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Attorneys for Plaintiffs Joaquin Santibanez and Jorge Mazariegos

**SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY ORANGE-CIVIL COMPLEX CENTER**

JOAQUIN SANTIBANEZ, and JORGE
MAZARIEGOS, as individuals and on behalf
of other similarly situated employees,

Plaintiff,

vs.

DANCHUK MANUFACTURING, INC., a
California corporation, and DOES 1-50,
inclusive,

Defendants.

Case No.: 30-2020-01155466-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman
Dept. CX 105

**DECLARATION OF ARMOND M.
JACKSON IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing Date: October 22, 2021
Hearing Time: 10:00 a.m.
Department: CX 105

Case filed: August 17, 2020
Trial date: TBD

Res. ID: 73608406

1 1. I am an attorney licensed to practice law before all courts of the State of California. I am
2 an attorney for Jackson Law, A Professional Law Corporation, attorney of record for Plaintiffs
3 Jorge Mazariegos and Joaquin Santibanez (referred to herein as “Plaintiffs”). I have personal
4 knowledge of everything stated below and could and would competently testify thereto if sworn.

5 2. I submit this Declaration in support of Plaintiff’s motion for preliminary approval of class
6 action settlement. A true and correct copy of the fully executed Stipulation for Class Action
7 Settlement is attached to this declaration as Exhibit 1. A true and correct copy of the Class
8 Notice is attached to this declaration as Exhibit 2. A true and correct copy of the Exclusion Form
9 is attached to this declaration as Exhibit 3. A true and correct copy of the Workweek Dispute
10 Form is attached to this declaration as Exhibit 4.

11 3. During the litigation, I interviewed Mr. Mazariegos and Mr. Santibanez and determined
12 they were suitable plaintiffs based upon their experience of being subjected to Defendant’s
13 purported Labor Code violations and their concern to hold the Defendants accountable for any
14 alleged liability for such violations. By initiating this lawsuit against a former employer,
15 Plaintiffs have subjected themselves to reputational risk. Throughout the course of this litigation,
16 Plaintiffs assisted this office in preparing the complaint. Plaintiffs also completed a day of
17 deposition. Plaintiffs also made herself available on an “on call” basis to answer any questions
18 regarding the case and approve any settlement. Plaintiffs also continuously provided my office
19 with updated information concerning the Defendants’ business operations.

20 4. On August 17, 2020, the plaintiff’s filed representative claims alleging violations
21 regarding (1) minimum wages, (2) meal breaks, (3) claim for failure to pay timely wages; (4)
22 unlawfully receive wages; (5) accurate wage statements; (6) wages upon termination; (7) failure
23 to reimburse for necessary business expenses and (8) unlawful business practices. This complaint
24 sought relief on behalf of non-exempt employees.
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1 5. On November 20, 2020, the plaintiff filed an amended complaint adding one claim
2 pursuant to the Private Attorney General Act. On September 14, 2021 Plaintiff filed a Second
3 Amended Complaint to add one claim for rest breaks.

4 6. After the initial complaint was filed, the Parties agreed to engage in informal discovery
5 and participate in mediation with Marc Feder as the class action mediator with a mediation date
6 of May 13, 2021. As part of the agreement to mediate, Defendants agreed to produce 25% of the
7 payroll records.

8 7. On or around April 21, 2021, Defendants produced the 25% payroll data sampling
9 regarding its clock-in and clock-out data and wage statements and its wage and hour policies.
10

11 8. Between April 21, 2021 up until the mediation, my office examined the informal
12 discovery comprised of payroll records and payroll data, clock-in and clock-out data, and wage
13 and hour policies

14 9. As part of this ongoing evaluation, a damages analysis was performed and presented in
15 Plaintiff's mediation brief.

16 10. Before the mediation, I performed legal research into the developing wage and hour laws
17 as it relates to failure to pay upon termination, meal breaks and rest breaks, minimum wages and
18 overtime wages claims. I also performed legal research into the body of law as it relates to class
19 action certification standards.

20 11. With the information provided by Defendant, Plaintiff conducted an evaluation. After
21 performing the evaluation, a mediation brief was sent to the mediator and Defendant in
22 preparation for the upcoming May 13, 2020 mediation.

23 **Evaluation**

24 **Minimum Wage Claims**

25 12. The premise underlying these claims was that class members were either subjected to off-
26 the-clock work or paid vacation benefits. The claim for vacation benefits was unsubstantiated.
27 The remaining off-the-clock claims were evaluated under the premise that each workweek of
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1 14,071 workweeks, a member was paid an average rate of \$17 and working approximately 5
2 minutes each day off-the-clock amounting to 5,862 hours at the average rate of \$17 equating to
3 \$99,654. Given Defendant will claim that there were not aware of this work and had a policy
4 against working off-the-clock, and the potential enforcement of class action waivers, a 75%
5 discount should be applied rendering this claims evaluation to \$19,930.

6 **Meal Break Claims**

7 13. Plaintiff's premise based upon this claim was that class members would either get short,
8 late, interrupted, or no 30-minute meal break at all after the fifth hour in violation of California
9 Labor Code section 226.7. Based upon analyzing work schedules, these claims were estimated to
10 be valued at approximately \$944,867.65. Based upon evaluation, it was determined that there
11 was approximately 55,580 shifts that consisted of violations in which this number was multiplied
12 by the average wage rate of \$17 equating to the \$944,867.65 in damages. Applying risk factors
13 including the uncertainty of class certification and trial, a reasonable range for this claim
14 amounts to \$236,216.91 applying a 75% discount given that arbitration agreements and class
15 action waivers exist and Defendant's written policies.

16 **Rest Break Claims**

17 14. Plaintiff alleged itself, aggrieved employees and class members were not able to take
18 all entitled 10-minute duty-free rest breaks pursuant to California Labor Code sections 226.7.
19 (See Cal. Lab. Code sections 226.7.) For purposes of evaluation, these rest break claims were
20 estimated to be valued at approximately \$944,867.65. Based upon evaluation, it was determined
21 that the same violation rates applied for rest periods as it did for meal periods as rest periods are
22 not recorded and Defendant maintained written policies governing rest periods. Applying risk
23 factors including the uncertainty of class certification and trial, a reasonable range for this claim
24 amounts to \$141,730 applying an 85% discount given rest breaks are not recorded on the time
25 records.

26 **Unpaid Wages Upon Termination Claims**

1 15. Plaintiff alleged itself, aggrieved employees and class members were not compensated all
2 wages due upon termination pursuant to California Labor Code sections 203. (See Cal. Lab.
3 Code sections 203.) Defendants would owe 30 days of average daily wages (inclusive of
4 overtime) at the time of separation if employees did not receive all wages owed at the time
5 pursuant to Labor Code sec. 201-203, and if defendant's failure to pay wages was willful. It was
6 estimated that 20% of the approximate 104 class members equating to 21 were terminated,
7 resigned or quit and entitled to waiting time penalties. As a result, the total exposure would
8 amount to \$85,680. (Assumed 21 employees ending employment during relevant time period $\times$
9 $\$17/\text{hour} \times 8 \text{ hours/day} \times 30 \text{ days} = \$85,680$) Applying risk factors including the uncertainty of
10 class certification and trial, a reasonable range for this claim amounts to \$21,420 applying a 75%
11 discount given class certification standards., arbitration agreements and class action waivers and
12 potential trial outcomes.

13 **Wage Statements Claims**

14 16. Plaintiff alleged itself, aggrieved employees and class members were not provided with
15 accurate, itemized wages statements pursuant to California Labor Code sections 226(a). (See
16 Cal. Lab. Code sections 226(a).) Labor Code section 226(a) requires that each payment of wages
17 be accompanied by a wage statement, a paystub, that contains, among other things, in other
18 words of the statute, "accurate" statement of the "gross wages earned" and "total hours worked."
19 Given bi-weekly pay periods, and assuming that each employee experienced at least one
20 violation per pay period (during the relevant six-month time period of the purported minimum
21 wage and overtime violations) each pay period during the year prior to the filing of the case. This
22 claim is derivative as Plaintiff would have to prevail on the underlying claims and establish that
23 wages are owed in order to trigger wage statement penalties under Lab. Code. Sec. 226.
24 Significantly, Lab Code sec. 226 requires that any omissions from wage statements be "knowing
25 and intentional" to trigger penalties and even if Plaintiff can establish that missing information
26 should have been included, the disputed nature of the claims will potentially be a hurdle in
27 establishing intent. Furthermore, after further evaluation, the unsettled law impacted the value of
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1 these claims because at the time of mediation regarding whether an employer's failure to
2 incorporate premium wages for meal break or rest break violations is considered a violation
3 under Labor Code section 226(a) and later ruling in *Naranjo v. Spectrum Security Services, Inc.*,
4 No. B256232, 2019 Cal. App. LEXIS 928 (Sep. 26, 2019) (employees entitled to wages pursuant
5 to section 226.7 may not pursue derivative remedies pursuant to sections 203 and 226). For
6 purposes of negotiation, these would be derivative claims based upon unlawful wage and hour
7 practices. Despite this, 2921 wage statements were issued amounting to \$50 penalty for the first
8 violation and \$100 penalty per wage statement for subsequent violations. The maximum amount
9 for this claim is \$288,500 or applying the penalties under Labor Code section 226.3 attaching
10 penalties for \$250 for the initial violation totaling \$18,000 violation and \$1,000 for subsequent
11 violations would total subsequent violations \$2,849,000. Taking into consideration the risk
12 factors including the arbitration agreements and class action wavers, uncertainty of class
13 certification and trial, a reasonable range for this amount is \$43,275 to \$427,350.

14 **Unlawful Business Practices Claims**

15 17. Plaintiff alleged itself, aggrieved employees and class members were subjected to
16 unlawful business practices for the alleged labor code violations of Defendant. (See Cal. Bus.
17 and Prof. Code section 17200.) This claim is derivative and the purpose of this claim was to
18 extend any statute of limitations claims for the wage and hour claims and the value of this claim
19 is incorporated into the value of the wage and hour claims.

20 **Labor Code Sections 210 and 221**

21 18. There is no private right of action to these claims. The evaluation for these claims
22 deemed to have little to no value as Defendant maintained set pay periods for purposes of
23 payment of wages regarding Labor Code section 210 and 221 and no private right of action
24 exists for these claims, only PAGA claims and the evaluation for these claims were imputed in
25 the PAGA evaluation.

26 **Labor Code Section 2802 Claim**

1 19. Plaintiff's claims for failure to reimburse for business expenses were valued at
2 \$87,943.75 due to Defendant's failure to reimburse for the purchase of masks and gloves. This
3 claim was valued at reimbursing each employee \$6.25 each workweek (14071 workweeks) for
4 each class member. Taking the risks of litigation, this claim has to be discounted by 75% due to
5 potential enforcement of class action waivers amounting to \$21,985.94

6 **Private Attorney General Act Claims**

7 20. PAGA adds penalties of at least \$100 for each aggrieved employee per pay period in
8 which a Labor Code violation exists. Despite a shorter limitations period than for the asserted
9 class claims, PAGA penalties can be significant. To be able to collect PAGA penalties, Plaintiff
10 would have to prevail on the merits of the underlying claims and weaknesses there, as elaborated
11 above, would limit recovery under PAGA. In light of the foregoing, and even factoring in the
12 potential advantage for Plaintiff of not having to seek certification of PAGA claims, the value of
13 this claim is not expected to exceed between \$702,760 to \$1,067,475, 75% of which would be
14 payable to the State.

15 21. On May 13, 2021, the Parties participated in a full-day mediation with Marc Feder whom
16 is a premier wage and hour class action mediator. After several rounds of negotiations, the
17 parties were not able to resolve this case late into the afternoon. As a result of the impasse, Marc
18 Feder configured a mediator's proposal that was ultimately accepted by all parties. Plaintiffs
19 participated in the mediation for the entire duration providing necessary information in order to
20 engage in effective negotiations.

21 22. I have been a California licensed attorney since November 2011. I began my career in
22 law while still in law school when in I served as a law clerk for the Pedersen Law & Dispute and
23 Resolution Corporation ("PLDRC") handling employment related litigation matters. While
24 clerking for PLDRC I analyzed and organized discovery documents and researched employment
25 litigation issues such as Sexual Harassment, Race Discrimination and Wrongful Termination. I
26 worked as an associate attorney at Pedersen McQueen between March 2013 through January
27 2017 almost exclusively engaging in employment matters representing employees. I have
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1 litigated several wage and hour case to trial and currently litigating or have litigated cases valued
2 in the six and seven figure dollar range, including representative actions. I had primary
3 responsibility for approximately 20 litigation matters on average throughout my employment at
4 PLDRC and Pedersen McQueen and Pedersen Law. I regularly practice in state court and
5 sometimes federal court. As an associate, my responsibilities included carrying primary case
6 responsibility which includes tasks like taking depositions, conducting damages analysis,
7 analyzing discovery documents, conducting client intake, developing discovery and litigation
8 strategies, participating in mediations and arbitrations, engaging in settlement negotiations, trial
9 preparation and trial work, as well as other responsibilities that commonly coincide with
10 managing cases from start to finish. I have been a member of local bar associations, including
11 the Orange County Bar Association, as well as the State Bar of California and American Bar
12 Association and served in a number of leadership roles at all levels. Most notably, I served as a
13 Committee Member of the Orange County Bar Association Young Lawyers' Education
14 Committee and Social Committee.
15

16 23. In January 2017, I officially started my own practice Jackson Law, APC. Throughout my
17 career, I have currently litigated over approximately 50 Private Attorney General Act cases
18 and/or class action cases to resolution byway of settlement or trial. Over the course of my career,
19 I have litigated above 100 employment cases, including wage and hour representative actions to
20 resolution byway of settlement, default or trial. Based upon my experience, I believe the benefit
21 conferred by the proposed Settlement is eminently fair and reasonable, and is in the best interests
22 of the Class Members because (1) of the monetary benefits to the Class Members and (2)
23 avoiding the risk, delay, and uncertainty of continued litigation.

24 24. Attached hereto as Exhibit 5 is a true and correct copy of Plaintiff's Private Attorney
25 General Act notice sent to Defendant on August 21, 2020.

26 25. On September 10, my office submitted a true and correct copy of the operative fully
27 executed Stipulation for Class Action Settlement for this matter to the California Labor and
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**DECLARATION OF ARMOND M. JACKSON IN SUPPORT OF FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

1 Workforce Development Agency. A true and correct copy of the confirmation of the submission
2 of the operative fully executed Stipulation for Class Action Settlement submitted to the
3 California Labor and Workforce Development Agency is attached hereto as Exhibit 6.

4 26. To date, the California Labor and Workforce Development Agency has not responded.

5 27. Jackson Law, APC advanced 100% of all costs for this matter.

6 28. Below is a list of all prior wage and hour representative actions on which I have served as
7 lead or co-counsel.

8 1. *Kim v. FNS, Inc.*, Los Angeles Superior Court, Case No. BC 578015

9 2. *Demery v. Pacific Rim Capital Alliance Corporation et al.*, San Diego Superior Court,
10 Case No. 37-2017-00003415-CU-OE-CTL

11 3. *Goldbaum v. Dollarsmart et al.*, San Diego Superior Court, 30-2015-000077437-CU-
12 WT-CLT

13 4. *Hernandez v. Personnel Staffing Group, LLC et al.*, Orange County Superior Court,
14 Case No. 30-2017-00899277-CU-OE-CXC

15 5. *Sanchez, et al v. Pueblo Restaurant, Inc. dba Casa Torres*, Los Angeles Superior
16 Court, Case No. BC697241

17 6. *Augusto v. HIOG Management Services, LLC, et al.*, San Bernardino Superior Court,
18 Case No. CIVDS1610431

19 7. *Mendoza v. McNeal, Duckworth and McNeal, Inc.*, Orange County Superior Court,
20 Case No. 30-2017-00899290-CU-OE-CXC

21 8. *Ortiz v. Bayside Insurance Associates, Inc. et al*, Orange County Superior Court, Case
22 No. 30-2016-00895669-CU-OE-CXC

23 9. *Paramo v. Quest Nutrition LLC et al.*, Los Angeles County Superior Court, Case No.
24 BC609306

25 10. *Luis v. Second Street Corporation dba Huntley House Hotel*, Los Angeles County
26 Superior Court, Case No. BC691018
27
28

**DECLARATION OF ARMOND M. JACKSON IN SUPPORT OF FOR PRELIMINARY
APPROVAL OF CLASS ACTION SETTLEMENT**

- 1 11. *Venegas, at al. v. Bergen Shippers Corp, et al*, Los Angeles County Superior Court,
2 Case No. BC715217
- 3 12. *Bernal v. Bristol Equity Partners LP et al*, Orange County Superior Court, Case No.
4 30-2016-00854699-CU-OE-CXC
- 5 13. *Rowe v. Rasier-CA, LLC*, Orange County Superior Court,
6 Case No. 30-2018-00989673-CU-OE-CXC
- 7 14. *Abarca v. Habit Restaurants, LLC, The et al*, Orange County Superior Court, Case
8 No. 30-2016-00840385-CU-OE-CJC
- 9 15. *Radilla v. States Logistics Services, Inc.*, Orange County Superior Court,
10 Case No. 30-2018-00978231-CU-WT-CJC
- 11 16. *Rodriguez v. Lampson Sewing Incorporated et al*, Orange County Superior Court,
12 Case No. 30-2017-00900653-CU-OE-CJC
- 13 17. *January v. Discovery Management Inc. et al*, Los Angeles Superior Court,
14 Case No. BC635918
- 15 18. *Angel Hernandez v. Merchants Landscape Services, Inc. et al.*, Los Angeles Superior
16 Court, Case No. BC674131
- 17 19. *Quezada v. Garden Fresh Restaurant Corp. et al*, Orange County Superior Court,
18 Case No. 30-2016-00840321-CU-OE-CJC
- 19 20. *Munoz v. Batten Down, Inc. et al*, Los Angeles County Superior Court, Case No.
20 BC617880
- 21 21. *Salgado v. Resort at Pelican Hill, LLC et al*, Orange County Superior Court, Case
22 No. 30-2016-00840386-CU-OE-CJC
- 23 22. *Darmawati v. Westview Services Inc.*, Orange County Superior Court, Case No. 30-
24 2015-00795449-CU-OE-CJC
- 25 23. *Escobar v. Westcoast Textiles, Inc. et al*, Orange County Superior Court,
26 Case No. 30-2018-00979111-CU-OE-CXC
- 27
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- 1 24. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
2 No. 30-2017-00900648-CU-OE-CXC
- 3 25. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
4 No. 8:19-cv-00564
- 5 26. *Plascencia v. RM HQ, LLC, dba Real Mex Restaurants*, Orange County Superior
6 Court, Case No. 30-2017-00926015-CU-OE-CXC
- 7 27. *Casas v. PC Hospitality et al.*, Orange County Superior Court,
8 Case No. 30-2016-00877489-CU-OE-CXC
- 9 28. *Leon v. SWH Mimi's Café, LLC*, Orange County Superior Court,
10 Case No. 30-2018-00978815-CU-OE-CXC
- 11 29. *Quintanilla v. Southwest Wine & Spirits, LLC*, Los Angeles Superior Court, Case No.
12 BC653817
- 13 30. *Fabiola Rodriguez v. Second Floor Food, Drinks and Art, LLC*, Orange County
14 Superior Court, Case No. 30-2018-00981362-CU-WT-CXC
- 15 31. *Santisteban v. Rod Fraser Enterprises, Inc. et al*, Orange County Superior Court,
16 Case No. 30-2017-00904202-CU-OE-CXC
- 17 32. *Milano v. Lev Tambor dba Distractions Lounge*, Orange County Superior Court,
18 Case No. 30-2018-00966582-CU-WT-CXC
- 19 33. *Ajin v. Lymi, Inc*, Los Angeles County Superior Court, Case No. BC696168
- 20 34. *Recinos v. Pacific American Fish Co., et al*, Los Angeles Superior Court,
21 Case No. BC710735
- 22 35. *Valle-Valdez v. St. Jude Hospital Yorba Linda, et al*, Orange County Superior Court,
23 Case No. 30-2015-00795457-CU-OE-CJC
- 24 36. *Juarez v. Arakelian Enterprises, Inc., et al*, Los Angeles Superior Court,
25 Case No. BC710736
- 26 37. *Solarzano v. T&J Fresh Co. dba Chomp Sushi*, Orange County Superior Court,
27
28

Case No. 30-2018-00981299-CU-OE-CXC

38. *Taylor v. G.I. Trucking Company dba Estes West et al*, Los Angeles Superior Court,
Case No. BC722778

39. *Rendon v. L & L Foods Holdings, LLC, et al*, Orange County Superior Court, Case
No. 30-2018-00982745-CU-OE-CXC

40. *Magana v. Zara USA, Inc., et al*, Orange County Superior Court,
Case No. 8:18-cv-02249-AG (ADSx)

41. *Flores v. ABM Industry Groups, LLC et al*, Orange County Superior Court,
Case No. 30-2018-00971152-CU-WT-CJC

42. *Diaz v. Macy's West Stores, Inc. dba Macy's*, Central District of California,
Case No. SACV19-00303 ODW (MAAx)

43. *Aguirre v. Shelfmaster el al*, Orange County Superior Court, 30-2015-00787557-CU-
OE-CJC

44. *Goldman v. Encore Energy, Inc.*, Los Angeles County Superior Court, BC606773

45. *Munoz v. 8947 Sunset Pizza, LLC et al.*, Los Angeles Superior Court,
Case No. BC646999

I declare under the penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed on September 15, 2021 in Irvine, California.

/s/ Armond M. Jackson

Armond M. Jackson, Declarant

Armond M. Jackson, Declarant

EXHIBIT 1

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Attorney for Plaintiffs
JOAQUIN SANTIBANEZ and JORGE MAZARIEGOS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

JOAQUIN SANTIBANEZ and JORGE
MAZARIEGOS, as individuals, and on behalf
of other similarly situated employees,

Plaintiffs,

vs.

DANCHUK MANUFACTURING, INC., a
California corporation; and DOES 1 to 50,
inclusive,

Case No.: 30-2020-01155466-CU-OE-CXC

Assigned for all purposes to Hon. Randall J. Sherman

CLASS ACTION

**JOINT STIPULATION FOR CLASS
SETTLEMENT**

Complaint filed: August 17, 2020
Trial date: Not set

1 Plaintiffs JOAQUIN SANTIBANEZ and JORGE MAZARIEGOS (collectively
2 “Named Plaintiffs”) and Defendant DANCHUK MANUFACTURING, INC (“Defendant”)
3 (collectively, “the Parties”) hereby stipulate and agree, by and through their undersigned
4 attorneys, as follows:

5 This Stipulation of Resolution is made by and between the Named Plaintiffs, on their own
6 behalf and on behalf of all members of the Settlement Class, as defined below, on the one hand, and
7 DANCHUK MANUFACTURING, INC. (“Defendant”) on the other hand (collectively the
8 “Parties”), in the lawsuit entitled *Santibanez, et al. v. Danchuk Manufacturing, Inc.*, filed in Orange
9 County Superior Court, Case No. 30-2020-01155466-CU-OE-CXC. This Stipulation of Resolution
10 resolves all claims that were asserted or could have been asserted against Defendant based on the
11 facts alleged, pertaining to the claims in the Litigation.

12 **I. DEFINITIONS**

13 **A. Administrative Costs.** All administrative costs of settlement, including cost of
14 notice to the Settlement Class, claims administration, and any fees and costs incurred or charged by
15 the Settlement Administrator in connection with the execution of its duties under this Stipulation of
16 Resolution.

17 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
18 synonymously herein to mean this Stipulation of Resolution.

19 **C. Class Counsel.** The term “Class Counsel” as used herein means Jackson Law, APC
20 and all the lawyers of that firm, specifically including but not limited to Armond Jackson, who is (or
21 was at some time) counsel for and acting on behalf of Named Plaintiffs and the Settlement Class.
22 The term Class Counsel shall be used synonymously with the term Plaintiff’s Counsel.

23 **D. Defense Counsel.** The term “Defense Counsel” shall mean and refer to Christopher
24 J. Boman, Boris Sorsher and Sean T. Kingston from the firm of Fisher & Phillips.

25 **E. Court.** The term “Court” as used herein means the Superior Court of the State of
26 California for the County of Orange.

27 **F. Final.** The term “Final” means the latest of: (1) the date of final affirmation of the
28 Final Approval from any appeal, the expiration of the time for, or the denial of, a petition to review

1 the Final Approval, or if review is granted, the date of final affirmation of the Final Approval
2 following review pursuant to that grant; or (2) the date of final dismissal of any appeal from the Final
3 Approval or the final dismissal of any proceeding to review the Final Approval, provided that the
4 Final Approval is affirmed and/or not reversed in any part; or (3) if no appeal is filed, the expiration
5 date of the time for the filing or noticing of any appeal from the Court's Final Approval of the
6 Resolution, as determined under Rule 8.104(a)(3) of the California Rules of Court.

7 **G. Date of Final Approval.** The terms "Date of Final Approval" or "Final Approval"
8 as used herein mean the final formal judgment entered by the Court at the Final Fairness and
9 Approval Hearing in accordance with the terms herein, approving this Agreement.

10 **H. Defendants.** The term "Defendant" as used herein means DANCHUK
11 MANUFACTURING, INC.

12 **I. Eligible Work Weeks.** The term "Eligible Work Week" refers to any workweek
13 during which the class member worked for Defendant during the Settlement Period.

14 **J. Litigation.** The term "Litigation" as used herein means the action entitled
15 *Santibanez, et al. v. Danchuk Manufacturing, Inc.*, filed in Orange County Superior Court, Case No.
16 30-2020-01155466-CU-OE-CXC.

17 **K. Named Plaintiff.** The term "Named Plaintiffs" as used herein means JOAQUIN
18 SANTIBANEZ and JORGE MAZARIEGOS.

19 **L. Net Settlement Amount.** The term "Net Settlement Amount" or "NSA" as used
20 herein means the Settlement Amount minus any award of attorneys' fees and Litigation costs,
21 Administrative Costs, enhancement to the Named Plaintiff, employment taxes, and penalties
22 recoverable pursuant to California's Private Attorneys General Act ("PAGA") (the "PAGA
23 Settlement"), and as provided in Sections VIII, XIII, XIV, XV, and XVI, respectively.

24 **M. Net Settlement Payments.** The term "Net Settlement Payment(s)" shall include
25 payments made to the Settlement Class as part of the Resolution, including wages, penalties and
26 interest.

27 **N. Resolution.** The term "Resolution" as used herein means this Agreement to resolve
28 the Litigation.

1 **O. Settlement Administrator.** The term “Settlement Administrator” as used herein
2 means [Phoenix Class Action Administration], which will be responsible for the administration of
3 the Settlement Amount, as defined below, and all related matters.

4 **P. Settlement Agreement.** The terms “Settlement Agreement” or “Agreement” are
5 used synonymously herein to mean this Stipulation of Resolution.

6 **Q. Settlement Amount.** The term “Settlement Amount” as used herein means the sum
7 of One Hundred Eighty-Four Thousand Dollars (\$184,000.00) (“Gross Settlement”). From the
8 Settlement Amount all: Net Settlement Payments, Court-approved attorneys’ fees and Litigation
9 costs pursuant to Section XIII, Administrative Costs pursuant to Section VIII, enhancement to
10 Named Plaintiff pursuant to Section XIV, statutory penalties, interest, and employment taxes
11 pursuant to Section XV, PAGA Settlement pursuant to Section XVI shall be paid, except as provided
12 herein.

13 **R. Settlement Class.** For settlement purposes only, the Parties agree to the
14 certification of a “Settlement Class” pursuant to California *Code of Civil Procedure* § 382
15 defined as: all persons within the State of California who are or were employed by Defendant
16 in the State of California as a non-exempt hourly employee during the Settlement Period.

17 **S. Settlement Period.** The term “Settlement Period” as used herein means the
18 time period from August 17, 2016 to June 14, 2021.

19 **II. BACKGROUND**

20 A. In the Litigation, the Named Plaintiffs allege, *inter alia*, on behalf of themselves and
21 all others similarly situated, that Defendant violated California state wage and hour laws, the
22 California *Business and Professions Code* Section 17200 *et seq.*, and PAGA, as a result of
23 Defendant’s California wage and hour policies and practices. Specifically, Named Plaintiffs allege
24 that Defendant failed to pay its employees at or above the applicable minimum wage rates, failed to
25 provide regular, overtime, and double time pay, failed to provide meal breaks (including first and
26 second meal breaks), failed to provide rest periods, failed to timely pay wages during employment,
27 failed to reimburse for necessary business expenses, and failed to pay vacation wages. Named
28 Plaintiffs further alleged that the aforementioned resulted in the employees receiving inaccurate wage

1 statements, and the underpayment and late payment of wages to employees upon termination and/or
2 resignation.

3 B. Class Counsel conducted informal discovery that yielded information and
4 documentation concerning the claims set forth in the Litigation, such as Defendant's policies and
5 procedures regarding the payment of wages, the provision of meal periods, time keeping policies,
6 including recording hours, issuance of wage statements, and providing all wages at separation, as
7 well as information regarding the number of putative class members, the average number of hours
8 worked, the wage rates in effect, and length of employment for the average putative class member.

9 C. Named Plaintiffs and Class Counsel have engaged in good faith, arms-length
10 negotiations with Defendant concerning possible resolution of the claims asserted in the Litigation.
11 The Parties participated in a mediation before Marc Feder. The Parties reached a tentative settlement
12 of the Litigation, subject to the approval of the Court. The Parties negotiated and executed a
13 Memorandum of Understanding at the conclusion of the mediation and have since engaged in
14 extended negotiations about the terms and conditions of the Resolution. The Parties have now
15 entered into this more detailed, formalized Settlement Agreement for submission to the Court for
16 preliminary and Final Approval.

17 D. Class Counsel have conducted an investigation of the law and facts relating to the
18 claims asserted in the Litigation and have concluded, taking into account the sharply contested issues
19 involved, the defenses asserted by Defendant, the expense and time necessary to pursue the Litigation
20 through trial and any appeals, the risks and costs of further prosecution of the Litigation, the risk of
21 an adverse outcome, the uncertainties of complex litigation, and the substantial benefits to be
22 received by Named Plaintiffs and the members of the Settlement Class pursuant to this Agreement,
23 that a settlement with Defendant on the terms and conditions set forth herein is fair, reasonable,
24 adequate, and in the best interests of the Settlement Class. Named Plaintiffs, on their own behalf
25 and on behalf of the Settlement Class, have agreed to settle the Litigation with Defendant on the
26 terms set forth herein.

27 E. Defendant has concluded that, because of the substantial expense of defending against
28 the Litigation, the length of time necessary to resolve the issues presented herein, the inconvenience

involved, and the concomitant disruption to its business operations, it is in Defendant's best interests to accept the terms of this Agreement. Defendant denies each of the allegations and claims asserted against them in the Litigation. However, Defendant nevertheless desires to settle the Litigation for the purpose of avoiding the burden, expense and uncertainty of continuing litigation and for the purpose of putting to rest the controversies engendered by the Litigation.

E. This Agreement is intended to and does effectuate the full, final and complete resolution of all allegations and claims that were asserted, or could have been asserted, in the Litigation by Named Plaintiffs and members of the Settlement Class as set forth in Sections I.R & II.A.

III. JURISDICTION

The Court has jurisdiction over the Parties and the subject matter of this Litigation. The Litigation includes claims that, while Defendant denies them in their entirety, would, if proven, authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted Final Approval of the Resolution and after the Court has ordered the entry of Judgment, pursuant to California *Code of Civil Procedure* Section 664.6 the Court shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and enforcing this Resolution consistent with the terms set forth herein.

IV. STIPULATION OF CLASS CERTIFICATION

The Parties stipulate to the certification of this Settlement Class for purposes of Resolution only. This Stipulation is contingent upon the Preliminary and Final Approval and certification of the Settlement Class only for purposes of Resolution. Should the Resolution not become final, for whatever reason, the fact that the Parties were willing to stipulate provisionally to class certification as part of the Resolution shall have no bearing on, and shall not be admissible in connection with, the issue of whether a class should be certified in a non-settlement context in the Litigation. Defendant expressly reserves the right to oppose class certification and/or proactively move to deny certification should this Resolution be modified or reversed on appeal or otherwise not become final.

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1 **V. MOTION FOR PRELIMINARY APPROVAL AND FOR LEAVE TO**
2 **FILE SECOND AMENDED COMPLAINT; DEFENDANT’S ANSWER**

3 Named Plaintiffs will bring a motion before the Court for an order preliminarily approving
4 the Resolution including the Notice of Proposed Class Action Resolution, which are attached hereto
5 as **Exhibit “A”**, and including certification of the Settlement Class for settlement purposes only. By
6 that motion, they will concurrently seek leave to file the Second Amended Complaint, which is
7 attached hereto as **Exhibit “B”** and which adds a cause of action for rest period violations. Defendant
8 shall file an Answer to the Second Amended Complaint, thereby making a general appearance in the
9 Action and subjecting itself to the Court’s jurisdiction.

10 The date that the Court grants Preliminary Approval of this Agreement will be the
11 “Preliminary Approval Date.” Class Counsel will prepare the Motion for Preliminary Approval; on
12 the same date on which it is filed with the Court, Class Counsel shall concurrently submit it to the
13 Labor & Workforce Development Agency in compliance with Labor Code § 2698 *et seq.*, the Private
14 Attorneys General Act (“PAGA”).

15 **VI. STATEMENT OF NO ADMISSION**

16 A. Defendant denies liability to Named Plaintiffs and to the Settlement Class upon any
17 claim or cause of action. This Agreement does not constitute, and is not intended to constitute, an
18 admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims
19 made against it in the Litigation.

20 B. Nothing in this Agreement, nor any action taken in implementation thereof, nor any
21 statements, discussions or communications, nor any materials prepared, exchanged, issued or used
22 during the course of the negotiations leading to this Agreement or the Resolution, is intended by the
23 Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible
24 in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or
25 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
26 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
27 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or
28 any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported

evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Resolution.

C. None of the documents produced or created by Named Plaintiffs or the Settlement Class in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

D. The Parties agree that class certification pursuant to California *Code of Civil Procedure* Section 382 under the terms of this Agreement is for settlement purposes only. Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified or given collective treatment in the Litigation or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of class certification or collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiffs will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Litigation, and Defendant will not be deemed to have waived, limited, or affected in any way any of its objections or defenses in the Litigation, including their right to make use of any affirmative defenses.

VII. WAIVER, RELEASE AND CONFIDENTIALITY

A. Release as to All Settlement Class Members.

Upon the Date of Final Approval, for the Settlement Period, Named Plaintiffs and all members of the Settlement Class, except those that make a valid and timely request to be excluded from the Settlement Class and Resolution, waive, release, discharge, and promise never to assert in any forum any and all wage-related claims against : (i) Defendant and each and all of Defendant's past or present partners, parents, subsidiaries, or affiliates (regardless of whether such partners,

1 parents, subsidiaries, or affiliates are individuals, trusts, estates, corporations, partnerships, limited
2 partnerships, limited liability companies, or other forms of entity); (ii) each and all of the predecessor
3 or successor entities of any of those entities identified in subparagraph (i); (iii) any other individuals
4 or entities of any kind, including but not limited to any payroll companies, which have been or could
5 be alleged to be in any manner responsible (whether on an alter ego, joint employer, integrated
6 enterprise, or any other theory) for any actual or alleged violations described in the Litigation; and
7 (iv) all past and present directors, officers, representatives, insurers, agents, shareholders, partners,
8 members, lawyers, and employees of any of the individuals or entities identified in subparagraphs
9 (i), (ii), or (iii), and any and all other entities with whom they have been, are now, or may hereafter
10 be affiliated (hereinafter “Releasees”), from any and all claims, demands, rights, liabilities and causes
11 of action of every nature that were alleged in the Litigation or which could have been alleged in the
12 Litigation, whether known or unknown, suspected or unsuspected, asserted or unasserted, latent or
13 patent, regardless of legal theory or type or amount of relief or damages claimed, which any Named
14 Plaintiffs and all members of the Settlement Class now has, at any time ever had, or hereafter may
15 have against any Releasee, and which in any way arises out of, is based on, or relates in any way to:
16 (i) the facts asserted in the Litigation, including but not limited to: 1) Failure to Pay Wages and
17 Overtime Compensation; 2) Failure to Pay Minimum Wages; 3) Failure to Timely Pay Wages Due
18 At Termination and/or Resignation; 4) Failure to Provide Accurate Itemized Employee Wage
19 Statements; 5) Meal and Rest Period Liability under Labor Code § 226.7; 6) Business Expense
20 Reimbursements under Labor Code Section 2800 and 2802; 7) Violation of Business & Professions
21 Code § 17200, *et seq.*; 8) Penalties Pursuant to PAGA (Labor Code § 2698, *et seq.*) under Labor
22 Code sections 203, 210, 226(e), 226.3, 226.7, 226.8, 510, 558, 1174.5, 1194 and 2802; 9) Failure
23 to Pay Vacation Wages; and 10) any other applicable provisions of state or federal law, including
24 the applicable IWC wage orders, based on the facts alleged in the Litigation; (ii) attorneys’ fees due
25 or allegedly due under Labor Code Section 218.5 or any other statute, regulation, or contractual
26 provision; (iii) other claims that Named Plaintiffs or member of the Settlement Class has arising out
27 of, based upon, or relating to the allegations contained in the Litigation; and (iv) penalties or other
28 payments which in any way arise out of, are based on, or relate in any way to any of the foregoing,

1 including but not limited to penalties, premiums, or payments under Labor Code Sections 203, 210,
2 226(e), 226.3, 226.7, 226.8, 558, 1174.5, 2800, 2802, the federal Fair Labor Standards Act, any
3 California Industrial Commission Wage Order, and/or any other statute or regulation regarding the
4 payment of wages (hereinafter the “Settled Claims”). Without in any way limiting the foregoing,
5 Settled Claims shall include all claims, liabilities, rights, demands, suits, matters, obligations, liens,
6 damages, losses, costs, expenses, debts, actions, and causes of action under statutes and regulations
7 set forth in this Section VII(A), whether enforced directly or pursuant to Labor Code Section 2699,
8 Business and Professions Code Section 17200, et seq., or any other mechanism.

9 To the fullest extent permitted by law, Named Plaintiffs waive and relinquish any and all
10 rights or benefits they have or may have under California Civil Code Section 1542, or any
11 comparable provision of state or federal law except for claims under the California Fair Employment
12 and Housing Act. California Civil Code Section 1542 provides:

13 “A general release does not extend to claims that the creditor or releasing party
14 does not know or suspect to exist in his or her favor at the time of executing the
15 release and that, if known by him or her, would have materially affected his or
16 her settlement with the debtor or released party.”

17
18 Named Plaintiffs acknowledge that they are aware that they or their attorneys may
19 hereafter discover claims or facts in addition to or different from those now known or believed
20 to be true with respect to the subject matter of this Agreement and/or the Settled Claims.
21 Named Plaintiffs acknowledge that they intend to and will fully, finally, and forever settle and
22 release any and all claims, including but not limited to the Settled Claims, whether known or
23 unknown, suspected or unsuspected, which now exist, hereinafter may exist, or heretofore
24 may have existed. In furtherance of this intention, the releases contained in this Agreement
25 shall be and remain in effect as full and complete releases by Named Plaintiffs without regard
26 to the subsequent discovery or existence of such different or additional claims or facts.

27 Without conceding that any release of claims under the Fair Labor Standards Act
28 (“FLSA”) requires any affirmative conduct or opt-in by the members of the Settlement Class,

1 the Parties agree that the cashing of checks by the members of the Settlement Class shall be
2 deemed an opt-in to an FLSA collective action, the settlement of which includes the FLSA
3 releases specified in this Section VII(A). However, nothing in this Section or elsewhere in
4 this Agreement shall preclude members of the Settlement Class from being bound by the
5 releases in this Agreement whether or not they receive or cash their checks.

6 **B. Publicity.**

7 Named Plaintiffs and their counsel agree that they have not and will not publish the
8 Litigation or the Resolution. Named Plaintiffs will state that “the case was resolved
9 confidentially” in response to any inquiries. Class Counsel shall not report the Litigation or
10 the Resolution in any medium or in any publication, shall not post or report anything
11 regarding the claims of Named Plaintiffs or the Settlement Class or the Resolution on their
12 website with identifiable information of the parties, and shall not contact any reporters or
13 media regarding the Resolution. Despite this provision, Class Counsel can discuss the
14 Resolution with the court for purposes of obtaining Preliminary and Final Approval and with
15 Named Plaintiffs.

16 **VIII. SETTLEMENT ADMINISTRATOR**

17 Named Plaintiffs and Defendant, through their respective counsel, have selected [Phoenix
18 Class Action Administration] as the Settlement Administrator to administer the Resolution, which
19 includes but is not limited to distributing and responding to inquiries about the Notice of Proposed
20 Class Action Resolution and Workweek Dispute Form, determining the validity of any disputes and
21 opt-outs, and calculating all amounts to be paid from the Net Settlement Amount. Charges and
22 expenses of the Settlement Administrator, estimated to be \$5,000.00, will be paid from the Settlement
23 Amount. Any charges and expenses of the Settlement Administrator greater than the allocated
24 \$5,000.00 will come from the Settlement Amount. If the actual Settlement Administrator fees are
25 less than the Parties’ estimation, the difference between the actual and estimated Settlement
26 Administrator fees will revert to the participating Settlement Class members.

27 **IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS**

28 Named Plaintiffs and Defendant, through their respective attorneys, have jointly prepared a

1 Notice of Class Action and Proposed Resolution (the “Notice”) and a Workweek Dispute Form,
2 which in substance will be provided to the members of the Settlement Class as follows:

3 As soon as practicable following Preliminary Approval of the Resolution, but no later than
4 ten (10) calendar days after the Court’s Preliminary Approval order, Defendant will provide to the
5 Settlement Administrator the following information about each Settlement Class member (“Class
6 List”): (1) name; (2) last known home address; (3) number of Eligible Workweeks as a class member
7 during the Settlement Period; and (4) social security number. Defendant further agrees to consult
8 with the Settlement Administrator prior to the production date to ensure that the format will be
9 acceptable to the Settlement Administrator.

10 The Settlement Administrator shall run all the addresses provided through the United States
11 Postal Service NCOA database (which provides updated addresses for any individual who has moved
12 in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain
13 current address information, and shall mail the Notice and Workweek Dispute Form to the members
14 of the Settlement Class via first-class regular U.S. Mail using the most current mailing address
15 information available within ten (10) calendar days of the receipt of the Class List from Defendant.
16 The Notice shall provide the members of the Settlement Class forty-five (45) days’ notice of all
17 applicable dates and deadlines.

18 The Notice will also include information regarding the nature of the Litigation; a summary
19 of the terms of the Resolution; the definition of the Settlement Class; a statement that the Court has
20 preliminarily approved the Resolution; the nature and scope of the claims being released; the
21 procedure and time period for objecting to the Resolution, the date and location of the Final Approval
22 hearing; information regarding the opt-out procedure; Defendant’s calculation of the number of
23 eligible workweeks or pay periods (if applicable) that each Settlement Class member has worked as
24 an employee in California at any time during the Settlement Period, and the average potential
25 recovery for each proposed Settlement Class member. The Notice shall enclose the Dispute Form
26 for Settlement Class members.

27 For each Settlement Class member, the Dispute Form will identify the number of Eligible
28 Workweeks that s/he was employed and inform the employee of their right to dispute this number

1 by completing and returning the form within forty five (45) days of the postmark date of the
2 Workweek Dispute Form. A Settlement Class member's receipt of his or her share of the Net
3 Settlement Payments is not conditional on the submission of the Workweek Dispute Form. Absent
4 the receipt of a Workweek Dispute Form, the number of workweeks identified in the Workweek
5 Dispute Form shall be deemed accurate. The resolution of any disputes concerning the number of
6 Eligible Workweeks is discussed in Section X, below.

7 If a Notice is returned from the initial notice mailing, the Settlement Administrator will
8 submit the applicable and available information, including name, Social Security number, and
9 original mailing address, to a company that specializes in address skip tracing in an attempt to locate
10 a more current address. If the Settlement Administrator is successful in locating a new address, it
11 will re-mail the Notice to the Settlement Class member. Further, any Notices returned with a
12 forwarding address to the Settlement Administrator, as non-deliverable before the deadline date,
13 shall be sent to the forwarding address affixed thereto.

14 The Settlement Administrator will mail a reminder post-card to those Settlement Class
15 members who have not responded to the Notice fourteen (14) days before the expiration of the claim
16 period encouraging Settlement Class members to respond before the deadline.

17 Should any member of the Settlement Class timely submit a Workweek Dispute Form with
18 a deficiency, the Settlement Administrator shall, within five (5) calendar days of receipt by the
19 Settlement Administrator of each timely submitted Workweek Dispute Form, send a deficiency
20 notice. The deficiency notice will provide the member of the Settlement Class no more than fourteen
21 (14) days from the mailing of the deficiency notice to postmark a written response to cure all
22 deficiencies. The failure of a member of Settlement Class to timely submit a Dispute or timely
23 respond to a notice of deficiency shall invalidate the dispute unless all Parties' counsel agree to allow
24 the dispute.

25 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
26 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting to
27 the completion of the Notice process, including the number of attempts to obtain valid mailing
28 addresses for re-sending of any returned Notices, as well as the number of valid Workweek Dispute

Forms, opt-outs and deficiencies that the Settlement Administrator received.

B. Objections.

In order for any Settlement Class member to object to this Resolution, or any term of it, the person making the objection must not submit a request for exclusion (i.e., must not opt out). A Settlement Class member making an objection, personally or through an attorney, must submit his or her objection to the Settlement Administrator by mail postmarked by no later than forty five (45) days after the Notice of Proposed Class Action Resolution was initially mailed to the Settlement Class members. Any Settlement Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her objection directly to the Court. However, any attorney who will represent an individual objecting to this Resolution must file a notice of appearance with the Court and serve Class Counsel and Defense Counsel no later than forty five (45) days after the Notice of Proposed Class Action Resolution was initially mailed to the Settlement Class members. If a Settlement Class member objects to the Resolution, the Settlement Class member will remain a member of the Settlement Class and if the Court approves this Agreement, the Settlement Class member will be bound by the terms of the Resolution and Final Approval in the same way and to the same extent as a Settlement Class member who does not object. The date of mailing of the Notice to the objecting Settlement Class member shall be conclusively determined according to the records of the Settlement Administrator. The Court retains final authority with respect to the consideration and admissibility of any Settlement Class member objections. Any Settlement Class member who submits an objection may also participate in the settlement.

Named Plaintiffs waive any right to object to the Resolution, and hereby endorse the Resolution as fair, reasonable and adequate and in the best interests of the Settlement Class.

C. Opportunity to be Excluded.

In order for any Settlement Class member to validly exclude himself or herself from the Settlement Class and the Resolution (i.e., to validly opt out), a written request for exclusion (“Request to be Excluded”) must be signed by the Settlement Class member or his or her authorized representative and must be sent to the Settlement Administrator, postmarked by no later than forty five (45) days after the date the Settlement Administrator initially mails the Notice to the Settlement

1 Class members. The Notice shall contain instructions on how to opt out.

2 The date of the initial mailing of the Notice and the date the signed Request to be Excluded
3 was postmarked, shall be conclusively determined according to the records of the Settlement
4 Administrator. Any Settlement Class member who timely and validly submits a Request to be
5 Excluded from the Settlement Class and the Resolution will not be entitled to any portion of the Net
6 Settlement Payments, will not be bound by the terms and conditions of the Resolution, and will not
7 have any right to object, appeal, or comment thereon.

8 Any member of the Settlement Class who does not timely file and mail a Request to be
9 Excluded from the Settlement Class will be deemed included in the Settlement Class in accordance
10 with this Resolution. Named Plaintiffs waive any right to be excluded from the Settlement Class.

11 **D. Cooperation.**

12 The Parties and their respective counsel agree not to encourage members of the Settlement
13 Class to refrain from participating in the Resolution, to opt out of the Resolution, or to object to the
14 Resolution, directly or indirectly, through any means. However, if a Settlement Class member
15 contacts Class Counsel, Class Counsel may discuss the terms of the Resolution and the Settlement
16 Class member's options.

17 **X. DISPUTE PROCEDURE**

18 Named Plaintiffs and Defendant have agreed upon the following procedure to resolve all
19 disputes of the Settlement Class during the Settlement Period.

20 **A. Workweek and Pay Period Information.**

21 In the Dispute Form, each member of the Settlement Class will receive a calculation of the
22 total number of his or her Eligible Work Weeks.

23 If a member of Settlement Class does not dispute the number of Eligible Workweeks set forth
24 in the Dispute Form, such person need not take further action to participate in the Resolution. If the
25 member of the Settlement Class disputes the number of Eligible Workweeks set forth in the Dispute
26 Form, such person must follow the directions in the Dispute Form and in the Notice, including
27 preparing a statement setting forth the number of Eligible Workweeks that such person believes in
28 good faith is correct and stating that the member of the Settlement Class authorizes the Settlement

1 Administrator to review the Settlement Class member's personnel/payroll records to determine such
2 information and attaching any relevant documentation in support thereof. The member of the
3 Settlement Class must mail the signed and completed statement no later than forty five (45) days
4 after the date of the mailing of the Dispute Form, or the number of eligible workweeks set forth in
5 the Dispute Form will govern the Net Settlement Payments to the member of the Settlement Class.

6 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation with
7 counsel for Defendant, will review the pertinent payroll records showing the dates the Settlement
8 Class member was employed and the pertinent leave(s) taken, which records Defendant agrees to
9 make available to the Settlement Administrator.

10 After consulting with counsel for Defendant, the Settlement Administrator shall compute the
11 number of Eligible Workweeks to be used in computing the Settlement Class member's share of the
12 Net Settlement Amount. In the event there is a disparity between the dates a Settlement Class
13 member claims he or she worked during the Settlement Period and the dates indicated by Defendant's
14 records, Defendant's records will control unless inconsistent with paycheck stub(s) (or bona fide
15 copies thereof) provided by the Settlement Class member, in which case the paycheck stub(s) will
16 control. The Settlement Administrator's decision as to the total number of Eligible Workweeks shall
17 be final and non-appealable. The Settlement Administrator shall send written notice of the decision
18 on any such claim to the Settlement Class member and counsel for Defendant within ten (10) calendar
19 days of receipt of the dispute.

20 **XI. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

21 **A. Distribution Formula.**

22 Members of the Settlement Class not opting out will receive a lump sum payment as good
23 and valuable consideration for the waiver and release of claims set forth in Section VII(A), above,
24 in an amount determined by the Settlement Administrator as follows:

25 First, the administrator determines the NSA. Second, the NSA is divided by the total number
26 of Eligible Workweeks for all Settlement Class members to compute the Workweek Amount. Third,
27 the Class Administrator multiplies the Workweek Amount by the number of Eligible Workweeks
28 worked by the individual class member as determined by the Settlement Administrator in accordance

with Section X, above, less any applicable withholding taxes based on the Parties stipulated allocation of the Net Settlement Amount as provided for in Section XV, below.

B. Funding of Resolution.

Within twenty one (21) calendar days following the date on which the Court grants Final Approval of the Resolution and a determination of the pro-rata share of the settlement amount to which each member of the Settlement Class is entitled, Defendant will deposit the Settlement Amount into an interest-bearing trust account for the benefit of the participating Settlement Class members and Class Counsel, through the Settlement Administrator. At no time prior to Final Approval of the Resolution shall Defendant be required to escrow any portion of the Settlement Amount.

C. Time for Distribution.

The Settlement Administrator shall cause the Net Settlement Payments, the Court approved attorney's fees and Litigation costs, Court approved enhancement to Named Plaintiff, and PAGA Settlement to be mailed within thirty (30) calendar days following the Date of Final Approval.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. Settlement checks will specifically indicate that they are void if not negotiated within one hundred eighty (180) days of their issuance. Any settlement checks that remain uncashed one hundred eighty (180) or more calendar days after issuance by the Settlement Administrator shall be voided. The Settlement Administrator will remit the entire amount of each Class Member's uncashed Net Settlement Payment to the California State Controller's Office in the name of the Class Member to whom the uncashed Net Settlement Payment check was addressed.

XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or

any other monetary entitlement under, benefit plans (self-insured or not) sponsored by Defendant, policies or bonus programs. Any payments made under the terms of this Resolution shall not be applied retroactively, currently or on a going forward basis as salary, earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Resolution are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Resolution.

XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS

Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$61,272.00, which represents 33 1/3% of the Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this Resolution. Additionally, Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$10,000.00, which represents all past and future Litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this Resolution. Any attorneys' fees or Litigation costs awarded to Class Counsel by the Court shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. The "future" aspect of these amounts include, without limitation, all time and expenses expended by Class Counsel in defending the Resolution and securing Preliminary and Final Approval (including any appeals therein). There will be no additional charge of any kind to either the members of the Settlement Class or request for additional consideration from Defendant for such work. This amount shall include all attorneys' fees, Litigation costs and expenses for which Named Plaintiffs and Class Counsel could claim under any legal theory whatsoever. Within thirty (30) calendar days following the Date of Final Approval, the Settlement Administrator shall disburse payment from the Settlement Amount for the amount of attorneys' fees and Litigation costs approved by the Court to Class Counsel. Should the Court approve a lesser percentage or amount of fees and/or Litigation costs than the amount that Class Counsel ultimately

1 seeks, then the unapproved portion or portions shall revert into the Net Settlement Amount to be
2 distributed between the participating Settlement Class members on a pro-rata basis.

3 ///

4 **XIV. ENHANCEMENT TO NAMED PLAINTIFF**

5 Defendant shall not oppose an application by Named Plaintiffs and Named Plaintiffs shall
6 not seek or receive an amount in excess of \$5,000.00 for each Named Plaintiff's participation in and
7 assistance with the Litigation. Any enhancement awarded to Named Plaintiffs by the Court shall be
8 deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount
9 and shall be reported on IRS Form 1099. If the Court approves an enhancement of less than a total
10 amount of \$5,000.00 to each Named Plaintiff, then the unapproved portion or portions shall revert
11 into the Net Settlement Amount to be distributed between the participating Settlement Class
12 members on a pro-rata basis.

13 **XV. TAXATION AND ALLOCATION**

14 The Parties agree that all employment taxes and other legally-required withholdings for the
15 employee portion of taxes will be withheld from payments to the members of the Settlement Class
16 and Named Plaintiffs based on the Parties stipulated allocation of the Net Settlement Amount as
17 provided for in this Section. Employer side taxes will be paid on top of the Gross Settlement.

18 The amount of federal income tax withholding will be based upon a flat withholding rate for
19 supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or
20 supplemented. Income tax withholding will also be made pursuant to applicable state and/or local
21 withholding codes or regulations.

22 For withholding tax characterization purposes and payment of taxes, the Net Settlement
23 Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):

- 24 (1) 20% as wages; and
25 (2) 80% as penalties and interest.

26 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the
27 Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the
28 regulations promulgated thereunder, or other applicable tax law, is changed after the date of this

1 Agreement, the processes set forth in this Section may be modified in a manner to bring Defendants
2 into compliance with any such changes.

3 Any and all employment taxes will be paid from the Settlement Amount based on the
4 stipulated Net Settlement Allocation.

5
6 **CIRCULAR 230 DISCLAIMER.**

7 EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE
8 “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER
9 THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES
10 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
11 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
12 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
13 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
14 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF
15 UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
16 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY
17 UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR
18 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
19 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
20 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.

21 **XVI. PRIVATE ATTORNEYS GENERAL ACT ALLOCATION**

22 In order to implement the terms of this Resolution and to settle claims alleged under the
23 Private Attorneys General Act, California *Labor Code* section 2698 *et seq.*, the Parties agree to
24 allocate Ten Thousand Dollars and Zero Cents (\$10,000.00) of the PAGA claim from which
25 \$7,500.00 will be paid as penalties to the LWDA and \$2,500.00 will be allocated to the NSA. Within
26 thirty (30) calendar days following the Date of Final Approval, the Settlement Administrator shall
27 disburse the \$7,500.00 penalty portion to the California Labor & Workforce Development Agency
28 (“LWDA”) and will provide notice to the LWDA of the fact that the settlement has been approved

by the Court along with a copy of the Settlement Agreement and the Court order confirming the approval of the settlement through the appropriate LWDA/DIR website.

///

XVII. COURT APPROVAL

This Agreement and the Resolution is contingent upon Final Approval by the Court and the entry of judgment. Named Plaintiffs and Defendant agree to take all steps as may be reasonably necessary to secure both Preliminary Approval and Final Approval of the Resolution, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining court approval, and, if necessary, appellate approval, of the Resolution in all respects. Named Plaintiffs and Defendant expressly agree that they will not file any objection to the terms of the Resolution or assist or encourage any person or entity to file any such objection.

XVIII. COURT APPROVAL

A. Termination If Court Approval Is Not Obtained.

This Agreement is expressly conditioned upon: (i) entry of a Preliminary Approval order; and (ii) entry of a Final Approval order. If the Court declines to enter either of these orders, or modifies (in what Defendant and Plaintiffs reasonably determines to be a material way) any aspect of this Agreement or of such orders, Defendant and Plaintiffs shall have the independent right to terminate this Agreement as set forth in Section XVIII.D. For purposes of this Section, a “material” modification shall include, but is not limited to, any modification in the releases to be provided, or any modification that would increase or decrease the Settlement Amount.

B. Termination If Opt Out Limit Is Exceeded.

If more than twenty percent of members of the Settlement Class opt out of the Settlement Class, Defendant shall have the right to terminate this Agreement as set forth in Section XVIII.D.

C. Termination After Appeal.

If a court of appeal on review of this Agreement and/or the Final Approval order declares unenforceable, reverses, vacates, or modifies (in what Defendant reasonably determines to be a material way) any aspect of this Agreement or the Final Approval order, Defendants shall have the independent right to terminate this Agreement as set forth in Section XVIII.D.

1 **D. Termination Procedure and Effect.**

2 If Defendant and Plaintiffs elect to terminate this Agreement pursuant to Sections XVIII.A.,
3 XVIII.B, and/or XVIII.C, Defendant and Plaintiffs may do so by giving written notice to Class Counsel or
4 Defense Counsel. Notice of termination pursuant to Section XVIII.B must be given prior to the Court's
5 judgment and order granting final approval of the class settlement. Notice of termination pursuant to
6 Sections XVIII.A and XVIII.C must be given prior to the later of the following (1) the date of final
7 affirmance on an appeal of the Final Approval order, (2) the date of final dismissal with prejudice of any
8 appeal from the Final Approval order; or (3) if no appeal is filed, three days after the expiration date of the
9 time for filing or noticing of any form for valid appeal from the Final Approval order. If Defendant
10 terminates this Agreement pursuant to Section XVIII, the termination shall void all of the rights,
11 obligations, and releases under this Agreement, except for those provisions that are necessary to effectuate
12 the termination. Within 15 calendar days after notice of termination, the Settlement Administrator shall
13 return all settlement payments made by Defendant prior to such termination (inclusive of interest and
14 exclusive of notice and administration costs already expended). If this Agreement is terminated before
15 Defendant deposits sufficient funds to cover the foregoing items, Defendant shall send to the Settlement
16 Administrator an amount sufficient to cover the notice and administration costs already expended within
17 30 calendar days after receipt of the Settlement Administrator's invoice of the amounts due.

18 **XIX. MISCELLANEOUS PROVISIONS**

19 **A. Stay of Litigation.**

20 Named Plaintiffs and Defendant agree to the stay of all discovery in the Litigation, pending
21 Final Approval of the Resolution by the Court.

22 **B. Interpretation of the Agreement.**

23 This Agreement constitutes the entire agreement between Named Plaintiffs and Defendant.
24 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
25 other written or oral representations or terms, and no such extrinsic oral or written representations or
26 terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree
27 that this Agreement is to be construed according to its terms and may not be varied or contradicted
28 by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State

1 of California, both in its procedural and substantive aspects, without regard to its conflict of laws
2 provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will
3 be resolved solely and exclusively in the Superior Court of the State of California for the County of
4 Los Angeles, and Named Plaintiffs and Defendant hereby consent to the personal jurisdiction of the
5 Court over them solely in connection therewith. The foregoing is only limited to disputes concerning
6 this Agreement and in no way limits or negates the enforceability and effect of any arbitration
7 agreements signed by employees of Defendant obligating them to arbitrate any and all claims on an
8 individual (and not on a class, collective, or representative) basis. Named Plaintiffs, on their own
9 behalf and on behalf of the Settlement Class, and Defendant participated in the negotiation and
10 drafting of this Agreement and had available to them the advice and assistance of independent
11 counsel. As such, neither Named Plaintiffs nor Defendant may claim that any ambiguity in this
12 Agreement should be construed against the other.

13 The terms and conditions of this Agreement constitute the exclusive and final understanding
14 and expression of all agreements between Named Plaintiffs and Defendant with respect to the
15 Resolution of the Litigation. The Agreement may be modified only by a writing signed by the
16 original signatories and approved by the Court.

17 **C. Further Cooperation.**

18 Named Plaintiffs and Defendant and their respective attorneys shall proceed diligently to
19 prepare and execute all documents, to seek the necessary approvals from the Court, and to do all
20 things reasonably necessary or convenient to consummate the Agreement as expeditiously as
21 possible.

22 **D. Confidentiality of Documents.**

23 After the expiration of any appeals period, Named Plaintiffs, the Settlement Administrator,
24 and Class Counsel shall maintain the confidentiality of all documents, deposition transcripts,
25 declarations and other information obtained in the lawsuit, unless necessary for appeal or such
26 documents are ordered to be disclosed by the Court or by a subpoena.

27 **E. Counterparts.**

28 The Agreement may be executed in one or more actual or non-original counterparts, all of

which will be considered one and the same instrument and all of which will be considered duplicate originals.

///

F. Authority.

Each individual signing below warrants that he or she has the authority to execute this Agreement on behalf of the party for whom or which that individual signs.

G. No Third Party Beneficiaries.

Named Plaintiffs, members of the Settlement Class, and Releasees are direct beneficiaries of this Agreement, but there are no third party beneficiaries.

H. Force Majeure.

The failure of any party to perform any of its obligations hereunder shall not subject such party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by acts of God, fires, accidents, earthquakes, other natural disasters, explosions, floods, wars, interruptions or delays in transportation, power outages, labor disputes or shortages, shortages of material or supplies, governmental laws, restrictions, rules or regulations, sabotage, terrorist acts, acts or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such party.

I. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

J. Severability.

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

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4 Dated: July __, 2021

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6 _____
By: JOAQUIN SANTIBANEZ

7 Dated: July __, 2021

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9 _____
By: JORGE MAZARIEGOS

10 Dated: July __, 2021

DANCHUK MANUFACTURING, INC.

11
12 _____
13 Name: _____
14 Title: _____

15 APPROVED AS TO FORM:

16
17 Dated: July __, 2021

JACKSON LAW, APC

18
19 By: _____
20 ARMOND JACKSON

21 Attorney for Plaintiffs
22 JOAQUIN SANTIBANEZ and
JORGE MAZARIEGOS

23 Dated: July __, 2021

FISHER & PHILLIPS LLP

24
25
26 By: _____
27 CHRISTOPHER J. BOMAN
28 BORIS SORSHER
SEAN T. KINGSTON

1
2
3
4 Dated: July 23, 2021

5 Joaquin Santibanez
6 By: JOAQUIN SANTIBANEZ

7 Dated: July 23, 2021

8 Jorge Mazariegos
9 By: JORGE MAZARIEGOS

10 Dated: July 20, 2021

DANCHUK MANUFACTURING, INC.

11 [Signature]
12
13 Name: J. Danchuk
14 Title: PRESIDENT

15 APPROVED AS TO FORM:

16
17 Dated: July 23, 2021

JACKSON LAW, APC

18
19 By: [Signature]
20 ARMOND JACKSON

21 Attorney for Plaintiffs
22 JOAQUIN SANTIBANEZ and
JORGE MAZARIEGOS

23 Dated: July 21, 2021

FISHER & PHILLIPS LLP

24
25 [Signature]
26 By: _____
27 CHRISTOPHER J. BOMAN
28 BORIS SORSHER
SEAN T. KINGSTON

Attorneys for Defendant
DANCHUK MANUFACTURING, INC.

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PROOF OF SERVICE
(CCP § 1013(a) and 2015.5)

I, the undersigned, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; am employed with Fisher & Phillips LLP and my business address is 2050 Main Street, Suite 1000, Irvine, California 92614.

On the below date, I served the foregoing document entitled **JOINT STIPULATION FOR CLASS SETTLEMENT** on all the appearing and/or interested parties in this action by placing ☐ *the original* ☒ *a true copy* thereof enclosed in sealed envelope(s) addressed as follows:

Armond Jackson, Esq.
JACKSON LAW, APC
2 Venture Plaza, Suite 240
Irvine, CA 92618
Phone: (949) 281-6857
Fax: (949) 777-6218

Attorneys for Plaintiffs Joaquin Santibanez and
Jorge Mazariegos

☒ **[by ELECTRONIC SERVICE]** – Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification address listed above.

☐ **[by MAIL]** - I enclosed the document(s) in a sealed envelope or package addressed to the person(s) whose address(es) are listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in San Diego California, in a sealed envelope with postage fully prepaid.

☐ **[by OVERNIGHT DELIVERY]** - I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight carrier.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed on June 3, 2021, at Irvine, California.

Elizabeth Toller

Name

Signature

EXHIBIT 2

NOTICE OF CLASS ACTION SETTLEMENT

JOAQUIN SANTIBANEZ, ET AL. V. DANCHUK MANUFACTURING, INC. ET AL. .
Orange County Superior Court, Case Nos. 30-2020-01155466-CU-OE-CXC

**This is not an advertisement.
A state court authorized this Notice.
Your rights may be affected by this Notice.**

To all current and former non-exempt individuals employed by Defendant Danchuk Manufacturing, Inc. in California during any portion of the Class Period (individually referred to as “Class Member” or collectively as “Class”).

PURPOSE OF THIS NOTICE

A judge of Orange County Superior Court has ordered that this Notice be sent to you. On [PA Date] the Court preliminarily approved the settlement which was reached between the Plaintiffs Joaquin Santibanez and Jorge Mazariegos (“Plaintiff”) on behalf of themselves and each of the Class Members, and Danchuk Manufacturing, Inc. (“Defendant”) in the above-captioned lawsuit now pending in the Superior Court for the State of California for the County of Orange and preliminarily appointed Plaintiffs Joaquin Santibanez and Jorge Mazariegos as Class Representatives.

You have received this Notice because Defendant’s records indicate that you worked as a non-exempt employee for Defendant in California during any portion of the Class Period during the period of F August 17, 2016 to June 14, 2021 (the “Class Period”). This Notice advises you of your options under this settlement which include how you can participate in this settlement and receive your share of the settlement proceeds, how you can exclude yourself from the settlement, or how you can object to the settlement.

BACKGROUND REGARDING THE LAWSUIT

On August 17, 2020, Mr. Santibanez and Mr. Mazariegos filed claims alleging violations regarding (1) minimum wages (Cause of Action No. 1); (2) meal breaks (Cause of Action No. 2); (3) failure to pay timely wages (Cause of Action No. 3); (4) unlawful receipt of wages (Cause of Action No. 4); (5) failure to provide accurate wage statements (Cause of Action No. 5); (6) failure to pay timely wages upon termination (Cause of Action No. 6); (7) claim for unnecessary business expenses (Cause of Action No. 7); and (8) unlawful business practices (Cause of Action No. 8).

On November 20, 2020, Mr. Santibanez and Mr. Mazariegos filed a first amended complaint containing claims alleging violations regarding (1) minimum wages (Cause of Action No. 1); (2) meal breaks (Cause of Action No. 2); (3) failure to pay timely wages (Cause of Action No. 3); (4) unlawful receipt of wages (Cause of Action No. 4); (5) failure to provide accurate wage statements (Cause of Action No. 5); (6) failure to pay timely wages upon termination (Cause of Action No. 6); (7) claim for unnecessary business expenses (Cause of Action No. 7); and (8) unlawful business practices (Cause of Action No. 8); and violation of the California Private Attorney General Act (Cause of Action No. 9).

On [REDACTED], Mr. Santibanez and Mr. Mazariegos filed a second amended complaint containing claims alleging violations regarding (1) minimum wages (Cause of Action No. 1); (2) meal breaks (Cause of Action No. 2); (3) failure to pay timely wages (Cause of Action No. 3); (4) unlawful receipt of wages (Cause of Action No. 4); (5) failure to provide accurate wage statements (Cause of Action No. 5); (6) failure to pay timely wages upon termination (Cause of Action No. 6); (7) claim for unnecessary business expenses (Cause of Action No. 7); and (8) unlawful business practices (Cause of Action No. 8); violation of the California Private Attorney General Act (Cause of Action No. 9); and (2) rest breaks (Cause of Action No. 10).

Defendant denies each and every allegation in the Lawsuit, denies any liability or wrongdoing of any kind, and believes that it treated, and continues to treat its employees fairly and in compliance with the law.

YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER

If you are a Class Member as defined above, you have three options under the settlement. Each option has its own consequences. You should read and understand each option before making your decision.

Option One: Participation As A Class Member

Class Members do not have to submit a claim form to receive a settlement payment. If you want to participate in the settlement and receive your share of the settlement proceeds, you do not need to do anything and you must not mail a Request for Exclusion as outlined in Option Two below. Class Members who have not requested exclusion from the settlement by submitting a timely and valid Request for Exclusion are referred to as Participating Class Members. The approximate amount you will receive and a description of how the amount was calculated is stated listed below in the section titled “How Much Can I Expect To Receive?” If you choose this option, you will be bound by this settlement, and you will release the Released Parties from the Released Claims which are listed below under the section entitled “What Do I Give Up By Participating In The Settlement?”

Option Two: You Can Exclude Yourself From The Settlement

If you do not wish to participate in or be bound by the settlement, you must complete and mail the Exclusion Form enclosed herein to Phoenix Class Action Administration (the “Settlement Administrator”) at the address listed below in the section titled “For More Information” postmarked on or before **RESPONSE DEADLINE OR EXTENDED RESPONSE DEADLINE IF APPLICABLE**. If you request to be excluded from the settlement, you will not be a Participating Class Member, will not receive money from the settlement, and will not be considered to have released the Released Claims. By excluding yourself from the settlement, you will retain the Released Claims and you will be free to pursue them at your own cost, if you choose to do so.

A valid Request for Exclusion must be in writing and contain: (1) the Class Member’s full name, current address, last four digits of his/her Social Security number, and signature; (2) the case name and number (*Joaquin Santibanez v. Danchuk Manufacturing, Inc.*, Orange County Superior Court Case No. 30-2020-01155466-CU-OE-CXC); (3) a clear statement that the Class Member wishes to be excluded from the settlement; and (4) the Class Member’s signature and date of signature.

Option Three: You May Object To The Settlement

If you are a Class Member, and you do not request exclusion from the settlement, you may object to the settlement before final approval of the settlement by the Court. However, if the Court rejects your objection, you will still be bound by the terms of the settlement, including the release, unless you have submitted a valid and timely request for exclusion.

If you choose to object to the settlement, you must mail your objection to the Settlement Administrator at the address listed below in the section titled “For More Information” under Settlement Administrator, postmarked on or before **RESPONSE DEADLINE OR EXTENDED RESPONSE DEADLINE IF APPLICABLE**. A valid objection must be in writing and contain: (1) the objector’s full name, current address, last four digits of his or her Social Security number, and signature; (2) the case name and number (*Joaquin Santibanez v. Danchuk Manufacturing, Inc.*, Orange County Superior Court Case No. 30-2020-01155466-CU-OE-CXC); (3) the factual and legal basis, with supporting documents, if any, on which the objection is based (4) whether the objector is represented by an attorney and the contact information of any such attorney; and (5) whether the objector plans to appear at the Final Approval Hearing. Any Class Member who fails to timely submit their written objections

in the manner specified above may still appear and object at the Final Approval Hearing. In addition to any above-mentioned objections options, , a class member may orally object or otherwise offer comments at the time of the Final Approval Hearing.

SUMMARY OF THE PROPOSED SETTLEMENT

Terms Of The Proposed Settlement

The parties reached a proposed settlement of the Lawsuit in the sum of \$184,000 (“Maximum Settlement Amount”), which is the maximum amount to be paid by Defendant. The attorneys for the Class (“Class Counsel”) will request the Court to award Attorneys’ Fees of up to thirty-three and 1/3 percent (33.33%) of the Maximum Settlement Amount (or \$61,272), and Litigation Costs and Expenses of up to \$10,000. The Parties have agreed that a payment of \$7,500 will be made from the Maximum Settlement Amount to the California Labor & Workforce Labor & Workforce Development Agency (“LWDA”) to settle the claim for penalties under PAGA (“PAGA Payment”). Plaintiff will request that the Court award an Enhancement Payment to Plaintiff Santibanez in the amount of \$5,000 and to Plaintiff Mazariegos in the amount of \$5,000. The Settlement Administration Costs are not to exceed \$5,000. The Net Settlement Amount means the Maximum Settlement Amount minus the Court-approved Attorneys’ Fees, Litigation Costs and Expenses, Enhancement Payments, Settlement Administration Costs, and PAGA Payment. The Net Settlement Amount will be distributed to Participating Class Members based on the formula set forth below in the section titled “How Much Can I Expect To Receive?”

How Much Can I Expect To Receive?

The entire Net Settlement Amount will be distributed to Participating Class Members on a *pro rata* basis through payments called Individual Settlement Payments. Defendant will provide the Settlement Administrator with the number of weeks during the Class Period each Class Member worked as an hourly-paid or non-exempt employee of Defendant in California (“Workweeks”) credited to each Class Member. The Settlement Administrator will then calculate the total number of Workweeks worked by all Class Members during the Class Period (“Total Workweeks”). To determine the estimated Individual Settlement Payment for each Class Member, the Settlement Administrator will (1) divide each Class Member’s Workweeks by the Total Workweeks and (2) multiply the resulting figure by the Net Settlement Amount.

The Individual Settlement Payment will be reduced by the employee’s share of payroll taxes and withholdings with respect to the wages portion of the Individual Settlement Payment.

You have been credited with << # of workweeks>> Workweeks and your estimated Individual Settlement Payment is \$<<estimated individual settlement payment>>.

How Can I Dispute The Number of Workweeks Allocated To Me?

If you believe the number of Workweeks credited to you above in the section titled “How Much Can I Expect To Receive?” is incorrect you can submit a dispute to the Settlement Administrator at the address listed below in the section titled “For More Information” under Settlement Administrator, postmarked on or before **[RESPONSE DEADLINE OR EXTENDED RESPONSE DEADLINE IF APPLICABLE]**. A valid dispute must be in writing and contain: (1) your full name, current address, and signature; (2) the case name and number (*Joaquin Santibanez v. Danchuk Manufacturing, Inc.*, Orange County Superior Court Case No. 30-2020-01155466-CU-OE-CXC); and (3) a clear statement that explains the basis for your dispute and any supporting documents showing that the number of Workweeks credited to you is inaccurate. Defendant’s records will be presumed determinative, absent credible evidence to the contrary. The enclosed workweek dispute form may be used for purposes of submitting a valid written dispute regarding the number of workweeks.

What Do I Give Up By Participating In The Settlement?

Those Class Members who do not submit timely and valid Requests for Exclusion to the Settlement Administrator (i.e. Participating Class Members), and their successors, assigns, and/or agents, upon the Effective Date and by operation of the Final Approval Order, shall fully and finally release and discharge Defendant and each of their past and present parent companies, subsidiaries, and affiliates, and their respective shareholders, members, partners, representatives, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, stockholders, fiduciaries, attorneys, auditors, consultants, and any past, present, or future officers (including directors and employees), and each of their predecessors, successors, heirs, and assigns, and any individual or entity which could be jointly liable with Defendant (collectively, the “Released Parties”), from the Released Claims.

For purposes of this Agreement, the Released Claims are 1) Failure to Pay Wages and Overtime Compensation; 2) Failure to Pay Minimum Wages; 3) Failure to Timely Pay Wages Due At Termination and/or Resignation; 4) Failure to Provide Accurate Itemized Employee Wage Statements; 5) Meal and Rest Period Liability under Labor Code § 226.7; 6) Business Expense Reimbursements under Labor Code Section 2800 and 2802; 7) Violation of Business & Professions Code § 17200, *et seq.*; 8) Penalties Pursuant to PAGA (Labor Code § 2698, *et seq.*) under Labor Code sections 203, 210, 226(e), 226.3, 226.7, 226.8, 510, 558, 1174.5, 1194 and 2802; 9) Failure to Pay Vacation Wages; and 10) any other applicable provisions of state or federal law, including the applicable IWC wage orders, based on the facts alleged in the Litigation; (ii) attorneys’ fees due or allegedly due under Labor Code Section 218.5 or any other statute, regulation, or contractual provision; (iii) other claims that Named Plaintiffs or member of the Settlement Class has arising out of, based upon, or relating to the allegations contained in the Litigation; and (iv) penalties or other payments which in any way arise out of, are based on, or relate in any way to any of the foregoing, including but not limited to penalties, premiums, or payments under Labor Code Sections 203, 210, 226(e), 226.3, 226.7, 226.8, 558, 1174.5, 2800, 2802, the federal Fair Labor Standards Act, any California Industrial Commission Wage Order, and/or any other statute or regulation regarding the payment of wages (hereinafter the “Settled Claims”). Without in any way limiting the foregoing, Settled Claims shall include all claims, liabilities, rights, demands, suits, matters, obligations, liens, damages, losses, costs, expenses, debts, actions, and causes of action under statutes and regulations set forth in this Section VII(A), whether enforced directly or pursuant to Labor Code Section 2699, Business and Professions Code Section 17200, *et seq.*, or any other mechanism.

The Participating Class Members, agree, upon the Effective Date and by operation of the Final Approval Order, to release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind by each and all of the Participating Class Members (including participation to any extent in any class or collective action), to obtain a recovery against any of the Released Parties for the Released Claims. Class Members who endorse their settlement checks waive and release any claims under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”) arising during the Class Period and reasonably related to any or all of the aforementioned claims. This release excludes the release of claims not permitted by law.

Final Approval Hearing

A hearing will be held in Department CX105 of the Orange County Superior Court located at 751 W. Santa Ana Blvd., Santa Ana, California 92701, on [REDACTED], 2021 at [REDACTED] a.m./p.m. to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Attorneys’ Fees and Litigation Costs and Expenses for Class Counsel, Enhancement Payment for Plaintiff, PAGA Payment, and Settlement Administration Costs. The Final Approval Hearing may be continued (moved to another date) without further notice to the Class Members. It is your responsibility to monitor the Court’s docket. It is not necessary for you to appear at this hearing.

How To Access Other Documents And Filings In The Lawsuit

This Notice is a summary of the basic terms of the Settlement. For the precise terms of this settlement, consult the “Settlement Agreement” which is attached to the Declaration of Armond Jackson in Support of Plaintiffs’ Motion for Preliminary Approval as Exhibit [REDACTED], which is on file with the Court. The Settlement Agreement, the pleadings and other records regarding the Lawsuit may be examined at any time during regular business hours at the Orange County Superior Court Civil Complex Center located at 751 W. Santa Ana Blvd., Santa Ana, California 92701. Such documents are also available online by going to the following website: <http://www.occourts.org/online-services/case-access/>. Please note, there may be fees for accessing documents online.

For More Information

Please do not contact the Court directly with questions. For more information, or if you have any questions, you may contact:

The Attorneys Representing the Parties

Attorneys for the Plaintiff (Class Counsel)

Armond Jackson
Jackson Law, APC
2 Venture Plaza, Ste. 240
Irvine, CA 92618
Phone: 949-281-6857
Fax: 949-777-6218

Attorneys for Defendant

Christopher J. Boman, Esq.
Boris Sorsher, Esq.
Sean T. Kingston, Esq.
Fisher & Phillips, LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Phone: 949-851-2424
Fax: 949-851-0152

The Claims Administrator is Phoenix Class Action Administration

The Claims Administrator can be contacted at:

Joaquin Santibanez v. Danchuk Manufacturing, Inc., Orange County Superior Court Case No. 30-2020-01155466-CU-OE-CXC

c/o Phoenix Class Action Administration

www.phoenixclassaction.com.com

Phone: 800-523-5773



EXHIBIT 3

JOAQUIN SANTIBANEZ, ET AL. V. DANCHUK MANUFACTURING, INC. ET AL. .
Orange County Superior Court, Case Nos. 30-2020-01155466-CU-OE-CXC

EXCLUSION FORM

IF YOU DO NOT WANT TO PARTICIPATE IN THE SETTLEMENT, YOU MUST SIGN AND
FILL OUT THIS FORM ACCURATELY AND IN ITS ENTIRETY, AND YOU MUST MAIL
THIS FORM BY FIRST CLASS U.S. MAIL TO THE ADDRESS BELOW SO THAT IT IS
POSTMARKED ON OR BEFORE _____, _____.

Joaquin Santibanez v. Danchuk Manufacturing, Inc.,
Orange County Superior Court Case No. 30-2020-
01155466-CU-OE-CXC

**IT IS MY DECISION TO BE EXCLUDED FROM THE CLASS AND NOT TO RECEIVE
ANY MONEY UNDER THE SETTLEMENT.**

I confirm that I was employed by and performed work for Danchuk Manufacturing, Inc. (“DMI”) as
an hourly non-exempt employee for some period of time between August 17, 2016 to June 14,
2021. I confirm that I have received notice of the proposed settlement in this action. I have decided
to be excluded from the class, and I have decided not to participate in the proposed Settlement. I
understand that by submitting this Exclusion Form, I will be forever barred from receiving any
money under the Settlement, and will not be bound by the Settlement.

DATED: _____

(Signature)

(Address)

(Type or Print Name)

(City, State, Zip)

(Last Four of Social Security Number)

EXHIBIT 4

JOAQUIN SANTIBANEZ, ET AL. V. DANCHUK MANUFACTURING, INC. ET AL. .
Orange County Superior Court, Case Nos. 30-2020-01155466-CU-OE-CXC

WORKWEEK DISPUTE FORM

If you believe the number of Workweeks credited to you above in the Class Notice is incorrect, please submit this form to the Settlement Administrator at the address listed below, postmarked on or before **[RESPONSE DEADLINE OR EXTENDED RESPONSE DEADLINE IF APPLICABLE]**. A valid dispute form must be in writing and contain: (1) your full name, current address, last four digits of your social security number, and signature; (2) the case name and number (*Joaquin Santibanez v. Danchuk Manufacturing, Inc.*, Orange County Superior Court Case No. 30-2020-01155466-CU-OE-CXC); and (3) a clear statement that explains the basis for your dispute and any supporting documents showing that the number of Workweeks credited to you is inaccurate. Danchuk's Manufacturing Inc.'s records will be presumed determinative, absent credible evidence to the contrary.

STATEMENT EXPLAINING BASIS OF DISPUTE

DATED: _____

(Signature)

(Address)

(Type or Print Name)

(City, State, Zip)

(Last Four of Social Security Number)

The Claims Administrator is Phoenix Class Action Administration

The Claims Administrator can be contacted at:

Joaquin Santibanez v. Danchuk Manufacturing, Inc., Orange County Superior Court Case
No. 30-2020-01155466-CU-OE-CXC c/o ILYM Group
www.phoenixclassaction.com
Phone: 800-784-2174
PO Box 7208
Orange, California 92863

EXHIBIT 5

JACKSON LAW, P.C.

Armond M. Jackson
ajackson@jlaw-pc.com

August 21, 2020

Sent By Certified Mail to Children's Hospital of Orange County

Submitted Via Online to Labor and Workforce Development Agency

Children's Hospital of Orange County

1201 W. LaVeta Avenue
Orange, California 92868

**Labor and Workforce Development
Agency**

Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

**PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE
PURSUANT TO LABOR CODE § 2699**

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 210, 221, 226 (a) 1-2, 4-5, 8-9, 226.3, 226.7, 510, 512, 558, 1194, 2802
Violations of California Labor Code Section 1198 (Industrial Welfare Commission Order No. 5-2001 ("Wage Order 5"), Sections 3, 7, 11 and 12 Violations of California Labor
Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)

Ruben Vergara et al. v. Children's Hospital of Orange County et al.

Dear Children's Hospital of Orange County and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator, Children's Hospital of Orange County by Ruben Vergara ("Mr. Vergara" or "Plaintiff") on behalf of all California aggrieved

current and aggrieved former similarly situated employees of Children's Hospital of Orange County, ("CHOC") (collectively referred to throughout herein as "Defendants"), a private right of action under the Private Attorney General Act (PAGA) of 2004.

As a prerequisite to prosecuting this private action in superior court, Mr. Vergara is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below. (Labor Code § 2699.3) If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson Law, APC at 949-281-6857 or via email at ajackson@jlaw-pc.com.

Facts and Theories

Defendants are a healthcare company.

This letter encompasses violations for all of Defendants nonexempt California employees.

Plaintiff was deployed to work for Defendants as a nonexempt employee. Plaintiff was responsible for servicing patients and cooking.

Throughout Plaintiff's shifts, they were not provided with all 10 minute duty-free uninterrupted rest breaks during its working shifts that were at or above 7.5 hours as a result of encouragement and requirement to take short rest breaks because he was interrupted during rest breaks, had to start rest breaks late and report back from rest breaks early or required to miss entitled rest breaks approximately 10 to 20 shifts each month. Moreover, at times when Plaintiff and similarly situated employees were required to report back to work for interrupted rest breaks were not paid premium wages for this interrupted meal break. Finally, Defendants required Plaintiff and similarly situated employees to work on-call or on-premises as they had to be available to perform job tasks and to return to work during rest breaks each shift.

Furthermore, Plaintiff was not provided with proper 30 minute duty-free uninterrupted meal periods each five hours of its working shifts that he was entitled to when he worked over five and ten hour shifts and meal breaks were short, late, interrupted or not taken at all as a result of being encouraged and required to take short meal breaks because he was interrupted during meal breaks, had to start meal breaks late and report back from meal breaks early or completely miss meal breaks due to workload. Moreover, Defendants required Plaintiff and similarly situated employees to work on-call or on-premises as they had to be available to perform job tasks and to return to work during meal breaks each shift each day. Finally at times when Plaintiff and similarly situated employees were required to report back to work for interrupted meal breaks were not paid premium wages for this interrupted meal break approximately 10 to 15 shifts each month.

Defendants have violated California Labor Code sections 226.7, 510, 512, 1194, and Wage Order 5, Sections 7, 11 and 12 and any other applicable wage orders. Other similarly situated employees at Defendants were under the same conditions as Plaintiff.

Moreover, Defendants failed to incorporate Plaintiff's premium wages and hours worth of work, actual name of the legal entity of the employer and applicable rates for all hours worked on their wage statements as required by California Labor Code section 226(a) 1-2, 4-5, 8 and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks and rest breaks and recording their applicable hourly rates for all hours worked and actual hours worked or premium wages earned on their wage statements.

Moreover, Defendants failed to pay for all hours worked due to requiring employees to undergo medical inspections and testing before clocking-in. These medical inspections and medical testing and questions required Plaintiff and other employees to work off-the-clock for up to 30 minutes before clocking-in in violation of 510, 1194 and Wage Order 5, Sections 3 and any other applicable wage and hour laws.

Furthermore, Defendants required Plaintiff and similarly situated employees to purchase masks to protect from COVID-19 transmissions requiring them to wear these masks at work but failed to reimburse in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s)

By virtue of not authorizing or permitting Plaintiff and all other similarly situated employees to take their entitled meal breaks and rest breaks, off-the-clock work, failure to reimburse, failing to incorporate hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, name and address of the legal entity employer, hours worked at the applicable hourly rate and deductions that should have been taken out, and rights to accurate wages statements and retention of those rights. Consequently, Defendants are violating California Labor Code Sections, 226(a) 1-2, 4-5, 8, 9, 226(a), 226.3, and 226.7, 510, 512, and Wage Order 5, Sections 3, 7, 11 and 12, 2802.

Violation of California Labor Code Sections, 201, 202, 203, 204

An employer may not willfully fail to pay any wages owed to an employee who is either discharged, resigns or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. (See Lab. Code §203) Here, Defendants did not compensate Plaintiff and do not compensate other similarly situated employees at the time of discharge or timely at the time of separation due to failing to compensate employees for owed premium wages, off-the-clock work, timely payments at the time of end of employment for COVID-19 lay offs, and on-call meal breaks.

Violation of California Labor Code § 210

Labor Code section 210, an employer may not fail to pay the wages of each employee. Here, Defendants failed to pay for all hours worked due to requiring employees to undergo medical inspections and testing before clocking-in. These medical inspections and medical testing and questions required Plaintiff and other employees to work off-the-clock for up to 30 minutes.

Violation of California Labor Code § 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. Again, here, Defendants failed to pay for all hours worked due to requiring employees to undergo medical inspections and testing before clocking-in. These medical inspections and medical testing and questions required Plaintiff and other employees to work off-the-clock for up to 30 minutes.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide “accurate itemized statement in writing” each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (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. (See Labor Code §226, subsection (a)) Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Plaintiffs’ contention that Defendant are in violation of the following California Labor Codes:

Violation of 226 (a)(1)

Section a (1) requires gross wages to be inserted on an employee’s paystubs. Plaintiffs and other similarly situated employees’ paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee's paystubs. Plaintiffs and other similarly situated employees' paystubs did not accurately reflect their total hours worked by virtue of excluding hours worked because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees' wages to be inserted on an employee's paystubs. Plaintiffs and other similarly situated employees' paystubs did not accurately reflect all deductions taken out of their paychecks by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Plaintiffs' and other similarly situated employees' paystubs did not accurately reflect their net wages earned by virtue of excluding hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of 226 a (8)

Section a (8) requires the name and address of the legal entity that is the employer on an employee's paystub. Plaintiff and other similarly situated employees' paystubs did not reflect the name and address of the legal entity was included on the actual paystubs and only included the name and address of a different employer.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiffs and other similarly situated employees' paystubs did not reflect their applicable hourly rate because BSC and FSS excluded hours worked and wages earned because Plaintiff and other similarly situated employees did not receive all entitled meal periods and rest periods but Defendants did not compensate them for that extra hour worth of work nor disclosed or recorded the extra hour worth of gross wages earned on their paystubs for failing to pay for all hours worked and provide the entitled meal breaks and rest breaks. Moreover, Defendants failed to insert all hours worked and wages earned due to the off-the-clock work.

Violation of California Labor Code Sections 226.7, 512, 1198 and Wage Order 5, Sections 3, 7, 11 and 12

An employer must provide rest period pursuant to an applicable order of the Industrial Welfare Commission. (See Lab. Code §226.7)

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission. Industrial Welfare Commission Order No. 5-2001 (hereinafter "Wage Order 5").

Under these circumstances, Plaintiffs' position at Defendants falls within Wage Order 5 employed Plaintiff's as a non-exempt employees.

California Labor Code sections 226.7, 512 and Wage Order 5, Section 11, requires employers to provide employees with uninterrupted meal breaks for 30 minutes every 5 hours unless waived by mutual consent and the work shift is not above 6 hours. California Labor Code sections 226.7, 512 and Wage Order 5, Section 11 requires every employer to provide its employees with uninterrupted meal breaks for 30 minutes every 5 hours if the employee works more than a 6 hour shift. Plaintiff and other similarly situated employees regularly worked above five, six and ten hour shifts and were not provided meal breaks every five hours nor were they compensated premium wages for working through their meal breaks as mentioned above.

California Labor Code sections 226.7 and Wage Order 5, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an

employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

Plaintiff and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendants while regularly working above 6 and 7.5 hour shifts.

Wage Order 5, Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to "keep accurate information with respect to each employee" regarding identification information, including their "[f]ull name, home address, occupation and social security number," "[time records showing when the employee begins and ends each work period," "[m]eal periods," and [t]otal hours worked in the payroll period and applicable rates of pay."

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendants failed to record "meal periods" as Plaintiff and other similarly situated employees were not provided with proper meal periods. Furthermore, Defendants failed to incorporate the extra hour's worth of work when Plaintiff and other similarly situated employees worked through their entitled meal breaks and rest breaks without being paid premium wages. The extra hours worth of work at the applicable rate of pay was not disclosed on the itemized wage statements in violation of Wage Order 5, Section -7- Records.

California Labor Code Section 510, and 1194, Wage Order 5, Section

Section 3 lays out the requirements for overtime pay applicable to employees working in restaurants and all similar establishments such as the Commerce Club. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee's regular rate of pay.

Moreover, if any employee works (7) consecutive days, the employee shall be paid one and one-half (1.5) times his or her regular pay for the first eight (8) hours. Any hours worked in excess of eight (8) hours on the seventh consecutive day must be paid at twice the employee's regular rate of pay.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee's regular rate of compensation. (See Lab. Code §510) "Double time" required after twelve hours in any workday, after eight hours on the seventh day of work. Plaintiff and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week because they worked through shifts above 8 hours per day and 40 hours per week and worked off-the-clock during being required to report to work early for medical testing and questioning that took up to 30 minutes to complete and not paid the wages for being required to undergo these medical inspections and medical checks. The employees were never provided with overtime compensation for this time.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages. (See Lab. Code §558)

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit. (See Lab. Code §1194) When the employees were required to work above 8 hours in a day and 40 hours in a week they were not paid overtime for this work for his off-the-clock work time being required to report to work early for medical testing and questioning that took up to 30 minutes to complete and not paid the wages for being required to undergo these medical inspections and medical checks, the work shifts would amount to above 8 hours of work per day or above 40 hours per week. The employees were never provided with minimum wages or overtime compensation for this time.

Conclusion

Pursuant to the above stated facts, it is Plaintiffs' theory that Defendants are in violation of Labor Code Labor Code §§ 201, 202, 203, 210, 221, 226(a) 1-2, 4-5, 8-9, 226.3, 226.7, 510, 512, 558, 1194 and Violations of California Labor Code Section 1198, Wage Order 5, Sections 7, 11 and 12, 2802. It is Plaintiff's contention that all similarly situated employees at Defendants are subjected to all of the above mentioned violations as Defendants employees.

Sincerely,

Jackson Law, APC

/s/ Armond M. Jackson

Armond M. Jackson

EXHIBIT 6