

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (hereinafter the “Agreement”) is made by Plaintiff Christian Cardenas and Defendant Premium Retail Services, Inc. (“Premium Retail”). Cardenas and Premium Retail will, at times, be collectively referred to herein as “the Parties.”

I. THE LITIGATION

1. On November 22, 2019, Lisa Sanford filed a complaint in the Riverside County Superior Court entitled *Lisa Sanford v. Premium Retail Services Inc.*, case number RIC 1905804, on behalf of herself and allegedly aggrieved employees currently or formerly employed by Premium Retail, in which she asserted a cause of action for civil penalties pursuant to the California Private Attorneys General Act, Cal. Lab. Code Section 2698, *et seq.* (“PAGA”) arising from alleged Labor Code violations by Premium Retail.

2. On September 14, 2020, the Parties attended a full day of mediation with mediator Tripper Ortman. The mediation conference did not immediately result in a settlement; however, negotiations continued and, after much effort, the Parties agreed to the settlement described herein.

3. Cardenas will file a First Amended Complaint to substitute in as named Plaintiff (replacing Lisa Sanford). In addition to the PAGA cause of action pled in Sanford’s initial complaint, the First Amended Complaint will include class action claims seeking damages and statutory penalties based on the same Labor Code violations alleged in Sanford’s initial complaint. A copy of the First Amended Complaint is attached as Exhibit A to this Agreement. On September 23, 2020, Cardenas mailed a letter to the Labor and Workforce Development Agency, and provided a copy of said letter to Premium Retail, to comply with the PAGA notice and pre-filing requirements set forth in Labor Code section 2699.3. Premium Retail will stipulate to the filing of the First Amended Complaint.

4. This Agreement concerning the settlement is made in compromise of disputed claims. The payment by Premium Retail required by this Agreement shall satisfy all claims alleged in the Litigation, including but not limited to claims for wages, penalties, and interest, and shall include payment for PAGA penalties, individual settlement awards to Settlement Class Members, attorneys' fees, litigation costs and expenses, Plaintiff's class representative service award payment, and settlement administration expenses.

6. Because this is a putative class action, this Agreement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. In the event the Court does not enter Final Judgment, or in the event such Final Judgment does not become Final for any reason, or is modified in any material respect, or in the event the Effective Date, as defined herein, does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no force or effect whatsoever, and shall not be referred to or utilized for any purpose. Premium Retail denies all of Plaintiff's claims as to liability and damages as well as his class allegations, and does not waive, but rather expressly reserves all rights to challenge all such claims and allegations upon all procedural and factual grounds including the assertion of any and all defenses, if the Final Judgment does not become Final for any reason, or in the event that the Effective Date does not occur.

II. DEFINITIONS

The following are certain definitions applicable to this Agreement. Definitions contained elsewhere in the body of this Agreement shall also be effective.

1. "Class" – means all persons who are or were employed by Premium Retail in California as Sales Managers at any time during the Settlement Period and were paid on a salary basis, other than those who have signed general releases.

2. "Class Counsel" – means Righetti Glugoski, P.C.

3. “Class Counsel Attorneys’ Fees” – refers to the amount awarded to Class Counsel by the Superior Court for the County of Riverside for prosecuting and obtaining a settlement of the Litigation.

4. “Class Representative Service Award” – means the sum to be paid to Cardenas as service for his role as Class Representative, which shall be paid from the Gross Settlement Fund.

5. “Effective Date” – means the date by which both of the following have occurred: (a) this Settlement is finally approved by the Superior Court for the County of Riverside; and (b) the Court’s Order Approving Class Settlement and Dismissing the Class Action with Prejudice (“Final Judgment”) becomes Final.

6. “Final” – means the latest of: (a) if there is an appeal of the Superior Court’s Final Judgment in the Litigation, the date of final affirmance on an appeal or the date of dismissal of such appeal; or (b) if one or more objections are submitted and not withdrawn, the expiration date of the time for filing or noticing any appeal of the Final Judgment; or (c) if no objections are made, the date the Court enters the Final Judgment.

7. “Final Approval Hearing” – means the hearing to be conducted by the Superior Court for the County of Riverside to determine whether to enter the Final Judgment finally approving and implementing the terms of this Agreement.

8. “Final Judgment” – refers to the Final Judgment and Order Approving Class Settlement.

9. “Gross Settlement Fund” – refers to Three Hundred Eighty-Five Thousand Dollars (\$385,000), which is the maximum amount Premium Retail shall be required to pay under this Agreement, except as otherwise provided with respect to the employer’s share of payroll taxes (as stated in Section III, Paragraph 2). The \$385,000 Gross Settlement Fund is

non-reversionary and shall consist of the following elements: (a) Class Counsel Attorneys' Fees; (b) Litigation Costs and Expenses; (c) Class Representative Service Award; (d) Settlement Administration Expenses; (e) PAGA Payment; and (f) Net Settlement Fund, as defined below.

10. "Litigation" – means the action initially filed as *Lisa Sanford v. Premium Retail Services Inc.*, pending in the Riverside County Superior Court as case number RIC 1905804, and all causes of action, claims and allegations contained therein.

11. "LWDA" – means the California Labor and Workforce Development Agency.

12. "Motion for Preliminary Approval" – refers to the Motion for Preliminary Approval of the Settlement and its supporting papers.

13. "Net Settlement Fund" – means the Gross Settlement Fund, less all of the following: (a) Class Counsel Attorneys' Fees; (b) Litigation Costs and Expenses; (c) Class Representative Service Award; (d) Settlement Administration Expenses; and (e) PAGA Payment to the LWDA.

14. "Notice" – refers to the Notice of Pendency of Putative Class Action, Proposed Settlement and Hearing Date for Court Approval, substantially in the form attached hereto as Exhibit B.

15. "Order Granting Preliminary Approval" – refers to the order or statement of decision preliminarily approving the Settlement.

16. "PAGA Payment" – means the portion of the Gross Settlement Fund that the Parties have designated as representing the recovery of civil penalties on behalf of the Settlement Class under the Labor Code Private Attorneys General Act of 2004.

17. “PAGA Payment to the LWDA” refers to the 75% portion of the PAGA Payment that shall be distributed to the California Labor and Workforce Development Agency (“LWDA”).

18. “Parties” – means Plaintiff Christian Cardenas, individually and in his capacity as Class Representative; and Defendant Premium Retail Services Inc. (“Premium Retail”).

19. “Plaintiff” – means Christian Cardenas, individually and in his capacity as Class Representative.

20. “Preliminary Approval Hearing” – means the hearing to be conducted by the Superior Court for the County of Riverside to determine whether to grant the Motion for Preliminary Approval.

21. “Settlement” – means the settlement of the Litigation and related claims effectuated by this Agreement.

22. “Settlement Administration Expenses” – means those expenses of effectuating and administering the Settlement, i.e., the costs incurred by the Settlement Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Net Settlement Fund, and the fees of the Settlement Administrator approved by the Court.

23. “Settlement Administrator” – means or refers to Phoenix Settlement Administrators, a third-party administrator jointly selected by the Parties, to effectuate the Settlement.

24. “Settlement Class” – means all those persons who are members of the Class and who have not properly and timely opted out of the Litigation.

25. “Settlement Class Member(s)” – means any person who is included in the Settlement Class.

26. “Settlement Payments” – means the amounts to be paid from the Net Settlement Fund to individual Settlement Class Members.

27. “Settlement Period” – means the period from November 22, 2015 through preliminary approval.

III. SETTLEMENT TERMS

The Parties agree as follows:

1. Scope of Settlement:

The Settlement described herein will resolve fully and finally all Settlement Class Members’ Released Claims as described in Section III, Paragraph 6.

2. Maximum Potential Consideration:

Subject to Court approval, and in consideration for the release and settlement described in this Agreement, Premium Retail shall pay the Gross Settlement Fund to the Settlement Class Members, Plaintiff, Class Counsel, the Settlement Administrator, and the LWDA in the manner specified in this Agreement. The Gross Settlement Fund is non-reversionary and shall be used: (1) to satisfy the claims of all Settlement Class Members, as specified herein; (2) to satisfy the award of Class Counsel Attorneys’ Fees; (3) to satisfy the award of Litigation Costs and Expenses; (4) to satisfy the Class Representative Service Award; (5) to satisfy Settlement Administration Expenses incurred in this action; and (6) to satisfy the PAGA Payment to the LWDA. The Gross Settlement Fund does not include the employer’s share of payroll taxes on the portion of payments to Settlement Class Members allocated as wages, which Premium Retail shall be responsible for paying separately. The Gross Settlement Fund plus the employer’s share of payroll taxes on the portion of payments to Settlement Class Members allocated as wages shall constitute the maximum amount that Premium Retail shall be required to pay under this Agreement.

3. Approval of Settlement:

(a) Plaintiff shall apply for approval of the Settlement as described in Section III, Paragraph 13 of this Agreement for purposes of effectuating this Settlement. Plaintiff agrees not to request more than \$5,000 as a Class Representative Service Award. Plaintiff agrees not to seek more than thirty-five percent of the Gross Settlement Fund (\$134,750) for Class Counsel Attorneys' Fees, and further agrees not to seek more than \$20,000 for Litigation Costs and Expenses. Premium Retail shall not oppose any application by Plaintiff or Class Counsel for a Class Representative Service Award equal to or less than \$5,000, Class Counsel Attorneys' Fees equal to or less than \$134,750, and Litigation Costs and Expenses equal to or less than \$20,000.

(b) Should the Superior Court for the County of Riverside decline to approve all material aspects of the Settlement or make rulings substantially altering the fundamental terms of this class settlement, except for the awards of the Class Representative Service Award, Class Counsel Attorneys' Fees, and Litigation Costs and Expenses (which shall be decided by the Court), Premium Retail shall have no obligation to make any payment, including payment of the Gross Settlement Fund. Further, in that event if Premium Retail has made any payment, such monies shall be returned promptly to Premium Retail.

4. Allocation of Net Settlement Fund Among Settlement Class Members:

The Net Settlement Fund will be allocated among Settlement Class Members according to each Settlement Class Member's workweeks as a salaried Sales Manager working in California during the Settlement Period as a *pro rata* portion of the total combined workweeks of all the Settlement Class Members during the Settlement Period. One day worked in a given week will be credited as a workweek for purposes of this calculation.

5. Tax Treatment of Payments to Settlement Class Members:

The Settlement Payments are payments for all claims asserted in the Litigation or that reasonably could have been asserted based on the causes of action, claims and allegations in the Litigation. Of the payments to individual Settlement Class Members, one-third shall be designated as wages subject to payroll withholding to be reported on IRS Form W2s where required by law, one-third shall be designated as interest to be reported on IRS Form 1099s where required by law, and the remaining one-third shall be designated as penalties to be reported on IRS Form 1099s where required by law. Premium Retail shall be responsible for paying the employer's share of payroll taxes on any amounts allocated as wages. Each Settlement Class Member shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes which may be owed on the portion of his or his Settlement Payment or Class Representative Service Award. The Settlement Administrator shall report all required information to the appropriate taxing authorities regarding all payments made pursuant to this Agreement.

6. Release of Claims by Settlement Class Members:

Upon the Court's final approval of the Settlement, entry of final judgment, and payment of required funds to Settlement Class Members, each Settlement Class Member shall be deemed to have released Premium Retail, and all of its officers, directors, employees, and agents (collectively the "Releasees"), from any and all "Settlement Class Members' Released Claims" during the Settlement Period. For the purposes of this Agreement, the Settlement Class Members' Released Claims are defined as:

Any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action which are alleged, or reasonably

could have been alleged based on the facts and claims asserted in the operative complaint filed in the Litigation, including without limitation to, claims for restitution and other equitable relief associated with the underlying causes of action in the operative complaint, claims for unpaid wages, unpaid overtime wages, failure to provide rest periods or meal periods or to provide compensation in lieu thereof, meal period penalties, rest period penalties, waiting time penalties, penalties for unpaid minimum wages, penalties for incomplete payroll records, unfair business practices, failure to provide accurate wage statements, failure to maintain required records, civil penalties brought under the Labor Code Private Attorneys General Act of 2004 (Labor Code Section 2698 *et seq.*), claims for penalties of any nature whatsoever arising out of the Settlement Class Members' Released Claims. This release shall exclude claims for vested benefits, unemployment insurance, disability, workers' compensation, and claims outside of the Settlement Period.

7. Release of Claims by Plaintiff:

In addition to the Settlement Class Members' Released Claims described above, in exchange for the consideration recited in this Agreement, including but not limited to the Class Representative Service Award, Plaintiff Christian Cardenas releases, acquits, and discharges any covenants not to sue any of the Releasees for any claim, whether known or unknown, which Plaintiff has ever had, or hereafter may claim to have, arising on or before the date that he signs this Agreement, including without limitation to, any claims relating to or arising out of any aspect of his employment, or the termination of his employment, with Premium Retail, any claims for unpaid compensation, wages, reimbursement for business expenses, penalties, or waiting time penalties under the California Labor Code, the California Business and Professions

Code, the federal Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.*, or any state, county or city law or ordinance regarding wages or compensation; any claims for employee benefits, including without limitation, any claims under the Employee Retirement Income Security Act of 1974; any claims of employment discrimination on any basis, including without limitation, any claims under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, 42 U.S.C. section 1981, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1991, the Family and Medical Leave Act of 1993, the California Government Code, or any other state, county or city law or ordinance regarding employment discrimination. Plaintiff acknowledges and agrees that the foregoing general release is given in exchange for the consideration provided to Plaintiff under this Agreement by Premium Retail. However, this release shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, or any other claim or right that as a matter of law cannot be waived or released.

Plaintiff expressly waives any rights or benefits available to him under the provisions of Section 1542 of the California Civil Code, which provides as follows:

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

Plaintiff understands fully the statutory language of Civil Code section 1542 and, with this understanding, nevertheless elects to, and does, assume all risks for claims that have arisen, whether known or unknown, which he ever had, or hereafter may claim to have, arising on or

before the date of his signature to this Agreement, and specifically waives all rights he may have under California Civil Code section 1542.

8. Opt-Outs:

Individuals who fall within the definition of the Class may choose to opt out of the Class under such procedures specified in Section III, Paragraph 13(c)(v) of this Agreement. Any such persons who opt out of the Class (“Opt-Outs”) will receive no part of the Net Settlement Fund or the Gross Settlement Fund. Every individual who falls within the definition of the Class who does not validly and timely opt out shall be deemed a Settlement Class Member. The Settlement Administrator shall provide copies of all written requests for exclusion from the Class to the Parties’ counsel within ten (10) calendar days following the final date to opt out. If more than five percent (5%) of the persons who fall within the definition of the Class become Opt-Outs as specified in this Agreement, then Premium Retail shall have the option to declare this Agreement null and void, if, within forty-five (45) calendar days following the expiration of the last time period in which to opt out, Premium Retail serves written notice of its exercise of this option on Class Counsel. All signatories and their counsel agree not to encourage opt-outs.

9. Denial of Liability:

PREMIUM RETAIL DENIES THAT IT OR ANY OF ITS PARENTS, SUBSIDIARIES, AFFILIATES OR SUCCESSORS OR ANY OTHER RELEASEE HAS ENGAGED IN ANY UNLAWFUL ACTIVITY, HAS FAILED TO COMPLY WITH THE LAW IN ANY RESPECT, OR HAS ANY LIABILITY TO ANYONE UNDER THE CLAIMS ASSERTED IN THE LITIGATION. The Parties expressly acknowledge that this Agreement is entered into for the purpose of compromising highly disputed claims and that nothing herein is an admission of liability or wrongdoing by Premium Retail or any of the Releasees. Neither the Agreement nor

any document prepared in connection with the Settlement may be admitted in any proceeding as an admission by Premium Retail, or any of the Releasees, Plaintiff, or any person within the definition of the Class. However, this paragraph and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.

10. **PAGA Allocation:** Twenty Thousand Dollars (\$20,000) of the Gross Settlement Fund shall be designated as the recovery of civil penalties under the Labor Code Private Attorneys General Act of 2004 (PAGA). Of that amount, 75% (\$15,000) shall be distributed to the California Labor and Workforce Development Agency (LWDA). The remaining 25% (\$5,000) shall become part of the Net Settlement Fund available for distribution to Settlement Class Members.

11. **Distribution of Net Settlement Fund:**

The Net Settlement Fund shall be distributed by the Settlement Administrator in accordance with the following eligibility requirements:

(a) Those persons who timely submit written requests for exclusion from the class pursuant to the Notice (“Opt-Outs”) are not entitled to any Settlement Payments.

(b) Premium Retail, through the Settlement Administrator, shall make payments to Settlement Class Members as set forth in Section III, Paragraphs 4-5, above.

(c) Premium Retail will provide to the Settlement Administrator the best information available to it with respect to the full names, last known addresses, last known telephone numbers, Social Security numbers, and workweeks of the persons identified from its records as being Class Members.

12. Settlement Administration:

Settlement Administration Expenses, upon order of the Court, shall be paid from the Gross Settlement Fund. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court if they cannot be resolved by the Parties. The Settlement Administrator shall regularly and accurately report to the Parties, in written form when requested, the substance of the work performed, including the amounts payable to individual Settlement Class Members and the total amount to be paid to all Settlement Class Members.

13. Preliminary Approval of Settlement:

The Parties agree to the following procedures for obtaining preliminary approval of the Settlement, certifying a conditional Settlement Class, notifying Settlement Class Members, and obtaining final court approval of the Settlement:

(a) **Class Certification for Settlement Purposes Only:** The Parties stipulate to certification of the Class for purposes of settlement only. If the Court does not grant either preliminary approval or final approval of this Settlement, or if Premium Retail elects to exercise its option to declare the Agreement void as set forth in Section III, Paragraph 8, the Parties' stipulation on class certification will be void and of no further force or effect.

(b) **Motion for Preliminary Approval:** Plaintiff shall file the Motion for Preliminary Approval of the Settlement and Proposed Order Granting Preliminary Approval of the Settlement with the supporting papers.

(c) **Notice of Class Settlement:** Following entry of the Order Granting Preliminary Approval of the Settlement, the Notice, substantially in the form attached hereto as Exhibit B, the Request for Exclusion Form, substantially in the form attached hereto as Exhibit C, and the

Objection Form, substantially in the form attached hereto as Exhibit D (collectively “Notice Packet”) shall be mailed to Class Members.

(i) Within fifteen (15) business days of preliminary approval, Premium Retail shall provide the Settlement Administrator with the following data for each Class Member: name, last known mailing address, last known telephone number, Social Security number, and workweeks during the Settlement Period. Thereafter, the Settlement Administrator shall update the last known mailing addresses of Class Members received from Premium Retail, with those obtained by searching the National Change of Address database (“NCOA”).

(ii) Within twenty-five (25) business days of preliminary approval, the Settlement Administrator shall mail the Notice Packet to all identified Class Members via U.S. Mail using the most current mailing address information available for Class Members from Premium Retail’s records and the NCOA database. The deadline for requesting exclusion from the Settlement Class shall be forty-five (45) calendar days from mailing by the Settlement Administrator. (This deadline is referred to as the “Exclusion/Objection Deadline Date”).

(iii) If Notice Packets are returned as undeliverable without forwarding addresses, the Settlement Administrator shall conduct a skip trace to locate more current addresses for Class Members and re-mail the Notice Packets to any new addresses obtained. If forwarding address information is obtained by return mail, the Settlement Administrator shall promptly forward the Notice Packet to the addressee via first-class regular U.S. Mail indicating on the Notice Packet the date on which it was re-mailed. The Exclusion/Objection Deadline Date shall not be extended for Class Members who receive re-mailed Notice Packets.

(iv) The Notice shall provide that the Class Members who wish to object to the Settlement must submit to the Settlement Administrator a timely and valid objection to the

Settlement (“Objection”) by way of Objection Form or written statement objecting to the Settlement that: (1) contains the Settlement Class Member’s full name, telephone number, signature and mailing address; (2) states the case name and number of the Action; (3) contains a clear statement that the Settlement Class Member objects to the Settlement and a clear explanation why the Settlement Class Member objects; (4) lists all factual and legal support for the Settlement Class Member’s objection; and (5) if the Settlement Class Member is represented by counsel, states such counsel’s name and contact information. To be timely, Objections must be submitted to the Settlement Administrator on or before the Exclusion/Objection Deadline (within forty-five (45) calendar days following the mailing of the Notice Packet. Settlement Class Members who do not submit timely and valid Objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. No individual who excludes himself or herself from the Settlement Class shall be entitled to object to the Settlement.

(v) The Notice shall advise Class Members of their right to opt out of the Settlement by submitting a timely and valid request to be excluded from the Settlement (“Request for Exclusion”) by way of a Request for Exclusion Form or a written statement that: (1) contains the Class Member’s full name, telephone number, signature and mailing address; (2) states the case name and number of the Action; and (3) contains a clear statement that the Class Member wishes to be excluded from the Settlement. In order to be timely, Requests for Exclusion must be submitted to the Settlement Administrator or before the Exclusion/Objection Deadline. Class Members who fail to submit a timely and valid Request for Exclusion shall be bound by all terms of the Settlement and the Final Judgment entered in the Action if the Settlement is approved by the Court, regardless of whether they have objected to the Settlement.

Within ten (10) calendar days after the Exclusion/Objection Deadline, the Settlement Administrator shall provide the Parties with a complete and accurate list of all Class Members who have validly and timely requested exclusion from the Settlement.

(vi) The Notice mailed to Class Members shall state the Class Member's dates of employment within the Settlement Period according to the records of Premium Retail, the total amount of workweeks calculated as being worked by the Class Member during the Settlement Period, and shall state the approximate amount of the Class Member's share of the proposed Settlement.

(vii) Class Members may challenge or dispute the workweeks stated on the Notice by submitting the Class Member's contentions to the Settlement Administrator in writing, along with appropriate documentation. Any such challenges must be mailed to the Settlement Administrator by the Exclusion/Objection Deadline. Any such challenges shall be resolved by the Settlement Administrator, whose decision shall be final, binding, and non-appealable.

(d) **Non-Solicitation of Opt-Outs / Objections:** The Parties agree that neither they nor their counsel will solicit or otherwise encourage directly or indirectly Class Members to request exclusion from the Class, object to the Settlement, or appeal the Final Judgment.

(e) **Final Approval Hearing:** A Final Approval Hearing to determine final approval of the Settlement shall be conducted subject to the calendar of the Court. No later than twenty (20) calendar days prior to the Final Approval Hearing, the Settlement Administrator shall provide Class Counsel with a Declaration of Compliance to be filed with the Court by Class Counsel. No later than ten (10) calendar days before the Final Approval Hearing, or upon such other schedule as may be directed by the Court, Plaintiff shall file a Motion for Final Approval, Memoranda of Points and Authorities in Support of the Settlement, and Motion for Attorneys'

Fees and Costs and Class Representative Service Award. Prior to the Final Approval Hearing, Class Counsel shall present the proposed Final Judgment and Order Approving Class Settlement (“Final Judgment”) to the Court for its approval and entry. After entry of the Final Judgment, the Court retains continuing jurisdiction over the Litigation under California Rule of Court 3.769(h) for purposes of (i) enforcing this Settlement Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Final Judgment matters as may be appropriate under court rules or applicable law. No judgment shall be entered unless it is consistent with the terms of this Agreement.

14. Funding and Distribution of Gross Settlement Fund:

(a) **Funding and Distribution Timelines:** Subject to the payment maximum specified in Section III, Paragraph 2 of this Agreement, Premium Retail will transmit to the Settlement Administrator the Gross Settlement Fund plus the employer’s share of payroll taxes within ten (10) calendar days of the Effective Date. The Settlement Administrator shall distribute the entire Gross Settlement Fund within fifteen (15) calendar days after the Effective Date.

(b) **Payment of Class Counsel Attorneys’ Fees:** Class Counsel shall apply to the Court for approval of Class Counsel Attorneys’ Fees. Class Counsel anticipate requesting that the court approve \$134,750 as Class Counsel Attorneys’ Fees. As set forth above, Class Counsel Attorneys’ Fees shall come exclusively from the Gross Settlement Fund. The amount of court-awarded Class Counsel Attorneys’ Fees shall be paid by the Settlement Administrator to Plaintiff’s Attorneys. The Settlement Administrator shall issue a Form 1099 to Class Counsel for the payment. Premium Retail agrees not to oppose the request for Attorneys’ Fees so long as it does not exceed \$134,750.

(c) **Payment of Litigation Costs and Expenses:** Class Counsel shall apply to the Court for approval of Litigation Costs and Expenses. Class Counsel anticipate requesting that the Court approve no more than \$20,000 as Litigation Costs and Expenses. As set forth above, Litigation Costs and Expenses shall come exclusively from the Gross Settlement Fund. The amount of court-awarded Litigation Costs and Expenses shall be paid by the Settlement Administrator to Class Counsel. The Settlement Administrator shall issue a Form 1099 to Class Counsel for the payment. Premium Retail agrees not to oppose the request for Litigation Costs and Expenses so long as it does not exceed \$20,000.

(d) **Payment of Class Representative Service Award and Compensation for General Release:** Upon court approval, Plaintiff shall be paid a Class Representative Service Award. Plaintiff intends to request that the Court approve a payment in the amount of \$5,000 as Class Representative Service Award and Premium Retail agrees not to object to a Class Representative Service Award of not more than \$5,000 for Plaintiff. The Settlement Administrator shall make payment of the Class Representative Service Award to Plaintiff. The Settlement Administrator shall issue a form 1099 to Plaintiff for the payment.

(e) **Payment of Settlement Administration Expenses:** The Settlement Administrator shall receive such amount approved by the Court, which is estimated to be \$4,950, from the Gross Settlement Fund. The Settlement Administration Expenses shall not exceed \$4,950 unless the Settlement Administrator obtains prior approval from the Parties.

(f) **Payment of Class Counsel Attorneys' Fees, Litigation Costs and Expenses and Class Representative Service Award:** Recovery of Class Counsel Attorneys' Fees, Litigation Costs and Expenses and the award of a Class Representative Service Award are not conditions to this Agreement and are to be considered by the Court separately from the fairness,

reasonableness, adequacy and good faith of the Settlement. Any order or proceeding relating to the application by Class Counsel of an award of attorneys' fees, costs, expenses, or Class Representative Service Award, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the Final Judgment. To the extent the Court does not approve the full amount of Class Counsel Attorneys' Fees, Litigation Costs and Expenses, Settlement Administration Expenses, or the Class Representative Service Award described above, the non-approved amounts will be allocated to the Net Settlement Fund for distribution to the Settlement Class Members according to the allocation formula set forth herein.

(g) **Payments to Settlement Class Members:** After deducting Class Counsel Attorneys' Fees, Litigation Costs and Expenses, the Class Representative Service Award, Settlement Administration Expenses, and the PAGA Payment to the LWDA from the Gross Settlement Fund, the Settlement Administrator shall distribute the entire Net Settlement Fund to the Settlement Class Members according to the allocation formula described in Section III, Paragraph 4. The Settlement Administrator shall mail a check to each Settlement Class Member via U.S. Mail using the most current mailing address information available, including any address updates obtained through NCOA searches, Social Security Number searches, address changes self-reported by Settlement Class Members, or any other source. The Settlement Administrator shall also provide Class Members with notice of entry of judgment by posting it on the Settlement Administrator's website. After the Settlement Administrator mails out the Settlement Payments, Settlement Class Members shall have one-hundred and eighty (180) calendar days to cash the checks that were mailed to them. After one-hundred and eighty (180) calendar days from the date of mailing, the checks shall become null and void, and any monies

remaining in the distribution account shall be distributed to the State of California's Unclaimed Property Fund in the names of the Settlement Class members who failed to cash their checks. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement Fund will be paid out to Settlement Class Members, whether or not they all cash their Settlement Checks. Therefore, Premium Retail will not be required to pay any interest on said amount.

15. Notices:

Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the fifth day after mailing by United States mail, addressed as follows:

To Counsel for Plaintiff: Matthew Righetti
Michael C. Righetti
John Glugoski
RIGHETTI GLUGOSKI, P.C.
The Presidio of San Francisco
220 Halleck Street, Suite 220
San Francisco, CA 94129
Telephone: (415) 983-0900

To Counsel for Defendant: Aaron A. Buckley
Paul Batcher
PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP
101 West Broadway, Ninth Floor
San Diego, CA 92101
Tel: (619) 237-5200

16. Premium Retail's Option to Void Agreement:

It is understood and agreed by the Parties that the formula for the distribution of the Net Settlement Fund and the procedure for effectuating this Settlement are subject to approval by the Court. However, if any court order or action of the Court requires Premium Retail or any other Releasee to pay any portion of the Gross Settlement Fund to any person or entity other than as

provided herein, or pay more than \$385,000, (including cash payments to the Class, Class Counsel Attorneys' Fees, Litigation Costs and Expenses, Settlement Administration Expenses, the Class Representative Service Award, and the PAGA Payment to the LWDA), or requires any other changes in the Settlement that are materially detrimental to Premium Retail or any other Releasee, the Agreement shall be voidable by Premium Retail by written notice by any of them to the attorney of record for Plaintiff, no later than twenty (20) calendar days after Premium Retail receives notice of entry of any such order.

As set forth in Section III, Paragraph 8, Premium Retail also shall have the option to void this Agreement if more than five percent (5%) of the Class Members exercise their right to opt out of this Agreement.

If Premium Retail voids this Agreement, or if the Court fails to approve this Agreement, neither Premium Retail nor any other Releasee shall have any obligation to make any payments under this Agreement and Premium Retail shall receive a return of any funds already paid. Premium Retail agrees to pay to the Settlement Administrator directly all the Settlement Administration expenses under those circumstances.

17. No Effect on Employee Benefit Plans:

Neither the Settlement nor any amounts paid under the Settlement will modify any previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored by Releasees. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Releasees' sponsored benefit plans, policies or bonus programs. The payments made under the terms of this Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Releasees' benefit

plan, policy or bonus program. Releasees retain the right to modify the language of any benefit plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Agreement are not for “weeks worked,” “weeks paid,” “weeks of service,” or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Agreement. Releasees do not consider any payments under this Agreement “compensation” for purposes of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs, or any other plan sponsored by Releasees.

18. No Publicity:

The Parties and their respective counsel shall not issue any press release or media release or have any communication with the press or media regarding this Settlement. Class Counsel may, however, respond to any inquiries from Class Members regarding the Settlement.

19. Entire Agreement:

After this Agreement is fully executed by all Parties and their attorneys of record, this Agreement and its Exhibits shall constitute the entire agreement relating to settlement of this Litigation and the causes of action and defenses asserted therein, and it shall then be deemed that no oral representations, warranties or inducements have been made to any party concerning this Agreement other than the representations, warranties and covenants expressly stated in this Agreement.

20. Authorization:

Class Counsel warrant and represent that they are authorized by Plaintiff, for whom they are the attorneys of record, and the attorneys of record for Premium Retail warrant and represent

that they are authorized by Premium Retail, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties agree to seek the assistance of the Court, and in all cases all such documents, supplemental provisions and assistance of the Court shall be consistent with this Agreement.

21. Jurisdiction:

The Court shall have continuing jurisdiction to resolve any dispute which may arise regarding the terms and conditions of this Agreement, subject to approval by the Court. Except where the context indicates otherwise, references to the court shall also include any other courts that take jurisdiction of the Litigation, or any to whom the court has referred the matter. If one or more of the Parties institutes an action or proceeding to enforce the provisions of this Settlement or declare rights and/or obligations under this Settlement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement action. This Agreement and the rights and obligations of the Parties shall be construed and governed by the laws of the State of California.

22. Modification:

This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest or their counsel.

23. Successors:

This Agreement shall be binding upon, and inure to the benefit of, the successors of each of the Parties.

24. California Law:

All terms of this Agreement and its Exhibits shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

25. Representation by Counsel:

The Parties have each been represented by counsel and have cooperated in the drafting and preparation of this Agreement. This Agreement shall not be construed against any party on the basis that the party was the drafter or participated in the drafting.

26. Counterparts:

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this Agreement.

27. Incorporation of Exhibits:

All exhibits attached hereto are incorporated by reference and are a material part of this Agreement. Any notice, order, judgment or other exhibit that requires approval of the Court must be approved without material alteration from its current form for this Agreement to become effective.

28. Reasonableness of Settlement:

The Parties believe that this is a fair, reasonable, and adequate Settlement and have arrived at this Settlement through arms-length negotiations, considering all relevant factors, present and potential.

29. Headings:

The headings contained in this Agreement are for reference only and are not to be construed as a part of the Agreement.

30. Waiver of Right to be Excluded:

By signing this Agreement, Plaintiff agrees to be bound by its terms and agrees not to request to be excluded from the Class. Any such request for exclusion by Plaintiff shall be void and of no force or effect.

31. Final Order and Judgment:

Upon final approval of the Settlement, a Final Order and Judgment shall be entered by the Court which shall, among other things:

(a) Grant final approval to the Settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class and order the Parties to carry out the provisions of this Agreement.

(b) Award amounts for Class Counsel Attorneys' Fees, Litigation Costs and Expenses, the Class Representative Service Award, and Settlement Administration Expenses.

(c) Adjudge that the Settlement Class Members are conclusively deemed to have released Premium Retail and the Releasees of and from any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of or in any way related to the matters within the scope of the Litigation.

(d) Bar and permanently enjoin each Settlement Class Member from prosecuting against the Releasees any of the Released Claims which the Settlement Class Members have arising out of, based upon, or otherwise related to the Litigation.

(e) Dismiss this action without prejudice as to all putative class members who are not Settlement Class Members.

(f) Dismiss this action with prejudice as to all Settlement Class Members.

(g) Reserve continuing jurisdiction as provided herein.

Dated: December 14, 2020

DocuSigned by:

D6CBAD69750242D...
CHRISTIAN CARDENAS
Plaintiff

Dated: December 14, 2020

PREMIUM RETAIL SERVICES INC.

By _____
PATRICIA BALKENBUSH
Executive Vice President – Human Resources

APPROVED AS TO FORM AND CONTENT:

Dated: December ___, 2020

RIGHETTI GLUGOSKI, P.C.
DocuSigned by:

52DB91DCA67643D... RIGHETTI
MICHAEL C. RIGHETTI
JOHN GLUGOSKI
Attorneys for Plaintiff CHRISTIAN CARDENAS

Dated: December ___, 2020

PAUL, PLEVIN, SULLIVAN & CONNAUGHTON LLP

By _____
AARON A. BUCKLEY
PAUL BATCHER
Attorneys for Defendant
PREMIUM RETAIL SERVICES, INC.

EXHIBIT A

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Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA

COUNTY OF RIVERSIDE

CHRISTIAN CARDENAS,

Plaintiff,

vs.

**PREMIUM RETAIL SERVICES INC, and
DOES 1 through 100,**

Defendants,

Case No. RIC 1905804

CLASS ACTION

FIRST AMENDED COMPLAINT

- 1) Violation of California Labor Code for Failure to Pay Overtime Wages**
- 2) Failure to Provide Mandated Meal Periods and Rest Breaks**
- 3) Inaccurate Wage Statements**
- 4) Waiting Time Penalties**
- 5) Unfair Bus. Practices – Violation of Bus. & Prof. Code Sections 17200 *et seq.***
- 6) Private Attorneys General Act (Cal. Lab. Code Section 2698 *et seq.*)**

INTRODUCTION

1. COMES NOW, Plaintiff Christrian Cardenas ("Plaintiff") an individual over the age of eighteen (18), and brings this representative challenge to Defendant Premium Retail Services, Inc.'s (hereinafter referred to as "Defendant" or "PRS") lucrative, repressive and unlawful business practices on behalf of himself and a group of a similarly situated aggrieved employees and alleges as follows. This is a class action brought on behalf of the following class: **all Wal-Mart Sales Managers employed by Defendant Premium Retail Services Inc. in California from Nov. 22, 2015 to the date judgment is entered, excepting those Wal-Mart Sales Managers who have released the claims asserted herein through a general release.**

2. The Class did not receive overtime compensation or their statutorily mandated meal periods and rest breaks and are similarly situated pursuant to California Code of Civil Procedure Section 382. Plaintiff seeks to recover unpaid overtime compensation, missed meal period and rest break wages, penalties, interest, attorneys' fees and costs for himself and current and former Sales Managers similarly situated.

JURISDICTION AND VENUE

3. This class action is brought pursuant to Section 382 of the California Code of Civil Procedure. The monetary damages sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over the claims alleged herein as the claims all involve violations of California law and are brought on behalf of Plaintiff, a California resident, all similarly situated employees who are residents of California, and on behalf of the State of California pursuant to the PAGA.

4. Venue as to Defendant is proper in this judicial district pursuant to California Code of Civil Procedure § 395(a). This matter has already pending in Riverside County Superior Court since November 22, 2019. Defendant employs California residents within the County of Riverside, transacts business, has authorized officers and agents, and is otherwise within this Court's jurisdiction for purposes of service of process. The unlawful acts alleged herein have had -- and continue to have -- a direct effect on the Plaintiff and those similarly situated within the State of California and within the County of Riverside. Defendant operates and has employed

1 numerous employees in the County of Riverside and throughout other counties within the State
2 of California.

3 **PLAINTIFF**

4 1. Plaintiff is a former employee of Defendant and held the title “Sales Manager”
5 Plaintiff resides in Reseda, CA, county of Los Angeles. Plaintiff worked for Defendant in
6 Southern California within four years of the initial filing date of this action and within one year
7 of the date of Plaintiff’s letter to the Labor Workforce Development Agency (September 23,
8 2020) regarding the allegations asserted herein. While employed by Defendant as a “Sales
9 Manager,” Defendant classified Plaintiff as an exempt employee and denied him the minimum
10 protections afforded to non-exempt employees under IWC Wage Order 7, which is applicable to
11 the mercantile industry. While classified as an exempt employee, Defendant paid Plaintiff a
12 salary that was barely twice the minimum wage and did not compensate him overtime wages for
13 overtime hours worked. Moreover, Defendant did not provide him with meal periods or maintain
14 records of the start and stop time of his meal periods, nor did it authorize and permit him to take
15 rest breaks.

16 **DEFENDANT**

17 2. Defendant owns and operates a business that serves retailers and employs
18 individuals in the County of Riverside and in California in general. Defendant provides retail
19 services to retail businesses in California and nationwide, such as Wal-Mart Stores. Defendant
20 describes its business as offering “a comprehensive approach to retail marketing” that
21 “combine[s] our data with retail experience, creativity and customer insights to solve big
22 challenges – and see big rewards.” As such, and based upon all the facts and circumstances
23 incident to Defendant’s business in California, Defendant is subject to California Labor Code
24 Sections 1194, et seq., 500, et seq., 226.7 et. seq. and the applicable wage order(s) issued by the
25 Industrial Welfare Commission. At least some of the acts complained of herein occurred in
26 Riverside County as Defendant operates employs individuals who work in retail locations in
27 Riverside County. Plaintiff is informed and believes and thereon alleges that at all times herein
28

1 mentioned Defendant is and was licensed to do business and actually doing business in the State
2 of California.

3 3. Labor Code 558.1 states: (a) Any employer or other person acting on behalf of an
4 employer, who violates, or causes to be violated, any provision regulating minimum wages or
5 hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes
6 to be violated, Sections 203, 226, 226.7, 1193.6 or 1194, may be held liable as the employer for
7 such violation; (b) For purposes of this section, the term other person acting on behalf of an
8 employer is limited to a natural person who is an owner, director, officer, or managing agent of
9 the employer, and the term managing agent has the same meaning as in subdivision (b) of Section
10 3294 of the Civil Code.

11 4. Plaintiff is informed and believes and, on that basis, alleges that Defendants
12 directly or indirectly employ and, during all times relevant, have employed, acted on behalf of,
13 and/or exercised control over the wages, hours and working conditions of Plaintiff and other
14 aggrieved Premium Retail Services Sales Managers in various California counties, including, but
15 not limited to, the County of Riverside.

16 5. Those Defendants identified as Does 1 through 100, inclusive, are and were, at all
17 relevant times herein-mentioned, officers, directors, partners, and/or managing agents of some
18 or each of the remaining Defendants. Plaintiff is informed and believes and, on that basis, alleges
19 that at all relevant times herein mentioned, Defendants employed, and/or exercised control over
20 the wages, hours, and/or working conditions of the Plaintiff and others similarly situated at
21 numerous California locations as identified in the preceding paragraph.

22 6. Plaintiff is unaware of the true names and capacities of those Defendants sued
23 herein as Does 1 through 100, inclusive and, therefore, sue these defendants by such fictitious
24 names. Plaintiff will seek leave of court to amend this Complaint when such names are
25 ascertained. Plaintiff is informed and believes and, on that basis, alleges that each of the
26 fictitiously-named Defendants was responsible in some manner for, gave consent to, ratified,
27 and/or authorized the conduct herein alleged, as herein alleged, were proximately caused thereby.

28 7. Plaintiff is informed and believed and, on that basis, alleged that, at all relevant

1 times herein mentioned, each of the Defendants was the agent and/or employee of each of the
2 remaining Defendants and, in doing the acts herein alleged, was acting within the course and
3 scope of such agency and/or employment.

4 **FACTUAL ALLEGATIONS**

5 8. Plaintiff incorporates by reference each and every paragraph as though fully set
6 forth herein.

7 9. Defendants employed Plaintiff as a salaried-exempt "Sales Manager" employee
8 in California within the four year period dating back from the initial filing date of this action
9 (Nov. 22, 2019) to the present. Because Defendant classified Plaintiff as "exempt," he was not
10 paid all the wages due and owing to him, including overtime wages for all hours/overtime hours
11 worked, wages from missed meal and rest breaks owed pursuant to LC 226.7 for meal periods
12 not provided and/or rest breaks not authorized and permitted. Additionally, Plaintiff did not
13 receive accurate, itemized wage statements, and did not receive payment for all wages earned
14 and owed at the time of separation of employment.

15 10. Defendants engaged in a uniform policy and systematic scheme of wage abuse
16 against Sales Managers employed in California from Nov. 22, 2015 through the date of judgment.
17 This scheme involved, inter alia, misclassifying the Sales Managers as "exempt" employees for
18 purposes of the payment of overtime compensation, meal periods, rest breaks and other minimum
19 protections afforded by the Wage Order when, in fact, Sales Managers did not meet the necessary
20 criteria to be legally classified as exempt according to California law. For example, Plaintiff and
21 similarly situated aggrieved Sales Managers routinely spent more than 50% of their time
22 performing non-exempt work, such as performing sales, engaging customers to accomplish cell
23 phone connections, stocking merchandise, merchandising, ringing up customers and performing
24 other customer service tasks on the sales floor in the various retail store locations (such as Wal-
25 Mart stores) where they performed services as employees of Defendants. This was the result of
26 the way in which Defendants defined the duties and responsibilities of the job of a Sales Manager
27 as well as the way in which Defendants staffed Sales Manager teams with minimal labor hours.
28 Indeed, it was not uncommon for Plaintiff and other similarly aggrieved Sales Managers to be

1 one of the only Premium Retail employees working on the sales floor in the retail locations in
2 which they worked for many consecutive hours at a time. For a substantial period of his work
3 time Plaintiff was not supervising two or more employees. Moreover, no employee superior to
4 Plaintiff ever communicated to him that he was expected to spend the majority of his time
5 performing “exempt” work or explained to him the difference between exempt work and non-
6 exempt work. Defendant expected Plaintiff to sell cell phone connections, and he had an
7 individual quota to meet separate from the quota for his team members.

8 11. Moreover, Plaintiff and similarly situated aggrieved Sales Managers were not able
9 to exercise independent discretion and judgment on matters of significance. Instead, they were
10 expected to follow directives from their supervisors, and those directives were primarily to
11 execute on sales. The job of Sales Manager did not involve or include the opportunity to
12 customarily and regularly exercise one’s own discretion and independent judgment on matters of
13 significance.

14 12. Further, Defendant denied the Sales Manager employees mandated meal periods
15 and failed to authorize and permit rest breaks under California law. As a result of Defendant’s
16 systematic and clandestine scheme the Sales Manager employees employed by Defendant
17 throughout California were not paid all minimum and/or overtime wages owed and were deprived
18 of mandated meal periods and rest breaks and premium wages for meal periods and rest breaks.
19 Accordingly, Defendant has violated California common and statutory laws as described more
20 particularly below.

21 13. Further, Defendants willfully failed to pay, without abatement, all wages owed to
22 Plaintiff – a former employee -- and other Sales Managers upon discharge or voluntary separation
23 of employment. Defendants’ policy and practice was to deliberately refuse to pay Sales
24 Managers all wages due and owing to them upon discharge or resignation. Defendants’ pay
25 policies and practices violate Labor Code Sections 201, 202, 203 and 208. Labor Code Section
26 201 requires immediate payment of wages upon discharge. Labor Code Section 202 requires
27 payment of all compensation due to employees who voluntarily resign within 72 hours of
28 resignation. Labor Code Section 208 requires final payment of wages to discharged employees

1 "at the place of discharge" and that all employees who resign must be paid at the office or agency
2 of the employer in the county where the employees have been performing labor. Defendants'
3 policies and practices of failing to issue final paychecks to Sales Managers, without abatement
4 or reduction, in a timely manner according to law places Defendants in violation of these Labor
5 Code provisions.

6 14. Based on the allegations set forth herein, Plaintiff and other similarly situated
7 aggrieved Sales Managers were improperly denied pay as required under California law. These
8 facts constitute violations of California Labor Code §§ 226.7, 510, 558, 1194, 1198 and IWC
9 Wage Order 7-2001. Plaintiff, on his own behalf and on behalf of similarly situated aggrieved
10 employees, now seeks unpaid overtime wages, meal period and rest break wages, waiting time
11 penalties, inaccurate wage statement penalties, restitution and penalties pursuant to the PAGA
12 for violations of the California Labor Code provisions alleged herein, including Cal. Labor Code
13 §§ 200, 201, 202, 203, 204, 226, 226.7, 500-508, 510, 515, 558, 1194, 1197, 1198, 2810.5, and
14 2698, et al.

15 15. The time period for this case is designated as the time from four years preceding
16 the filing date of the initial Complaint (i.e. on or about November 22, 2015) through the date of
17 judgment, based upon the allegation that the violations of California's wage and hour laws, as
18 described herein, have been ongoing throughout that time.

19 16. Defendants failed to pay Plaintiff and similarly situated aggrieved Sales Managers
20 all their premium wages owed for overtime hours worked and failing to provide meal periods
21 and/or meal period payments as required by law. Plaintiff is informed and believes, and based
22 thereon alleges, that Defendants knew or should have known that Plaintiff and the aggrieved
23 Sales Managers were 1) entitled to receive premium wages for overtime hours worked, 2) entitled
24 to both meal periods and rest breaks as well as meal period pay and rest break premium wages,
25 and 3) entitled to all wages owed upon discharge or resignation. Plaintiff and the other aggrieved
26 Sales Managers did not receive payment of all wages, including overtime and minimum wages
27 and meal period and rest break payments, within any time permissible under California Labor
28 Code section 204. As a result of the failure to pay all wages owed, Defendant failed to provide

1 Plaintiff and the aggrieved Sales Managers with complete and accurate payroll/wage statements
2 and/or reports in accordance with California law.

3 17. Plaintiff is informed and believes and, on that basis, alleges that officers of
4 Defendants knew of these facts and legal mandates yet, nonetheless, repeatedly authorized and/or
5 ratified the violation of the laws cited herein.

6 18. As a direct and proximate result of Defendants' unlawful conduct, as set forth
7 herein, Plaintiff and others similarly aggrieved Sales Managers seek unpaid overtime wages,
8 meal period and rest break premium wages, waiting time penalties, and statutory penalties in the
9 amount to be established at trial. As a further direct and proximate result of Defendants' unlawful
10 conduct, as set forth herein, Plaintiff and others similarly situated are also entitled to recover
11 costs and attorneys' fees pursuant to California law.

12 19. Plaintiff complied with the procedures for bringing suit specified in California
13 Labor Code § 2699.3. Plaintiff gave written notice on September 23, 2020, by certified mail, to
14 the Labor and Workforce Development Agency ("LWDA") and Defendant of the specific
15 provisions of the California Labor Code alleged to have been violated, including the facts and
16 theories to support the alleged violations.

17 20. Plaintiff has received letters from the LWDA and/or the requisite number of days
18 have expired since mailing the LWDA and therefore Plaintiff is entitled to move forward to
19 recover these penalties on his own behalf and on behalf of all other similarly situated aggrieved
20 employees as allowed and authorized under Labor Code §§ 2698-99.

21 21. By refusing to compensate Plaintiff and other aggrieved Sales Managers for hours
22 worked and wages earned at the appropriate rate and by failing to pay any wages at all for some
23 hours worked, Defendants violated those California Labor Code provisions cited herein as well
24 as the applicable IWC Wage Order. By failing to consistently provide uninterrupted thirty-
25 minute meal periods within the first five hours of work each day and/or uninterrupted net ten-
26 minute rest periods to Plaintiff and others similarly aggrieved Sales Managers -- and failing to
27 pay one hour of pay in such instances -- Defendants violated the California Labor Code and
28 applicable IWC Wage Order provisions.

22. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiff and all others similarly situated and such conduct has continued through the filing of this Complaint.

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME
(Cal. Lab. Code §1194)

23. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

24. At all relevant times, Defendant was aware of, and was under a duty to comply with, the provisions of the California Labor Code including, but not limited to, California Labor Code §§ 510, 1194, and 1198.

California Labor Code § 510(a), in pertinent part, provides:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee

California Labor Code § 1194(a), in pertinent part, provides:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

California Labor Code § 1198, in pertinent part, provides:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

The "regular rate of pay" as set forth in California Labor Code § 510(a) includes "all [applicable] remuneration paid to, or on behalf of the employee." See, e.g., 29 U.S.C. § 207(3). The California Industrial Welfare Commission applies this standard for determining an employee's regular rate of pay for overtime calculation purposes.

1 25. Defendant failed to Plaintiff and similarly situated aggrieved Sales Managers
2 overtime wages for overtime hours worked. As such, Defendant is liable to Plaintiff and the
3 Class Members for all overtime wages proved to have been worked by Plaintiff and the Class
4 Members at trial.

5
6 **SECOND CAUSE OF ACTION**
7 **FAILURE TO PROVIDE MEAL PERIODS AND REST BREAKS**
8 **(Cal. Lab. Code §226.7, 512)**

9 26. Plaintiff incorporates in this cause of action each and every allegation of the
10 preceding paragraphs, with the same force and effect as though fully set forth herein.

11 27. At all relevant times, Defendants were aware of and were under a duty to comply
12 with California Labor Code § 226.7 and § 512.

13 California Labor Code § 226.7 provides:

14 (a) As used in this section, “recovery period” means a cooldown period afforded
15 an employee to prevent heat illness.

16 (b) An employer shall not require an employee to work during a meal or rest or
17 recovery period mandated pursuant to an applicable statute, or applicable
18 regulation, standard, or order of the Industrial Welfare Commission, the
19 Occupational Safety and Health Standards Board, or the Division of Occupational
20 Safety and Health.

21 (c) If an employer fails to provide an employee a meal or rest or recovery period
22 in accordance with a state law, including, but not limited to, an applicable statute
23 or applicable regulation, standard, or order of the Industrial Welfare Commission,
24 the Occupational Safety and Health Standards Board, or the Division of
25 Occupational Safety and Health, the employer shall pay the employee one
26 additional hour of pay at the employee’s regular rate of compensation for each
27 workday that the meal or rest or recovery period is not provided.

28 28. Moreover, California Labor Code § 512(a) provides:

 An employer may not employ an employee for a work period of
more than five hours per day without providing the employee with
a meal period of not less than 30 minutes, except that if the total
work period per day of the employee is no more than six hours, the
meal period may be waived by mutual consent of both the
employer and employee. An employer may not employ an
employee for a work period of more than 10 hours per day without
providing the employee with a second meal period of not less than
30 minutes, except that if the total hours worked is no more than
12 hours, the second meal period may be waived by mutual
consent of the employer and the employee only if the first meal

period was not waived.

29. Sections 11 and 12, respectively, of the applicable IWC Wage Order mandate that employers provide all applicable meal and/or rest periods to non-exempt employees.

Section 11 of the applicable IWC Wage Order provides:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes...

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes...

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

30. Moreover, Section 12 of the applicable IWC Wage Order provides:

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof

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

31. Defendant did not provide meal periods or rest breaks to Plaintiff and Class Members based on its illegal classification of the Sales Manager position as exempt. As such, Defendant is liable to Plaintiff and Class Members for meal period and rest break premium wages as to the violations proved at trial.

THIRD CAUSE OF ACTION
FAILURE TO FURNISH ACCURATE WAGE STATEMENTS
(Cal. Lab. Code §226)

32. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

1 33. California Labor Code § 226(a) provides:

2 Each employer shall semimonthly, or at the time of each payment
3 of wages, furnish each of his or her employees either as a
4 detachable part of the check, draft or voucher paying the
5 employee's wages, or separately when wages are paid by personal
6 check or cash, an itemized wage statement in writing showing: (1)
7 gross wages earned; (2) total number of hours worked by each
8 employee whose compensation is based on an hourly wage; (3) all
9 deductions, provided that all deductions made on written orders of
10 the employee may be aggregated and shown as one item; (4) net
11 wages earned; (5) the inclusive date of the period for which the
12 employee is paid; (6) the name of the employee and his or her
13 social security number; and (7) the name and address of the legal
14 entity which is the employer.

15 34. Moreover, California Labor Code § 226(e) provides:

16 An employee suffering injury as a result of a knowing and
17 intentional failure by an employer to comply with subdivision (a)
18 is entitled to recover the greater of all actual damages or fifty
19 dollars (\$50) for the initial pay period in which a violation occurs
20 and one hundred dollars (\$100) per employee for each violation in
21 a subsequent pay period, not exceeding an aggregate penalty of
22 four thousand dollars (\$4,000), and is entitled to an award of costs
23 and reasonable attorney's fees.

24 35. Finally, California Labor Code § 1174(d) provides:

25 Every person employing labor in this state shall. . . [k]eep, at a
26 central location in the state...payroll records showing the hours
27 worked daily by and the wages paid to...employees.... These
28 records shall be kept in accordance with rules established for this
purpose by the commission, but in any case shall be kept on file
for not less than two years.

Wage statement requirements are also specified in Labor Code §§ 226.2 and 245, *et seq.*

36. California Labor Code § 226(a) provides (inter alia) that, upon paying an
employee his or her wages, the employer must "furnish each of his or her employees ... an
accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked
by the employee, except for any employee whose compensation is solely based on a salary and
who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable
order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any
applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided,
that all deductions made on written orders of the employee may be aggregated and shown as one
item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is

1 paid, (7) the name of the employee and his or her social security number, (8) the name and address
 2 of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay
 3 period and the corresponding number of hours worked at each hourly rate by the employee.”

4 37. Defendants have failed to provide timely, accurate itemized wage statements to
 5 the Plaintiff and others similarly situated in accordance with the aforementioned California Labor
 6 Code requirements. Plaintiff is informed and believes and, on that basis, alleges that the
 7 statements provided by Defendants do not accurately reflect the information required by statute.

8 **FOURTH CAUSE OF ACTION**
 9 **WAITING TIME PENALTIES**
 10 **(Cal. Lab. Code §201-203)**

11 38. Plaintiff incorporates in this cause of action each and every allegation of the
 12 preceding paragraphs, with the same force and effect as though fully set forth herein.

13 39. Further, Defendants willfully failed to pay, without abatement, all wages owed to
 14 Plaintiff – a former employee -- and other Sales Managers upon discharge or voluntary separation
 15 of employment. Defendants’ policy and practice was to deliberately refuse to pay Sales
 16 Managers all wages due and owing to them upon discharge or resignation. Defendants’ pay
 17 policies and practices violate Labor Code Sections 201, 202, 203 and 208. Labor Code Section
 18 201 requires immediate payment of wages upon discharge. Labor Code Section 202 requires
 19 payment of all compensation due to employees who voluntarily resign within 72 hours of
 20 resignation. Labor Code Section 208 requires final payment of wages to discharged employees
 21 "at the place of discharge" and that all employees who resign must be paid at the office or agency
 22 of the employer in the county where the employees have been performing labor. Defendants’
 23 policies and practices of failing to issue final paychecks to Sales Managers, without abatement
 24 or reduction, in a timely manner according to law places Defendants in violation of these Labor
 25 Code provisions.

26 **FIFTH CAUSE OF ACTION**
 27 **UNFAIR BUS. PRACTICES**
 28 **(Cal. Bus. and Prof. Code Section 17200 et seq.)**

40. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

41. Plaintiff is informed and believes and, on that basis, alleges that, at all times relevant, Defendants operated throughout California, where Plaintiff and other aggrieved Sales Managers worked. Defendants employed dozens if not hundreds of Sales Managers in California during the applicable statutory period with duties and responsibilities that entitle them to the full and prompt payment of all wages owed, full uninterrupted and statutorily-mandated meal periods and rest breaks, as well as other minimum working conditions and benefits of employment as set forth herein.

42. Despite actual knowledge of these facts and legal mandates, Defendants have and continue to enjoy an advantage over their competition and a resultant disadvantage to its workers by electing not to pay all wages due (including overtime and missed meal and rest period compensation) and/or all penalties due (including “waiting time” penalties) to aggrieved Sales Managers.

SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT CLAIM
(California Labor Code §§ 2699, *et seq.*)

43. Plaintiff incorporates in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

44. The Private Attorneys General Act of 2004, California Labor Code § 2699(a), states:

Notwithstanding any other provision of the law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees...

45. Plaintiff is an “aggrieved employee” as defined by California Labor Code § 2699(c) because she was employed by Defendants and was one of many employees against whom violations of the law were committed.

46. Labor Code 558 states. (a) Any employer or other person acting on behalf of an

1 employer who violates, or causes to be violated, a section of this chapter or any provision
 2 regulating hours and days of work in any order of the Industrial Welfare Commission shall be
 3 subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each
 4 underpaid employee for each pay period for which the employee was underpaid in addition to an
 5 amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred
 6 dollars (\$100) for each underpaid employee for each pay period for which the employee was
 7 underpaid in addition to an amount sufficient to recover underpaid wages; (3) Wages recovered
 8 pursuant to this section shall be paid to the affected employee.

9 47. Plaintiff has met all of the requirements set forth in California Labor Code §
 10 2699.3, necessary to commence a civil action against Defendant for violations of all the Labor
 11 Code sections referenced herein, including California Labor Code §§ 510, 558 and 558.1, 201-
 12 203; 204, 210; 226 and 226.3; 226.7 and 512; 1182, 1182.12, 1194, 1197, 1197.1, 1198; 2810.5.

13 48. As a further direct and proximate result of Defendant's unlawful conduct, as set
 14 forth herein, Plaintiff and others similarly aggrieved Sales Managers are entitled to recover
 15 various penalties as allowed and provided by California Labor Code §§ 2699, 558 (including the
 16 amount sufficient to recover underpaid wages) and pursuant to the alleged Labor Code violations
 17 which specify specific penalties, in an amount to be established at trial, for all Labor Code
 18 violations alleged as well as costs and attorneys' fees, pursuant to statute.

19 **RELIEF SOUGHT**

20 **WHEREFORE, Plaintiff**, on behalf of herself and others similarly situated, prays for
 21 judgment and the following specific relief against the Defendants, and each of them, jointly and
 22 separately, as follows:

- 23 1. For unpaid overtime wages pursuant Labor Code Sections 1194, 558 and 1198;
- 24 2. For meal period and rest break premium wages pursuant to Labor Code Section
 25 226.7;
- 26 3. For statutory penalties pursuant to Labor Code Section 226;
- 27 4. For waiting time penalties pursuant to Labor Code Section 201-204;
- 28 5. For restitution pursuant to the Bus. and Prof. Code Section 17200 et seq;

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

CHRISTIAN CARDENAS,

Plaintiff,

v.

PREMIUM RETAIL SERVICES INC, and
DOES 1 through 100,

Defendants.

CASE NO. RIC 1905804

**NOTICE OF PENDENCY OF PUTATIVE
CLASS ACTION, PROPOSED
SETTLEMENT AND HEARING DATE
FOR COURT APPROVAL**

Judge:	Hon. Sunshine S. Sykes
Dept.:	06
Action Filed:	November 22, 2019
Trial Date:	Not Set

TO: All persons who are or were employed by Premium Retail Services Inc. ("Premium Retail") in California as Sales Managers at any time during the period from November 22, 2015 through <<preliminary approval>> and were paid on a salary basis, other than those who have signed general releases.

Please read this notice carefully. If you do nothing, the Court grants final approval of the Settlement and you qualify as a Settlement Class Member, you will receive a settlement payment. This notice permits you to file a notice of objection on or before Insert if you wish to object to the proposed settlement, or to submit a request for exclusion on or before Insert if you wish to be excluded from the proposed settlement. YOU ARE NOT BEING SUED.

Pursuant to the order of the Riverside County Superior Court, entered <<preliminary approval>> YOU ARE HEREBY NOTIFIED AS FOLLOWS: A proposed settlement has been reached between the parties in the lawsuit identified in the caption above, pending in Riverside County Superior Court, on behalf of the Settlement Class described above, which has been provisionally certified for purposes of this settlement.

You have received this notice because records indicate you qualify as a member of the Settlement Class. This notice is designed to advise you of how you can participate in the settlement, how you can object to the settlement, and how you can exclude yourself from the settlement.

I. BACKGROUND OF THE CASE

On November 22, 2019, Lisa Sanford filed a complaint in the Riverside County Superior Court entitled *Lisa Sanford v. Premium Retail Services Inc.*, case number RIC 1905804, on behalf of herself and allegedly aggrieved employees currently or formerly employed by Premium Retail, in which she asserted a cause of action for civil penalties pursuant to the California Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA"), arising from alleged Labor Code violations by Premium Retail. Ms. Sanford's complaint contended that Premium Retail Services, Inc. misclassified Sales Managers in California as "exempt" employees. As a result of the alleged misclassification, Ms. Sanford contended that Premium Retail Services, Inc. (1) failed to pay overtime wages, (2) failed to provide meal periods and rest breaks, (3) failed to pay all wages due upon separation of employment, and (4) failed to furnish accurate wage statements. Christian Cardenas ("Plaintiff") filed a First Amended Complaint to substitute in as named plaintiff (replacing Lisa Sanford). In addition to the PAGA cause of action pled in Sanford's initial complaint, the First Amended Complaint includes class action claims seeking damages and statutory penalties based on the same Labor Code violations alleged in Sanford's initial complaint.

Premium Retail contends that Plaintiff's claims are without merit, and disputes all claims for damages, penalties, and other relief. No court has ruled on the merits of the claims.

Plaintiff and her attorneys have vigorously prosecuted this case, and Premium Retail has vigorously defended it. Although discovery has not been completed, the parties have investigated the facts to assess the relative merits of the claims and Premium Retail's defenses to those claims. Plaintiff's attorneys ("Class Counsel") have reviewed extensive documents and information produced by Premium Retail. Plaintiff and Premium Retail engaged in extensive settlement negotiations and, after much effort, agreed to the settlement described herein.

Class Counsel believe that further proceedings in this case, including a trial and probable appeals, would be very expensive and protracted. No one can confidently predict how the various legal questions at issue, including liability, and the amount of damages or penalties, if any, would ultimately be resolved. Therefore, upon careful consideration of all of the facts and circumstances of this case, Plaintiff and Class Counsel believe that the proposed settlement is fair, reasonable and adequate. The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing.

II. SUMMARY OF THE PROPOSED SETTLEMENT

Plaintiff and Class Counsel support this settlement. Among the reasons given for support include the risk that class certification could be denied, the inherent risk of trial on the merits, and the delays associated with litigation.

The settlement provides for the following:

A. **Gross Settlement Fund:** Premium Retail will pay \$385,000 to settle the Litigation. The \$385,000 Gross Settlement Fund shall consist of the following elements: (a) Plaintiff's Attorneys' Fees; (b) Plaintiff's Litigation Expenses; (c) Class Representative Service Award; (d) Settlement Administration Expenses; (e) PAGA Payment to the California Labor and Workforce Development Agency; and (f) Net Settlement Fund. Each of these components is described below.

B. **Plaintiff's Attorneys' Fees:** Class Counsel anticipates requesting an attorney fee award of up to thirty-five percent of the Gross Settlement Fund (\$134,750), subject to court approval, which shall be paid from the Gross Settlement Fund.

C. **Plaintiff's Litigation Expenses:** Class Counsel anticipates requesting an award of no more than \$20,000, subject to court approval, as reimbursement for litigation costs, which shall be paid from the Gross Settlement Fund.

D. **Class Representative Service Award:** Plaintiff anticipates requesting an award of no more than \$5,000, subject to court approval, for his role as Class Representative, which shall be paid from the Gross Settlement Fund.

E. **Private Attorneys General Act (PAGA) Allocation:** The parties have designated \$20,000 of the Gross Settlement Fund as representing the recovery of civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004. Of this amount, 75% (\$15,000) will be paid to the California Labor and Workforce Development Agency (LWDA), and the remaining 25% (\$5,000) shall become part of the Net Settlement Fund available for distribution to the Settlement Class Members.

F. **Settlement Administration Expenses:** The parties have selected, and the Court has approved, Phoenix Settlement Administrators to administer the settlement. Upon final approval, Class Counsel will request that the Court approve a payment to Phoenix Settlement Administrators to cover its fees and costs associated with giving notice to the Class, administering and disbursing the Net Settlement Fund, and other

activities required to administer the settlement. The parties estimate that the payment to Phoenix Settlement Administrators, subject to court approval, will be approximately \$4,950, which shall be paid from the Gross Settlement Fund.

G. **Net Settlement Fund:** The Net Settlement Fund consists of all funds remaining from the Gross Settlement Fund after subtraction of Plaintiff's Attorneys' Fees, Plaintiff's Litigation Expenses, Class Representative Service Award, PAGA Payment to the LWDA, and Settlement Administration Expenses. The Net Settlement Fund, estimated to be \$205,300, will be distributed to the Settlement Class as described below.

H. **Allocation of Net Settlement Fund Among Settlement Class Members:** The Net Settlement Fund will be allocated among the Settlement Class members according to each Settlement Class member's qualifying workweeks from November 22, 2015 through <<preliminary approval>> as a *pro rata* portion of the total combined qualifying workweeks of all the Settlement Class Members during the same period.

I. **Tax Treatment of Payments to Settlement Class Members:** The Settlement Payments are payments for all claims in the Litigation or that reasonably could have been asserted based on the causes of action, claims and allegations in the Litigation. Of the payments to individual Settlement Class Members, one-third shall be designated as wages subject to payroll withholding to be reported on IRS Form W2s where required by law, one-third shall be designated as interest to be reported on IRS Form 1099s where required by law, and the remaining one-third shall be designated as penalties to be reported on IRS Form 1099s where required by law. Premium Retail shall be responsible for paying the employer's share of payroll taxes on any amounts allocated as wages. Each Settlement Class Member shall be responsible for remitting to state and/or federal taxing authorities any applicable taxes which may be owed on the portion of his or his Settlement Payment or Class Representative Service Award. The Settlement Administrator shall report all required information to the appropriate taxing authorities regarding all payments made pursuant to this Agreement.

J. Based on the above, the range of estimated gross settlement payments to Settlement Class Members is [low] to [high]. The estimated average gross settlement payment is [redacted].

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?

Your interests as a Settlement Class Member are represented by Plaintiff and Class Counsel. Unless you exclude yourself from the Settlement Class, you are a part of the Settlement Class, you will be bound by the terms of the settlement agreement and any final judgment that may be entered by the Court, and you will be deemed to have released certain claims as described below. As a member of the Settlement Class you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and costs.

A. Participating in the Settlement

If you qualify for inclusion in the Settlement Class and you wish to participate in the settlement, **you are NOT required to take any action. If the Court grants final approval of the settlement and you qualify as a Settlement Class Member, you will receive a Settlement Payment based on the calculations described above.** You will also be bound by the terms of the settlement and will release Premium Retail and all related or affiliated entities from any and all claims that you may have based on the allegations in the lawsuit.

According to Premium Retail's records, you worked [WORKWEEKS NUMBER] as a salaried Sales Manager in California during the period from November 22, 2015 through <<preliminary approval>> ("Settlement Period") and your estimated gross Settlement Payment is \$ [redacted].

B. Objecting to the Settlement

If you do not agree with the terms of the Settlement and you wish to object to the Settlement, you must submit to the Settlement Administrator a timely and valid objection to the Settlement ("Objection") by way of the Objection Form enclosed with this Notice, or a written statement objecting to the Settlement that: (1) contains your full name, telephone number, signature and mailing address; (2) states the case name and number that appear at the top of the first page of this Notice; (3) contains a clear statement that you object to the Settlement and a clear explanation of why you object; (4) lists all factual and legal support for your objection; and (5) if you are represented by counsel, your counsel's name and contact information. **Your Objection Form or letter must be postmarked and mailed on or before INSERT, and mailed to the Settlement Administrator at the following address:**

Christian Cardenas v. Premium Retail Services Inc.

INSERT STREET

ADDRESS

INSERT CITY, STATE

ZIP

Toll Free: <<Telephone>>

If you do not submit a timely and valid Objection in the manner specified above, you shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. If you exclude yourself from the Settlement you shall not be entitled to object to the Settlement.

C. Excluding Yourself from the Settlement

If you qualify for inclusion in the Class but you do not wish to participate in the settlement, you may exclude yourself (i.e., "opt-out") by submitting a timely and valid request to be excluded from the Settlement ("Request for Exclusion") by way of the Request for Exclusion Form enclosed with this Notice, or a written statement that: (1) contains your full name, telephone number, signature and mailing address; (2) states the case name and number that appear at the top of the first page of this Notice; and (3) contains a clear statement that you wish to be excluded from the Settlement. **Your Request for Exclusion form or letter requesting exclusion must be postmarked and mailed on or before INSERT, and mailed to the Settlement Administrator at the following address:**

Christian Cardenas v. Premium Retail Services Inc.

INSERT NAME

INSERT STREET

ADDRESS

INSERT CITY, STATE

ZIP

Toll Free: <<Telephone>>

If you do not submit a timely and valid Request for Exclusion in the manner specified above, you will be bound by all terms of the Settlement and the Final Judgment entered in the Action if the Settlement is approved by the Court, regardless of whether you objected to the settlement.

If you exclude yourself from the Settlement, you will NOT receive any money from the Settlement.

D. Challenging the Record of Your Weeks Worked

If you want to dispute the number of Workweeks allocated to you above in Section III.A. of this Notice, you can submit a letter to the Settlement Administrator (“Workweek Dispute”). **Your written Workweek Dispute must be postmarked and mailed on or before **INSERT**, and mailed to the Class Settlement Administrator at the following address:**

Christian Cardenas v. Premium Retail Services Inc.

INSERT NAME

INSERT STREET

ADDRESS

INSERT CITY, STATE

ZIP

Toll Free: <<Telephone>>

In order to be valid, a Workweek Dispute must: (1) contain your full name, telephone number, signature and mailing address; (2) state the case name and number that appear at the top of the first page of this Notice; (3) clearly state the number of Workweeks you contend is correct; and (4) attach any and all documentation supporting your contention.

You may also provide corrected name, address, and/or telephone information by contacting the Settlement Administrator.

IV. EFFECT OF THE SETTLEMENT

A. Released Rights and Claims

Upon the Court’s final approval of the class settlement and entry of final judgment, and payment of Settlement Payments to Settlement Class Members, each Settlement Class Member shall be deemed to have released the Releasees from any and all Settlement Class Members’ Released Claims during the Settlement Period.

Releasees: Premium Retail, and all of its officers, directors, employees, and agents.

Settlement Class Members’ Released Claims: Any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, actions or causes of action which are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint filed in the Litigation, including without limitation to, claims for restitution and other equitable relief associated with the underlying causes of action in the operative complaint, claims for unpaid wages, unpaid overtime wages, failure to provide rest periods or meal periods or to provide compensation in lieu thereof, meal period penalties, rest period penalties, waiting time penalties, penalties for unpaid minimum wages, penalties for incomplete payroll records, failure to provide accurate wage statements, failure to maintain required records, civil penalties brought under the Labor Code Private Attorneys General Act of 2004 (Labor Code Section 2698, *et seq.*), claims for penalties of any nature whatsoever arising out of the Settlement Class Members’ Released Claims. This release shall exclude claims for vested benefits, unemployment insurance, disability, workers’ compensation, and claims outside of the Settlement Period.

B. Payment to Settlement Class Members

The distribution of the Settlement Fund will be paid as follows: Premium Retail will transmit to the Settlement Administrator the Gross Settlement Fund plus the employer’s share of payroll taxes within ten (10) calendar days of the Effective Date. The Settlement Administrator shall distribute the entire Gross Settlement Fund within fifteen (15) calendar days after the Effective Date.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 6 of the Riverside County Superior Court, 4050 Main Street, Riverside, California 92501, on INSERT, 2021, at :30 .m., to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for Plaintiff's Attorneys' Fees, Plaintiff's Litigation Expenses, and the Class Representative Service Award to be paid to the Class Representative. Class Counsel's application for attorneys' fees and reimbursement of expenses will be on file with the Court no later than ten (10) days before this hearing, and will be available for review after that date.

The hearing may be continued without further notice to the settlement class. It is not necessary for you to appear at this hearing. (However, you are permitted to appear regardless of whether or not you objected to the Settlement in writing.)

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. Should you desire additional information, you may contact Class Counsel as follows:

Michael C. Righetti
RIGHETTI GLUGOSKI, P.C.
The Presidio of San Francisco
220 Halleck Street, Suite 210
San Francisco, CA 94129
Telephone: (415) 983-0900

If you wish to review the precise terms and conditions of the settlement, you should consult the Class Action Settlement Agreement, which is on file with the Clerk of the Superior Court. The Class Action Settlement Agreement is attached as Exhibit 1 to the Declaration of Michael Righetti in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on December 14, 2020. The pleadings and other records in this action, including the Class Action Settlement Agreement, may be examined at any time during regular business hours at the Office of the Clerk of the Riverside County Superior Court, 4050 Main Street, Riverside, California 92501. Some documents are also available online for a fee at the Riverside County Superior Court's website:

<http://www.riverside.courts.ca.gov/onlinecopyorder.shtml>

DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

BY ORDER OF THE SUPERIOR COURT

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

CHRISTIAN CARDENAS,

Plaintiff,

v.

PREMIUM RETAIL SERVICES INC, and
DOES 1 through 100,

Defendants.

CASE NO. RIC 1905804

REQUEST FOR EXCLUSION FORM

Judge: Hon. Sunshine S. Sykes
Dept.: 06
Action Filed: November 22, 2019
Trial Date: Not Set

TO: [NAME]

[ADDRESS]

[TELEPHONE NUMBER]

[LAST FOUR DIGITS OF SSN]

USE AND RETURN THIS FORM ONLY IF YOU WISH TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

If you wish to exclude yourself from the settlement, you must read and sign the following statement and return this form to the Settlement Administrator, at the following address, by U.S. Mail, postmarked on or before [REDACTED].

Premium Retail Services Inc. Class Action Settlement
[INSERT ADDRESS]

I wish to exclude myself from the proposed settlement. By excluding myself from the settlement, I understand I will not receive any payment from the settlement, and I will not release any claims.

Signature: _____

If you do not wish to exclude yourself from the settlement, you do not need to take any action. If the proposed settlement receives final approval from the Court, you will receive a check by U.S. Mail.

EXHIBIT D

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

CHRISTIAN CARDENAS,

Plaintiff,

v.

PREMIUM RETAIL SERVICES INC, and
DOES 1 through 100,

Defendants.

CASE NO. RIC 1905804

OBJECTION FORM

Judge:	Hon. Sunshine S. Sykes
Dept.:	06
Action Filed:	November 22, 2019
Trial Date:	Not Set

TO: [NAME]

[ADDRESS]

[TELEPHONE NUMBER]

[LAST FOUR DIGITS OF SSN]

USE AND RETURN THIS FORM ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT.

If you wish to object to the settlement, you must state the nature of and basis for your objection and sign below, and return this form to the Settlement Administrator, at the following address, by U.S. Mail, postmarked on or before [REDACTED].

Premium Retail Services Inc. Class Action Settlement
[INSERT ADDRESS]

I wish to object to the settlement on the following grounds:

[illegible]

Signature: _____

If you do not wish to object to the settlement, you do not need to take any action. If the proposed settlement receives final approval from the Court, you will receive a check by U.S. Mail.