effect of reducing the agreed upon wage.

81. Plaintiffs and similarly situated Class members are not paid for all time under Defendants FLOREXPO'S and KENDAL FLORAL SUPPLY'S and/or DOES' control. This includes time under Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES before shifts begin. Plaintiffs and similarly situated Class members had to be on time for their scheduled shift. Plaintiffs and similarly situated Class members, however, could not go right to the time clock and clock in without delay, because other employees

1 would be there clocking in as well. So, to not be late on the clock, employees had to get
2 to their shift before it began to accommodate any delay caused by other people clocking
3 in and Defendants FLOREXPO's AND KENDAL FLORAL SUPPLY's and/or DOES
4 demand of clocking in on time for scheduled shift. Defendants FLOREXPO AND
5 KENDAL FLORAL SUPPLY and/or DOES know this because supervisors are there
6 when Plaintiffs and similarly situated Class members are clocking in and can see delays.
7 And, again, Plaintiffs and similarly situated Class members are also not paid for all time
8 subject to the control of the employer at other times during the day, such as during unpaid
9 lunches. Plaintiffs and Class and subclass members frequently work over eight daily and
10 forty weekly hours, and, therefore, this compensable time is owed at the overtime rates of
11 Plaintiffs and Class Members and subclass members.

12 82. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to pay
13 proper doubletime when Plaintiffs and Class Members and subclass members worked in
14 excess of eight hours on any seventh day of a workweek or over twelve hours in a day.

15 83. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to pay
16 for the overtime and doubletime that was due, pursuant to IWC Wage Order No. 7-2001,
17 item 3(A).

18 84. Plaintiffs and the Class members are informed and believe and thereon allege that as a
19 direct result of Defendant's and/or DOES' uniform policies and/or practices, Plaintiffs
20 and the Class members have suffered, and continue to suffer, substantial unpaid overtime
21 wages, and lost interest on such overtime wages, and expenses and attorneys' fees in
22 seeking to compel Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
23 DOES to fully perform their obligations under state law, all to their respective damage in
24 amounts according to proof at time of trial. Defendants FLOREXPO AND KENDAL
25 FLORAL SUPPLY and/or DOES committed the acts alleged herein knowingly and
26 willfully, with the wrongful and deliberate intention on injuring Plaintiffs and the Class
27 members. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
28

1 acted with malice or in conscious disregard of Plaintiffs' and the Class Member's rights.

2 In addition to compensation, Plaintiffs are also entitled to any penalties allowed by law.

3 85. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
4 below.

5 **THIRD CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL SUPPLY**

6 **AND/OR DOES: Failure to Provide Meal Periods, or Compensation in Lieu Thereof (Cal.**

7 **Lab. Code §§ 226.7, 512, IWC Wage Order No. 7-2001(11); Cal. Code Regs., tit. 8, § 11070)**

8 86. Plaintiffs and those similarly situated Class members hereby incorporate by reference
9 each and every other paragraph in this Complaint herein as if fully plead.

10 87. Under California Labor Code section 512 and IWC Wage Order No. 7, no employer shall
11 employ any person for a work period of more than five (5) hours without providing a
12 meal period of not less than thirty (30) minutes. During this meal periods of not less than
13 thirty (30) minutes, the employee is to be completely free of the employer's control and
14 must not perform any work for the employer. If the employee does perform work for the
15 employer during the thirty (30) minute meal period, the employee has not been provided
16 a meal period in accordance with the law. Also, the employee is to be compensated for
17 any work performed during the thirty (30) minute meal period.

18 88. In addition, an employer may not employ an employee for a work period of more than ten
19 (10) hours per day without providing the employee with another meal period of less than
20 thirty (30) minutes.

21 89. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have a
22 consistent policy and/or practice of not providing meal periods to Plaintiffs and similarly
23 situated Class members and/or providing compensation in lieu thereof. As a matter of
24 policy and practice, Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
25 DOES do not provide employees with full 30-minute meal periods for each day worked
26 where they are free from Defendants FLOREXPO's AND KENDAL FLORAL
27 SUPPLY's and/or DOES' control. As a matter of policy and practice, FLOREXPO AND
28

1 KENDAL FLORAL SUPPLY and/or DOES do not provide a full 30-minute 2nd meal
2 period when employee shifts eclipse 10-hours wherein employees are free from
3 Defendants FLOREXPO's AND KENDAL FLORAL SUPPLY's and/or DOES' control.
4 Kendal and Florexp do not provide a 2nd 30-minute meal periods before the end of the
5 tenth hour. Due to the thrust of business, Kendal's and Florexp's policies and practices
6 encourage employees to stay working on the production floor, as opposed to encouraging
7 the rest and nourishment meal periods are designed to provide. As a matter of policy and
8 practice, Kendal and Florexp fails to relinquish all control over employees to permit
9 them with reasonable opportunities to take meal periods.

10 90. Under California Labor Code section 226.7, if the employer does not provide an
11 employee a meal period in accordance with the above requirements, the employer shall
12 pay the employee one (1) hour of pay at the employee's regular rate of compensation for
13 each workday that the meal period is not provided.

14 91. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to
15 provide thirty (30) minute, uninterrupted meal periods to its Non-Exempt Employees who
16 worked for work periods of more than five (5) consecutive hours. As such, Defendants
17 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES non-exempt employees
18 were required to work over five (5) consecutive hours at a time without being provided a
19 thirty (30) minute uninterrupted meal period within that time.

20 92. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to
21 provide thirty (30) minute, uninterrupted meal periods to its Non-Exempt Employees for
22 every five (5) continuous hours worked.

23 93. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' business
24 model is such that Non-Exempt Employees were assigned too much work and
25 insufficient help due to chronic understaffing to be able to take meal periods. Thus, Non-
26 Exempt Employees are not able to take meal periods.

27 94. Throughout the statutory period, Defendants FLOREXPO AND KENDAL FLORAL
28 SUPPLY and/or DOES had a pattern and practice of assigning too much work to be

completed in too short of time frames, resulting in Plaintiffs and those similarly situated not being able to take meal periods.

95. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES would not permit Plaintiffs and the Class to take 30-minute meal periods unless specifically scheduled by Defendant and/or DOES or unless Plaintiffs and the Class were expressly told to by Defendant and/or DOES. This routinely resulted in Plaintiffs and the Class members not being able to take a meal period, if at all, until after the fifth hour.

96. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES did not have a policy of providing a second meal period before the end of the tenth hour.

97. Failing to provide compensation for such unprovided or improperly provided meal periods, as alleged above, Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES willfully violated the provisions of Labor Code sections 226.7, 512, and IWC Wage Order No. 7.

98. As a result of the unlawful acts of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, Plaintiffs and the Class they seek to represent have been deprived of premium wages, in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs, pursuant to Labor Code section 226.7, and IWC Wage Order No. 7-2001. Plaintiffs and the Class they seek to represent did not willfully waive their right to take meal periods through mutual consent with Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES.

99. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described below.

FOURTH CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL SUPPLY AND/OR DOES: Failure to Authorize and Permit Rest Periods (Lab. Code § 226.7; IWC Wage Order No. 7-2001(12); Cal. Code Regs. Title 8 § 11070)

100. Plaintiffs and those similarly situated Class members hereby incorporate by reference each and every other paragraph in this Complaint herein, as if fully plead.

- 1 101. Under IWC Wage Order No. 7, every employer shall authorize and permit all employees
2 to take rest periods, “[t]he authorized rest period time shall be based on the total hours
3 worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked or
4 major fraction thereof.” IWC Wage Order 7-2001(12). The time spent on rest periods
5 “shall be counted as hours worked for which there shall be no deduction from wages.” *Id.*
- 6 102. Under California Labor Code section 226.7, if the employer does not provide an
7 employee a rest period in accordance with the above requirements, the employer shall
8 pay the employee one (1) hour of pay at the employee’s regular rate of compensation for
9 each workday that the rest period is not provided.
- 10 103. At all relevant times, Defendant and/or DOES failed to authorize and/or permit rest
11 period time based upon the total hours worked daily at the rate of ten (10) minutes net
12 rest time per four (4) hours or major fraction thereof.
- 13 104. At all relevant times, Defendants FLOREXPO’s AND KENDAL FLORAL SUPPLY’
14 and/or DOES’ policies and practices encourage production over breaks, and Defendants
15 FLOREXPO’s AND KENDAL FLORAL SUPPLY’s and/or DOES’ policies and
16 practices fail to relinquish all control over employees during breaks.
- 17 105. Defendants FLOREXPO’s AND KENDAL FLORAL SUPPLY’s and/or DOES’
18 breached the duty to provide rest periods to employees by imposing a continuous and
19 consistent policy requiring Plaintiffs and similarly situated Class members to walk from
20 their work stations to reach the breakroom and/or exit and to walk back to return to their
21 work stations as part of their rest break. In sum, this time is counted as part of their rest
22 period, even though they remain subject to the control of the employer, thereby denying
23 Plaintiffs and similarly situated Class members of the right to be completely free from
24 employer control under California law.
- 25 106. In the alternative, Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
26 DOES business model was such that Non-Exempt Employees were assigned too much
27 work with insufficient help due to chronic understaffing whereby Plaintiffs and the Class
28

1 had to work through their rest periods.

2 107. Throughout the statutory period, Defendants FLOREXPO AND KENDAL FLORAL
3 SUPPLY and/or DOES had a pattern and practice of assigning too much work to be
4 completed in too short of time frames, resulting in Plaintiffs and those similarly situated
5 not being able to take rest periods.

6 108. As a result of the unlawful acts of Defendants FLOREXPO AND KENDAL FLORAL
7 SUPPLY and/or DOES, Plaintiffs and the Class they seek to represent have been
8 deprived of premium wages, in amounts to be determined at trial, and are entitled to
9 recovery of such amounts, plus interest and penalties thereon, attorneys' fees and costs,
10 pursuant to Labor Code section 226.7, and IWC Wage Order No. 7-2001.

11 109. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
12 below.

13 **FIFTH CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL SUPPLY**
14 **AND/OR DOES: Knowing and Intentional Failure to Comply with Itemized Employee**
15 **Wage Statement Provisions (Lab. Code §§ 226, 1174, 1175; IWC Wage Order No. 7; Cal.**
16 **Code Regs., Title 8, § 11070)**

17 110. Plaintiffs and those similarly situated Class members hereby incorporate by reference
18 each and every other paragraph in this Complaint herein as if fully plead.

19 111. Labor Code section 226 subdivision (a) requires Defendant and/or DOES to, inter alia,
20 itemize in wage statements and accurately report the total hours worked and total wages
21 earned. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have
22 knowingly and intentionally failed to comply with Labor Code section 226, subdivision
23 (a), on each and every wage statement provided to Plaintiffs and members of the
24 proposed Class.

25 112. Labor Code section 1174 requires Defendants FLOREXPO AND KENDAL FLORAL
26 SUPPLY and/or DOES to maintain and preserve, in a centralized location, records
27 showing the daily hours worked by and the wages paid to its employees. Defendants
28

1 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have knowingly and
2 intentionally failed to comply with Labor Code section 1174. The failure of Defendants
3 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, and each of them, to
4 comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

5 113. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to
6 maintain accurate time records - as required by IWC Wage Order No. 7, and Cal. Code
7 Regs., Title 8 section 11070 - showing, among other things, when the employee begins
8 and ends each work period, the total daily hours worked in itemized wage statements,
9 total wages, bonuses and/or incentives earned, and all deductions made.

10 114. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES have
11 knowingly and intentionally failed to provide Plaintiffs and the Class members with
12 accurate itemized wage statements which show: “(1) gross wages earned, (2) total hours
13 worked by the employee, . . . (4) all deductions, provided that all deductions made on
14 written orders of the employee may be aggregated and shown as one item, (5) net wages
15 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name
16 of the employee and only the last four digits of his or her social security number or an
17 employee identification number other than a social security number, (8) the name and
18 address of the legal entity that is the employer and, if the employer is a farm labor
19 contractor, as defined in subdivision (b) of Section 1682, the name and address of the
20 legal entity that secured the services of the employer, and (9) all applicable hourly rates
21 in effect during the pay period and the corresponding number of hours worked at each
22 hourly rate by the employee[.]” Labor Code section 226(a).

23 115. In every pay period during the period of the relevant statute of limitations, Kendal and
24 Florexpo knowingly and intentionally did not include the name of the legal entity that is
25 the employer thereby failing to furnish accurate itemized statements. *See, e.g.*, Cal. Lab.
26 Code 226(a)(8). Plaintiffs and Class and subclass members could not promptly and
27 easily determine the employer’s name from the wage statements alone. Multiple, separate
28

1 entities share the same initial words "Kendal Floral Supply" as well as the same address,
2 rendering the employer's name confusing and unintelligible.

3 116. As a direct result of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
4 DOES unlawful acts, Plaintiffs and the Class they intend to represent have been damaged
5 and are entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and
6 costs, pursuant to Labor Code section 226.

7 117. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
8 below.

9 **SIXTH CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL SUPPLY**

10 **AND/OR DOES: Failure to Pay All Wages Due at the Time of Termination from**
11 **Employment (Cal. Lab. Code §§ 201-203)**

12 118. Plaintiffs and those similarly situated Class members hereby incorporate by reference
13 each and every other paragraph in this Complaint herein as if fully plead.

14 119. Plaintiffs terminated their employment with Defendants FLOREXPO AND KENDAL
15 FLORAL SUPPLY and/or DOES.

16 120. Whether Plaintiffs voluntarily or involuntarily terminated their employment with
17 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, Defendant
18 and/or DOES did not timely pay their straight time wages owed at the time of their
19 termination.

20 121. Whether Plaintiffs voluntarily or involuntarily terminated their employment with
21 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, Defendant
22 and/or DOES did not timely pay their overtime and/or doubletime wages owed at the
23 time of their termination.

24 122. Whether Plaintiffs voluntarily or involuntarily terminated their employment with
25 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, Defendant
26 and/or DOES did not timely pay their meal and/or rest period premiums owed at the time
27 of their termination.
28

1 123. Numerous members of the Class are no longer employed by Defendants FLOREXPO
2 AND KENDAL FLORAL SUPPLY and/or DOES. They were either fired or quit
3 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's and/or DOES' employ.
4 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES did not pay
5 all timely wages owed at the time of their termination. Defendants FLOREXPO AND
6 KENDAL FLORAL SUPPLY and/or DOES did not pay all premium wages owed at the
7 time of their termination.

8 124. Labor Code section 203 provides that, if an employer willfully fails to pay, without
9 abatement or reduction, in accordance with Labor Code sections 201, 201.5, 202 and
10 205.5, any wages of an employee who is discharged or who quits, the wages of the
11 employee shall continue at the same rate, for up to thirty (30) days from the due date
12 thereof, until paid or until an action therefore is commenced.

13 125. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failed to pay
14 Plaintiffs a sum certain at the time of her termination or within seventy-two (72) hours of
15 their resignation, and have failed to pay those sums for thirty (30) days thereafter.
16 Pursuant to the provisions of Labor Code section 203, Plaintiffs are entitled to a penalty
17 in the amount of their daily wage, multiplied by thirty (30) days.

18 126. When Plaintiffs and those members of the Class who are former employees of
19 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES separated
20 from Defendants' and/or DOES' employ, Defendants and/or DOES willfully failed to pay
21 all straight time wages, overtime wages, meal period premiums, and/or rest period
22 premiums owed at the time of termination.

23 127. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failure to
24 pay said wages to Plaintiffs and members of the Class they seek to represent, was willful
25 in that Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES and
26 each of them knew the wages to be due, but failed to pay them.

27 128. As a consequence of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY's
28

1 and/or DOES' willful conduct in not paying wages owed at the time of separation from
2 employment, Plaintiffs and members of the proposed Class are entitled to thirty (30)
3 days' worth of wages as a penalty under Labor Code section 203, together with interest
4 thereon and attorneys' fees and costs.

5 129. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
6 below.

7 **SEVENTH CAUSE OF ACTION AGAINST FLOREXPO AND KENDAL FLORAL**
8 **SUPPLY AND/OR DOES: Violation of Unfair Competition Law (Cal. Bus. & Prof. Code, §**
9 **17200 et seq.)**

10 130. Plaintiffs and those similarly situated Class members hereby incorporate by reference
11 each and every other paragraph in this Complaint herein as if fully plead.

12 131. Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES failure to
13 pay all straight time and overtime wages earned, failure to provide compliant meal and/or
14 rest breaks and/or compensation in lieu thereof, failure to itemize and keep accurate
15 records, failure to pay all wages due at time of termination, as alleged herein, constitutes
16 unlawful activity prohibited by California Business and Professions Code section 17200,
17 et seq.

18 132. The actions of Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or
19 DOES in failing to pay Plaintiffs and members of the proposed Class in a lawful manner,
20 as alleged herein, constitutes false, unfair, fraudulent and deceptive business practices,
21 within the meaning of California Business and Professions Code section 17200, et seq.

22 133. Plaintiffs are entitled to an injunction and other equitable relief against such unlawful
23 practices in order to prevent future damage, for which there is no adequate remedy at law,
24 and to avoid a multiplicity of lawsuits. Plaintiffs bring this cause individually and as
25 members of the general public actually harmed and as a representative of all others
26 subject to Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
27 unlawful acts and practices.
28

1 134. As a result of their unlawful acts, Defendants FLOREXPO AND KENDAL FLORAL
2 SUPPLY and/or DOES have reaped and continue to reap unfair benefits at the expense of
3 Plaintiffs and the proposed Class they seek to represent. Defendants FLOREXPO AND
4 KENDAL FLORAL SUPPLY and/or DOES should be enjoined from this activity and
5 made to disgorge these ill-gotten gains and restore Plaintiffs and the members of the
6 proposed Class pursuant to Business and Professions Code section 17203. Plaintiffs are
7 informed and believe, and thereon alleges, that Defendants and/or DOES are unjustly
8 enriched through their policy of not all wages owed to Plaintiffs and members of the
9 proposed Class.

10 135. Plaintiffs are informed and believe, and thereon alleges, that Plaintiffs and members of
11 the proposed class are prejudiced Defendants FLOREXPO AND KENDAL FLORAL
12 SUPPLY and/or DOES unfair trade practices.

13 136. As a direct and proximate result of the unfair business practices of Defendants
14 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES, and each of them,
15 Plaintiffs, as individuals and on behalf of all employees similarly situated, are entitled to
16 equitable and injunctive relief, including full restitution and/or disgorgement of all wages
17 and premium pay which have been unlawfully withheld from Plaintiffs and members of
18 the proposed Class as a result of the business acts and practices described herein and
19 enjoining Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
20 from engaging in the practices described herein.

21 137. The illegal conduct alleged herein is continuing, and there is no indication that
22 Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES will cease
23 and desist from such activity in the future. Plaintiffs allege that if Defendants
24 FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES are not enjoined from
25 the conduct set forth in this Complaint, they will continue the unlawful activity discussed
26 herein.

27 138. Plaintiffs further requests that the Court issue a preliminary and permanent injunction
28

1 prohibiting Defendants FLOREXPO AND KENDAL FLORAL SUPPLY and/or DOES
2 from continuing to not pay Plaintiffs and the members of the proposed Class overtime
3 wages as discussed herein.

4 139. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described
5 below.

6 **V. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for judgment as follows:

- 8 1. That the Court determine that this action may be maintained as a class action;
- 9 2. For compensatory damages, in an amount according to proof at trial, with interest
10 thereon;
- 11 3. For economic and/or special damages in an amount according to proof with
12 interest thereon;
- 13 4. For unpaid straight time and overtime wages, in an amount according to proof at
14 trial, with interest thereon;
- 15 5. For compensation for all time worked;
- 16 6. For compensation for not being provided paid rest breaks;
- 17 7. For compensation for not being provided paid meal periods;
- 18 8. For damages and/or monies owed for failure to comply with itemized employee
19 wage statement provisions;
- 20 9. For all waiting time penalties owed;
- 21 10. That Defendant be found to have engaged in unfair competition in violation of
22 sections 17200 et seq. of the California Business and Professions Code;
- 23 11. That Defendant be ordered and enjoined to make restitution to the Class due to
24 their unfair competition, including disgorgement of their wrongfully withheld
25 wages pursuant to California Business and Professions Code sections 17203 and
26 17204;
- 27 12. That an order of specific performance of all penalties owed be issued under
28

Business and Professions Code sections 17202;

13. That Defendant be enjoined from continuing the illegal course of conduct, alleged herein;

14. That Defendant further be enjoined to cease and desist from unfair competition in violation of section 17200 et seq. of the California Business and Professions Code;

15. That Defendant be enjoined from further acts of restraint of trade or unfair competition;

16. For attorneys' fees;

17. For liquidated damages;

18. For interest accrued to date;

19. For costs of suit and expenses incurred herein; and

20. For any such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial.

Dated: November 22, 2022

MARA LAW FIRM, PC



David Mara, Esq.

Matthew Crawford, Esq.

Representing Plaintiffs ALICIA JUAREZ and
KARLA MARTINEZ FLORES on behalf of
themselves, all others similarly situated, and on
behalf of the general public