

James R. Hawkins (SBN 192925)
Christina M. Lucio (SBN 253677)
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
James@Jameshawkinsaplc.com
Christina@Jameshawkinsaplc.com

Attorneys for Plaintiff SCOTT CAHN,
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

SCOTT CAHN, individually and on behalf
of herself and all others similarly situated,

Plaintiff,

v.

J.J.R. ENTERPRISES, INC., doing
business as CALTRONICS BUSINESS
SYSTEMS, a California Corporation; and
DOES 1-50, inclusive,

Defendant.

Case No. 34-2020-00284704

Assigned for All Purposes to:
Hon. Lauri A. Damrell

**DECLARATION OF JAMES R. HAWKINS
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND RELEASE**

Date: August 18, 2023
Time: 9:00 a.m.
Dept: 28

1 I, James R. Hawkins, declare as follows:

2 1. I am an individual over the age of eighteen. I am a partner at the Law Firm of
3 James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Scott Cahn ("Plaintiff"),
4 who filed this Class and PAGA Representative Action on behalf of himself and all others
5 similarly situated persons who were employed by Defendant J.J.R. Enterprises, Inc.
6 ("Defendant") (collectively, the "Parties"), and submitted for mileage reimbursement in the State
7 of California during the class and PAGA periods. I have personal knowledge of the facts set forth
8 below, and if called to testify regarding them, I could and would do so competently.

9 2. I submit this Declaration in support of Plaintiff's Motion for Preliminary Approval
10 of Class Action Settlement, Approval of Class Notice, and Conditional Certification of Settlement
11 Class (the "Preliminary Approval Motion").

12 3. Attached hereto as **Exhibit 1** is a true and correct copy of the Stipulation of
13 Settlement entered by the Parties, including exhibits thereto, which the parties ask the Court to
14 preliminarily approve (the "Settlement"). **Exhibit A** to the Settlement consists of the parties'
15 Notice of Proposed Class Action Settlement ("Notice"); **Exhibit B** consists of the Parties'
16 proposed Request for Exclusion form; **Exhibit C** is the Parties' proposed Objection Form.

17 4. Defendant does not oppose the Motion for Preliminary Approval.

18 5. The Settlement will resolve all of the claims raised in the First Amended
19 Complaint including those for failure to reimburse business expenses pursuant to Labor Code
20 sections 2800 and 2802, Industrial Welfare Commission Wage Orders 1-2001, 4-2001, and 7-
21 2001, California Code of Regulations, Title 8, section 11000 *et seq.*, and Business and
22 Professions Code sections 17200-17208, as well as penalties pursuant to the Private Attorneys
23 General Act of 2004 (Labor Code sections 2698, *et seq.*) ("PAGA").

24 6. The Parties investigated the relevant facts and law throughout the Actions for
25 failure to reimburse necessary expenses and for penalties under PAGA. Such investigation
26 included research, and the exchange of information, documents, and data through informal
27 discovery. It also included preparing for and attending a full-day mediation with wage-and-hour
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1 class action mediator the Honorable Carl J. West (Ret.). The Parties have conducted significant
2 investigation of the facts and law. Plaintiff and his counsel propounded substantial informal and
3 formal discovery requests to inform Defendant of the nature of the information sought to prepare
4 for mediation and prosecution of the matter. Such investigation included, *inter alia*, the exchange
5 of information through informal discovery, numerous conferences between Plaintiff's Counsel
6 and Defendant's counsel, substantial document production, as well as the review of numerous
7 data necessary to calculate potential damages. Defendant produced a large volume of documents
8 and data concerning the putative class members prior to mediation. By way of example,
9 Defendant produced payroll, time, and mileage records of Class Members. Counsel for the Parties
10 investigated the law as applied to the facts discovered regarding the alleged claims of the
11 Settlement Class Members and potential defenses thereto, and the damages and penalties claimed
12 by the Settlement Class Members. The Parties also retained experts to assist in their respective
13 investigations. The Parties conducted their own evaluations of the potential recoveries based on
14 the claims alleged in the Action.

15 7. On July 13, 2022, the Parties engaged in a full-day voluntary mediation with the
16 experienced wage and hour class action mediator the Honorable Carl J. West.

17 8. Although the Parties were unable to resolve the dispute immediately at the
18 mediation session, the Parties continued discussions with the assistance of Judge West.

19 9. After additional negotiation, the Parties agreed to a settlement of all claims in the
20 First Amended Complaint. Accordingly, the Settlement was the product of arm's length
21 bargaining by the Parties with the assistance of Judge West. The information exchanged between
22 the Parties allowed them to assess the merits of the claims and defenses, and to reach a
23 compromise on the issues.

24 10. At all times, the negotiations leading to the mediator's proposal, and eventually to
25 the long-form Settlement Agreement, have been adversarial, non-collusive, conducted at arm's
26 length, and supported by a knowledgeable mediator.
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1 11. Plaintiff and Class Counsel recognized the expense and length of proceedings
2 necessary to continue the litigation against Defendant through trial and through any appeals.
3 Plaintiff and Class Counsel also have considered the uncertainty and risk of further litigation, the
4 potential outcome, and the difficulties and delays inherent in such litigation. Plaintiff and Class
5 Counsel have conducted extensive settlement negotiations, including the above-mentioned
6 mediation and through the long-form Settlement Agreement. Based on the foregoing, Plaintiff
7 and Class Counsel believe the Settlement set forth in this Settlement is a fair, adequate, and
8 reasonable settlement, and it is in the best interests of the Class Members.

9 12. Although a settlement has been reached, Defendant denies any and all liability or
10 wrongdoing of any sort with regard to the claims and Defendant maintains that for any purpose
11 other than settlement, this Action is not appropriate for class action treatment. Defendant denies
12 all allegations asserted in the operative complaint, and all claims made by Plaintiff. Defendant
13 asserts that they have no liability for any Plaintiff's or any Class Member's claims under any
14 statute, wage order, regulation, common law, or equitable theory.

15 13. Plaintiff is a former employee of Defendant who worked for Defendant and
16 submitted for mileage reimbursement in California during the Class Period.

17 14. Plaintiff seeks to represent a Class of all persons who are or were employed by
18 Defendant who submitted for mileage reimbursement in the State of California within the Class
19 Period (August 28, 2016 through December 15, 2022). (Settlement, ¶ 2.) The Parties request
20 conditional certification and preliminary approval under the Settlement of the "Class" defined
21 above. As of the date of the mediation on July 13, 2022, there were approximately 310 Class
22 Members employed during the Class Period. (*Id.*, ¶ 13.)

23 15. Plaintiff also seek to represent the "PAGA Aggrieved Employees" which are
24 defined as "all persons who are or were employed by Defendant as non-exempt employees and
25 all exempt employees who submitted for milage reimbursement in the State of California within
26 the PAGA Period (August 28, 2019 through December 15, 2022)." (*Id.*, ¶ 2.)
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1 16. While Plaintiff believes in the strength of his allegations and that his claims are
2 appropriate for class certification, Plaintiff and Class Counsel have balanced our evaluation of the
3 validity and merit of the asserted claims against potential problems of proof, the legal standards
4 governing litigation of the class claims against potential problems of proof, the legal standards
5 governing litigation of the class claims and PAGA claims, the uncertainty of obtaining and
6 maintaining class certification through trial, the potential for appeals, the expense and burden
7 associated with prolonged litigation, the various defenses asserted by Defendant.

8 17. Based on my evaluation, I believe that the terms set forth in the Settlement are fair,
9 adequate, and reasonable and in the best interest of the Class, including Plaintiff.

10 18. As set forth more extensively above, the Parties conducted a thorough
11 investigation into the allegations in this Action. Prior to filing the Complaint, we engaged in a
12 significant amount of research and investigation. We then drafted formal and informal discovery
13 to propound to Defendant. In lieu of responding to formal discovery, the Parties agreed to attend
14 mediation and directed their efforts towards preparing for a fruitful mediation. The Parties
15 engaged in a significant amount of research, investigation and information exchange prior to
16 mediation. Defendant produced hundreds of pages containing tens of thousands of lines of data,
17 including numerous spreadsheets containing payroll, timekeeping, and mileage data for the
18 putative class. I believe that the substantial exchange of information is sufficient to permit the
19 parties to realistically assess the strengths and weaknesses of their claims and defenses and
20 allowed them to conduct an informed mediation and reasonable settlement negotiations in good
21 faith.

22 a. Class Counsel engaged in numerous discussions with the Class Representative
23 regarding the claims set forth in the complaints in the Actions and the PAGA letter.

24 b. Class Counsel is knowledgeable about and has conducted extensive research with
25 respect to the applicable law and potential defenses to the claims in this Class Action. Class
26 Counsel believes Defendant produced sufficient documents and information that allowed the
27 parties to engage in two well-informed mediations based upon good faith negotiations.
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1 Information was also exchanged during the course of the mediation, which informed subsequent
2 negotiations between the parties and the eventual agreement upon the terms of Settlement.

3 c. As Class Counsel, we have used this extensive informal discovery and
4 investigation to create a comprehensive damages and potential liability model for each of the
5 asserted claims, described below, with the assistance of an expert. This damages analysis created
6 from the records produced was used to determine Defendant's potential liability for each of
7 Plaintiff's claims.

8 d. The negotiated Settlement thus resulted from the damages and potential liability
9 model developed from Defendant's pay and mileage records and the remaining production
10 documents and produced information. To this end, the parties and their counsel exchanged
11 substantial information through informal discovery, information exchange, and correspondence.
12 Counsel for the parties believe that they have conducted sufficient discovery, investigation and
13 research to evaluate the strengths and weaknesses of their respective claims and defenses. After
14 this assessment, Plaintiff and Class Counsel believe this Settlement is fair and reasonable.

15 19. Subject to Court approval, the parties have agreed under the Settlement that
16 Defendant will pay a Gross Settlement Amount of \$425,000.00, which is the maximum
17 settlement sum to be paid by Defendant under the terms and conditions of the Settlement.
18 (Settlement, ¶ 4.)

19 20. Subject to Court approval, the "Net Settlement Amount" available for distribution
20 to Settlement Class Members following deduction of the requested fees, costs, enhancement and
21 penalties is estimated to be \$230,583.33. The Net Settlement Amount means the Gross Settlement
22 Amount of \$425,000, less all of the following requested deductions subject to Court approval:
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- 24 a. Class Counsel's attorney's fees of up to 33.33% of the Settlement Fund equal to
25 \$141,666.67. (*Id.*, ¶ 7.)
26 b. Class Counsel's reasonable costs of up to \$18,000.00. (*Id.*)
27 c. Class Representative Enhancement Payment of \$10,000.00 to Scott Cahn (*Id.*, ¶ 8.)
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d. PAGA Penalties of \$15,000.00; to the State of California, of which 75% (\$11,250.00) will go to the LWDA, and 25% (\$3,750.00) will go to the PAGA Group Members. (*Id.*, ¶ 6.)

e. Settlement Administration Costs up to \$9,750 (*Id.*, ¶ 9.)

21. The Net Settlement Amount (“NSA”) is the amount available for distribution to Class Members in the form of Individual Settlement Payments following deduction of the requested fees, awards, and costs. (*Id.*, ¶ 6.) Assuming equal distribution to the Class Members and full participation, the average recovery per Class Member will be approximately \$743.82 from the Net Settlement Amount.

22. Within twenty-one (30) days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator. (*Id.*, ¶ 11.)

23. All Class Members will receive notice of the Settlement and are not required to submit a claim form for their share of the Net Settlement Amount. (*Id.*, ¶ 6.) Class Members shall have until the Response Deadline to dispute the number of workweeks that they are credited. (*Id.*, ¶ 11, § E.) Within ten (10) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail. (*Id.*, ¶ 11, § B.) Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. (*Id.*) The Administrator will also attempt to obtain valid mailing addresses on Notice Packets returned as undeliverable in accordance with the terms of the Settlement. (*Id.*, ¶ 11, § F).

24. The Response Deadline will be forty-five (60) calendar days from the initial mailing of the Notice Packet by the Settlement Administrator. Class Members to whom Notice Packets are re-mailed in accordance with the notice procedure set forth in the Settlement shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline, whichever is later, to submit a Request for Exclusion, an Objection, or a dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. (*Id.*)

1 25. In order for any Class Member to validly exclude himself or herself from the Class
2 and this Settlement, a written request for exclusion containing all the required information must
3 be filled out and timely sent to the Settlement Administrator, postmarked by no later than the
4 Response Deadline (60 days after the date the Administrator mails the Notice). (*Id.*, ¶ 11.)
5 PAGA Group Members may not opt out or exclude themselves from the Settlement. Plaintiff
6 agrees to not opt-out of the Settlement.

7 26. A Class Member who requests to be excluded from the Class in writing will not be
8 deemed a Settlement Class Member for any purpose, will not receive an Individual Settlement
9 Payment, and will not be subject to the terms of the Settlement (except that a Settlement Class
10 Member, who is also a PAGA Group Member cannot opt out of the PAGA release). (*Id.*, ¶ 11, §
11 C).

12 27. In accordance with the terms of the Settlement, the entire NSA will be disbursed to
13 Participating Class Members---that is, all Class Members who do not submit timely and valid
14 Requests for Exclusion. (*Id.*, ¶ 6.)

15 28. In order for any Class Member to object to the Settlement, or any term of the
16 Settlement, the Class Member making the objection must not submit a request for exclusion, and
17 must, by not later than 60 days after the Notice was initially mailed to Class Members, submit
18 the Objection to the Court and Class Counsel, along with all supporting papers, in accordance
19 with the terms of the Notice and by the Response Deadline. (*Id.*, ¶ 11, § D.)

20 29. Individual Settlement Payments will be calculated and apportioned from the NSA
21 based on the number of shifts a Class Member worked during the Class Period. To determine
22 each Class Member's estimated Individual Settlement Payment, the Settlement Administrator
23 will use the following formula: Total Shifts Worked by the Settlement Class Member During the
24 Class Period/Total Shifts Worked by all Settlement Class Members During the Class Period) x
25 Net Settlement Amount) less required withholdings. (*Id.*, ¶ 6, § B.)

26 30. Individual PAGA Payments will be calculated in the manner set forth below. All
27 PAGA Group Members will receive their individual share of the PAGA Penalty Payment
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proceeds automatically, without the requirement for the return of a claim form. Each PAGA Group Member will receive an Individual PAGA Payment which is a share of the PAGA Penalty Payment calculated based upon the number of paychecks received by the PAGA Group Member during the PAGA Period. (Total Number of Paychecks Issued to the PAGA Group Member During the PAGA Period/Total Paychecks Issued to all PAGA Group Members During the PAGA Period) x PAGA Penalty Payment for Distribution to PAGA Group Members (\$3,750). (*Id.*, ¶ 6, § C.)

31. To the extent that the Individual Settlement Payment checks are undeliverable, or the Individual Settlement Payment checks are uncashed 180 days after the date listed on the check, the amount of those checks shall be sent to the State of California Controller's Office Unclaimed Property Fund to be held in the name of the employee. (*Id.*, ¶ 6, § F.)

32. Each Individual Class Member Payment will be considered 100% reimbursement, interest, and penalties, with no portion allocated as wages. Individual PAGA Payments to PAGA Aggrieved Employees shall also be classified as 100% penalties and not wages. The Settlement Administrator shall issue to Plaintiff and Participating Class Members a Form 1099 – MISC for the amount paid. (*Id.*, ¶ 6, § E.)

33. Phoenix Settlement Administrators shall be the Settlement Administrator. (*Id.*, ¶ 4, § A.) The Settlement Administration Expenses will not exceed \$9,750.00. These will include , *inter alia*, fees and costs payable to the Settlement Administrator for printing, distributing (including with appropriate postage), and tracking documents for this Settlement, any searches to locate any Settlement Class Members, translating the notice and related documents into Spanish, providing notice of the proposed settlement to the appropriate state and federal officials in accordance with the requirements of the Class Action Fairness Act, 28 U.S.C. § 1715, calculating estimated amounts per Class Member and PAGA Group Member, tax reporting, distributing the Individual Settlement Payments and Individual PAGA Payments, Class Representative Enhancement Payment and Class Counsel Fees and Costs and providing necessary certification of completion of notice, reports and declarations, establishing and

maintain a website, establishing and administering a qualified settlement fund account, required tax reporting on the Individual Settlement Payments, the issuing of 1099 forms and other responsibilities as requested by the Parties and the Court. (*Id.*, ¶¶ 4, 6-9, 11, 14.)

34. On the date set forth in the Notice of Proposed Class Action Settlement, a Final Fairness and Approval Hearing shall be held before the Court in order to (1) review this Settlement and determine whether the Court should give it final approval, and (2) consider any timely objections made, and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the Parties will ask the Court to give final approval to the Settlement and shall submit to the Court a Proposed Final Order Approving Settlement of Class Action, which the Parties shall jointly agree upon in advance, and which shall be entered in the Action. (*Id.*, ¶ 14.)

35. Within thirty (30) days after the Effective Date, Defendant shall transfer the entire Gross Settlement Amount to the Settlement Administrator. (*Id.*, ¶ 4.) The “Effective Date” Effective Date means when all of the following events have occurred:

- (1) The Settlement has been executed by all Parties, Class Counsel, and Defendant's Counsel;
- (2) The Court has given preliminary approval to the Settlement; and
- (3) The Court has held a Final Settlement Approval Hearing and has entered a Final Order and Judgment, approving the Settlement.

It is the Parties' intention that the Settlement shall be final for purposes of the Effective date at the time of Final Approval, if no objections to the Settlement are filed. Only in the event that written objections are filed prior to the Final Settlement Approval Hearing which are not later withdrawn prior to final approval, the Effective Date shall be later of:

- (a) the date of final affirmance on an appeal of the Judgment; the expiration of the time for a petition to review the Judgment; and, if review is granted, the date of final affirmance of the Judgment following review; or

1 (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of
2 any proceeding to review the Judgment; or

3 (c) if no appeal is filed, the expiration date for filing any appeal from the Judgment.

4 36. Defendant shall not be required to fund any portion of the Settlement Amount and
5 the Settlement Administrator shall not distribute or pay any monies, unless and until all such
6 appeals have been finally resolved or dismissed with prejudice, and the Judgment is final and
7 enforceable and there is no further recourse by an appellant or objector who seeks to contest the
8 Settlement. (*Id.*, ¶ 4.)

9 37. We are experienced wage and hour class action attorneys. We have represented,
10 mediated, tried, and settled other employee class actions in wage and hour litigation and have
11 knowledge of the strengths and weaknesses of their respective positions that are sufficient to
12 evaluate the fairness of the proposed settlement herein.

13 38. Class Counsel and Plaintiff understand the uncertain and risky nature of the class
14 certification process as well as the potential merits of both legal and factual defenses expected to
15 be raised by the Defendant. They also understand the Court's discretion in any litigation under
16 the PAGA to reduce penalties. Based upon the uncertainty associated with Defendant's asserted
17 defenses, the risk in certifying a class, the possibility of Defendant prevailing on potentially
18 dispositive motions, and a potential trial, Class Counsel and the Plaintiff believe the \$425,000
19 Gross Settlement Amount to settle all Claims in the Actions is fair, reasonable, and adequate
20 under the circumstances and will provide Participating Class Members meaningful
21 compensatory relief without any reversion to Defendant. The Settlement affords the Class
22 Members prompt and substantial relief, while avoiding significant legal and factual obstacles
23 that otherwise may have prevented the Class Members from obtaining any recovery at all.
24 Indeed, the outcome of class certification, trial and any attendant appeals, is inherently uncertain.
25 Throughout this litigation and the settlement process, Defendant has denied and continue to deny
26 any liability or wrongdoing of any kind associated with Plaintiff' claims alleged in the Actions.
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1 Defendant has also produced substantial evidence to support its defenses, such that recovery is
2 uncertain.

3 39. Defendant has also denied that, for any purpose other than settling the Action, it is
4 appropriate for class certification. With this in mind, the Parties have concluded that the risks,
5 future costs and expenses involved in continuing the Action will be substantial and have chosen
6 to eliminate any further expenses, attorneys' fees, and uncertainty in connection with the Action.
7 In particular, given the heavily disputed nature of the case—both factual and legal grounds—it is
8 expected that substantial expenses would be incurred in determining issues concerning formal
9 discovery, litigating any class certification or decertification motion and appeals, bringing
10 potentially dispositive motions, and in connection with any trial or appeals after trial. Without
11 admitting or conceding any liability or damages, Defendant has entered into the Settlement to
12 fully, finally, and forever resolve this litigation and bar further litigation on the terms and
13 conditions set forth in the Settlement, and in order to avoid the burden, expense, and uncertainty
14 associated with litigation.

15 40. In this action, Plaintiff alleged that Plaintiff and the Class Members were not
16 reimbursed for necessary business expenses as required by the California Labor Code and that
17 Defendant violated the unfair competition law. Plaintiff also sought penalties under the Private
18 Attorneys General Act, Labor Code section 2698 *et seq.* Defendant denied all allegations and
19 contended that it complied with the applicable law at all times.

20 41. Based upon initial review of the documents and information provided, Plaintiff's
21 counsel estimated that maximum total liability if the claims were entirely successful at trial,
22 Defendant did not prevail on any defenses, and all PAGA penalties sought were awarded,
23 Plaintiff and the Class would be awarded approximately \$1.8 million. The majority of this figure
24 is discretionary PAGA penalties. Of this amount, Plaintiff estimated \$838,575.00 in
25 unreimbursed expenses. Plaintiff's estimates are based upon the following figures at mediation:
26 5,634,837.08 miles driven by Class Members during the Class Period, a required average IRS
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reimbursement rate of \$0.575 per mile driven throughout the Class Period, 310 Class Members, and \$2,586,456.74 in mileage reimbursements already paid to Class Members by Defendant.

- a. **Unreimbursed Expenses:** 5634837. miles x \$0.575 per mile = \$3,240,031.32
- \$2,586,456.7 mileage paid + \$77,197.00 estimated additional underpayments
= \$730,771.58 + \$83,857.00 interest = \$813,575.00.

Private Attorney General Penalties:

- b. **PAGA failure to reimburse (LC 2800, 2802):** 8,812 violations x \$100
penalty = \$881,200.00

42. Class certification was far from certain given Defendant's defenses and the current state of the law regarding certification and establishing common questions of fact, including the decision by the California Supreme Court in *Brinker Restaurant Corp. v. Superior Court*, 53 Cal. 4th 1004 (2012). As a result, the considerable risk that Defendant could defeat certification, defeat the representative claims, and prevail on its defenses, thus defeating any and all recovery to the class, warranted a compromise of the class claims and resulted in the parties arriving at the terms of their proposed Settlement.

43. Plaintiff contended Defendant failed to reimburse employees for necessary expenses, specifically mileage and cellular phone usage. Defendant argued that it had reimbursed its employees for nearly 80% of mileage expenses based on the IRS rates, and that it would be able to prove at trial that its employees incurred lower mileage expenses on account of having fuel efficient vehicles and low maintenance expenses. Furthermore, Defendant argued that it provided alternatives to employees such that personal cell phone use was not required to perform job duties. Thus, Plaintiff believes that a settlement value of 52.2% of the estimated total maximum liability for this claim is reasonable. As such, Plaintiff is informed and believes it reasonable, when considering Defendant's defenses, and other attendant risks, to calculate the reasonable value of the claim as \$425,000.00.

44. Finally, Plaintiff asserted derivative claims for unfair competition under Business and Professions Code §§ 17200, et seq., along with a cause of action for penalties under PAGA.

1 Plaintiff predicates his PAGA claim on violation of those Labor Code sections concerning
2 failure to reimburse necessary business expenses. Plaintiff calculates from the time and payroll
3 data provided that there were approximately 8,800 pay periods in the relevant time period (i.e., 1
4 year before providing notice to the LWDA through the end of the Class Period). Plaintiff
5 allegations under PAGA are substantially similar to those brought in the Class Action and
6 Defendant's defenses are accordingly substantially similar. While Plaintiff believe that it is
7 possible to recover the subsequent violation rate for penalties and that stacking is permissible,
8 Plaintiff also understand the risks inherent should the Court not exercise its discretion to grant
9 any PAGA penalties, in addition to potential issues on the merits, trial manageability, and the
10 possibility that the Court does not permit stacking of penalties or permit the use of the
11 subsequent violation rates when providing penalties. Plaintiff also understands that the bar for
12 establishing knowing and intentional violations of the Labor Code may not be easily met under
13 the circumstances.

14 45. Defendant argues (1) that PAGA penalties cannot and should not be stacked and
15 that, even if they could, very few Courts have ever exercised discretion to stack them, (2) one
16 does not reach the second-tier penalty for that violation unless and until the employer is first
17 cited for the violation, and that Defendant has never been cited, (3) because the PAGA Action
18 heavily relies on the same allegations made in the Class Action, they are subject to the same
19 defenses, and, thus, for the same reason Defendant believes there will be no damages collectible
20 in the class action, no PAGA penalties would be awarded, either, (4) individualized issues
21 predominate the PAGA claims, making the claims unmanageable for trial (despite Plaintiff
22 contention that there is no manageability requirement for trial), (5) there is no conduct shown by
23 Plaintiff that would demonstrate any Labor Code violations by Defendant are knowing and
24 intentional such that PAGA penalties would be justified, and (6) an award of PAGA penalties in
25 addition to class action damages is discretionary, and thus insists a Court is unlikely to exercise
26 its discretion to award any PAGA penalties in this Action where class action damages are
27 available to Class Members. Defendant further contends that such an award of PAGA penalties
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1 in addition to class action damages would constitute an unjust, arbitrary, oppressive or
2 confiscatory double recovery. While Plaintiff believe that it is possible to recover the subsequent
3 violation rate for penalties and that stacking is permissible, Plaintiff also understand the risks
4 inherent should the Court not exercise its discretion to grant any PAGA penalties, in addition to
5 potential issues on the merits, trial manageability, and the possibility that the Court does not use
6 permit stacking of penalties or permit the use of the subsequent violation rate when providing
7 penalties. As such, in calculating realistic liability, Plaintiff assigns the value of the \$881,200,
8 the potential PAGA exposure for 8,812 Labor Code violation at \$100 per pay period.

9 46. Accordingly, Plaintiff estimated that Defendant's realistic maximum exposure is
10 approximately \$1,803,622 including PAGA, or \$813,575 exclusive of PAGA. The negotiated
11 settlement of and the negotiated settlement of \$425,000 is approximately 52.2% of the exposure
12 exclusive of PAGA, and approximately 23.6% of the exposure including PAGA. Accordingly, I
13 respectfully submit that this settlement is well within the ballpark of reasonableness, and that the
14 settlement is fair, reasonable, and adequate.

15 47. This case also has the potential to impose enormous litigation costs on all of the
16 parties, as Defendant is expected to continue challenging Plaintiff's allegations and to increase
17 the pace of their investigation and opposition. Although it is difficult to foresee the ultimate
18 result of a trial, we anticipate an expensive, complex and time-consuming process. We foresee
19 the possibility of a lengthy and costly appeal regardless of the outcome of trial given the
20 unsettled legal landscape governing this case. In order to succeed on the merits, Class Members
21 would also need to prevail on several hotly disputed legal and factual issues. Some of these
22 issues include the ability of the proposed Class Representatives to advance the interests of all
23 Class Members and assert claims which are representative of the entire class. Plaintiff would
24 need to continue to tenaciously litigate this case through intense discovery, investigation and
25 heavy law and motion pertaining to manageability, class certification and possible summary
26 judgment issues, based on Defendant's aggressive posturing and vigorous dispute of liability and
27 damages. Given these realities, it is highly likely that the future expense of this litigation, and its
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likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this Settlement.

48. The proposed Class Representative, Scott Cahn, provided extensive supporting documents and knowledge in assisting counsel in developing information necessary to litigate and settle this case. Plaintiff also conducted extensive record review and consultation with counsel to assist in evaluating and proving the claims and provided information and documents that were vital to Class Counsel's prosecution of this matter, and dedicated invaluable effort required to advance this matter to resolution. He also assisted counsel in preparing for mediation and made himself available during mediation to answer any questions that arose during the course of the mediation and has been actively involved in this matter since its inception. Mr. Cahn has been extensively involved in the litigation of the action. The Settlement provides for an enhancement payment, or service payment, to be paid of up to \$10,000. (*Id.*, ¶ 8.) The purpose of the service payment is to compensate the Class Representative for his services and efforts to prosecute this class action, and the risk and potential consequences he assumed by virtue of serving as Class Representative and Named Plaintiff, and in exchange for a broad general release of all claims he may have against Defendant and the Released Parties. The proposed Class Representative payment is a small portion of the Gross Settlement Amount, and little in comparison to the Net Settlement Amount guaranteed to be paid to the Settlement Class. The incentive awards are fair and justified as part of the Settlement. Per Defendant's request, Plaintiff has also individually executed a general release of all known and unknown claims, as opposed to the limited release by participating Class Members. (*Id.*, ¶ 2.) Plaintiff is not receiving preferential treatment, and all Settlement Class Members will receive compensation consistent with their proportional share through the efforts of Plaintiff in the context of this suit. Plaintiff will provide a declaration regarding his efforts at the time of final approval.

49. Commonality: Class Certification, as requested by the parties for the purposes of the Settlement only, should be granted because Plaintiff allege that the proposed Class Members' claims all stem from the same alleged conduct, and have alleged Defendant failed to reimburse

1 necessary expenses and violated Business and Professions Code sections 17200 *et seq.*, and are
2 liable for Civil Penalties under the Private Attorneys General Act, Labor Code sections 2698 *et*
3 *seq.* The claims of Plaintiff and the Class Members all flow from the same facts and legal claims,
4 i.e., that Defendant's policies, practices and procedures resulted in Defendant's failure to
5 reimburse expenses, namely mileage and cellular phone usage. The nature and types of claims
6 available to the Class Members are identical and arise out of application of uniform policies
7 relating to reimbursement policies/procedures. For purposes of the Settlement, the main
8 individualized differences between Class Members relate to the amount of compensation each
9 Class Member would be entitled to receive based upon workweeks worked. This Action seeks
10 recovery of alleged unreimbursed expenses and penalties pursuant to the California Labor Code,
11 California Industrial Welfare Commission ("IWC") Wage Orders and Section 17200 of the
12 Business and Profession Code on behalf of Plaintiff and the rest of the Class Members, who all
13 share claims arising out of the same policies and practices. In addition, Defendant's primary
14 defense that its policies were facially lawful and lawful as applied are common to all members of
15 the Class. Under these circumstances, the commonality requirement for certification for
16 settlement purposes is satisfied.

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18 50. Typicality: The typicality requirement is met, as the proposed Class
19 Representatives and the Class Members have claimed that Defendant violated California law by
20 the above-specified conduct. Under these specific circumstances, the typicality requirement for
21 class certification for settlement purposes is satisfied because the Class Representatives and the
22 proposed Class Members all claim that Defendant committed similar violations based upon
23 similar conduct, policies and practice and they seek the same remedies. Plaintiff contends, and
24 Defendant do not dispute for settlement purposes, that their claims are typical of the claims of
25 the Settlement Class because they arise from the same factual basis and are based upon the same
26 legal theories as those applicable to the Class Members.

27 51. Adequacy and Numerosity: The adequacy requirement is also satisfied. The Class
28 Representative will receive a reasonable award for his time and efforts assisting counsel with

1 factual issues surrounding the case. Other than this specific payment, all Class Members will
2 receive a proportionate share of the Net Settlement Amount. As a result, there is no conflict of
3 interest between the Class Representative and the Class Members. Additionally, the Class
4 Representative and our firm have prosecuted this action vigorously on behalf of the Class
5 Members and have represented the proposed Class's interests in obtaining documents and
6 information related to the claims in litigation, in settlement negotiations, and at mediation. The
7 Class Representative and Class Counsel have vigorously prosecuted this case. Our firm is well-
8 versed in handling complex wage and hour class action litigations such as this one and submits
9 that the class size of approximately 310 Class Members is sufficiently numerous to warrant
10 conditional class certification. Class Counsel has kept in regular touch with Plaintiff, and
11 believes this settlement is fair to both Plaintiff and Class Members. I am unaware of any interests
12 of the Class Representative which are adverse or antagonistic to the interests of the Class.

13 52. Superiority: The named Class Representative and our firm, as Class Counsel,
14 believe that common questions of law and fact predominate over individual questions, and class-
15 wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the Class
16 in this case is sufficiently cohesive, since all Class Members share a common nucleus of facts
17 and potential legal remedies, and because all of the Class Members and the Class
18 Representatives seek compensation for unreimbursed expenses, penalties, and interest from
19 Defendant for the allegations described herein. Plaintiff alleges that common questions
20 predominate over individual questions, and the Class Members' potential legal remedies are
21 identical. The alternative method of resolution is individual claims for lesser amounts of
22 damages; however, individual cases would be uneconomical for potential plaintiffs because the
23 cost of litigation dwarfs their potential recovery. Notably, the average IRS reimbursement rate
24 for Class Members throughout the Class Period was approximately \$0.575, a major portion of
25 which Defendant reimbursed. While there are many Class Members, many of the Class
26 Members' claims would be too small to justify individual litigation. Further, more than 310
27 separate lawsuits would be an unnecessary drain on judicial resources and could result in
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1 conflicting obligations being imposed upon Defendant. Therefore, class treatment is the
2 preferred method of resolution.

3 53. Ascertainability: The proposed Class is ascertainable because all of the Class
4 Members have worked for Defendant as employees and can be identified through Defendant's
5 employee and personnel files and payroll records. Indeed, Defendant have already identified
6 from their records approximately 310 current and former hourly non-exempt employees
7 comprising the potential Class, which the Parties respectfully request the Court preliminarily
8 certify for settlement purposes. Finally, for the purpose of settlement only, Plaintiff and
9 Defendant have stipulated to class certification.

10 54. The Parties' proposed Class Notice is attached hereto as **Exhibit A** to the
11 Settlement, attached hereto as **Exhibit 1**. The plan for providing class notice will entail the
12 Settlement Administrator mailing, by first class USPS mail, the Class Notice to all known and
13 reasonably ascertainable Class Members based on Defendant's business records. The Class
14 Notice is consistent with notices approved by numerous state and federal courts, and is believed
15 to be the best notice practicable under the circumstances of this case.

16 55. The Class Notice also fulfills the neutrality requirement. It summarizes the
17 proceedings to date along with the terms and conditions of the Settlement in an informative and
18 coherent manner, and is accurate, objective, and understandable to Class Members, as is required
19 under prevailing precedent. The Class Notice clearly states the Settlement does not constitute an
20 admission of liability by Defendant and recognizes the Court has not ruled on the merits. It also
21 states the final settlement approval decision has yet to be made. Accordingly, the Class Notice
22 complies with the standards of fairness, completeness and neutrality required of a settlement
23 class notice.

24 56. I have a great deal of experience in wage and hour class action litigation. I have
25 been certified and approved as class counsel in many other wage/hour class actions, and I am
26 currently litigating numerous others before this Court and others. Although not an all-inclusive
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list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this Action:

- a. ***Mojica v. Compass Group, Inc., et. al.*** USDC Central District, Case No. 8:13-cv-01754. Wage and Hour Class Action case seeking past wages for meal and rest break violations for production workers in the State of California. Plaintiff's Counsel preliminarily appointed as Class Counsel. Case settled. Final approval granted, and funds fully disbursed.
- b. ***Dao v. 3M Company, et al.*** USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock," overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- c. ***Ortiz v. Kmart***, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- d. ***Morgan v. Aramark Campus, LLC***, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- e. ***West v Iron Mountain Information Management, Inc, et. al.***; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Stipulation for "binding arbitration."

1 Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's
2 counsel lead trial counsel and class counsel.

- 3 f. ***Gonzalez v. Superior Industries International, Inc., et al.***, Los Angeles County
4 Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past
5 wages for overtime, meal and rest breaks violations for production employees in
6 the State of California. Plaintiff's counsel appointed as lead counsel. Case settled,
7 Final Approval granted, no objections and funds fully distributed.
- 8 g. ***Acosta v. Fleetwood Travel Trailers of California, Inc., et al.***, Riverside County
9 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
10 wages for overtime, meal and rest break violations for production employees in the
11 State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
12 Final Approval granted, no objections and funds fully distributed.
- 13 h. ***Walker v. Sharkeez, et al.***, Orange County Superior Court, Case No. 05CC00293.
14 Wage and Hour Class Action seeking past wages for unlawful deductions, meal
15 and rest break violations for restaurant employees in the State of California.
16 Plaintiff's counsel appointed as lead counsel. Case settled. Final Approval granted
17 and funds fully distributed.
- 18 i. ***Padron v. Universal Protection Service, et al.***, Orange County Superior Court,
19 Case No. 05CC00013. Wage and Hour Class Action seeking past wages for
20 overtime, meal and rest break violations for security officers in the State of
21 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
22 Approval granted, no objections and funds fully distributed.
- 23 j. ***Martinez v. Securitas Security Services USA, et al.***, Santa Clara Superior Court,
24 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
25 seeking past wages for meal and rest break violations for security officers
26 employed by defendant in the State of California. Plaintiff's counsel and co-
27 counsel. Case settled, Final Approval granted and funds fully distributed.
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- 1 k. ***Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.***, Riverside Superior Court,
2 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for
3 overtime, meal and rest break violations for housekeepers employed by defendant
4 in the State of California. Plaintiff's counsel appointed as lead counsel. Case
5 settled, Final Approval granted, no objections and funds fully distributed.
- 6 l. ***Ruiz, et al. v. Unisource Worldwide, Inc., et al.***, USDC, CENTRAL DISTRICT,
7 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal
8 and rest period violations for non-exempt employees employed by defendant in the
9 state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff
10 has petitioned the Court for Lead Counsel.
- 11 m. ***Herrador v. Culligan International Company, et al.***, USDC, CENTRAL
12 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past
13 wages for field and branch employees of defendant in the State of California.
14 Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final
15 Approval.
- 16 n. ***Defries v. Domain Restaurants, et al.***, Orange County Superior Court, Case No.
17 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
18 employees of defendant in the State of California. Plaintiff's counsel appointed as
19 lead counsel. Case settled, Final Approval granted, no objections and funds fully
20 distributed.
- 21 o. ***Denton v. BLB Enterprises, Inc., et al.***, Orange County Superior Court, Case No.
22 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
23 break violations for security guards employed by defendant in the State of
24 California. Plaintiff's counsel appointed as lead counsel. Case settled, Final
25 Approval granted, no objections and funds fully distributed.
- 26 p. ***Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.***, Los Angeles Superior
27 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal
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1 and rest break violations for production employees employed by defendant in the
2 State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
3 Approval granted, no objections and funds fully distributed.

4 q. **McMurray v. Dave and Busters, Inc., et al.**, Orange County Superior Court, Case
5 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and
6 rest break violations for restaurant employees employed by defendant in the State
7 of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
8 Approval granted, no objections and funds fully distributed.

9 r. **Osuna v. DFG Restaurants, Inc., et al.**, Los Angeles Superior Court, Case No.
10 BC 330145. Wage and Hour Class Action seeking past wages of overtime for
11 misclassification of managers employed by Defendant, DBA Carl's Jrs. in the
12 State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
13 Final Approval granted, no objections and funds fully distributed.

14 s. **Burns v. Gymboree Operations, Inc., et al.**, San Francisco Superior Court, Case
15 No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal
16 and rest break violations for retail employees employed by defendant in the State
17 of California. Plaintiff's counsel appointed lead counsel. Case settled, Final
18 Approval granted, no objections and funds fully distributed.

19 t. **Willems v. Diedrich Coffee, Inc., et al.**, Orange County Superior Court, Case No.
20 07CC00015. Wage and Hour Class Action seeking past wages of overtime for
21 misclassification of managers employed by Defendant in the State of California.
22 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted,
23 no objections and funds fully distributed.

24 u. **Davila, et al. v. Beckman Coulter, Inc., et al.**, Orange County Superior Court,
25 Case No. 07CC01347. Wage and Hour Class Action seeking past wages for
26 overtime, meal and rest break violations for production workers employed by
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- 1 defendant in the State of California. Plaintiff's counsel appointed lead counsel.
2 Cased settled, Final Approval granted, no objections and funds fully distributed.
- 3 v. ***Perez v. Naked Juice Company of Glendora, Inc.***, Los Angeles Superior Court,
4 Case No. BC387088. Wage and Hour Class Action seeking past wages for
5 overtime, meal and rest period violations for production employees employed by
6 defendant in the State of California. Plaintiff counsel appointed as lead counsel.
7 Case settled. Final Approval granted, no objections and funds fully distributed.
- 8 w. ***Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and***
9 ***Hour Cases***, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour
10 Class Action seeking past wages for overtime, meal and rest period violations for
11 security guards employed by defendant in the State of California. Certification
12 granted. Plaintiff's counsel appointed as co-lead counsel. Writ taken. Court stays
13 action pending Appellate Court ruling. Court lifts stay.
- 14 x. ***Placencia v. Amcor Packaging Distribution, Inc.***, Orange County Superior Court,
15 Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking
16 past wages for overtime, meal and rest period violations, and penalties on behalf of
17 non-exempt production, maintenance, shipping, and receiving employees
18 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
19 Case settled. Final Approval granted, no objections and funds fully distributed.
- 20 y. ***Trani v. Lisi Aerospace, et al.***, Los Angeles Superior Court, Case No. BC495527.
21 Wage and Hour Class Action seeking past wages for overtime, meal and rest
22 period violations, and penalties on behalf of non-exempt manufacturing employees
23 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
24 Case settled. Final Approval granted, no objections and funds fully distributed.
- 25 z. ***Galvan v. Goodwin Co.***, Orange County Superior Court, Case No. 30-2013-
26 00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for
27 meal period violations, and non-compliant wage statements on behalf of non-
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1 exempt production employees employed by Defendant in California. Plaintiff
2 counsel appointed as lead counsel. Case settled. Final Approval granted, no
3 objections and funds fully distributed.

4 **aa. *Reyes v. Bristol Fiberlite***, Orange County Superior Court, Case No. 30-2013-
5 00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for
6 overtime, meal and rest period violations, inaccurate wage statements, and
7 penalties on behalf of non-exempt employees employed by Defendant in
8 California. Plaintiff counsel appointed as lead counsel. Case settled. Final
9 Approval granted, no objections and distribution of funds pending.

10 **bb. *Gutierrez v. HMT Tank, USDC Central Dist.***, Case No. CV14-1967-
11 CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest
12 period violations, failure to indemnify necessary expenses, inaccurate wage
13 statements, and penalties on behalf of non-exempt employees working in positions
14 related to servicing, refabricating and repairing storage tanks employed by
15 Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled.
16 Final Approval granted, no objections and funds fully distributed.

17 **cc. *Williams v. Il Fornaio America Corp.***, Sacramento County, Case No. 34-2011-
18 0009616. Wage and Hour Class Action seeking past wages for overtime, meal and
19 rest period violations, reimbursements, and penalties on behalf of non-exempt
20 restaurant employees employed by Defendant in California. Plaintiff counsel
21 appointed as lead counsel. Case settled. Final Approval granted, and funds fully
22 distributed.

23 **dd. *Aguilar v. 7-Eleven, Inc.***, Orange County, Case No. 30-2009-002687141-CU-
24 OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and
25 rest period violations, and penalties on behalf of non-exempt retail clerks
26 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
27 Case settled. Final Approval granted, no objections and funds fully distributed.
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1 **ee. *Madrigal v. Huntington Beach Market Broiler, Inc.***, Orange County, Case No.
2 30-2012-00611260. Wage and Hour Class Action seeking past wages for overtime,
3 meal and rest period violations, reimbursements, and penalties on behalf of non-
4 exempt employees employed by Defendant in California. Plaintiff counsel
5 appointed as lead counsel. Case settled. Final Approval granted, no objections and
6 funds fully distributed.

7 **ff. *Vang v. Jazz Semiconductor, Inc.***, Orange County, Case no. 30-2011-00460278.
8 Wage and Hour Class Action seeking past wages for overtime, meal and rest
9 period violations, reimbursements, and penalties on behalf of non-exempt
10 production workers employed by Defendant in California. Plaintiff counsel
11 appointed as lead counsel. Case settled. Final Approval granted, no objections and
12 funds fully distributed.

13 57. The Parties' Settlement asks the Court to award in attorneys' fees what would be
14 one-third of the Gross Settlement Amount (\$425,000), or \$141,666.67, to Class Counsel. Given
15 the extensive efforts of counsel, one-third of the Gross Settlement Amount is respectfully
16 believed to be a reasonable award. Our firm has borne the entire risk and cost of this litigation on
17 a pure contingency basis. The legal issues raised in this case were complex and drew significantly
18 upon the experience of Class Counsel. The proposed attorneys' fees accurately reflect the legal
19 marketplace and are within the range of customarily approved fees by California courts.

20 58. Despite the complexity of the case, Class Counsel has, through our investment of
21 substantial effort and resources, secured an outstanding settlement on behalf of the Class
22 Members. The issues and arguments Class Counsel has encountered and overcome in arriving at
23 the parties' negotiated settlement terms were also many and complex and required skillful
24 advocacy that can arise only out of experience, professional perspective, and success. Plaintiff
25 would have faced substantial legal and factual obstacles in demonstrating that Class certification
26 was appropriate and that they would prevail on the merits in light of Defendant' asserted
27 defenses. Still, Class Counsel has negotiated a substantial settlement on behalf of the Class for
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1 such claims. Plaintiff would have also been required to establish a significant amount of witness
2 testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert
3 testimony, and other evidence in order to evaluate and present arguments at both class
4 certification and trial. Defendant has vigorously challenged the claims pled in the SAC, contested
5 liability, the amount of claimed damages, the propriety of Class Certification, and would have
6 continued to do so through trial. Accordingly, Class Counsel believes the Settlement to be fair,
7 reasonable, and adequate and that it is in the best interest of the Class Members. The fairness and
8 adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk
9 of significant delay and uncertainty associated with litigation, the various defenses asserted by
10 Defendant, and numerous potential appellate issues. Defendant and Defendant' Counsel also
11 agree that the settlement is fair, reasonable and adequate.

12 59. Plaintiff and Class Counsel respectfully submit the fees and costs provision of the
13 Settlement is fair and reasonable both when cross-checked under the lodestar and common fund
14 method. The total billable hours that counsel have invested and will invest in prosecuting this
15 action, should this honorable Court approve the settlement, is substantial. I respectfully submit
16 that our fees and costs request is fair and reasonable because we have personally expended
17 substantial time and effort in achieving the proposed Settlement, including the following tasks:
18 investigating the factual and legal basis of the action; analyzing documents provided by Plaintiff,
19 including time and payroll documents and policy documents; investigating Defendant'
20 organization and structure from publicly available information; preparing the Complaint and the
21 First Amended Complaint; preparing and reviewing informal document and data discovery
22 requests; engaging in meet and confer efforts regarding informal discovery; reviewing and
23 analyzing hundreds of pages of document, including a significant volume of mileage, time, and
24 payroll data; conversations with defense counsel regarding the claims alleged in this action, and
25 the information needed for analysis, preparing complex damages analysis and extrapolation of
26 damages to the entire Class; preparing for and attending a full day of mediation; negotiating and
27 finalizing a Settlement with Defendant' Counsel in the months following mediation; soliciting
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1 proposals from settlement administrators; and drafting the preliminary approval motion and
2 supporting papers. As such, I respectfully submit that a lodestar cross-check will support the
3 reasonableness of the requested fees, and a low multiplier, if any, need be applied to reach the
4 requested fee allocation. If the Court wishes, we will provide detailed billing records to date;
5 otherwise, such documents will be provided in conjunction with the Final Approval Motion.

6 60. I submit that the requested attorneys' fees of one-third the Settlement Fund that
7 Class Counsel has obtained on behalf of the Class Members is fair and reasonable, as are the
8 hourly rates at which our attorneys bill. The fee request (at final approval) will be supported by a
9 detailed explanation of the qualifications of each timekeeper, and their corresponding hourly rate,
10 along with an explanation of the amount of time performed on the various tasks performed on
11 behalf of Plaintiff and the Class Members.

12 61. The Settlement that Class Counsel has negotiated on behalf of the Class confronts
13 exceedingly difficult and individualized issues which make certification and proof of merits
14 challenging and work intensive. I and our firm's attorneys and paralegals have secured this
15 Settlement through persistent advocacy of the class claims, which has applied legal nuances and
16 negotiation techniques to achieve a very favorable result for the Class Members. Other attorneys
17 without our experience and comprehensive knowledge and perspective in connection with
18 complex employment litigation would not have been able to achieve such superior settlement
19 terms on behalf of the Class and would not have been able to do so in the time in which we
20 accomplished settlement. I believe the requested amount of up to \$141,666.67 in attorneys' fees
21 under the Settlement is a reasonable allocation given the excellent result we have secured for the
22 Class Members. I, therefore, respectfully request the Court approve the allocated attorneys' fees
23 under the parties' Settlement. Defendant and its counsel do not oppose the requested fee
24 allocation.

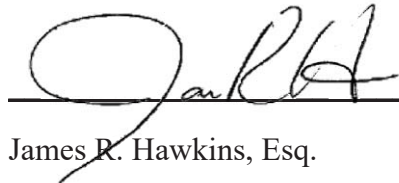
25
26 62. In serving as Plaintiff counsel and Class Counsel in this matter, Class Counsel
27 will also seek reimbursement for the out-of-pocket costs up to \$18,000. Any sums not awarded
28 will be available for distribution to the Class as part of the Net Settlement Amount. I will provide

1 the Court with a detailed summary of the total costs at the time of the Final Approval Motion. I
2 believe that all of these fees and costs are reasonable and necessarily incurred in litigating this
3 matter and in pursuit of the settlement.

4 63. The Parties in this action have agreed that the Individual Settlement Payment
5 checks to Class Members will remain valid for one hundred eighty (180) calendar days and shall
6 be canceled thereafter. Funds associated with such canceled Settlement Payment checks will be
7 deposited by the Settlement Administrator pursuant to the Court's order with the California State
8 Controller's Office Unclaimed Property Fund for the benefit of and in the name of the Class
9 Member or PAGA Group Member whose check is cancelled, in the amount of his or her
10 respective Settlement Payment. (Settlement, ¶ 6, §F). The monetary value of the anticipated
11 awards for Class Members is substantial, and the Parties believe that such funds should be
12 retained for the benefit of those Class Members to claim through the State.

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct. Executed on July 21, 2023 at Irvine, California.

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James R. Hawkins, Esq.

Exhibit 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement ("Settlement Agreement") is reached by and between Plaintiff Scott Cahn (hereinafter "Plaintiff"), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant J.J.R. Enterprises, Inc. (hereinafter "Defendant"), on the other hand. Plaintiff and Defendant are referred to herein collectively as the "Parties." Plaintiffs and the Settlement Class are represented by James R. Hawkins and Christina M. Lucio of JAMES HAWKINS APLC ("Class Counsel"). Defendant is represented by Linda Claxton of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

On August 28, 2020, Plaintiff filed a wage and hour class action complaint in Sacramento County Superior Court in the matter *Cahn v. J.J.R. Enterprises, Inc.*, Case No. 34-2020-00284704 (the "Action"). On January 20, 2021, Plaintiff filed his First Amended Complaint, alleging claims for 1) failure to reimburse necessary expenses; 2) violation of unfair competition law and 3) penalties under the Private Attorneys General Act. On July 13, 2022, the Parties attended a private mediation with Hon. Carl J. West (Ret.) and have reached a class-wide settlement which resolves the Action, subject to court approval.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. The Parties believe that the Settlement is fair, reasonable and adequate. The Settlement was arrived at through arm's-length negotiations, taking into account all relevant factors. Accordingly, Plaintiff and Defendant agree as follows:

1. **Class and PAGA Periods.** The Class Period is August 28, 2016 through December 15, 2022. The PAGA Period is August 28, 2019 through December 15, 2022.
2. **Settlement Class or Class Member(s).** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the conditional certification of the following Settlement Class:

All persons who are or were employed by Defendant who submitted for mileage reimbursement in the State of California within the Class Period.

The Parties stipulate to conditional class certification of the Settlement Class for the Class Period for purposes of settlement only. The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, in any way prevents or prohibits Defendant from obtaining a complete resolution of the claims as described herein, the conditional class certification (obtained for any purpose) shall be void *ab initio* and of no force or effect, and shall not be admissible in this matter or in any judicial, administrative or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

The PAGA Aggrieved Employees shall be defined as all persons who are or were employed by Defendant as non-exempt employees and all exempt employees who submitted for mileage reimbursement in the State of California within the PAGA Period. The members of the group of

PAGA Aggrieved Employees are referred to as PAGA Members. Defendant specifically represents that it has not received any notice of intention to commence an action for civil penalties under Labor Code section 2698 et seq. since that filed by Plaintiff Cahn on or about August 28, 2020 and that it is unaware of any other claim seeking civil penalties under Labor Code section 2698 et seq.

2. **Release by Class Members and Plaintiffs.** In exchange for the consideration set for in this Settlement Agreement, Plaintiff and every member of the Settlement Class (except those who opt out) will be deemed to have, and by operation of the Final Approval Order and Judgment, will have expressly and fully release and discharge Defendant and all of Defendant's current or former parent companies, subsidiary companies and/or related companies, partnerships, joint ventures, and/or staffing agencies, and, with respect to each of them, all of their and/or such related entities' predecessors and successors, and, with respect to each such entity, all of its past, present, and future employees, officers, partners, principals, directors, stockholders, owners, representatives, assigns, attorneys, agents, insurers, employee benefit programs (and the trustees, administrators, fiduciaries, and insurers of such programs), and any other persons acting by, through, under, or in concert with any of the persons or entities listed in this subsection, and their successors (collectively, the "Released Parties"), as follows:

- A. Class Members release any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities that have been asserted by Plaintiff, or the Class Members or any of their respective heirs, executors, administrators, beneficiaries, predecessors, successors, attorneys, assigns, agents, and/or representatives arising out of any claims that were asserted in the Action or are based on or reasonably related to the claim for unreimbursed business expenses, attendant interest, penalties, and civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 2698, et seq.) ("PAGA") for violation of Labor Code sections 2800, and 2802; claims under the Industrial Welfare Commission Wage Orders 1-2001, 4-2001 and 7-2001 for unreimbursed business expenses, California Code of Regulations, Title 8, section 11000 *et seq.*; and Business and Professions Code sections 17200-17208 for unreimbursed business expenses. Released Claims include all claimed or unclaimed compensatory, consequential, incidental, liquidated, restitution, interest, costs and fees, injunctive or equitable relief, and any other remedies available at law or equity, allegedly owed or available to the Class arising from a claim of unreimbursed business expenses under any theory whatsoever, against the Released Parties for the Class Period (collectively referred to as the "Released Claims") and shall become effective upon the date Defendant funds the settlement. The period of the Release shall extend to the limits of the Class Period.
- B. Each PAGA Member will be deemed to release all claims for civil penalties that were asserted against Defendant or the Released Parties or any of them arising out of or based upon the facts, theories, and/or claims alleged in the PAGA Notice Letter filed by Plaintiff with the LWDA in this Action. This release includes claims under the PAGA (California Labor Code section 2698 et seq.) for violations of Labor Code Sections 201, 202, 203, 204, 210, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195, 1197, 1198, or 2802, applicable IWC California Wage Orders, and California Code of Regulations, Title

8, section 11000 *et seq.* The Released PAGA Claims shall be released as to Defendant and the Released Parties from the period beginning August 28, 2019, through December 15, 2022 and shall become effective upon the date Defendant funds the settlement. All PAGA Members will be deemed to have released all Released PAGA Claims regardless of whether they request to be excluded from participation in the Settlement by filing a Request for Exclusion.

- C. In light of Plaintiff's Class Representative Enhancement Payments, Plaintiff has also released, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

However, to the extent that Plaintiff has claims that cannot be released as a matter of law (i.e., workers' compensation claims), then those claims will not be released.

3. **Conditions Precedent.** This Settlement will become final and effective only upon the occurrence of all of the following events:

- a. The Court enters an order granting preliminary approval of the Settlement;
- b. The Court enters an order granting final approval of the Settlement and a Final Judgment;
- c. If an objection has been filed, the date on which time has expired to file an appeal of the Court's grant of Final Approval; or in an objection was filed and a Notice of Appeal of the Court's grant of Final Approval of settlement was timely filed, then the date the appeal is finally resolved, with the final approval unaffected; and
- d. Defendant does not invoke its right to revoke the Settlement as described in paragraph 12 ("Defendant's Option to Revoke Settlement") herein.

4. **Gross Settlement Amount.** As consideration, Defendant has agreed to pay a non-reversionary Gross Settlement Amount (or "GSA") of Four Hundred Twenty-Five Thousand Dollars and Zero Cents (\$425,000) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
- B. If no objections are filed, the GSA shall be deposited with the Settlement Administrator within thirty (30) calendar days after the Court enters an order

granting final approval of the Settlement. Solely in the event that there are any objections to the Settlement (the filing of an objection being a prerequisite to the filing of an appeal), the GSA shall be deposited with the Settlement Administrator within the later of: (i) thirty (30) days after the last date on which any appeal might be filed, with no appeal having been filed, or (ii) thirty (30) days after the resolution of any appeal(s), presuming that the appeal upholds the Settlement.

C. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Nine Thousand Seven Hundred Fifty Dollars and Zero Cents (\$9,750.00). If the actual costs exceed Nine Thousand Seven Hundred Fifty Dollars and Zero Cents (\$9,750.00), the additional costs shall be deducted from the Gross Settlement Amount. If the actual costs are less than Nine Thousand Seven Hundred Fifty Dollars and Zero Cents (\$9,750.00), the difference will revert to the participating Class Members;
- (3) Up to Ten Thousand Dollars and Zero Cents (\$10,000.00), for Plaintiff's Class Representative Enhancement Payments in recognition of his contributions to the Action and service to the Settlement Class, and in exchange for a general release. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payments, Plaintiff shall not have the right to revoke this settlement, and it will remain binding. Any amount reduced and/or not approved by the Court will revert to the participating Class Members;
- (4) Class Counsel's attorneys' fees in an amount not to exceed one-third (33 1/3 %) of the Total Settlement Amount. The Settlement is not contingent on Plaintiff and Plaintiff's Counsel recovering that or any particular amount as an attorneys' fees award. Even in the event that the Court reduces or does not approve the requested attorneys' fees award, Plaintiff and Plaintiff's Counsel shall not have the right to revoke this Agreement or this Settlement, and it will remain binding. In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke this settlement, and it will remain binding. Any amount reduced and/or not approved by the Court will revert to the participating Class Members;
- (5) Class Counsel's attorneys' costs not to exceed Eighteen Thousand Dollars and Zero Cents (\$18,000.00). The Settlement is not contingent on Plaintiff and Plaintiff's Counsel recovering that or any particular amount as an attorneys' costs award. Even in the event that the Court reduces or does not approve the requested attorneys' costs award, Plaintiff and Plaintiff's

Counsel shall not have the right to revoke this Agreement or this Settlement, and it will remain binding; and

- (6) Fifteen Thousand Dollars and Zero Cents (\$15,000) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Eleven Thousand Two Hundred Fifty Dollars and Zero Cents (\$11,250.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Three Thousand Seven Hundred Fifty Dollars and Zero Cents (\$3,750.00), will be payable to the PAGA Members as the "PAGA Amount."

5. **Effective Date.** The Effective Date means when all of the following events have occurred: (1) The Joint Stipulation has been executed by all Parties, Class Counsel, and Defendant's Counsel; (2) The Court has given preliminary approval to the Settlement; (3) The Court has held a Final Settlement Approval Hearing and has entered a Final Order and Judgment, approving the Settlement. It is the Parties' intention that the Settlement shall be final for purposes of the Effective date at the time of Final Approval, if no objections to the Settlement are filed. Only in the event that written objections are filed prior to the Final Settlement Approval Hearing which are not later withdrawn prior to final approval, the Effective Date shall be later of: (a) the date of final affirmance on an appeal of the Judgment; the expiration of the time for a petition to review the Judgment; and, if review is granted, the date of final affirmance of the Judgment following review; or (b) the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding to review the Judgment; or (c) if no appeal is filed, the expiration date for filing any appeal from the Judgment

6. **Payments to the Settlement Class and PAGA Aggrieved Employees.** Class Members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiffs' Class Representative Enhancement Payments, the amount set aside as PAGA civil penalties, and the Settlement Administrator's fees and expenses for administration. The remaining amount shall be known as the "Net Settlement Amount."
- B. From the Net Settlement Amount, the Settlement Administrator will calculate each individual's Settlement Award based on the following formula:
- i. The Net Settlement Amount shall be divided by the number of estimated aggregate qualified weeks worked by all Class Members during the Class Period to produce a "Weekly Settlement Value." A "qualified week" shall be a week worked by a Class Member in California in a non-exempt role.
 - ii. Each Class Member shall be eligible to receive a settlement payment in the amount of the total number of estimated qualified weeks the Class Member worked for Defendant in California during the Class Period in a non-exempt

role multiplied by the Weekly Settlement Value, less applicable withholdings, provided that the Class Member has not submitted a request for exclusion.

- C. Payments to PAGA Members of their 25% share of the amount allocated to PAGA (\$3,750.00) during the PAGA Period shall be calculated pursuant to the same formula described above applicable to Settlement Class Members, though limited to Eligible Workweeks during the PAGA Period.
- D. Within five (5) business days of the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendant pursuant to the terms of the Settlement. Within thirty (30) calendar days following the Effective Date, Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator. Within ten (10) calendar days following Defendant's deposit of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for review and approval. Within seven (7) calendar days of approval by counsel, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Class Members. The Settlement Administrator shall simultaneously provide the applicable authorities with the necessary reports, submitting copies to Defendant's counsel.
- E. Each Settlement Award shall be allocated 100% as reimbursements, penalties and interest. The Settlement Administrator will be responsible for issuing to participating Class Members IRS Forms 1099. None of the payments called for by this Settlement Agreement are to be treated as earnings, wages, pay, or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each Class Member or PAGA Member who receives a Settlement Award must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Class Members whose checks were not cashed within 180 days after mailing shall be tendered the California Controller's Unclaimed Property Fund to be held in the name of the Class Member or PAGA Member.
- G. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
- H. The Parties make no representations as to the tax treatment or legal effect of the payments called for hereunder, and each Class Member who receives a Settlement Award are not relying on any statement or representation by the Parties in this regard. The Class Members who are receiving a Settlement Award understand and agree that they will be responsible for the payment of any taxes and penalties assessed on their Settlement Award and will be solely responsible for any penalties

or other obligations resulting from their personal tax reporting of their Settlement Award.

7. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees in an amount not to exceed one-third (33-1/3 %) of the Total Settlement Amount. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Eighteen Thousand Dollars and Zero Cents (\$18,000.00), from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award awarded by the Court.

8. **Class Representative Enhancement Payments.** Defendant will not object to a request for a Class Representative Enhancement Payment to Plaintiff of up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for his time and risk in prosecuting this case and service to the Settlement Class. This award will be in addition to Plaintiff's Settlement Awards as a Class Member and PAGA Member Award and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested enhancement payments, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding.

9. **Settlement Administrator.** Defendant will not object to the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiffs' seeking permission to pay up to Nine Thousand Seven Hundred Fifty Dollars and Zero Cents (\$9,750.00) to Phoenix Class Action Administration Solutions for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices, calculating Settlement Awards, preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Gross Settlement Amount by Class Counsel only after Settlement Awards have been mailed to all participating Class Members.

10. **Preliminary Approval.** Within thirty (30) days after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing James R. Hawkins and Christina M. Lucio of JAMES HAWKINS APLC as Class Counsel;
- C. Appointing Scott Cahn as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators as the Settlement Administrator;

- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, and Request for Exclusion Form), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

11. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within thirty (30) calendar days after receiving notice of entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Class Member while employed during the Class Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall: (i) run the names of all Class Members through the National Change of Address ("NCOA") database to determine any updated addresses for Class Members; (ii) update the address of any Class Member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Class Member; and (iv) mail a Notice Packet to each Class Member in both English and Spanish at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Class Member who wishes to opt out of the settlement must complete and mail or deliver a Request for Exclusion Form to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that a Class Member who wishes to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, and telephone number of the Class Member; (2) contain a statement that the Class Member wishes to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and mailed or delivered to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except that a Request for Exclusion not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to

be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. However, Class Members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion from the class action settlement shall still be entitled to their portion of the PAGA Amount described above.

- D. Objections. Class Members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by submitting a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court). Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection should: (1) contain the objecting Class Member's full name and current address, as well as contact information for any attorney representing the objecting Class Member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline.
- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Class Member shall include a statement informing Class Members that Defendant contends that Class Members have been paid all monies that were due to them, maintains that it has at all times complied with California's wage-and-hour laws, and vigorously denies any wrongdoing alleged by Plaintiff, and that this settlement is **not** an admission by Defendant of any liability. Each Notice Packet mailed to a Class Member shall disclose the amount of the Class Member's estimated Settlement Award as well as all of the information that was used from Defendant's records in order to calculate the Settlement Award. Class Members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice Packet, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Award shall be binding upon the Class Member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator

shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Class Member immediately, and in any event within five (5) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) calendar days of the mailing, the Class Member received the Notice Packet. Class Members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, an Objection, or a dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Class Member’s Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant’s counsel to provide notice of the proposed settlement.

12. Defendant’s Option to Revoke Settlement. If the number of Class Members who submitted timely and valid written Requests for Exclusion is over ten percent (10%) of all Class Members, Defendant shall have, in its sole discretion, the option to terminate this Settlement. If Defendant exercises the option to terminate this Settlement, it shall: (i) provide written notice to Class Counsel prior to the Final Approval Hearing and no later than seven (7) calendar days after receiving notice from the Settlement Administrator of the number of Class Members who have submitted timely and valid Requests for Exclusion; (ii) pay all Settlement Administration Costs incurred up to the date or as a result of the termination; and (iii) the Parties shall proceed in all respects as if this Agreement had not been executed. The Parties and their counsel agree not to take any action or make any statements to encourage any Class Members to opt out of and/or object to the Settlement.

13. Class Size Estimate and Adjustment. Defendant represents that there were 310 Class Members at the time of the mediation on July 13, 2022. This is a material term of the Settlement. If the Total Class Members is determined to be greater than 341, then the Class Period ending date shall be the date on which the number of Class Members reaches 341. Further, Defendant represents that there were 248 PAGA Members at the time of the mediation on July 13, 2022. This is a material term of the Settlement. If the Total PAGA Members is determined to be greater than 273, then the PAGA Period ending date shall be the date on which the number of PAGA Members reaches 273.

14. Final Approval. Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;

- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Payments, LWDA payment, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769. Said judgment shall be posted on the Settlement Administrator's website.

15. **Non-Admission of Liability.** Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, and nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

16. **Representation with Respect to Claims.** Plaintiff further represents that, other than the instant Action, he has no current intention of asserting any other claims against Defendant in any judicial or administrative forum. Plaintiff further represents that he does not currently know of any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendant. The Parties acknowledge, understand, and agree that the representations described in this paragraph are essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

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

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

19. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the

addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Linda Claxton, Ogletree, Deakins, Nash, Smoak & Stewart, P.C.,
400 South Hope Street, Suite 1200, Los Angeles, California 90071;
linda.claxton@ogletree.com

if to Plaintiffs: James Hawkins and Christina Lucio, James Hawkins APLC, 9880
Research Dr., Suite 200, Irvine, CA 92618;
james@jameshawkinsaplc.com, christina@jameshawkinsaplc.com.

20. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

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

22. **Enforcement and Continuing Jurisdiction of the Court.** To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. The Court may award reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based on an alleged violation of any material term of this Settlement Agreement.

SIGNATURES ON NEXT PAGE

DATE: June 29, 2023

J.J.R. Enterprises, Inc.

By: Karen Roach

DATE: June __, 2023

Scott Cahn

APPROVED AS TO FORM:

JAMES HAWKINS APLC

Date: June __, 2023

By: _____
James R. Hawkins, Esq.
Christina M. Lucio, Esq.
Attorneys for Plaintiff
Scott Cahn

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

Date: June 30, 2023

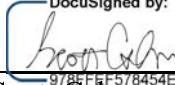
By 
Linda Claxton
Attorneys for Defendant
J.J.R. Enterprises, Inc.

DATE: June 29, 2023

J.J.R. Enterprises, Inc.

By: _____

DATE: June 29, 2023

DocuSigned by:

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Scott Cahn

APPROVED AS TO FORM:

JAMES HAWKINS APLC

Date: June ____, 2023

By:  _____
James R. Hawkins, Esq.
Christina M. Lucio, Esq.
Attorneys for Plaintiff
Scott Cahn

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

Date: June ____, 2023

By _____
Linda Claxton
Attorneys for Defendant
J.J.R. Enterprises, Inc.
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Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

Cahn v. J.J.R. Enterprises, Inc., Case No. 34-2020-00284704

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against J.J.R. ENTERPRISES, INC. doing business as CALTRONICS BUSINESS SYSTEMS (“Defendant”) for alleged violations of the California Labor Code sections 2800 and 2802 for failure to reimburse business expenses. The Action was filed by a former employee of Defendant, Scott Cahn, (“Plaintiff”) and seeks (1) payment of unreimbursed expenses, interest, and penalties for a class of employees who worked for Defendant and submitted for mileage reimbursement in the state of California during the Class Period from August 28, 2016 to December 15, 2022 (“Class Members”) and (2) penalties under the California Private Attorney General Act (“PAGA”) for all employees who worked for Defendant and submitted for mileage reimbursement during the PAGA Period (August 28, 2019 to December 15, 2022) (“PAGA Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked [REDACTED] workweeks** during the Class Period and **you worked [REDACTED] pay periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

(2) Opt-Out of the Class Settlement. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is 	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on . You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods

Written Challenges Must be Submitted by [REDACTED]

The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.

1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failing to reimburse employees for necessary business expenses. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by James Hawkins APLC in the Action ("Class Counsel").

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2.WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator, retired Judge Carl J. West, in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. After a full day of mediation continued negotiations, the parties reached a settlement. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3.WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$425,000 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment

will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$141,666.67 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$18,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to \$9,750 to the Administrator for services administering the Settlement.

D. Up to \$15,000 for PAGA Penalties, allocated 75% to the LWDA and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 100% of each Individual Class Payment as reimbursement, penalties, and interest, and no portion to wages for tax purposes. The Individual PAGA Payments are also counted as penalties rather than wages for tax purposes. The Administrator will report the Individual Class and PAGA Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The

Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Class Members release any and all claims, actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities that have been asserted by Plaintiff, or the Class Members or any of their respective heirs, executors, administrators, beneficiaries, predecessors, successors, attorneys, assigns, agents, and/or representatives arising out of any claims that were asserted in the Action or are based on or reasonably related to the claim for unreimbursed business expenses, attendant interest, penalties, and civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code sections 2698, et seq.) ("PAGA") for violation of Labor Code sections 2800, and 2802; claims under the Industrial Welfare Commission Wage Orders 1-2001, 4-2001 and 7-2001 for unreimbursed business expenses, California Code of Regulations, Title 8, section 11000 et seq.; and Business and Professions Code sections 17200-17208 for unreimbursed business expenses. Released Claims include all claimed or unclaimed compensatory, consequential, incidental, liquidated, restitution, interest, costs and fees, injunctive or equitable relief, and any other remedies available at law or equity, allegedly owed or available to the Class arising from a claim of unreimbursed business expenses under any theory whatsoever, against the Released Parties for the Class Period (collectively referred to as the "Released Claims") and shall become effective upon the date Defendant funds the settlement. The period of the Release shall extend to the limits of the Class Period.

10. PAGA Aggrieved Employees' Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The PAGA Aggrieved Employees' Releases are as follows:

Each PAGA Member will be deemed to release all claims for civil penalties that were asserted against Defendant or the Released Parties or any of them arising out of or based upon the facts, theories, and/or claims alleged in the PAGA Notice Letter filed by Plaintiff with the LWDA in this Action. This release includes claims under the PAGA (California Labor Code section 2698 et seq.) for violations of Labor Code Sections 201, 202, 203, 204, 210, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195, 1197, 1198, or 2802, applicable IWC California Wage Orders, and California Code of Regulations, Title 8, section 11000 et seq. The Released PAGA Claims shall be released as to Defendant and the Released Parties from the period beginning August 28, 2019, through December 15, 2022 and shall become effective upon the date Defendant funds the settlement. All PAGA Members will be deemed to have released all Released PAGA Claims regardless of whether they request to be excluded from participation in the Settlement by filing a Request for Exclusion.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$3,750 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as ***Cahn v. J.J.R. Enterprises, Inc., Case No. 34-2020-00284704*** and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least [REDACTED] days before the [REDACTED] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website, **www.phoenixclassaction.com**, or the Court's website [REDACTED] (url).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [REDACTED].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action [REDACTED] and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the

Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [redacted] at [redacted] (time) in Department 41 of the Sacramento Superior Court, located at [redacted]. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website, **www.phoenixclassactions.com**, beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement Administrators' website at **www.phoenixclassactions.com**. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to [redacted] and entering the Case Number for the Action, Case No. 34-2020-00284704. You can also make an appointment to personally review court documents in the Clerk's Office at the [redacted] Courthouse by calling [redacted].

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

James R. Hawkins
Christina M. Lucio
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
james@jameshawkinsaplc.com
christina@jameshawkinsaplc.com

Settlement Administrator:

PHOENIX SETTLEMENT ADMINISTRATORS

Email Address: [redacted]
Mailing Address: [redacted]
Telephone: [redacted]
Fax Number: [redacted]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the California Controller's Office Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit B

REQUEST FOR EXCLUSION FROM SETTLEMENT (OPT-OUT)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO**

Cahn v. J.J.R. Enterprises, Inc., Case No. 34-2020-00284704

I am requesting to OPT OUT OF THE SETTLEMENT of the action known as *Cahn v. J.J.R. Enterprises, Inc.*, pending in the Superior Court of the State of California, County of Sacramento, Case No. 34-2020-00284704. I want to be excluded from the Class and the Settlement.

I do not wish to receive compensation under the terms of the proposed settlement of the *Cahn* action or to otherwise participate in the proposed settlement.

Date: _____, _____
Signature

**PLEASE PRINT OR TYPE THE FOLLOWING
IDENTIFYING INFORMATION:**

Full Name: _____

Mailing Address: _____

Approximate Dates of Employment: _____

Last four digits of your Social Security Number: _____

Daytime telephone number: _____

Exhibit C

NOTICE OF OBJECTION FORM

Cahn v. J.J.R. Enterprises, Inc.

Superior Court of California, County of Sacramento

Case No. 34-2020-00284704

You should fill out this Notice of Objection Form *only if you wish to object to the Settlement.* Please note, *you cannot submit this Notice of Objection Form, if you submit a Request for Exclusion.* Objecting to the Settlement is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be a part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

This form is to be used only if you wish to object to the Settlement. Settlement Class Members who do not timely make an objection will have waived their right to object to the Settlement.

However, filing a timely objection alone does not preserve your right to appeal a class judgment, the Settlement, or attorneys' fees. In order to appeal a class judgment, the Settlement, or attorneys' fees, as a party to the record, a Settlement Class Member must either, (1) file a timely complaint in intervention before final judgment, or (2) file an appealable motion to set aside and vacate the class judgment.

If you wish to object to the Settlement, you must fill out this Notice of Objection Form in its entirety, sign it, and return it to the Settlement Administrator at the address listed below by First Class U.S. Mail postmarked no later than **[Response Deadline]**. Settlement Class Members who wish to object to the Settlement may appear at the Final Approval Hearing to have your objection heard by the Court.

Cahn v. J.J.R. Enterprises, Inc. Settlement

Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA, 92863

Objection:

Please print legibly: Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____

The Reasons for the Objection: _____

Date: _____

Signature