

PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff JUAN LOPEZ (collectively, “Plaintiff”), individually, and on behalf of all other aggrieved employees (the “Aggrieved Employees,” as described below), and as a private attorney general on behalf of the State of California pursuant to Labor Code section 2699, *et seq.*, the Private Attorneys General Act (“PAGA”) on the one hand, and Defendant RGGD, INC. dba CRYSTAL ART GALLERY (“Defendant”), on the other hand. Plaintiff and Defendant are collectively referred to herein as “the Parties.”

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

WHEREAS, on November 12, 2020 Plaintiff JUAN LOPEZ filed the operative complaint (“Complaint”) in the Superior Court of California, Los Angeles entitled *Lopez v. RGGD, Inc., et al.*, Los Angeles Superior Court Case No. 20STCV43367 (the “Lawsuit”).

WHEREAS, Plaintiff timely sent notice to the LWDA of his intent to pursue a representative action pursuant to PAGA, on behalf of himself, the State of California, as well as on behalf of a group of Aggrieved Employees (“PAGA Notice”). The applicable PAGA Notice was submitted to the LWDA on July 14, 2020 and is attached hereto as **Exhibit A**.

WHEREAS, in the Complaint, Plaintiff originally plead nine separate wage and hour causes of action alleged as a putative class action and PAGA representative action. Based on informal discovery produced by Defendant that included a purportedly binding arbitration agreement signed by Plaintiff, Plaintiff requested that his first through eight causes of action and class action allegations be dismissed without prejudice. The Court dismissed the same, without prejudice, at the Parties’ initial status conference. *See*, Minute Order dated May 19, 2021. Thus, Plaintiff ninth cause of action seeking representative relief under PAGA, Labor Code §§ 2698, *et seq.* remains pending in the operative Complaint.

WHEREAS, Plaintiff’s PAGA representative cause of action for civil penalties payable to himself, other Aggrieved Employees, and the State of California is based on allegations that Defendant: (1) failed to pay minimum wages for all hours worked; (2) failed to pay overtime compensation; (3) failed to provide meal periods; (4) failed to authorize and permit rest breaks; (5) failed to timely pay wages during employment and upon termination; and (6) failed to maintain and furnish accurate itemized wage statements. Specifically, the alleged Representative PAGA Claims are for civil penalties under PAGA for violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, as well as the applicable provisions of the Industrial Welfare Commission Wage Order No. 1-2001 and any other PAGA violations that were asserted or could have been asserted in the Lawsuit based on the facts alleged in the Lawsuit and the PAGA Notice, including all PAGA claims stated expressly or by implication in the PAGA Notice filed with the LWDA (all of the foregoing is collectively referred to as Plaintiff’s “Representative PAGA Claims”). With the exception of Plaintiff, this Agreement shall not impact Aggrieved Employees’ ability to assert claims other than PAGA claims arising from the alleged foregoing violations of the Labor Code.

WHEREAS, on November 04, 2021, the Parties attended an all-day mediation with experienced wage-and-hour mediator Jill R. Sperber, Esq. As a result, the Parties agreed to settle Plaintiff's Representative PAGA and individual claims, taking into account all known facts and circumstances including the difficulty of proving some of Plaintiff's claims, potential defenses asserted by Defendant, the uncertainty associated with litigation, the risks of significant delay, and numerous potential appellate issues.

WHEREAS, for purposes of this Settlement, the Aggrieved Employees are defined as: *"Current and former hourly-paid or non-exempt employees who worked for RGGD, Inc. dba Crystal Art Gallery, and/or its predecessor or merged entities, within the State of California from September 09, 2019 to the present."* Defendant represents that there are approximately 162 Aggrieved Employees (107 current and 55 former) as of the mediation date of November 04, 2021.

WHEREAS, for purposes of this Settlement, PAGA Period is defined as the period from September 09, 2019 through the date of the order approving the Settlement.

WHEREAS, the Parties understand, acknowledge, and agree that this PAGA settlement constitutes a compromise of Plaintiff's Representative PAGA Claims, and individual claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Representative PAGA Claims that Plaintiff and the Aggrieved Employees have against Defendant and Defendant's subsidiaries, parents, affiliates, predecessors, servants, agents, directors, officers, employees, including but not limited to representatives, insurers, and attorneys of Defendant (and the servants, agents, directors, officers, employees, representatives, insurance carriers and attorneys of any subsidiaries, parents or affiliates), and all authorized persons acting by, through, and on the behalf of Defendant, and their respective heirs, successors, and assigns ("Releasees").

WHEREAS, The Parties further acknowledge that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission by Defendant or the Releasees of any wrongdoing or liability. Specifically, Defendant and the Releasees deny any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuits and the PAGA Notice. Defendant and the Releasees, among other things, contend that they have complied at all times with the California Labor Code and all applicable California laws.

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

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

WHEREAS, based on their own independent investigations and evaluations, Defendant and Plaintiff and their respective counsel are of the opinion that the amount and terms of the Settlement are fair, reasonable, and adequate and are in the best interests of the Plaintiff, the Aggrieved Employees, and Defendant in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, counsel for Plaintiff and the Aggrieved Employees, CounselOne, PC ("PAGA Counsel"), believe that the settlement

amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation.

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

WHEREAS, the Parties recognize that in accordance with Labor Code section 2699(I), Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. *See also, Mendoza v. Nordstrom, Inc.*, 2 Cal. 5th 1074 (2017) (“PAGA authorizes a representative action without the need for class certification”); *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117, 1123 (9th Cir. 2014) (“a PAGA suit is fundamentally different than a class action” in that PAGA has no notice requirements for unnamed aggrieved employees, nor may such employees opt out of a PAGA action); *Williams v. Sup. Ct.*, 3 Cal. 5th 531, 546-47 (2017) (“PAGA does not make other potentially aggrieved employees parties or clients of plaintiff’s counsel, does not impose on a plaintiff or counsel any express fiduciary obligations, and does not subject a plaintiff or counsel to scrutiny with respect to the ability to represent a large class”).

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

1. **Effective Date.** The effective date (“Effective Date”) of this Agreement shall mean the date the Court approves the Settlement.

2. **PAGA Released Claims.** The Aggrieved Employees (including Plaintiff) and the LWDA shall, for the PAGA Period, fully release and forever discharge Defendant, including but not limited to all subsidiaries, parents, affiliates, predecessors, servants, agents, directors, officers, employees, including but not limited to representatives, insurers, and attorneys of Defendant (and the servants, agents, directors, officers, employees, representatives, insurance carriers and attorneys of any subsidiaries, parents or affiliates), and all authorized persons acting by, through, and on the behalf of Defendant, and their respective heirs, successors, and assigns (again, “Releasees”), from any and all claims for PAGA penalties asserted in the Lawsuit or any other claims, under PAGA, that could have been asserted in the Lawsuit based on the facts alleged in the Lawsuit (“PAGA Released Claims”).

3. **Plaintiff’s Individual Release of Claims.** Plaintiff in his capacity as a private attorney general or “aggrieved employee” acting on behalf of himself and on behalf of Aggrieved Employees, and in consideration of the PAGA Representative incentive award for an individual general release, hereby releases Defendant including but not limited to all subsidiaries, parents, affiliates, predecessors, servants, agents, directors, officers, employees, including but not limited to representatives, insurers, and attorneys of Defendant (and the

servants, agents, directors, officers, employees, representatives, insurance carriers and attorneys of any subsidiaries, parents or affiliates), and all authorized persons acting by, through, and on the behalf of Defendant, and their respective heirs, successors, and assigns (again, "Releasees") from any and all of the PAGA Released Claims that arose during the PAGA Period. Plaintiff further agrees to release, in addition to the PAGA Released Claims, all claims, whether known or unknown, against Defendant and Releasees. Such general release means Plaintiff's irrevocable and unconditional release, acquittal, and discharge of Defendant and Releasees from any and all existing claims, rights, demands, actions, obligations, and causes of action of any and every kind, nature and character, known or unknown, which Plaintiff may now have, or has ever had, against them arising from, or in any way connected with, the relationship between the parties, any actions during the relationship, or the termination thereof. This Release is a general release of all claims, demands, causes of action, obligations, damages, and liabilities of any nature whatsoever that are described in the Release. This shall not affect any of Plaintiff's workers' compensation claims, unemployment benefits, and/or any other claims which cannot be released by law and thus are not released by this Agreement. With respect to claims released in this Section, Plaintiff expressly waives the benefits of California Civil Code section 1542. Civil Code section 1542 provides:

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

Notwithstanding the provisions of section 1542, and for the purpose of implementing a complete release and discharge of the claims in the General Release, Plaintiff expressly acknowledges that this Agreement is intended to include in its effect all claims he does not know of or suspect to exist in their favor at the time of execution hereof and that this Agreement contemplates the extinguishment of all such claims.

4. **PAGA Representative Incentive Award.** Subject to the court approval, and in exchange for a general release and services provided by Plaintiff Juan Lopez as a PAGA Representative, Defendant will not object to Plaintiff's counsel's application for an additional payment of up to \$6,500 to Plaintiff for: (1) the resolution of Plaintiff's individual claims and a general release of all known and unknown claims by Plaintiff, including a Section 1542 waiver and (2) service as a PAGA representative ("Incentive Award").

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

6. **Gross PAGA Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, a non-reversionary total maximum sum of \$315,000 (the "Gross PAGA Settlement Amount") in full settlement of the PAGA Claims, the above-referenced Lawsuit, and Plaintiff's individual claims. The Gross PAGA Settlement Amount will be allocated as follows:

- a. PAGA Counsel's attorneys' fees request of up to 35% of the Gross PAGA Settlement Amount (\$110,250) and PAGA Counsel's separate request for reasonable litigation costs incurred in this matter not to exceed \$15,000 (together, "PAGA Counsel's Fees And Costs"). Defendant will not oppose these requests. To the extent that the Court approves less than the amount of attorney's fees and costs that PAGA Counsel requests, any reduced amount shall revert to the Net PAGA Settlement Amount (defined *infra*);
- b. Administration costs estimated not to exceed \$20,000 to be paid to a mutually agreed upon Settlement Administrator ("Administration Costs");
- c. In exchange for Plaintiff's individual and general release of all claims defined in Paragraph 3 of this Agreement (General Release), and in addition to his individual PAGA settlement allocation as an Aggrieved Employee, \$6,500 will be paid to Plaintiff as an Incentive Award ("Incentive Award") for his efforts in bringing and prosecuting the Lawsuit and for general release of all potential claims against Defendant as defined in Paragraph 3. To the extent that the Court approves less than the amount of the Incentive Award to Plaintiff, any reduced amount shall revert to the Net PAGA Settlement Amount (defined *infra*);
- d. The remainder of the Gross PAGA Settlement Amount after deducting items (a), (b), and (c) shall be referred to as the Net PAGA Settlement Amount ("NPSA") and is approximately \$163,250. The NPSA shall be allocated for payment, pursuant to Labor Code section 2699(i), as follows:
 - e.
 - (i) 25% of the NPSA shall be distributed to the Aggrieved Employees based on their pay periods during the PAGA Period ("Aggrieved Employees' PAGA Portion"); and
 - (ii) 75% of the NPSA shall be distributed to the LWDA (the "LWDA PAGA Portion").

7. Allocation and Calculation of the PAGA Penalties. Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. Defendant will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the PAGA Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. Within 10 calendar days of the Effective Date, Defendant will then provide this data to the Settlement Administrator who shall determine each individual payment to the Aggrieved Employees as set forth in Paragraph 11.

8. No Right to Exclusion or Objection by Aggrieved Employees. Because this settlement involves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the parties agree that no Aggrieved Employee has the right to exclude himself or herself from the settlement. Aggrieved Employees will be bound by the terms of the Settlement Agreement, upon its approval by the Court regardless of whether he or she cashes any payment received as a result of this settlement. The Parties also agree that no Aggrieved Employee has the right to

object to the terms of the Settlement Agreement.

9. Tax Treatment of Settlement Amounts. With regard to settlement payments to Aggrieved Employees, IRS Form 1099s will be issued by the Settlement Administrator, if applicable. IRS Form 1099s are used for payments of miscellaneous income that is not considered wages, such as the penalty payments at issue in this Settlement. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Defendant, their counsel and Plaintiff's and the Aggrieved Employees' counsel are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of the portion allocated to PAGA Counsel's Fees And Costs will be reflected in a Form 1099 to PAGA Counsel, who shall assume full responsibility and liability for the payment of taxes due on such payments. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

10. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

11. PAGA Settlement Payment Procedures.

- a. Within 20 calendar days of the Effective Date, Defendant shall deposit the Gross Settlement Amount or \$315,000.00 with the Settlement Administrator. Within 10 calendar days of the Effective Date, Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, social security number, the

actual number of pay periods worked by him or her during the PAGA Period to the extent available from Defendant's records. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service NCOA database to obtain current address information. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement. Within 10 calendar days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

- b. Within 10 calendar days from the date the Gross Settlement Amount has been deposited with the Settlement Administrator, the Settlement Administrator shall:
 - i. Distribute a total of Twenty-Five percent (25%) of the PAGA Fund to the Aggrieved Employees, along with a Court-approved Notice of PAGA Representative Action Settlement. Aggrieved Employees shall not be required to make claims to receive their share of the PAGA settlement. The payment checks shall be sent to each Aggrieved Employee by U.S. First Class mail to the Aggrieved Employee's last known mailing address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. It will be conclusively presumed that an Aggrieved Employee's individual settlement payment check was received if the payment check has not been returned within thirty (30) days of the original mailing. All uncashed settlement checks shall be sent to the California State Controller's Unclaimed Property division.
 - ii. Distribute a total of Seventy-Five percent (75%) of the PAGA Fund to the LWDA.
 - iii. Distribute PAGA Counsel's Fees And Costs, as approved by the Court.
 - iv. Distribute Incentive Award to Plaintiff, as approved by the Court.
 - v. Distribute payment to itself for services as Settlement Administrator, as approved by the Court.
- c. Settlement Checks issued to Aggrieved Employees pursuant to this Agreement will expire one hundred and eighty (180) days from the date they are mailed by the Settlement Administrator. All money represented by uncashed settlement checks shall be sent to the California State Controller's Unclaimed Property division in

the name of the individual(s) who did not negotiate a settlement check during the negotiation period.

- d. The Parties and their counsel shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

12. Settlement Administrator. The Settlement Administrator shall be responsible for sending notices, calculating settlement payments, preparing all checks and mailings, and complying with all requirements set forth herein. As noted above, the costs of the Settlement Administrator shall be paid out of the Gross Settlement Amount, and the Parties agree to use CPT Group, Inc., as the Settlement Administrator.

13. Duties of the Parties Related to Approval. Promptly upon execution of this Agreement, Plaintiff Juan Lopez shall file his motion for approval of the proposed Settlement and for the entry of an order approving this Settlement as required by Labor Code section 2699(1). The approval motion will request Court approval of the following: (1) the terms of this Agreement, (2) PAGA Counsel's Fees And Costs, (3) payment of an Incentive Award to Plaintiff; (4) payments to Aggrieved Employees and the LWDA, (5) payment to the Settlement Administrator, and (6) Final Judgment. In conjunction with the approval motion, Plaintiff shall submit a proposed Final Judgment to the Court.

14. Confidentiality. The Parties agree that this Settlement is confidential and that no Party will issue any press release nor other public or non-public representation regarding the settlement other than as necessary to obtain Court approval and effectuate the terms of this Agreement. Plaintiff and PAGA Counsel agree that they have not and will not publish the Settlement. In response to any inquiries, Plaintiff will state that "the case was resolved and it was resolved confidentially." PAGA Counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the Aggrieved Employees on their website, and shall not contact any reporters or media regarding the Settlement or its contents. However, Plaintiff's attorneys are authorized to make a limited disclosure to the Court and the LWDA for purposes of obtaining the approval of the settlement. This disclosure is limited to court filings and Plaintiff nor his counsel or representatives are permitted to disseminate or publish, distribute or discuss the information provided to the Court in those filings outside the filings themselves and any hearing held on those filings, unless ordered otherwise by the Courts.

15. Interim Stay of Proceedings. The Parties agree to refrain from further litigation of this matter, except such proceedings necessary to implement and obtain Final Judgment.

16. Invalid without Court Approval. In the event this Agreement is not approved by the Court, it shall be deemed null and void, of no force and effect, and of no probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not be used or referred to for any purpose whatsoever. In the event that the Agreement does not become final for any reason, this Agreement shall be null and void and any order entered by the Court in furtherance thereof shall be treated as void ab initio. In such a case, the Parties shall return to the

status quo as if they had not entered into this Agreement. The Settlement Administrator will be paid by Defendant for its costs through the date it is notified that the Settlement will not proceed.

17. **Non-Admission of Wrongdoing.** The Parties agree that this Agreement does not constitute an admission by Defendant or any Releasee, of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiff, Defendant or the Releasees.

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

19. **Enforcement.** The Parties agree that following entry of the Final Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Lawsuit over all parties and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

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

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

23. **Choice of Law.** This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder

shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

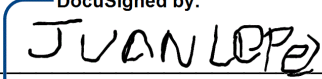
24. Counterparts. This Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

25. Cooperation. Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

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

27. Timing of Funding of Settlement. Subject to Court approval, Defendant shall have 20 calendar days from the Effective Date to fund the Settlement.

Dated: 8/29/2022, 2022

DocuSigned by:

 Plaintiff Juan Lopez

Dated: _____, 2022

Defendant RGGD, Inc. dba Crystal Art Gallery

By: _____

Its: _____

APPROVED AS TO FORM AND CONTENT:

Dated: _____, 2022

COUNSELONE, PC

 Jennifer L. Connor
 Anthony J. Orshansky
 Attorneys for Plaintiff Juan Lopez

shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

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

25. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Agreement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Agreement.

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

27. **Timing of Funding of Settlement.** Subject to Court approval, Defendant shall have 20 calendar days from the Effective Date to fund the Settlement.

Dated: _____, 2022

Plaintiff Juan Lopez

Dated: August 28, 2022

Defendant RGGD, Inc. dba Crystal Art Gallery

By: _____

Its: _____

James B. Eber
Vice President & CFO

APPROVED AS TO FORM AND CONTENT:

Dated: 8/26, 2022

COUNSELONE, PC

Jennifer L. Connor
Jennifer L. Connor
Anthony J. Orshansky
Attorneys for Plaintiff Juan Lopez

Dated: September 6, 2022

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, PC**

A handwritten signature in blue ink, appearing to read 'Lyne Richardson', is positioned above a horizontal line.

**Lyne Richardson
Attorneys for Defendant RGGD, Inc. dba
Crystal Art Gallery**

EXHIBIT A



Anthony J. Orshansky
anthony@counselonegroup.com

310.277.9945 Tel
424.277.3727 Fax

July 14, 2020

FILED VIA LWDA'S PAGA CLAIM NOTICE ONLINE FORM
COPY SENT VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

Dept. of Industrial Relations
Accounting Unit
455 Golden Gate Avenue,
10th Floor
San Francisco, CA 94102

RGGD, Inc.
dba Crystal Art Gallery
c/o: James B. Ehren, VP, CFO
125 Channel Pointe Mall
Marina Del Rey, CA 90292

RGGD, Inc.
dba Crystal Art Gallery
c/o: Human Resources Director
4950 S. Santa Fe Avenue
Vernon, CA 90058

Re: Juan Lopez v. RGGD, Inc. d/b/a Crystal Art Gallery
California Labor Code § 2699 Notice of Intent to File Suit

Dear Sir or Madam:

Please be advised that this firm has been retained to represent Juan Lopez ("Mr. Lopez" or "Plaintiff"), individually and on behalf of other similarly-situated employees working in California, in connection with wage-and-hour claims against RGGD, Inc. doing business as Crystal Art Gallery, and related entities (collectively, "Crystal Art Gallery" or "Defendant"). Plaintiff Lopez is a non-exempt, hourly-paid former employee of Crystal Art Gallery in California. Along with a four-year statutory class action, Plaintiff wishes to bring a Private Attorneys General Act of 2004 ("PAGA") representative action on behalf of himself and the State of California, as well as on behalf of the following group of aggrieved employees:

All current and former hourly-paid or non-exempt employees who worked for RGGD, Inc. doing business as Crystal Art Gallery, and/or its predecessor or merged entities, within the State of California from one year prior to the date of this letter and ongoing ("Aggrieved Employees").

Nothing set forth herein is intended to waive any rights, claims, or causes of action on the part of Plaintiff and Aggrieved Employees. The purpose of this letter is to comply with PAGA's pre-filing notice to the California Labor & Workforce Development Agency ("LWDA") and Defendant.

I. INTRODUCTION

Plaintiff and Aggrieved Employees have the following causes of action against Crystal Art Gallery: (1) failure to pay all overtime wages owed under Labor Code sections 510, 1194, 1198, 1199,

and applicable IWC Wage Order(s)¹; (2) meal break liability under Labor Code sections 226.7, 512, and applicable IWC Wage Order(s); (3) rest break liability under Labor Code section 226.7 and applicable IWC Wage Order(s); (4) failure to pay minimum wages for all hours worked under Labor Code sections 1194, 1194.2, 1197, and 1197.1; (5) waiting time penalties under Labor Code sections 201-203; (6) untimely paid wages under Labor Code section 204; (7) inaccurate wage statements under Labor Code section 226; (8) failure to keep requisite payroll records section 1174; (9) unfair competition in violation of Business and Professions Code section 17200, *et seq.*; and (10) penalties pursuant to the PAGA under Labor Code section 2698 *et seq.*

II. FACTUAL BACKGROUND

Plaintiff and Aggrieved Employees were employed by Crystal Art Gallery. Founded over thirty years ago and headquartered in Vernon, California, Defendant RGGD, Inc. doing business as Crystal Art Gallery, designs home improvement products such as framed art, photo frames, mirrors, and other decorative products serving customers in the United States.² Plaintiff was a long-standing employee who worked for Crystal Art Gallery as a non-exempt, hourly-paid shipping agent from approximately November 2007 through March 2020 in Vernon, California.

During the relevant period, Crystal Art Gallery failed to provide timely, uninterrupted, and/or otherwise compliant meal periods and rest breaks. By way of example, on numerous occasions during his tenure, first meal breaks were not timely provided in that Plaintiff would work over five hours without receiving a meal break. Aggrieved Employees likewise suffered late, short, interrupted, and/or missed meal breaks. Also, despite working shifts that exceeded ten hours, Plaintiff and Aggrieved Employees were consistently deprived of second meal breaks altogether. Plaintiff and Aggrieved Employees also suffered missed rest breaks due to Crystal Art Gallery's work demands and inadequate staffing. Furthermore, Crystal Art Gallery failed to authorize and permit any compliant rest breaks by requiring Plaintiff and Aggrieved Employees to remain ***on premises*** for their rest breaks. Crystal Art Gallery's requirement that rest breaks be taken on-premises violates California law, and yet, it did not compensate Plaintiff and Aggrieved Employees with the requisite premium for non-compliant rest breaks. Defendant knew or should have known that its employees were unable to take legally required meal periods and rest breaks due to the exigencies of the job, and without receiving premium payments for non-compliant breaks in violation of Labor Code sections 226.7, 512, and applicable IWC Wage Order(s).

Finally, these underlying facts give rise to other derivative Labor Code violations, including but not limited to claims for unpaid minimum wages attributable to work performed during non-compliant meal breaks, overtime wages when those off-the-clock violations caused the work schedule to exceed eight (8) hours per day and/or forty (40) hours per week, inaccurate wage statements, unpaid wages upon separation from employment, equitable remedies pursuant to the unfair competition laws, along with severe civil penalties accorded by PAGA. Based on the above described misconduct, Plaintiff is confident that the fact-finder will determine that these practices were willful, repeated, and that it is

¹ Upon information and belief, Plaintiff alleges that IWC Wage Order No. 1-2001 is applicable. However, Plaintiff reserves the right to amend and/or allege any other applicable IWC Wage Orders determined to be relevant after discovery.

² <https://crystalartgallery.com/page/about-us>.

likely that the higher PAGA penalty will be awarded based on a repeated pattern of the same violations taking place over time.

III. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PROVIDED WITH TIMELY MEAL PERIODS THAT WERE UNINTERRUPTED AND DUTY-FREE

Crystal Art Gallery denied Plaintiff and Aggrieved Employees meal periods that comply with Labor Code sections 226.7, 512, and Wage Order No. 1-2001. Labor Code section 226.7 provides “an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”).” Similarly, Labor Code section 512 and IWC Wage Order No. 1-2001 require employers to provide employees with thirty (30) minute uninterrupted and duty-free meal periods within the first five (5) hours of work. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1042 (“Accordingly, first meal periods must start after no more than five hours.”) Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free meal period.

Plaintiff and Aggrieved Employees were not provided timely and duty-free thirty (30) minute meal periods. Plaintiff and Aggrieved Employees often experienced untimely and interrupted meal periods, and sometimes missed meals breaks altogether. Specifically, Plaintiff and Aggrieved Employees did not always receive timely duty-free meal periods in that: first meals would be taken after the fifth hour of work; and/or that meal periods were shorted due to off-the-clock work; and/or that meal periods were interrupted; and/or, on occasions, the demands of employee job duties were such that they were prevented from taking a meal period altogether. Having been subjected to late, short, interrupted, and missed meal periods, Plaintiff and Aggrieved Employees thus did not receive their statutorily-mandated meal periods.

In addition to failing to authorize and permit compliant meal periods, Plaintiff and Aggrieved Employees were not compensated with one (1) hours’ worth of pay at their regular rate of compensation when they were not provided with a compliant meal period in accordance with Labor Code section 226.7(b). IWC Wage Order No. 1-2001 obligates employers to “pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.” Accordingly, for each day that Plaintiff and Aggrieved Employees did not receive compliant meal periods, they are entitled to receive meal period premiums pursuant to Labor Code section 226.7 and Wage Order No. 1-2001. As a result of the foregoing meal break violations, Plaintiff and Aggrieved Employees seek civil penalties under PAGA.

IV. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PAID FOR ALL MINIMUM AND OVERTIME WAGES OWED.

A. Minimum Wages. Labor Code section 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code section 1194 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum wage.” Section 4 of Wage Order No. 1-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees

worked for which they were not paid. Therefore, an employer's failure to pay for any particular hour of time worked by an employee – include those hours worked off-the-clock due to a missed, interrupted, and/or shorted meal break, *supra* - is unlawful, even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 324.

Labor Code section 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidate damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. As set forth above, Defendant failed to compensate Plaintiff and Aggrieved Employees for all minimum wages owed. Accordingly, through PAGA and to the extent permitted by law Plaintiff and Aggrieved Employees are entitled to recover liquidated damages for violations of Labor Code section 1197.1. Based upon these same factual allegations, Plaintiff and Aggrieved Employees are entitled to penalties under Labor Code section 1199.

B. Overtime Wages. Labor Code section 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee. Further, Labor Code section 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3 of Wage Order No. 1-2001, employees shall not be employed more than eight (8) hours in any workday and/or more than forty (40) hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over forty (40) hours in the workweek.

During the relevant period, Crystal Art Gallery had a consistent policy of failing to pay for all overtime hours worked to Plaintiff and Aggrieved Employees. The work times of Plaintiff and Aggrieved Employees very frequently have been, and continue to be, greater than eight (8) hours per day and/or forty (40) hours per week. Yet, because Defendant owes Plaintiff and Aggrieved Employees the legally required wages for unpaid hours that were worked off-the-clock, as discussed and alleged with respect to missed and interrupted meal periods, *supra*, Plaintiff and Aggrieved Employees were deprived overtime premium amounts attributable to those overtime hours as well. As a result, Plaintiff and Aggrieved Employees were not paid overtime at one and one half times their regular rate of pay. By their common policy of requiring Plaintiff and Aggrieved Employees to work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating them at the rate of one and one-half (1 ½) their regular rate of pay, Defendant willfully violated the provisions of Labor Code sections 510 and 1198, as well as Wage Order No. 1-2001.

V. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PROVIDED WITH TIMELY REST BREAKS THAT WERE UNINTERRUPTED AND DUTY-FREE

Here, Crystal Art Gallery failed to provide Plaintiff and Aggrieved Employees with duty-free rest breaks of not less than ten (10) minutes for every major fraction of four (4) hours worked as required by Labor Code section 226.7 and section 12 of Wage Order 1-2001.

Under IWC Wage Order 1-2001, an employer must authorize and permit all employees to take ten (10) minute duty-free rest periods for every major fraction of four hours worked. Labor Code section 226.7 provides “an employer shall not require any employee to work during a meal or rest recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”). Thus, the Wage Orders set when and for how long the rest period must take place, and the Labor Code establishes that violations of the Wage Order violate California law, and sets forth the premium pay employers must pay their employees when employers fail to provide rest breaks.

Here, Plaintiff and Aggrieved Employees were subject to policies that prevented them from taking **any** legally compliant rest periods. *First*, Crystal Art Gallery did not relieve Plaintiff and Aggrieved Employees of all duties during their rest breaks and regularly required them to be available to continue working – or, in fact, interrupted them – during their rest breaks. Notwithstanding any formal written policy to the contrary, Crystal Art Gallery’s actual custom and business practice was to undermine any formal policy of permitting rest breaks by pressuring employees to perform their duties in a way that omitted breaks, including, but not limited to, scheduling a heavy workload that made taking breaks extremely difficult, maintain an informal anti-rest break policy enforced through ridicule or reprimand, and exerting coercion against the taking of, creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks. Here, as a companywide practice and in fact, Crystal Art Gallery did not offer Plaintiff and Aggrieved Employees the opportunity to receive a compliant off-duty rest period and, thus, “the court may not conclude employees voluntarily chose to skip...breaks.” *Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal. App. 4th 388, 410 (“[i]f an employer fails to provide legally compliant meal or rest breaks, the court may not conclude employees voluntarily chose to skip those breaks.”); *accord Brinker* 53 Cal. 4th at 1033 (“No issue of waiver ever arises for a rest break that was required by law but never authorized; if a break is not authorized, an employee has no opportunity to decline to take it.”)

Second, Plaintiff and Aggrieved Employees were **prohibited from leaving the premises** during their shifts while on the clock. As a result, Defendant retained control over Plaintiff and Aggrieved Employees during their rest periods. *See, Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that “during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”). In *Augustus*, the court expressly rejected the employer’s assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained “that employers [must] relinquish any control over how employees spend their break time, and relieve their employees of all duties.” *Id.* at 273.

Following *Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal. 4th 1004, the Courts of Appeal have confirmed that liability for on-duty breaks arises when an employer adopts a uniform policy that fails to provide off-duty breaks. For example, in *Faulkinbury vs. Boyd & Associates, Inc.*, the California Court

of Appeal applied *Brinker*: “In *Faulkinbury I*, we concluded that even if [defendant]’s on-duty meal break policy was unlawful, [defendant] would be liable only when it actually failed to provide a required off-duty meal break. *Brinker* leads us now to conclude [defendant] would be liable upon a determination that [defendant]’s uniform on-duty meal break policy was unlawful.” *Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal. App. 4th 220. The Court further explained: “the employer’s liability arises by adopting a uniform policy that violates the wage and hour laws. Whether or not the employee was able to take the required break goes to damages...” (Ibid. [citations omitted]; see also *Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal. App. 4th 701, 728.)

In addition to failing to authorize and permit compliant rest breaks, Plaintiff and Aggrieved Employees were not compensated with one (1) hour’s worth of pay at their regular rate of compensation when they were not provided with a compliant rest break in accordance with Labor Code section 226.7(b). Thus, Defendant has violated Labor Code section 226.7 and IWC Wage Order No. 1-2001, and as a result, Plaintiff and Aggrieved Employees seek penalties under PAGA.

VI. ISSUANCE OF INACCURATE WAGE STATEMENTS RESULTS IN LIABILITY

Crystal Art Gallery has also failed to provide accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code section 226(a)(1, 2, 5, and 9). Labor Code section 226 obligates employers, semi-monthly or at the time of each payment, to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer...;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Due to Crystal Art Gallery’s failure to provide Plaintiff and Aggrieved Employees with lawful meal periods and rest breaks (and pay missed meal and rest break premiums thereon), along with the failure to pay associated minimum and overtime wages, the wage statements issued by Crystal Art Gallery, at a minimum, do not indicate the correct amount of gross wages earned, the correct total hours worked, the correct net wages earned, or the applicable and/or correct hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of Labor Code section 226(a)(1), (2), (5), and (9).

As a result of Crystal Art Gallery's violation of Labor Code section 226(a), Plaintiff and Aggrieved Employees suffered injury because, among other things: (a) the violations hindered them from determining the amounts of wages owed; (b) the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them and made exponentially more difficult than if the wage statement contained the required accurate information; and (c) the wage statements inaccurately understated the wages, hours, and wage rates to which they were entitled. As a result of failing to provide accurate itemized wage statements setting forth the information required by Labor Code section 226(a), Defendant has incurred liability that entitles Plaintiff and Aggrieved Employees to damages under Labor Code section 226(e) and/or penalties including those pursuant to Labor Code section 226.3 and the PAGA.

Further, pursuant to California Labor Code section 1174(d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. Crystal Art Gallery has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and Aggrieved Employees. Thus, Plaintiff and Aggrieved Employees have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records showing the hours worked daily by, and the wages paid to, employees at those respective locations pursuant to Labor Code section 1174. Plaintiff and Aggrieved Employees are thus also entitled to recover penalties pursuant to Labor Code section 1174.5.

VII. UNTIMELY PAID WAGES AND WAITING TIME PENALTIES

Labor Code section 203 states that if an employer fails to provide wages at the time of an employee's termination, then the employee's wages must continue as a penalty for up to thirty days. "A proper reading of § 203 mandates a penalty equivalent to the employee's daily wages for each day he or she remained unpaid up to a total of 30 days...Thus, the critical computation required by Section 203 is the calculation of a daily wage rate, which can then be multiplied by the number of days of nonpayment, up to 30 days." DLSE Opinion Letter of January 28, 2003, citing *Mamika v. Barca* (1998) 68 Cal. App. 4th 487, 492.

Crystal Art Gallery did not provide all wages due to Plaintiff and Aggrieved Employees at the time of separation because it did not pay them amounts as alleged above, due and owing at the time of any Aggrieved Employees' termination or within seventy-two (72) hours of his or her resignation and have failed to pay those sums for thirty (30) days thereafter. Thus, waiting-time penalties were triggered and Plaintiff and Aggrieved Employees are entitled to continuing wages as provided by Labor Code section 203.

Further, Labor Code section 204 expressly requires that "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Pursuant to Labor Code section 204(d), these requirements are "deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Due to its failure

to pay Plaintiff and Aggrieved Employees in compliance with the Labor Code as described above, Defendant failed to timely pay Aggrieved Employees within seven (7) days of the close of the payroll period in accordance with Labor Code section 204 on a regular and consistent basis. As a result, Plaintiff and Aggrieved Employees are entitled to penalties pursuant to Labor Code section 210.

VIII. UNFAIR COMPETITION LAW

By violating numerous wage-and-hour laws, Crystal Art Gallery also engaged in unlawful business acts that have deprived Plaintiff and Aggrieved Employees and all interested persons of the rights, benefits, and privileges guaranteed to all employees under law. *See*, Business and Professions Code section 17200, *et seq.* By committing the wage-and-hour violations enumerated above, Crystal Art Gallery has cut the costs of doing business and thus gained an unfair advantage over competitors who followed the law.

IX. CONCLUSION

Pursuant to Labor Code section 2699.3(a), please advise within sixty (60) calendar days of this notice whether the LWDA intends to investigate and/or bring an action itself for the violations alleged above. We understand that if we do not receive a response within sixty-five (65) calendar days of this notice, Plaintiff - individually and on behalf of other similarly-situated Aggrieved Employees - and the State of California may recover penalties pursuant to Labor Code section 2699.

Sincerely,
CounselOne, PC



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