

1 Joseph Lavi, Esq. (SBN 209776)
2 Vincent C. Granberry, Esq. (SBN 276483)
3 Melissa A. Huether, Esq. (SBN 316604)
4 Pooja V. Patel, Esq. (SBN 317891)

5 **LAVI & EBRAHIMIAN, LLP**
6 8889 W. Olympic Boulevard, Suite 200
7 Beverly Hills, California 90211
8 Telephone: (310) 432-0000
9 Facsimile: (310) 432-0001
10 Emails: jlavi@lelawfirm.com
11 vgranberry@lelawfirm.com
12 ppatel@lelawfirm.com
13 mhuetther@lelawfirm.com

14 Sahag Majarian II, Esq. (SBN 146621)
15 Email: sahagii@aol.com

16 **LAW OFFICES OF SAHAG MAJARIAN II**
17 18250 Ventura Boulevard
18 Tarzana, California 91356
19 Telephone: (818) 609-0807
20 Facsimile: (818) 609-0892

21 Attorneys for Plaintiffs SERGIO MEZA,
22 GABRIEL SORIA, and OMAR ORTEGA,
23 on behalf of themselves and all other current and former
24 aggrieved California-based hourly non-exempt employees

25 Christopher W. Decker, Esq. (SBN 229426)
26 Email: Christopher.Decker@ogletreedeakins.com
27 **OGLETREE, DEAKINS, NASH,**
28 **SMOAK & STEWART, P.C.**
400 South Hope Street, Ste. 1200
Los Angeles, CA 90071
Telephone: (213) 438-1283
Facsimile: (213) 239-9045

Attorney for Defendant CALERES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

SERGIO MEZA, GABRIEL SORIA, and
OMAR ORTEGA, on behalf of themselves and
all other current and former aggrieved
California-based hourly non-exempt employees,

Plaintiffs,

vs.

CALERES, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: CIVSB2024256

[Assigned for all purposes to the Honorable
David Cohn, Department S-26]

**JOINT STIPULATION OF
SETTLEMENT AND RELEASE**

1 This Joint Stipulation of Settlement and Release (the “Joint Stipulation of Settlement”) is
2 made and entered into by and among: (a) Plaintiffs Sergio Meza, Gabriel Soria, and Omar Ortega
3 (“Plaintiffs”), on behalf of himself and each member of the “Settlement Class” (as defined below);
4 and (b) Defendant Caleres, Inc (“Defendant”).

5 **I. BACKGROUND; DENIALS OF LIABILITY**

6 On September 3, 2020, Plaintiffs filed a class action complaint against Defendant for
7 alleged violations of the California Labor Code in the San Bernardino County Superior Court Case
8 No. CIVDS2018557 (“Case No. CIVDS2018557”). This action was removed to the United States
9 District Court, Central District of California. On February 16, 2022, the action was dismissed
10 without prejudice.

11 On November 12, 2020, Plaintiffs filed a representative action for civil penalties pursuant
12 to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* against
13 Defendant in the San Bernardino County Superior Court, Case No. CIVDS204256 (the “Action”).

14 On May 23, 2022, Plaintiffs and Defendant participated in a formal mediation session with
15 well-respected wage and hour mediator Steve Pearl, Esq. where the parties reached the settlement
16 herein.

17 As part of the settlement reached, The Parties will stipulate to leave to file the First
18 Amended Complaint attached to this Joint Stipulation as Exhibit A adding all violations of the
19 Labor Code which were analyzed, investigated, mediated, and settled, and including both class
20 and PAGA claims arising out of all those Labor Code violations. .

21 In the Action, Plaintiffs allege, among other things, claims on behalf of certain California-
22 based, non-exempt employees who worked for Defendant. More particularly, Plaintiff alleges,
23 among other things, that Defendant had, with respect to them individually and/or other members
24 of the public similar situated, among other things, failed to pay employees for all hours worked at
25 the minimum wage and/or applicable overtime rates of pay; failed to provide legally complaint
26 meal periods and/or pay meal period premium wages; failed to provide legally complaint rest
27 periods and/or pay rest period premium wages; statutory penalties for failure to provide accurate
28 wage statements; waiting time penalties for failure to timely pay employee all earned and unpaid

1 wages due upon separation of employment and during employment; failure to maintain
2 temperature providing reasonable comfort; applicable civil penalties; and civil penalties pursuant
3 to the Private Attorneys General Act of 2004 ("PAGA"). In the Action, Plaintiffs seek on behalf of
4 the class declaratory relief and monetary relief (including damages, restitution, and penalties) and
5 other relief.

6 The Parties participated in a full-day mediation before Steve Pearl, Esq. During the
7 mediation, the Parties reached a settlement in principle of the Action. This Joint Stipulation of
8 Settlement, among other things, resolves and settles on behalf of the Settlement Class and PAGA
9 employees all claims which will be asserted in the First Amended Complaint in Action. Defendant
10 denies, on behalf of itself and each of the "Released Parties" as defined below, each and all such
11 claims whether asserted or to be asserted by Plaintiffs individually or on behalf of any putative
12 class, real party in interest, or represented group. Also, Defendant, on behalf of itself and each of
13 the Released Parties: denies that any Released Party is liable in any way to Plaintiffs, any real
14 party interest, or any putative member of any class or any represented group; denies that Plaintiffs,
15 any real party in interest, or any putative member of any class or any represented group is entitled
16 to any monetary compensation or payment of any kind (or any other form of relief) under
17 California, federal, or any other law; and denies that Plaintiffs, any real party in interest or any
18 putative member of any class or any represented group are, were, or could have been harmed by
19 any conduct, acts, or omissions by Defendant or any Released Party. Defendant also denies that
20 any of the settled claims could ever properly be certified as a class in any contested certification
21 proceedings or could proceed as a representative action. However, Defendant has concluded that
22 further litigation would be uncertain, protracted, and expensive, and therefore desires to settle all
23 the claims being released in order to limit further cost, inconvenience, uncertainty, and distraction.

24 **II. DEFINITIONS**

25 As used in this Joint Stipulation of Settlement, the following terms have the meanings
26 specified below. Terms or phrases defined elsewhere in this Joint Stipulation of Settlement are
27 incorporated into this Definitions section by reference:
28

1 1. “Class Counsel” refers to Joseph Lavi, Vincent Granberry, Pooja Patel, and Melissa
2 A. Huether of Lavi & Ebrahimian, LLP, 8889 W. Olympic Blvd., Suite 200, Beverly Hills,
3 California 90211.

4 2. “Class Notice” means the notice of this Settlement, substantially in the form of
5 **Exhibit B**, to be sent to Settlement Class Members to notify them of this Settlement and their right
6 to Opt Out.

7 3. “Class Period” means the time period from and including May 23, 2018 through
8 the earlier of Preliminary Approval or July 22, 2022.

9 4. “Defendant” means Caleres, Inc.

10 5. “Effective Date” means the date on which the Superior Court’s judgment approving
11 this Joint Stipulation of Settlement becomes “Final.”

12 6. “Final” means the following with respect to the Superior Court’s Judgment
13 approving this Joint Stipulation of Settlement:

14 A. the 65th calendar day after notice of entry of the Judgment, plus any
15 extension of the time to appeal resulting from the filing of a motion that extends the deadline to
16 appeal (assuming no appeal, writ or other request for appellate review is filed within the foregoing
17 time period).

18 B. If any appeal, writ, or other request for appellate review is filed within the
19 foregoing time period, the date when that appeal, writ, or request for appellate review is finally
20 ruled upon, denied, or dismissed, and no other appeal, writ or appellate review is possible.

21 7. “Judgment” means the judgment to be entered by the Superior Court approving this
22 Joint Stipulation of Settlement without material change, confirming the releases of claims by
23 Participating Class Members, and finally resolving the Action.

24 8. “Individual Settlement Payment” means the amount to be allocated under this
25 Settlement to individual Settlement Class Members as calculated below.

26 9. “Maximum Settlement Amount” means the maximum amount to be paid under this
27 Settlement is Five Hundred Seventy-Five Thousand Dollars and No Cents (\$575,000.00) which
28 includes settlement payments to Participating Class Members, Attorneys’ Fees and Costs,

1 Enhancement Payment, allocation to penalties pursuant to PAGA, and Settlement Administration
2 Costs. The Maximum Settlement Amount does not include the employers share of taxes which
3 Defendants have agreed to pay separately and in addition to Maximum Settlement Amount.

4 10. "Net Settlement Amount" means the Maximum Settlement Amount less the
5 following amounts: (1) Attorneys' Fees and Costs to Class Counsel; (2) Enhancement Payment to
6 Plaintiff; (3) Settlement Administration Costs to the Settlement Administrator; and (4) PAGA
7 Settlement Amount.

8 11. "Opt Out(s)" means any Settlement Class Member who submits a complete and
9 timely request to be excluded from this Settlement, by submitting a Request for Exclusion under
10 the procedures set forth below.

11 12. "PAGA Period" means September 3, 2019 through the earlier of Preliminary
12 Approval or July 22, 2022.

13 13. "Participating Class Member" means any Settlement Class Member who does not
14 submit a timely Request for Exclusion under the procedures set forth below.

15 14. "Parties" means Defendant and Plaintiffs.

16 15. "Plaintiffs" means Plaintiffs Sergio Meza, Gabriel Soria, and Omar Ortega.

17 16. "Released Parties" means: (a) Caleres, Inc., and each and all past or present
18 partners, parents, subsidiaries, or affiliates (regardless whether such partners, parents, subsidiaries,
19 or affiliates are individuals, corporations, partnerships, limited partnerships, limited liability
20 companies, or other forms of entity) of Defendant; (b) each and all of the predecessor or successor
21 entities of any of those entities identified in subparagraph (a); (c) any other individuals or entities
22 of any kind, including but not limited to any payroll companies, which have been or could be
23 alleged to be in any manner responsible (whether on an alter ego, joint employer, integrated
24 enterprise, or any other theory) for any violations described in the releases below and occurring as
25 a result of employment; and (d) all past and present directors, officers, representatives, insurers,
26 agents, shareholders, partners, members, lawyers, and employees of any of the individuals or
27 entities identified in subparagraphs (a), (b), or (c).

1 17. “Request for Exclusion” means a Settlement Class Member’s request, in writing,
2 for exclusion from the Settlement.

3 18. “Response Deadline” means the last date for Settlement Class Members to
4 postmark, for return to the Settlement Administrator, Requests for Exclusion or Objections. The
5 Response Deadline shall be forty-five (45) days after the Settlement Administrator has postmarked
6 the Class Notice for mailing to Settlement Class Members, subject to adjustment in the case of re-
7 mailings, as specified in Section XVI below.

8 19. “Settlement” means the settlement reflected in and to be effectuated through this
9 Joint Stipulation of Settlement.

10 20. “Settlement Class” or “Settlement Class Members” means any and all current and
11 former hourly non-exempt employees of Defendant in California during Class Period.

12 21. “Settlement Administrator” refers to Simpluris, Inc., an independent third party
13 agreed to by the Parties and paid out of the Maximum Settlement Amount, as described below, to
14 perform the notice, settlement administration, and distribution functions further described in this
15 Joint Stipulation of Settlement.

16 22. “Superior Court” means the San Bernardino County Superior Court.

17 **III. THE SETTLEMENT CLASS**

18 For purposes of this Joint Stipulation of Settlement only, the Parties agree to seek, under
19 the procedures described below, the Superior Court’s approval of certification of the following
20 “Settlement Class”: any and all current and former hourly non-exempt employees of Defendant in
21 California during Class Period. The Settlement Class shall include any heirs, successors, or
22 assigns or purported assigns of the above-described persons.

23 **IV. MAXIMUM SETTLEMENT AMOUNT**

24 The maximum amount to be paid by Defendant under this Settlement is Five Hundred
25 Seventy-Five Thousand Dollars and No Cents (\$575,000.00) (i.e., Maximum Settlement Amount).
26 This Settlement is based on 43,868 workweeks during the period from May 23, 2018 through May
27 23, 2022 (the “Reference Period”). Should the number of such workweeks as of May 23, 2022
28 exceed such stated number by more than 10% (i.e., there are more than 48,255 workweeks), the

1 Maximum Settlement Amount shall increase in direct proportion to the excess of workweeks over
2 48,255. (If the amount of workweeks is 10% greater than 48,255, then the Maximum Settlement
3 Amount shall increase by 10%.) The Maximum Settlement Amount shall be used to pay all of
4 Class Counsel's attorneys' fees and costs, all costs of settlement administration, Enhancement
5 Payment paid to Plaintiff, all payments to the California Labor Workforce and Development
6 Agency, all settlement payments to Participating Class Members (including the employee's share
7 of all "Wage Withholdings" (as defined below) on such payments), and all Individual PAGA
8 Payments to PAGA Employees. Defendant shall not be required to pay anything above or beyond
9 the Maximum Settlement Amount, under any circumstance, as a result of this Settlement, except
10 Defendant's obligation to pay the employer's share of taxes with respect to Participating Class
11 Members' Individual Settlement Payments.

12 **V. PAYMENT TO PLAINTIFFS OF ENHANCEMENT PAYMENT AND TO**
13 **PLAINTIFFS FOR A GENERAL RELEASE**

14 1. Plaintiffs will apply to the Superior Court for approval of Enhancement Payments
15 in the amount of no more than Six Thousand Nine Hundred Dollars and No Cents (\$6,900.00)
16 each ("Enhancement Payment"). Defendants will not oppose Class Counsel's request of
17 Enhancement Payment up to this specific amount, and the Settlement Administrator will pay
18 Plaintiffs (from the Maximum Settlement Amount) the Enhancement Payment awarded by the
19 Superior Court. Plaintiffs understand and agree that the Superior Court may in its discretion award
20 a lesser amount as enhancement fees, and Plaintiffs agree that they will accept whatever amount, if
21 any, the Superior Court may in its discretion award as Enhancement Payments. If Plaintiffs
22 receive enhancement payments in less than the specified amount, any such reduction shall
23 constitute part of the amount to be distributed pursuant to Section IX as described below. Even in
24 the event that the Court reduces or does not approve the requested the Enhancement Payments,
25 neither Plaintiff not Class Counsel shall have the right to revoke this Agreement, and it will
26 remain binding. Plaintiffs and Class Counsel also waive any right to appeal from any award of
27 Enhancement Payments below the amount requested, or from the denial of any request for
28 Enhancement Payments to Plaintiffs.

1 2. Plaintiffs agree that the Enhancement Payments awarded to Plaintiffs are not a
2 wage payment. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs for their
3 Enhancement Payment. Plaintiffs shall be solely and legally responsible to pay any and all
4 applicable taxes on their Enhancement Payments. Plaintiffs agree to indemnify the Released Parties
5 for any tax obligations arising out of payments to them of their Enhancement Payments. The
6 Enhancement Payments are in addition to the Individual Settlement Payment to be paid to
7 Plaintiffs. The enhancement fees represent payment for the time incurred and services rendered by
8 Plaintiffs on behalf of the Settlement Class in obtaining this Settlement.

9 **VI. ATTORNEYS' FEES AND COSTS**

10 1. Class Counsel will apply to the Superior Court for approval of reasonable
11 attorneys' fees incurred for representing Plaintiffs and the Settlement Class in the Action in an
12 amount not to exceed one-third (or 33.3333%) of the Maximum Settlement Amount, or a
13 maximum total of One Hundred Ninety-One Thousand Six Hundred Sixty-Six Thousand Dollars
14 (\$191,666.00) ("Attorneys' Fees"). Class Counsel will also apply to the Superior Court for an
15 award of actual costs in an amount of not more than Thirty Thousand Dollars (\$30,000.00)
16 (together, "Attorneys' Fees and Costs"). Defendant will not oppose Class Counsel's request for an
17 award of Attorneys' Fees and Costs up to the specified amounts, and the Settlement Administrator
18 will pay Class Counsel (from the Maximum Settlement Amount) the fees and costs awarded by
19 the Superior Court up to the specified amounts. In the event that the escalator clause described in
20 section IV herein is triggered and the Maximum Settlement Amount is increased, Class Counsel
21 may, in its discretion, increase the amount of Attorneys' Fees requested in order that the amount
22 remains one-third of the Maximum Settlement Amount.

1 2. Class Counsel and Plaintiffs understand and agree that the Superior Court may in
2 its discretion award lesser amounts in Attorneys' Fees and Costs than requested by Class Counsel.
3 If Class Counsel receive Attorneys' Fees or Costs less than the specified amounts, any such
4 reduction shall not revert to Defendant but shall instead constitute part of the amount to be
5 distributed pursuant to Section IX below. Even in the event that the Court reduces or does not
6 approve the requested the Attorneys' Fees and Costs to Class Counsel, neither Plaintiff not Class
7 Counsel shall have the right to revoke this Agreement, and it will remain binding. Plaintiffs and
8 Class Counsel also waive any right to appeal from any award of Attorneys' Fees and Costs below
9 the amount requested by Class Counsel, or from the denial of any request for an award of
10 Attorneys' Fees and Costs.

11 3. The amounts so awarded shall be for and in complete satisfaction of all attorneys'
12 fees and costs incurred to date by Plaintiffs and/or Class Counsel on behalf of Plaintiffs and the
13 Settlement Class, and of all such future fees and costs including, but not limited to, fees and costs
14 incurred in documenting this Settlement, securing Superior Court approval of this Settlement,
15 monitoring this Settlement, reviewing and participating in the settlement administration process,
16 and obtaining the Judgment.

17 4. The Settlement Administrator will give Class Counsel an IRS Form 1099 for the
18 Attorneys' Fees and Costs awarded. Class Counsel understand and agree that they shall be solely
19 responsible for any and all taxes and/or penalties arising from payment of the costs and attorneys'
20 fees provided herein. Not later than the Effective Date, Class Counsel shall provide a fully and
21 properly executed IRS Form W-9 for purposes of the payments which the Settlement
22 Administrator will electronically wire to Class Counsel.

23 **VII. SETTLEMENT ADMINISTRATION AND EXPENSES**

24 1. The Parties have agreed to use Simpluris, Inc. to administer the settlement and have
25 allocated Twelve Thousand Dollars (\$12,000.00) to reimbursement of costs for administration
26 which will be paid from the Maximum Settlement Amount ("Settlement Administration Costs"). If
27 the allocated Settlement Administration Costs exceed the actual costs sought by the Settlement
28 Administrator, the excess will remain part of the Net Settlement Amount. The Settlement

1 Administrator shall send the Class Notice to Settlement Class Members and prepare and issue the
2 checks to Participating Class Members for their Individual Settlement Payments and to PAGA
3 Employees for their Individual PAGA Payment, to Class Counsel for Attorneys' Fees and Costs,
4 to Plaintiffs for their Enhancement Payments, and to the California Labor Workforce
5 Development Agency ("LWDA") (all as specified above or below). The Settlement Administrator
6 shall establish a Qualified Settlement Fund, pursuant to Treasury Regulations section 1.468B for
7 purposes of distributing these amounts. The Settlement Administrator shall file all required tax
8 returns for the Qualified Settlement Fund, and shall calculate, and then remit to appropriate taxing
9 and other governmental authorities, all amounts to be deducted or paid on account of the
10 Individual Settlement Payments, including the employee's share of "Wage Withholdings," as
11 more specifically described and defined below. The Settlement Administrator shall provide
12 appropriate indemnities against mistakes or inaccuracies in such tasks and against any misuse or
13 breach of confidentiality for Settlement Class Members' social security numbers, telephone
14 numbers, addresses, or other private information. The Settlement Administrator shall perform all
15 other tasks necessary to administer the Settlement. All disputes relating to the Settlement
16 Administrator's performance of its duties shall be referred to the Superior Court for a final and
17 binding determination, not subject to further review or appeal of any kind.

18 **VIII. PAYMENTS TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY**
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1 1. The Parties have agreed to pay a certain sum to the California Labor and Workforce
2 Development Agency ("LWDA") in connection with the Labor Code Private Attorneys General
3 Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties have agreed that a total of
4 Fifty Hundred Thousand Dollars and No Cents (\$50,000.00) of the Maximum Settlement Amount
5 will be allocated to the resolution of claims arising under PAGA asserted in the First Amended
6 Complaint ("PAGA Settlement Amount"). Pursuant to PAGA, Seventy-Five Percent (75%), or
7 Thirty-Seven Thousand Five Hundred Dollars and No Cents (\$37,500.00), of the PAGA
8 Settlement Amount will be paid to the LWDA ("LWDA Payment"), and Twenty-Five Percent
9 (25%), or Twelve Thousand Five Hundred Dollars and No Cents (\$12,500.00), of the PAGA
10 Settlement Amount shall be distributed to Settlement Class Members who were employed during
11 the PAGA Period ("PAGA Employees") as specified below. This \$12,500.00 shall be referred to
12 as the "PAGA Employees Portion."

13 2. The Settlement Administrator will pay to the LWDA, in accordance with California
14 Labor Code section 2699(i), the amount of Thirty-Seven Thousand Five Hundred Dollars and No
15 Cents (\$37,500.00). The Settlement Administrator will advise Class Counsel when this payment is
16 made.

17 **IX. PAYMENTS TO PARTICIPATING CLASS MEMBERS AND PAGA EMPLOYEES**

18 1. After the Enhancement Payment, Attorneys' Fees and Costs, Settlement
19 Administration Costs, and PAGA Settlement Amount (as specified above) have been satisfied
20 from the Maximum Settlement Amount, the remainder (i.e., Net Settlement Amount) shall be
21 available to satisfy the employee's share of Wage Withholdings and to pay Settlement Class
22 Members who did not Opt Out (i.e., Participating Class Members) for their share of the Net
23 Settlement Amount (i.e., their Individual Settlement Payments). The PAGA Settlement Amount
24 will be distributed (as described above) 75% to the LWDA (i.e., LWDA Payment) and the
25 remaining 25% shall be distributed to PAGA Employees in direct proportion to the number of pay
26 periods worked by each PAGA Employee during the PAGA Period, as further detailed below. For
27 purposes of administering the settlement, the Parties agree that the number of pay period worked
28

1 by each PAGA Employee during the PAGA Period will be calculated by dividing that employee's
2 weeks worked during the PAGA Period by two, and rounding up to the nearest integer.

3 2. Under this Joint Stipulation of Settlement, each Settlement Class Member shall be
4 allocated an Individual Settlement Payment based on the number of workweeks each Settlement
5 Class Member worked for Defendant as an hourly non-exempt employee in California during the
6 Class Period ("Workweeks"). The Individual Settlement Payment for each Settlement Class
7 Member who does not Opt Out and is deemed a Participating Class Member shall be calculated as
8 follows: (a) the number of Workweeks each Participating Class Member worked; divided by (b)
9 the aggregate number of Workweeks for all Participating Class Members as calculated under
10 subparagraph (a); and then multiplied by (c) the Net Settlement Amount. The Workweeks worked
11 shall be calculated by Defendant. Because PAGA Employees cannot opt out of the PAGA claims,
12 each PAGA Employee, whether or not a Participating Class Member, shall also receive his or her
13 share of the PAGA Employees Portion ("Individual PAGA Payment") calculated as follows: (a)
14 the number pay periods each PAGA Employee worked as an hourly non-exempt employee for
15 Defendant in California during the PAGA Period; divided by (b) the aggregate number of pay
16 periods worked by all PAGA Employees during the PAGA Period; and then multiplied by (c) the
17 PAGA Employees Portion.

18 3. The Parties agree that, for income tax reporting purposes, (i) the Individual
19 Settlement Payments shall constitute one-third wages ("wage portion") and two-thirds penalties
20 and interest ("non-wage portion"), and (ii) each Individual PAGA Payment shall be treated as
21 100% penalties. The Settlement Administrator shall calculate and deduct from the wage portion of
22 each Participating Class Member's Individual Settlement Payment the employee's share of
23 required state, federal, and local tax, and other wage obligations or withholdings. These shall
24 include, without limitation, all federal, state, and local employment taxes (such as Social Security
25 Taxes, Federal Unemployment Taxes, and California Unemployment and Training Taxes) and all
26 state and federal income taxes (collectively, the "Wage Withholdings"). The Settlement
27 Administrator shall remit these amounts to the appropriate authorities.

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1 4. The Settlement Administrator shall pay to each Participating Class Member his or
2 her share (after any Wage Withholdings) of the Individual Settlement Payment, in the manner and
3 on the schedule set forth below, and shall make remittances of Wage Withholdings to the required
4 authorities as and when required.

5 5. The Settlement Administrator shall issue to each Participating Class Member an
6 IRS Form W-2 to report the wage portion of his or her Individual Settlement Payment. The
7 Settlement Administrator shall issue to each Participating Class Member and to each PAGA
8 Employee an IRS Form 1099 for the non-wage portion of his or her Individual Settlement
9 Payment and/or Individual PAGA Payment (if applicable).

10 6. Defendant, Defense counsel, Plaintiffs, and Class Counsel make no representation
11 as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs and
12 Settlement Class Members are not relying on any statement, representation, or calculation by
13 Defendant, Defense counsel, Plaintiffs, Class Counsel, or the Settlement Administrator in this
14 regard. Plaintiffs and Settlement Class Members understand and agree that they will be solely
15 responsible for the payment of any taxes and penalties assessed on the payments described herein.
16 Each of the Participating Class Members and PAGA Employees agrees to indemnify the Released
17 Parties for any tax obligations arising out of payments to him or her of any portion of an
18 Individual Settlement Payment or Individual PAGA Payment.

19 7. Settlement Class Members shall not, on account of receiving any Individual
20 Settlement Payment or Individual PAGA Payment, be entitled to any other or additional
21 compensation, benefits, contributions, or matching employer funding of any kind under any
22 agreement or plan governing benefits or compensation (such as but not limited to any agreements
23 or plans for incentives, stock options, retirement, deferred compensation) regardless of any
24 contrary language or provisions in any such agreement or plan. The Individual Settlement
25 Payment and/or Individual PAGA Payment shall be the sole compensation and benefit to the
26 Participating Class Members and PAGA Employees under this Settlement Agreement.

27 **X. TIMING OF PAYMENT OBLIGATIONS**
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1 1. Defendant shall electronically wire the Maximum Settlement Amount and an
2 amount sufficient to pay the employer's share of taxes on the wage portion of the Individual
3 Settlement Payments to the Settlement Administrator within five (5) business days after the
4 Effective Date.

5 2. The Settlement Administrator shall distribute Individual Settlement Payments to
6 Participating Class Members, Individual PAGA Payments to PAGA Employees, the Court-
7 approved Attorneys' Fees and Costs to Class Counsel, the Court-approved Enhancement Payment
8 to Plaintiffs, the LWDA Payment to the LWDA, and the Court-approved Settlement
9 Administration Costs to itself within five (5) business days of receipt of the funds.

10 3. Participating Class Members and PAGA Employees will have one hundred eighty
11 (180) calendar days from the date of issuance of the check to cash or otherwise deposit their
12 check. For any check not cashed after 180 calendar days, the Settlement Administrator shall cancel
13 the check and remit the funds to the California State Controller's Office, Unclaimed Property
14 Division in the name of the Participating Class Member who failed to cash their check. The
15 Settlement Administrator shall inform the Parties regarding the status of any uncashed checks at
16 the conclusion of the 180 calendar day check cashing period, including the amount at issue.

17 4. The Settlement Administrator shall place the funds in an interest-bearing account,
18 and any interest earned shall be paid to the Individual Settlement Payments for Participating Class
19 Members.

20 **XI. NO OTHER PAYMENTS**

21 Except for the payments and obligations provided above, all of which shall be satisfied
22 from the Maximum Settlement Amount, no Released Party shall have any obligation to make any
23 payment to any Plaintiffs, to the Settlement Class, or to any other person or entity as a result of the
24 Action or this Joint Stipulation of Settlement. Except as set forth above, the Parties shall bear all
25 their own costs and attorneys' fees in connection with this Joint Stipulation of Settlement and the
26 Action.

27 **XII. RELEASES BY PARTICIPATING CLASS MEMBERS**

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1 1. As of the Effective Date and full funding of the Maximum Settlement Amount by
2 Defendant to the Settlement Administrator, each Participating Class Member hereby fully, finally,
3 and forever releases and discharges each and every one of the Released Parties from any and all
4 claims, actions or causes of action, suits, debts obligations, damages, rights or liabilities, of
5 whatever kind or nature, whether known or unknown, that have been asserted or could have been
6 asserted based on the facts as alleged in the First Amended Complaint attached hereto as Exhibit A
7 arising during the Class Period: including but not limited to failure to pay all wages due (including
8 minimum wage and overtime wages), failure to pay for all hours worked (including off-the clock
9 work), failure to provide meal and rest periods, failure to timely pay wages and final wages,
10 failure to furnish accurate wage statements, failure to pay timely wages during employment, and
11 failure to pay timely wages upon separation or termination of employment (“Released Class
12 Claims”). This Release shall include all claims and theories arising under the California Labor
13 Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204,
14 226, 226.7, 510, 512, 1194, 1197, 1198, as well as claims under Business and Professions Code
15 section 17200 *et seq.*, the Industrial Welfare Commission Orders, and/or Labor Code Section 2698
16 *et seq.* based on alleged violations of the above Labor Code provisions, as alleged in the operative
17 First Amended Complaint. The release shall run through the Class Period.

18 2. As of the Effective Date and full funding of the Maximum Settlement Amount by
19 Defendants to the Settlement Administrator, each PAGA Employee and the State of California
20 hereby fully, finally, and forever releases and discharges each and every one of the Released
21 Parties from all claims, demands, rights, liabilities, and causes of action, suits, debts obligations,
22 damages, rights or liabilities of whatever kind or nature, whether known or unknown, for civil
23 penalties recoverable under the Private Attorneys General Act, Labor Code section 2699 *et seq.*
24 (“PAGA”) that have been asserted or could have been asserted based on (i) the facts as alleged in
25 the First Amended Complaint attached hereto as Exhibit A and/or (ii) Plaintiffs’ September 3,
26 2020 and November 9, 2020 letters to the LWDA, arising during the PAGA Period, including but
27 not limited to claims for civil penalties recoverable under PAGA which (a) derive from the
28 foregoing Released Class Claims and/or the factual and/or legal predicates underlying those

1 claims; or (b) in any manner arise out of any of the other facts or legal theories alleged or asserted
2 in the Action, (collectively, the “Released PAGA Claims”) (together the Released Class Claims
3 and Released PAGA Claims are the “Released Claims”).

4 **XIII. PLAINTIFFS’ FURTHER RELEASE**

5 In partial consideration for the Enhancement Payments and other benefits under this Joint
6 Stipulation of Settlement, Plaintiffs generally, and on behalf of each of their current, former, and
7 future heirs, executors, administrators, attorneys, agents, and assigns, each provide the following
8 additional releases: as of the Effective Date, each of Plaintiffs shall each fully, finally, and forever
9 release and discharge each and every one of the Released Parties from all claims, demands, rights,
10 liabilities, and causes of action suits, debts obligations, damages, rights or liabilities of every nature
11 and description whatsoever, whether known or unknown, whether sounding in tort, in contract, in
12 law, in equity or otherwise, and including but not limited to all claims for violation of any local,
13 state, or federal statute, rule, or regulation, which plaintiff now has, owns, or holds, or claims to
14 have, own, or hold, or which she ever had, owned or held, whether known or unknown, suspected
15 or unsuspected, at any time prior to the date she executes this Joint Stipulation of Settlement
16 (collectively “Plaintiffs’ Released Claims”). Plaintiffs’ Released Claims include, without
17 limitation, any claims under Title VII of the Civil Rights Act of 1964, any claims for fraud,
18 promises without the intent to perform, intentional or negligent misrepresentation, breach of
19 contract, breach of the implied covenant of good faith and fair dealing, wrongful termination in
20 violation of public policy, retaliatory discharge, violations of the California Labor Code, violations
21 of the Fair Labor Standards Act, accounting, intentional or negligent infliction of emotional
22 distress, violations of California Business and Professions Code section 17200 *et seq.*, or
23 violations of the California Fair Employment and Housing Act.

24 With respect to Plaintiffs’ Released Claims, Plaintiffs each stipulate and agree that, upon
25 the Effective Date, they shall be deemed to have expressly waived and relinquished to the fullest
26 extent permitted by law, the provisions, rights, and benefits of Section 1542 of the California Civil
27 Code or any other similar provision under federal, state, or local law. Section 1542 provides:

28 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
THAT THE CREDITOR OR RELEASING PARTY DOES**

1 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
2 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
3 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
 MATERIALLY AFFECTED HIS OR HER SETTLEMENT
 WITH THE DEBTOR OR RELEASED PARTY.

4 Plaintiffs may hereafter discover facts in addition to or different from those which they
5 now know or believe to be true with respect to the subject matter of Plaintiffs' Released Claims,
6 but Plaintiffs, upon the Effective Date, shall be deemed to have fully, finally, and forever settled
7 and released any and all of Plaintiffs' Released Claims, known or unknown, suspected or
8 unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist,
9 or heretofore have existed, upon any theory of law or equity now existing or coming into existence
10 in the future, including, without limitation, conduct which is negligent, intentional, with or without
11 malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or
12 existence of such different or additional facts.

13 Each of Plaintiffs represents, covenants, and warrants that he is the owner of all of
14 Plaintiffs' Released Claims, and that he has not directly or indirectly assigned, transferred, or
15 encumbered, or purported to assign, transfer or encumber to any person or entity, whether by
16 operation of law or otherwise, any portion of Plaintiffs' Released Claims.

17 Plaintiffs shall not be permitted to seek any further payment or any personal relief of any
18 kind, including any payment for damages, wages, fees, costs, penalties, or interest, other than the
19 consideration each is receiving under this Joint Stipulation of Settlement, on account of Plaintiffs'
20 Released Claims. Exempted from this release shall be the amount Plaintiffs are paid as
21 enhancement fees and as an Individual Settlement Payment and Individual PAGA Payment, and
22 any claims that are currently subject to any workers' compensation claim; except, however, these
23 releases shall include and extend to claims under California Labor Code Section 132a.

24 **XIV. COVENANT NOT TO SUE OR SEEK RECOVERY**

25 Plaintiffs hereby warrant and represent that they have not filed any complaint, lawsuit,
26 grievance, demand for arbitration, charge, and/or other claim against any of the Released Parties,
27 with any court, governmental or administrative agency or entity asserting any claim or claims
28

1 based on any of Plaintiffs' Released Claims, other than Case No. CIVDS2018557, the Action and
2 the letters to the LWDA concerning the allegations in the Action.

3 **XV. PROCEDURE FOR OBTAINING PRELIMINARY APPROVAL OF JOINT**
4 **STIPULATION OF SETTLEMENT**

5 The Parties agree to work cooperatively in order to obtain preliminary and final approval
6 of the Settlement. The Parties shall cooperate in limiting the Superior Court proceedings to those
7 necessary for such preliminary and final approval. The Parties agree to take all steps reasonably
8 necessary to secure both preliminary and final approval of the Settlement.

9 Upon execution of this Settlement Agreement, Plaintiffs shall promptly obtain a hearing
10 date for Plaintiffs' motion for preliminary approval of the Settlement, which Plaintiffs and Class
11 Counsel will be responsible for drafting, and submit this Settlement Agreement to the Court and to
12 the LWDA in support of said motion. Class Counsel will provide Defendant's Counsel a draft of
13 the preliminary approval motion for review and approval at least three court days before filing it
14 with the Court. Defendant agrees not to oppose the motion for preliminary approval of the
15 Settlement consistent with this Joint Stipulation of Settlement. Said motion shall apply to the
16 Court for the entry of an order ("Preliminary Approval Order") in the form of Exhibit C.

17 **XVI. PROCEDURES FOR NOTICE, SUBMITTING REQUESTS FOR EXCLUSION,**
18 **OBJECTIONS, AND FINAL SETTLEMENT APPROVAL**

19 1. **Class Notices and Requests for Exclusion**

20 a. Within fifteen (15) calendar days after entry of the Preliminary Approval
21 Order, Defendant shall provide the Settlement Administrator the name, last known address, and
22 Social Security number of each Settlement Class Member, along with their weeks worked during
23 the Reference Period and the Class Period and pay periods worked during the PAGA Period
24 ("Class Data"). The Settlement Administrator will keep this information confidential and use it
25 only for the purposes described herein.

26 b. Within fifteen (15) calendar days of receipt of the Class Data from
27 Defendant, the Settlement Administrator shall mail the Class Notice to all Settlement Class
28 Members via first-class U.S. mail. Prior to mailing the Class Notice, the Settlement Administrator

1 shall run a check of the addresses in the Class Data against the United States Postal Service
2 National Change of Address Database ("NCOA") to update for any reported address changes. If
3 any Class Notice is returned as undeliverable without a forwarding address, the Settlement
4 Administrator shall take appropriate steps to identify a current proper address for that Settlement
5 Class Member, including conducting a "standard search," also known as a "skip trace" or "credit
6 header" search. The Settlement Administrator shall then re-mail the Class Notice to the updated
7 address within three (3) business days of receipt. If a Class Notice is returned to the Settlement
8 Administrator as undeliverable with a forwarding address, the Settlement Administrator will
9 promptly forward the Class Notice to the address within three (3) business days of receipt.

10 c. The Class Notice shall provide that any Settlement Class Member may
11 dispute the number of workweeks credited to them in their Class Notice. If any Settlement Class
12 Member disputes their workweeks information used to calculate the Individual Settlement
13 Payment or Individual PAGA Payment, the Settlement Class Member may state the basis of his or
14 her disagreement and submit documentation supporting the Settlement Class Member's position,
15 by not later than the Response Deadline. The Settlement Administrator shall notify Class Counsel
16 and Defendant's counsel of any dispute so raised. The Settlement Administrator will review
17 Defendant's records and consult Defendant's counsel and Class Counsel in order to determine if
18 there is a discrepancy. The Settlement Administrator will decide the dispute using Defendants'
19 records and the decision of the Settlement Administrator shall be final.

20 d. Along with the Class Notice, each Settlement Class Member shall also
21 receive instructions on what needs to be stated in the Request for Exclusion if the Settlement Class
22 Member wants to be excluded from this Settlement. If a Settlement Class Member wishes to Opt-
23 Out from this Settlement, and from the release of claims pursuant to this Settlement, he or she
24 shall submit an "Opt-Out Letter" or "Request for Exclusion" directly to the Settlement
25 Administrator that must be mailed or faxed and postmarked or fax-stamped on or before the
26 Response Deadline, or within fifteen (15) calendar days after the postmark of a Class Notice re-
27 mailed to a corrected address for that Settlement Class Member, whichever is later. The written
28 Request for Exclusion shall: (1) make a statement clearly indicating that the Settlement Class

1 Member wishes to be excluded; (2) contain the name, address, and the last four digits of the Social
2 Security number of the person requesting exclusion; (3) be signed by the Settlement Class
3 Member; and (4) be postmarked or fax stamped by the Response Deadline and returned to the
4 Settlement Administrator at the specified address or fax telephone number stated in the Class
5 Notice. However, the Request for Exclusion will be valid unless it is not timely submitted, is not
6 signed by the Settlement Class Member, or does not contain the name and address of the
7 Settlement Class Member. The date of the postmark on the return mailing envelope or fax stamp
8 on the Request for Exclusion shall be the exclusive means used to determine whether the Request
9 for Exclusion was timely submitted. Any Settlement Class Member who requests to be excluded
10 from the Settlement Class will not be entitled to any recovery under the Settlement, will not be
11 bound by the terms of the Settlement, and will not have any right to object, appeal, or comment
12 thereon, except he or she shall receive his or her Individual PAGA Payment if he or she is a
13 PAGA Employee (since he or she cannot opt out of the PAGA settlement). Settlement Class
14 Members who fail to submit a valid and timely written Request for Exclusion on or before the
15 Response Deadline shall be bound by all the terms of the Settlement and any Judgment.

16 e. The Settlement Administrator shall maintain a list of persons who have
17 excluded themselves and shall include the names of the Settlement Class Members who Opt-Out
18 in his/her declaration in support of final approval. The Settlement Administrator shall retain the
19 originals of all Requests for Exclusion letters (including the envelopes with the postmarks)
20 received, and shall make copies or the originals available to Defendant's counsel or Class Counsel
21 upon request.

22 2. **Procedure for Obtaining Final Superior Court Approval of Settlement;**
23 **Objections**

24 a. The Class Notice shall provide that any Participating Class Member who
25 wishes to object to this Joint Stipulation of Settlement must mail to the Settlement Administrator
26 by first class mail a written statement objecting to this Joint Stipulation of Settlement setting forth
27 the legal and factual grounds for any objections ("Objection"), or if no written objection is
28 submitted, the Participating Class Member may still appear at the final settlement hearing to

1 object. Such written objections should be mailed and postmarked or fax-stamped on or before the
2 Response Deadline, or within fifteen (15) calendar days after the postmark of a Class Notice re-
3 mailed to a corrected address for that Settlement Class Member, whichever is later. The written
4 Objection shall: (1) contain the name, address, and the last four digits of the Social Security
5 number of the person objecting; (2) be signed by the Participating Class Member; (3) state the
6 grounds on which the Participating Class Member is objecting as well as any documents or
7 evidence supporting his or her objection(s); and (4) be postmarked or fax stamped by the
8 Response Deadline and returned to the Settlement Administrator at the specified address or fax
9 telephone number stated in the Class Notice. Upon receipt of any Objections, the Settlement
10 Administrator will forward copies of said Objections to Class Counsel and Defense counsel. To
11 the extent that the Participating Class Member is represented by counsel, his/her attorney shall file
12 with the Superior Court a notice of appearance providing the attorney's contact information. In
13 the event the date of the Final Approval Hearing is changed or continued for any reason, the
14 Settlement Administrator will advise any Settlement Class Member who has objected.

15 b. The Superior Court shall conduct a final settlement hearing to determine
16 whether to finally approve this Joint Stipulation of Settlement and to determine Class Counsel's
17 request for Attorneys' Fees and Costs, Enhancement Payment to Plaintiff, and the cost for
18 administering the Settlement to the Settlement Administrator. Within ten (10) calendar days after
19 the Response Deadline, the Settlement Administrator shall provide to counsel for the Parties a
20 declaration regarding the administration of the Settlement, the number and identify of all Opt
21 Outs, and any written objections received. Class Counsel shall prepare a motion for final approval
22 of the Settlement and request for Attorneys' Fees and Costs, Enhancement Payment, and
23 administration costs ("final approval motion"), which Plaintiffs and Class Counsel will be
24 responsible for drafting. Class Counsel will provide Defendant's Counsel a draft of this final
25 approval motion for review and approval at least three court days before filing it with the Court.
26 Defendant agrees not to oppose any final approval motion consistent with this Joint Stipulation of
27 Settlement. Said motion shall apply to the Court for the entry of an order ("Final Approval
28 Order") in the form of Exhibit D.

1 c. After entry of the Judgment, the Superior Court shall have continuing
2 jurisdiction over the Action solely for purposes of addressing: (i) settlement administration
3 matters; and (ii) such post-Judgment matters as may be appropriate.

4 **XVII. TERMINATION OF SETTLEMENT**

5 In the event: (i) the Superior Court does not enter the Preliminary Approval Order without
6 material change; (ii) the Superior Court does not finally approve this Joint Stipulation of
7 Settlement without material change; (iii) the Superior Court does not enter the Judgment without
8 material change; (iv) the Judgment is materially modified or reversed upon review by a higher
9 court; or (v) this Settlement does not become final for any other reason (except as provided
10 below), Plaintiffs or Defendant may, in their sole and absolute discretion, terminate this Joint
11 Stipulation of Settlement. In the case of such a termination, this Joint Stipulation of Settlement
12 shall be null and void as if it had never been executed, the Parties shall be returned to their
13 respective statuses as of the date and time immediately prior to the execution of this Joint
14 Stipulation of Settlement, and Plaintiff and Defendants shall proceed with the Action in all
15 respects as if this Joint Stipulation of Settlement had not been executed. Prior to either Party
16 exercising an option to terminate the Settlement, the Parties agrees to meet and confer in good
17 faith in an effort to resolve the issue(s) and proceed in a manner most likely to result in approval
18 of the Settlement. As provided above, the Superior Court's failure to award the Attorneys' Fees
19 and Costs, and/or the Enhancement Payment sought by Class Counsel or by Plaintiffs shall not be
20 a material change or entitle Plaintiffs or Class Counsel to terminate this Settlement.

21 **XVIII. DEFENDANT OPTION TO TERMINATE JOINT STIPULATION OF**
22 **SETTLEMENT**

23 If ten percent (10%) or more of the Settlement Class Members submit complete and timely
24 Requests for Exclusion, Defendant shall have, in their sole and absolute discretion, the option to
25 terminate this Joint Stipulation of Settlement. Defendant shall be entitled to exercise these
26 termination rights by providing written notice to Class Counsel at any time within fifteen (15)
27 calendar days of learning of the condition triggering termination. In the event that Defendant
28

1 exercises this option, Defendant shall solely be responsible for all costs of administration incurred
2 prior to termination of this Joint Stipulation of Settlement.

3 In the case of a termination under this Section, this Joint Stipulation of Settlement shall be
4 null and void as if it had never been executed, the Parties shall be returned to their respective
5 statuses as of the date and time immediately prior to the execution of this Joint Stipulation of
6 Settlement, and Plaintiff and Defendant shall proceed with the Action in all respects as if this Joint
7 Stipulation of Settlement had not been executed.

8 **XIX. MISCELLANEOUS**

9 1. The descriptive headings of any paragraphs or sections of this Joint Stipulation of
10 Settlement are inserted for convenience of reference only and do not constitute a part of this Joint
11 Stipulation of Settlement.

12 2. The Parties agree to hold in abeyance all proceedings in the Action, except such
13 proceedings necessary to implement and complete this Settlement, pending final approval of this
14 Joint Stipulation of Settlement. In the event an appeal is filed from the Judgment, or any other
15 appellate review is sought prior to the Effective Date, administration of this Joint Stipulation of
16 Settlement shall be stayed pending final resolution of the appeal or other appellate review.

17 3. No waiver of any term or provision of this Joint Stipulation of Settlement shall be
18 binding unless in writing and signed by the Party waiving the breach. This Joint Stipulation of
19 Settlement may be amended or modified only by a written instrument signed by all Parties or their
20 successors-in-interest.

21 4. This Joint Stipulation of Settlement constitutes the entire agreement among the
22 Parties with respect to the subject matter hereof, and fully supersedes all prior agreements and
23 understandings between the Parties with respect thereto. No oral representations, warranties, or
24 inducements have been made to any Party concerning this Joint Stipulation of Settlement other
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1 than the representations, warranties, and covenants contained and memorialized in such
2 documents.

3 5. In addition to the Parties, this Joint Stipulation of Settlement shall be binding upon,
4 and shall inure to the benefit of, the Parties' respective heirs, representatives, executors,
5 administrators, successors, and assigns.

6 6. This Joint Stipulation of Settlement is made and entered into in the State of
7 California and shall in all respects be interpreted, enforced, and governed under the laws of said
8 state as applied to transactions or events with contacts exclusively within California, and without
9 applying California's conflict of laws rules. The Parties agree that this Joint Stipulation may be
10 enforced under Civil Code section 664.6 and that any action arising out of or to enforce this Joint
11 Stipulation of Settlement shall be brought exclusively within San Bernardino County, California.

12 7. Counsel for all Parties warrant and represent that they are expressly authorized by
13 the Parties whom they represent to enter into this Joint Stipulation of Settlement, to take all
14 appropriate action required or permitted to be taken by such Parties pursuant to this Joint
15 Stipulation of Settlement to effectuate its terms, and to execute any other documents required to
16 effectuate the terms of this Joint Stipulation of Settlement. The Parties and their counsel will
17 cooperate with each other and use their best efforts to effect the implementation of this Joint
18 Stipulation of Settlement.

19 8. The Parties agree that neither they nor their counsel will solicit or otherwise
20 directly or indirectly encourage Settlement Class Members to request exclusion from the
21 Settlement Class, to object to this Joint Stipulation of Settlement, or to appeal from the Judgment.

22 9. The Parties have cooperated in the drafting and preparation of this Joint Stipulation
23 of Settlement. This Joint Stipulation of Settlement shall not be construed against any Party on the
24 basis that such Party was the drafter.

25 10. Plaintiffs and/or Class Counsel will not publicize or promote the fact, terms, or
26 contents of this Joint Stipulation of Settlement, the amount of the Settlement, or the claims being
27 settled through press release, press conference, or postings on social media or websites, except to
28 potential class members, to the LWDA, and as shall be contractually required to effectuate the

1 terms of the Settlement or as shall be required by the Court. For the avoidance of doubt, this
2 section means Plaintiffs and Plaintiffs' Counsel agree not to issue press releases, communicate
3 with, or respond to any media or publication entities, publish information in manner or form,
4 whether printed or electronic, on any medium or otherwise communicate, whether by print, video,
5 recording or any other medium, with any person or entity concerning the Settlement, including the
6 fact of the Settlement, its terms or contents and the negotiations underlying the Settlement, except
7 as shall be contractually required to effectuate the terms of the Settlement. Class Counsel will
8 take all steps necessary to ensure Plaintiffs are aware of, and will encourage her to adhere to, the
9 restriction against any public disclosure of the Settlement and against any media comment on the
10 Settlement and its terms as described in this paragraph. Class Counsel further agrees not to use
11 the Settlement or any of its terms for any marketing or promotional purposes. If asked for
12 comment by the media or third parties, Plaintiffs and/or Class Counsel shall respond only with "no
13 comment" or statements agreed to by Defendant. Nothing herein will restrict Class Counsel from
14 referring to the settlement in adequacy of counsel declarations, and following Final Approval, may
15 state on their websites that they settled a wage and hour class action in the Superior Court and
16 generally describe the claims at issue, provided that they describe Defendant only as a "Defendant
17 Employer." This Joint Stipulation of Settlement may also be used for purposes of resolving related
18 or overlapping lawsuits or claims by showing the scope of releases herein.

19 11. To the fullest extent permitted by law, Plaintiffs agree to not disparage or publish
20 or disseminate information, whether oral or written, that is derogatory in any manner or which
21 may be harmful to any Released Party or their business or personal reputation, whether such
22 information was acquired before, during or after Plaintiff's employment with Defendant.

23 12. This Joint Stipulation of Settlement may be executed in counterparts, and when
24 each Party has signed and delivered at least one such counterpart, each counterpart shall be
25 deemed an original, and, when taken together with other signed counterparts, shall constitute one
26 Joint Stipulation of Settlement, which shall be binding upon and effective as to all Parties. This
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1 Joint Stipulation of Settlement may be signed through electronically exchanged documents (such
2 as PDFs) which shall be treated as original paper copy signatures.

3 13. The Parties believe that this is a fair, reasonable, and adequate Settlement and have
4 arrived at this Settlement through arms-length negotiations, taking into account all relevant
5 factors, present and potential.

6
7 14. Nothing in this Joint Stipulation of Settlement shall restrict: (i) any right to file,
8 testify, or otherwise cooperate in the investigation of an administrative charge or complaint with
9 the Equal Employment Opportunity Commission, the National Labor Relations Board or other
10 federal, state, or local administrative or law enforcement agency, although Plaintiffs are waiving
11 any right to monetary recovery related to such a charge or complaint; (ii) any right to report
12 allegedly unlawful conduct pursuant to the “whistleblower” provisions of federal or state law or
13 regulation, including the right to receive awards pursuant to Section 21F of the Securities
14 Exchange Act; (iii) any right to communicate directly with, respond to an inquiry from, or provide
15 testimony before, the Securities and Exchange Commission (SEC), the Financial Industry
16 Regulatory Authority (FINRA), any other self-regulatory organization or any other regulatory
17 authority; or (iv) the Parties and their counsel from complying with a valid subpoena, court order,
18 or any other legal process requesting or requiring production of this Joint Stipulation of
19 Settlement, disclosure of the terms of this Joint Stipulation of Settlement, or disclosure of anything
20 else covered by the confidentiality provisions of this Joint Stipulation of Settlement, provided that,
21 upon receiving such a subpoena, process, or court order, the receiving Party shall immediately
22 give notice to the other Party or the other Party’s counsel, identify the subpoena, process, or court
23 order, and state the time in which production or disclosure is required, so as to afford the other
24 Party an opportunity to obtain an order barring such production or disclosure.

25 15. In any proceeding to enforce or construe this Joint Stipulation of Settlement, the
26 prevailing Party shall be entitled to recover its costs and attorney’s fees.

27 16. This Agreement may not be changed, altered, or modified, except in a writing
28 signed by the Parties, and approved by the Court. Notwithstanding the forgoing, the Parties agree

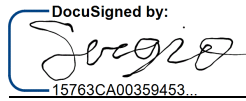
that any deadlines to act contained in this Agreement may be modified by agreement of the Parties without Court approval, if the Parties so agree through their respective counsel, either orally or in writing and cause exists for such modification. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

17. This Agreement and the Exhibits hereto contain the entire agreement between the Parties relating to the resolution of the Litigation. No rights under this Settlement may be waived except in writing and signed by the Party against whom such waiver is to be enforced.

18. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

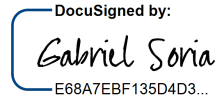
19. This Settlement Agreement may be amended or modified only by a written instrument signed by the named Parties and/or counsel for all Parties or their successors-in-interest.

PLAINTIFF SERGIO MEZA

DocuSigned by:

 15763CA00359453...

Dated: October 27, 2022

PLAINTIFF GABRIEL SORIA

DocuSigned by:

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Dated: October 27, 2022

PLAINTIFF OMAR ORTEGA

DocuSigned by:

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Dated: October 27, 2022

DEFENDANT CALERES, INC.

Dated: October __, 2022

By: _____

[NAME]

Title: _____

DS

 DS

 DS


1 that any deadlines to act contained in this Agreement may be modified by agreement of the Parties
2 without Court approval, if the Parties so agree through their respective counsel, either orally or in
3 writing and cause exists for such modification. This Agreement may not be discharged except by
4 performance in accordance with its terms or by a writing signed by the Parties.

5 17. This Agreement and the Exhibits hereto contain the entire agreement between the
6 Parties relating to the resolution of the Litigation. No rights under this Settlement may be waived
7 except in writing and signed by the Party against whom such waiver is to be enforced.

8 18. This Agreement shall be binding upon, and inure to the benefit of, the Parties and
9 their respective heirs, trustees, executors, administrators, successors, and assigns.

10 19. This Settlement Agreement may be amended or modified only by a written
11 instrument signed by the named Parties and/or counsel for all Parties or their successors-in-
12 interest.

13
14 PLAINTIFF SERGIO MEZA

15 Dated: October __, 2022

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17 PLAINTIFF GABRIEL SORIA

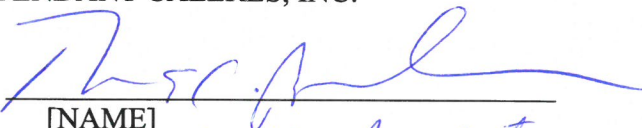
18 Dated: October __, 2022

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20 PLAINTIFF OMAR ORTEGA

21 Dated: October __, 2022

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24 DEFENDANT CALERES, INC.

25 Dated: October 31, 2022

26 By: 

[NAME]

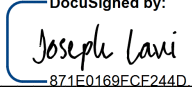
Title: Senior Vice President,

General Counsel & Secretary

1 **APPROVED AS TO FORM:**

2 Lavi & Ebrahimi, LLP
3 LAW OFFICES OF SAHAG MAJARIAN II

4 Dated: October 27, 2022

5 By: 
6 Joseph Lavi
7 Sahag Majarian II
8 *Counsel for Plaintiffs, on behalf of themselves and*
9 *all others similarly situated*

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

12 Dated: October __, 2022

13 By: _____
14 Christopher W. Decker
15 *Counsel for Defendant Caleres, Inc.*

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APPROVED AS TO FORM:

LAVI & EBRAHIMIAN, LLP
LAW OFFICES OF SAHAG MAJARIAN II

Dated: October __, 2022

By: _____
Joseph Lavi
Sahag Majarian II
*Counsel for Plaintiffs, on behalf of themselves and
all others similarly situated*

November 1,
Dated: October __, 2022

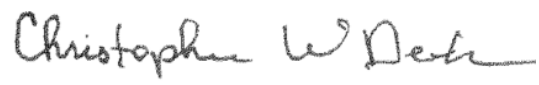
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By: _____
Christopher W. Decker
Counsel for Defendant Caleres, Inc.

Exhibit A

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
Courtney M. Miller, Esq. (SBN 327850)
Melissa A. Huether, Esq. (SBN 316604)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Boulevard, Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001
Emails: jlavi@lelawfirm.com
vgranberry@lelawfirm.com
cmiller@lelawfirm.com
mhuether@lelawfirm.com
wht3@lelawfirm.com

Sahag Majarian II, Esq. (SBN 146621)
Email: sahagii@aol.com
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiffs SERGIO MEZA,
GABRIEL SORIA, and OMAR ORTEGA,
on behalf of themselves and all other current and former
aggrieved California-based hourly non-exempt employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

SERGIO MEZA, GABRIEL SORIA, and
OMAR ORTEGA, on behalf of themselves and
all other current and former aggrieved
California-based hourly non-exempt employees,

Plaintiffs,

vs.

CALERES, INC.; and DOES 1 to 100, inclusive,

Defendants.

Case No.: CIVSB2024256

CLASS ACTION

**PLAINTIFFS SERGIO MEZA,
GABRIEL SORIA, AND OMAR
ORTEGA'S FIRST AMENDED
COMPLAINT FOR DAMAGES AND
RESTITUTION FOR:**

- 1. CIVIL PENALTIES PURSUANT
TO THE PRIVATE
ATTORNEYS GENERAL ACT
OF 2004 ("PAGA"), LABOR
CODE SECTIONS 2698, ET SEQ.**
- 2. FAILURE TO PAY WAGES FOR
ALL HOURS WORKED AT
MINIMUM WAGE IN
VIOLATION OF LABOR CODE
SECTIONS 1194 AND 1197**

3. **FAILURE TO PAY OVERTIME WAGES FOR DAILY OVERTIME WORKED IN VIOLATION OF LABOR CODE SECTIONS 510, 1194, AND 1198**
4. **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7**
5. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**
6. **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204**
7. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
8. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
9. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, ET SEQ.**

COME NOW Plaintiffs SERGIO MEZA, GABRIEL SORIA, and OMAR ORTEGA (“Plaintiff”), on behalf of themselves and all other current and former aggrieved California-based hourly non-exempt employees, who allege and complain against Defendants CALERES, INC.; and DOES 1 to 100, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, (“PAGA”) representative action brought by Plaintiffs on behalf of themselves, all other current and

1 former aggrieved California-based hourly non-exempt employees, and the State of California
2 seeking civil penalties associated with Defendants' violations of the Labor Code based on
3 Defendants' failure to pay wages for all hours worked at minimum wage; failure to pay overtime
4 wages for overtime hours worked; failure to authorize or permit all legally required and compliant
5 meal periods and/or pay meal period premiums; failure to authorize or permit all legally required
6 and compliant rest periods and/or pay rest period premiums; failure to timely pay earned wages
7 during employment; failure to provide complete and accurate wage statements; failure to timely
8 pay all earned and unpaid wages due upon separation of employment; and failure to maintain
9 temperatures providing reasonable comfort. After filing the requisite notice with the Labor and
10 Workforce Development Agency ("LWDA"), Plaintiffs now seek the following on a representative
11 basis: civil penalties, reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and
12 costs brought on behalf of Plaintiffs, all other current and former aggrieved California-based
13 hourly non-exempt employees of Defendants, and the State of California. \

14 2. This is a also class action lawsuit seeking unpaid wages and interest thereon for
15 failure to pay wages for all hours worked at minimum wage and all overtime hours worked at the
16 overtime rate of pay due to Defendants' policies, practices, and/or procedures including, but not
17 limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag
18 checks and/or security checks before clocking in at the start of their shifts and/or after clocking out
19 at the end of their shifts - without paying employees for such time; requiring Plaintiffs and
20 similarly situated employees to be subject to off-the-clock bag checks and/or security checks after
21 clocking out for meal periods if they intended to leave the premises and/or before clocking in from
22 meal periods if they had left the premises - without paying employees for such time; requiring
23 Plaintiffs and similarly situated employees to travel to and from a designated area while they were
24 off the clock during meal periods - without paying employees for such time; and/or adjusting the
25 hours worked by Plaintiffs and similarly situated employees to not reflect the actual time worked
26 by Plaintiffs and similarly situated employees; failure to authorize or permit legally-required meal
27 periods of not less than thirty (30) minutes or pay meal period premium wages due to Defendants'
28 policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and

1 similarly situated employees to be subject to off-the-clock bag checks and/or security checks after
2 clocking out for meal periods if they intended to leave the premises and/or before clocking in from
3 meal periods if they had left the premises - thereby failing to authorize or permit employees to take
4 meal periods of not less than thirty (30) minutes for each five-hour period of work; and requiring
5 Plaintiffs and similarly situated employees to travel to and from a designated area while they were
6 off the clock during meal periods, resulting in meal periods that were less than thirty (30) minutes
7 due to the time it took them to travel to and from the designated area; failure to authorize or permit
8 legally-required rest periods of a net ten (10) minutes or pay rest period premium wages due to
9 Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs
10 and similarly situated employees to be subject to off-the-clock bag checks and/or security checks
11 during their rest periods if they intended to leave the premises and/or after they had left the
12 premises - thereby failing to authorize or permit employees to take rest periods of a net ten (10)
13 minutes; and requiring Plaintiffs and similarly situated employees to travel to and from a
14 designated area during their rest periods, resulting in rest periods that were less than a net ten (10)
15 minutes due to the time it took them to travel to and from the designated area; statutory penalties
16 for failure to provide accurate wage statements; waiting time penalties in the form of continuation
17 wages for failure to timely pay employees all wages due upon separation of employment;
18 injunctive relief and other equitable relief; reasonable attorneys' fees pursuant to Labor Code
19 sections 226(e) and 1194; costs; and interest brought on behalf of Plaintiffs and others similarly
20 situated

21 **II. JURISDICTION AND VENUE**

22 3. This Court has jurisdiction over the Plaintiffs' PAGA claims on behalf of
23 themselves, other current and former aggrieved California-based hourly non-exempt employees,
24 and the State of California because Plaintiffs' lawsuit seeks civil penalties on behalf of themselves,
25 all other current and former aggrieved California-based hourly non-exempt employees of
26 Defendants, and the State of California in excess of twenty-five thousand dollars (\$25,000);

27 4. This Court has jurisdiction over Plaintiffs' and putative class members' claims for
28 failure to pay wages for all hours worked at minimum wage and overtime hours worked at the

overtime rate of pay due to Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security checks before clocking in at the start of their shifts and/or after clocking out at the end of their shifts - without paying employees for such time; requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security checks after clocking out for meal periods if they intended to leave the premises and/or before clocking in from meal periods if they had left the premises - without paying employees for such time; requiring Plaintiffs and similarly situated employees to travel to and from a designated area while they were off the clock during meal periods - without paying employees for such time; and/or adjusting the hours worked by Plaintiffs and similarly situated employees to not reflect the actual time worked by Plaintiffs and similarly situated employees; failure to authorize or permit legally-required meal periods of not less than thirty (30) minutes or pay meal period premium wages due to Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security checks after clocking out for meal periods if they intended to leave the premises and/or before clocking in from meal periods if they had left the premises - thereby failing to authorize or permit employees to take meal periods of not less than thirty (30) minutes for each five-hour period of work; and requiring Plaintiffs and similarly situated employees to travel to and from a designated area while they were off the clock during meal periods, resulting in meal periods that were less than thirty (30) minutes due to the time it took them to travel to and from the designated area; failure to authorize or permit legally-required rest periods of a net ten (10) minutes or pay rest period premium wages due to Defendants' policies, practices, and/or procedures including, but not limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security checks during their rest periods if they intended to leave the premises and/or after they had left the premises - thereby failing to authorize or permit employees to take rest periods of a net ten (10) minutes; and requiring Plaintiffs and similarly situated employees to travel to and from a designated area during their rest periods, resulting in rest periods that were less than a net ten (10) minutes due to the time it took them to travel to and from the designated area; statutory penalties

1 for failure to provide accurate wage statements; waiting time penalties in the form of continuation
2 wages for failure to timely pay employees all wages due upon separation of employment; and
3 claims for injunctive relief and restitution under California Business and Professions Code section
4 17200, *et seq.*, for the following reasons: Defendants operate throughout California; Defendants
5 employed Plaintiffs and putative class members in locations throughout California, including but
6 not limited to San Bernardino County at 8985 Merrill Avenue, Chino, California 91710; more than
7 two-thirds of putative class members are California citizens; the principal violations of California
8 law occurred in California; no other class actions have been filed against Defendants in the last
9 four (4) years alleging wage and hour violations; the conduct of Defendants forms a significant
10 basis for Plaintiffs' and putative class members' claims; and Plaintiffs and putative class members
11 seek significant relief from Defendants

12 5. Defendants operate throughout California. Defendants employed Plaintiffs and
13 other current and former aggrieved California-based hourly non-exempt employees in locations
14 throughout California, including San Bernardino County at 8985 Merrill Avenue, Chino,
15 California 91710; and the injuries to Plaintiffs and other current and former aggrieved California-
16 based hourly non-exempt employees occurred in locations throughout California, including San
17 Bernardino County. More than two-thirds of putative class members are California citizens; the
18 principal violations of California law occurred in California; the conduct of Defendants forms a
19 significant basis for Plaintiffs' and putative class members' claims, and Plaintiffs and putative
20 class members seek significant relief from Defendants.

21 6.

22 **III. PARTIES**

23 7. Plaintiffs bring this action on behalf of themselves and other members of the
24 general public similarly situated. Plaintiffs also bring this action as representatives of the Labor
25 and Workforce Development Agency on behalf of themselves and other current and former
26 employees for violations of the Labor Code pursuant to PAGA. The named Plaintiffs and the class
27 of persons on whose behalf this action is filed are current, former, and/or future employees of
28 Defendants who work, worked, or will work for Defendants as hourly non-exempt employees in

1 California. At all times mentioned herein, the currently named Plaintiffs are and were residents of
2 California and was employed by Defendants in the State of California within the four (4) years
3 prior to the filing of this Complaint.

4 8. Defendants employed Plaintiff SERGIO MEZA as an hourly non-exempt employee
5 beginning in or around May 2018. Defendants employed Plaintiff GABRIEL SORIA as an hourly
6 non-exempt employee beginning on or about December 5, 2018. Defendants employed Plaintiff
7 OMAR ORTEGA as an hourly non-exempt employee beginning in or around April 2019.

8 9. Plaintiffs are informed and believe and thereon allege that Defendants employed
9 Plaintiffs and other hourly non-exempt employees throughout the State of California and therefore
10 their conduct forms a significant basis of the claims asserted in this matter

11 10. Plaintiffs are informed and believe and thereon allege that Defendant CALERES,
12 INC. is authorized to do business within the State of California and is doing business in the State
13 of California and/or and Defendants DOES 1-33 are, and at all times relevant hereto, were persons
14 acting on behalf of Defendant CALERES, INC. in the establishment of, or ratification of, the
15 aforementioned illegal wage and hour practices or policies. Defendant CALERES, INC. operates
16 throughout California including San Bernardino County and employed current and former
17 aggrieved California-based non-exempt employees throughout California including San
18 Bernardino County.

19 11. Plaintiffs are informed and believe and thereon allege that Defendants DOES 34-66
20 are corporations, or are other business entities or organizations of a nature unknown to Plaintiffs
21 that employed Plaintiffs and other current and former aggrieved California-based hourly non-
22 exempt employees to work, and exercised control over the working conditions of employment of
23 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees.

24 12. Plaintiffs are informed and believe and thereon allege that Defendants DOES 67-
25 100 are individuals unknown to Plaintiffs. Each of the individual defendants is sued individually
26 and in his or her capacity as an agent, shareholder, owner, representative, manager, supervisor,
27 independent contractor and/or employee of each defendant who violated or caused to be violated
28 the Labor Code and/or any provision of the Industrial Welfare Commission's wage orders

1 regulating working conditions.

2 13. Plaintiffs are unaware of the true names of Defendants DOES 1-100. Plaintiffs sue
3 said Defendants by said fictitious names and will amend this Complaint when the true names and
4 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
5 by law or by the Court. Plaintiffs are informed and believe that each of the fictitiously named
6 Defendants is in some manner responsible for the events and allegations set forth in this
7 Complaint.

8 14. Plaintiffs are informed and believe and thereon allege that at all relevant times, each
9 Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
10 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
11 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
12 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
13 of the other defendants so as to be liable for their conduct with respect to the matters alleged in
14 this Complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant
15 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
16 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
17 controlled, aided and abetted the conduct of all other defendants. As used in this Complaint,
18 "Defendant" means "Defendants and each of them," and refers to the Defendants named in the
19 particular cause of action in which the word appears and Defendants CALERES, INC.; and DOES
20 1 to 100, inclusive.

21 15. At all times mentioned herein, each Defendant was the co-conspirator, agent,
22 servant, employee, and/or joint venturer of each of the other defendants and was acting within the
23 course and scope of said conspiracy, agency, employment, and/or joint venture and with the
24 permission and consent of each of the other Defendants.

25 16. Plaintiffs make the allegations in this Complaint without any admission that
26 Plaintiffs bear the burden of pleading, proving, or persuading as to any particular allegation, and
27 Plaintiffs reserves all of Plaintiffs' rights to plead in the alternative.

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1 **IV. DESCRIPTION OF ILLEGAL PAY PRACTICES**

2 17. Pursuant to the applicable Industrial Welfare Commission (“IWC”) Wage Order
3 (“Wage Order”), codified at California Code of Regulations, title 8, section 11090, Defendants are
4 employers of Plaintiffs within the meaning of Wage Order 9 and applicable Labor Code sections.
5 Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of
6 herein in violation of the Wage Order and the Labor Code.

7 18. **Failure to pay wages for all hours worked at the legal minimum wage:**
8 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
9 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
10 which includes all time that an employee is under the control of the employer and all time the
11 employee is suffered and permitted to work. This includes the time an employee spends, either
12 directly or indirectly, performing services which inure to the benefit of the employer.

13 19. Labor Code sections 1194 and 1197 require an employer to compensate employees
14 for all “hours worked” at least at the minimum wage rate of pay as established by the IWC and the
15 Wage Orders.

16 20. Despite California law requiring employers to pay employees for all hours worked
17 at least at a minimum wage rate, Defendants’ employed policies, practices, and/or procedures
18 including, but not limited to, requiring Plaintiffs and similarly situated employees to be subject to
19 off-the-clock bag checks and/or security checks before clocking in at the start of their shifts and/or
20 after clocking out at the end of their shifts - without paying employees for such time; requiring
21 Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security
22 checks after clocking out for meal periods if they intended to leave the premises and/or before
23 clocking in from meal periods if they had left the premises - without paying employees for such
24 time; requiring Plaintiffs and similarly situated employees to travel to and from a designated area
25 while they were off the clock during meal periods - without paying employees for such time;
26 and/or adjusting the hours worked by Plaintiffs and similarly situated employees to not reflect the
27 actual time worked by Plaintiffs and similarly situated employees.

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1 21. Therefore, Defendants suffered, permitted, and required their hourly employees to
2 be subject to Defendants' control without paying wages for that time. This resulted in Plaintiffs
3 and similarly situated employees working time for which they were not compensated any wages, in
4 violation of Labor Code sections 1194, 1197, and the Wage Order.

5 22. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
6 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
7 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
8 which includes all time that an employee is under the control of the employer and all time the
9 employee is suffered or permitted to work. This includes the time an employee spends, either
10 directly or indirectly, performing services which inure to the benefit of the employer.

11 23. Labor Code sections 510 and 1194 require an employer to compensate employees at
12 a higher rate of pay for hours worked in excess of eight (8) hours in a workday, more than forty
13 (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

14 Any work in excess of eight hours in one workday and any work in excess of 40
15 hours in any one workweek and the first eight hours worked on the seventh day of
16 work in any one workweek shall be compensated at the rate of no less than one and
17 one-half times the regular rate of pay for an employee. Any work in excess of 12
18 hours in one day shall be compensated at the rate of no less than twice the regular
19 rate of pay for an employee. In addition, any work in excess of eight hours on any
20 seventh day of a workweek shall be compensated at the rate of no less than twice
21 the regular rate of pay of an employee.

22 (Labor Code section 510).

23 24. Despite California law requiring employers to pay employees at their overtime rate
24 of pay for all overtime hours worked, Defendants' employed policies, practices, and/or procedures
25 including, but not limited to, requiring Plaintiffs and similarly situated employees to be subject to
26 off-the-clock bag checks and/or security checks before clocking in at the start of their shifts and/or
27 after clocking out at the end of their shifts – without paying employees for such time; requiring
28 Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security
checks after clocking out for meal periods if they intended to leave the premises and/or before
clocking in from meal periods if they had left the premises – without paying employees for such
time; requiring Plaintiffs and similarly situated employees to travel to and from a designated area

1 while they were off the clock during meal periods – without paying employees for such time;
2 and/or adjusting the hours worked by Plaintiffs and similarly situated employees to not reflect the
3 actual time worked by Plaintiffs and similarly situated employees.

4 25. To the extent that the foregoing unpaid time resulted from Plaintiffs and similarly
5 situated employees being subject to the control of Defendants when they worked more than eight
6 (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a
7 workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours
8 they worked, in violation of Labor Code sections 510, 1194, and 1198, and the Wage Order.

9 26. **Failure to authorize or permit all legally required and compliant meal periods**
10 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
11 exempt employees, including the named Plaintiffs and similarly situated employees, for shifts
12 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

13 27. California law requires an employer to authorize or permit an uninterrupted meal
14 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of work
15 and a second meal period no later than the employee's tenth hour of work. (Labor Code section
16 512; Wage Order 9 at §11). If the employee is not relieved of all duties during a meal period, the
17 meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on
18 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
19 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
20 periods. If the employee is not free to leave the work premises or worksite during the meal period,
21 even if the employee is relieved of all other duty during the meal period, the employee is subject to
22 the employer's control and the meal period is counted as time worked. If an employer fails to
23 provide an employee a meal period in accordance with the law, the employer must pay the
24 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
25 required and compliant meal period was not provided. Labor Code section 226.7; Wage Order 9 at
26 §11.

27 28. In this case, Plaintiffs and similarly situated employees worked shifts long enough
28 to entitle them to meal periods under California law. Nevertheless, Defendants employed policies,

1 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
2 Plaintiffs and similarly situated employees of no less than thirty (30) minutes for each five-hour
3 period of work as required by law. Such policies, practices, and/or procedures included, but were
4 not limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock
5 bag checks and/or security checks after clocking out for meal periods if they intended to leave the
6 premises and/or before clocking in from meal periods if they had left the premises – thereby
7 discouraging employees from leaving the premises during meal periods, and failing to authorize or
8 permit employees to take meal periods of not less than thirty (30) minutes for each five-hour
9 period of work during which they are relieved of all duty due the time required to complete these
10 bag checks and/or security checks; and requiring Plaintiffs and similarly situated employees to
11 travel to and from a designated area while they were off the clock during meal periods, resulting in
12 meal periods that were less than thirty (30) minutes due to the time it took them to travel to and
13 from the designated area.

14 29. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees a
15 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
16 for each workday the employees did not receive all legally required and compliant meal periods.
17 Defendants employed policies and procedures which ensured that employees did not receive any
18 meal period premium wages to compensate them for workdays in which they did not receive all
19 legally required and compliant meal periods.

20 30. The aforementioned policies, practices, and/or procedures of Defendants resulted in
21 Plaintiffs and similarly situated employees not being provided with all legally required and
22 compliant meal periods and/or not receiving premium wages to compensate them for such
23 instances, all in violation of California law.

24 31. **Failure to authorize and permit all legally required and compliant rest periods**
25 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt
26 employees, including the named Plaintiffs and similarly situated employees, for shifts of more than
27 three-and-a-half (3.5) hours.

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32. California law requires every employer to authorize and permit an employee a rest period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code section 226.7; Wage Order 9 at §12. If the employer fails to authorize or permit a required rest period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the employer did not authorize or permit a legally required rest period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." (*Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 9 at §12). Rest periods, insofar as practicable, shall be in the middle of each work period. (Wage Order 9 at §12). Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods." (*Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269). That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

33. In this case, Plaintiffs and similarly situated employees regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and compliant rest periods to Plaintiffs and similarly situated employees. Such policies, practices, and/or procedures included, but were not limited to, requiring Plaintiffs and similarly situated employees to be subject to off-the-clock bag checks and/or security checks during their rest periods if they intended to leave the premises and/or after they had left the premises - thereby discouraging employees from leaving the premises during rest breaks, and failing to authorize or permit employees to take rest periods of a net ten (10) minutes during which they are relieved of all duty due the time required to complete these bag checks and/or security checks; and requiring Plaintiffs and similarly situated employees to travel to and from a designated area during their rest periods, resulting in rest periods that were less than a net ten (10) minutes due to the time it took them to travel to and from the designated area.

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1 34. Additionally, Defendants failed to pay Plaintiffs and similarly situated employees a
2 rest period premium wage of one (1) additional hour of pay at their regular rate of compensation
3 for each workday the employees did not receive all legally required and compliant rest periods.
4 Defendants employed policies and procedures which ensured that employees did not receive any
5 rest period premium wages to compensate them for workdays in which they did not receive all
6 legally required and compliant rest periods.

7 35. The aforementioned policies, practices, and/or procedures of Defendants resulted in
8 Plaintiffs and similarly situated employees not being provided with all legally required and
9 compliant rest periods and/or not receiving premium wages to compensate them for such
10 instances, all in violation of California law.

11 36. **Failure to timely pay earned wages during employment:** In California, wages
12 must be paid at least twice during each calendar month on days designated in advance by the
13 employer as regular paydays, subject to some exceptions. Labor Code §204(a). Wages earned
14 between the 1st and 15th days, inclusive, of any calendar month must be paid between the 16th
15 and the 26th day of that month and wages earned between the 16th and the last day, inclusive, of
16 any calendar month must be paid between the 1st and 10th day of the following month. *Id.* Other
17 payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid within
18 seven (7) calendar days following the close of the payroll period in which wages were earned.
19 Labor Code §204(d).

20 37. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
21 to timely pay Plaintiffs' and similarly situated employees' earned wages (including minimum
22 wages, overtime wages, meal period premium wages, and/or rest period premium wages), in
23 violation of Labor Code section 204.

24 38. Defendants' aforementioned policies, practices, and/or procedures resulted in their
25 failure to pay Plaintiffs and similarly situated employees their earned wages within the applicable
26 time frames outlined in Labor Code section 204.

27 39. **Failure to Provide Accurate Wage Statements:** Labor Code section 226(a)
28 provides, *inter alia*, that, upon paying an employee his or her wages, the employer must "furnish

1 each of his or her employees ... an itemized statement in writing showing (1) gross wages earned,
2 (2) total hours worked by the employee, except for any employee whose compensation is solely
3 based on a salary and who is exempt from payment of overtime under subdivision (a) of Section
4 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate
5 units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
6 deductions, provided, that all deductions made on written orders of the employee may be
7 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
8 for which the employee is paid, (7) the name of the employee and his or her social security
9 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
10 hourly rates in effect during the pay period and the corresponding number of hours worked at each
11 hourly rate by the employee.”

12 40. Defendants committed direct violations of Labor Code section 226 through their
13 policies, practices, and/or procedures, including but not limited to, incorrectly including hours paid
14 but not worked, such as hours paid for vacation pay, holiday pay, and/or meal premium pay, into
15 Plaintiffs’ total stated hours worked. Employees are informed and believe, and thereon allege, that
16 similarly situated employees were also subject to Defendants’ aforementioned policies, practices,
17 and/or procedures.

18 41. Additionally, as a derivative of Plaintiffs’ claims above, Plaintiffs allege that
19 Defendants failed to provide accurate wage and hour statements to them, and on information and
20 belief, other similarly situated employees who were subject to Defendants’ control for
21 uncompensated time and who did not receive all their earned wages (including minimum wages,
22 overtime wages, meal period premium wages, and/or rest period premium wages), in violation of
23 Labor Code section 226.

24 42. **Failure to Timely Pay Final Wages:** An employer is required to pay all unpaid
25 wages timely after an employee’s employment ends. The wages are due immediately upon
26 termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code
27 section 202).

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43. As a result of the aforementioned violations of the Labor Code, Plaintiffs allege that they, and on information and belief, other similarly situated employees, were not paid their final wages in a timely manner as required by Labor Code section 203. Minimum wages for all hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages (all described above), were not paid at the time of Plaintiffs' and other similarly situated employees' separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

44. Plaintiffs bring this action on behalf of themselves, on behalf of others similarly situated, and on behalf of the general public, and as members of a Class defined as follows:

A. Minimum Wage Class: All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who were not paid at least minimum wage for all time they were subject to Defendants' control.

B. Overtime Class: All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a workweek, to whom Defendants did not pay overtime wages.

C. Meal Period Class: All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked shifts more than five (5) hours yet Defendants failed to authorize or permit all required meal periods of not less than thirty (30) minutes.

D. Rest Period Class: All current and former hourly non-exempt employees employed by Defendants in California at any time from four (4) years prior to the filing of the initial Complaint in this matter through the date notice is mailed to a certified class who worked shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods

1 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

2 E. **Pay Day Class:** All current and former hourly non-exempt employees
3 employed by Defendants in California at any time from four (4) years prior to the filing of the
4 initial Complaint in this action through the date notice is mailed to a certified class who were not
5 timely paid earned wages during their employment.

6 F. **Wage Statement Class:** All current and former hourly non-exempt
7 employees employed by Defendants in California at any time within the one (1) year prior to the
8 filing of the initial Complaint in this action through the date notice is mailed to a certified class
9 who received inaccurate or incomplete wage and hour statements.

10 G. **Waiting Time Class:** All current and former hourly non-exempt employees
11 employed by Defendants in California at any time within the three (3) years prior to the filing of
12 the initial Complaint in this action through the date notice is mailed to a certified class who did not
13 receive payment of all unpaid wages upon separation of employment within the statutory time
14 period.

15 H. **California Class:** All aforementioned classes are herein collectively
16 referred to as the "California Class."

17 45. There is a well-defined community of interest in the litigation and the classes are
18 ascertainable:

19 A. **Numerosity:** While the exact number of class members in each class is
20 unknown to Plaintiffs at this time, the Plaintiffs classes are so numerous that the individual joinder
21 of all members is impractical under the circumstances of this case.

22 B. **Common Questions Predominate:** Common questions of law and fact
23 exist as to all members of the Plaintiffs classes and predominate over any questions that affect only
24 individual members of each class. The common questions of law and fact include, but are not
25 limited to:

26 i. Whether Defendants violated Labor Code sections 1194 and 1197 by
27 not paying wages at the minimum wage rate for all time that the Minimum Wage Class Members
28 were subject to Defendants' control;

1 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
2 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
3 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
4 a workweek;

5 iii. Whether Defendants violated Labor Code sections 512 and 226.7, as
6 well as the applicable Wage Order, by employing the Meal Period Class Members without
7 providing all compliant and/or required meal periods and/or paying meal period premium wages;

8 iv. Whether Defendants violated Labor Code section 226.7 by
9 employing the Rest Period Class Members without providing all compliant and/or required rest
10 periods and/or paying rest period premium wages;

11 v. Whether Defendants violated Labor Code section 204 by employing
12 Pay Day Class Members without timely paying them all earned wages during their employment;

13 vi. Whether Defendants failed to provide the Wage Statement Class
14 Members with accurate itemized statements at the time they received their itemized statements;

15 vii. Whether Defendants failed to provide the Waiting Time Class
16 Members with all of their earned wages upon separation of employment within the statutory time
17 period;

18 viii. Whether Defendants committed unlawful business acts or practice
19 within the meaning of Business and Professions Code section 17200, *et seq.*;

20 ix. Whether Class Members are entitled to unpaid wages, penalties, and
21 other relief pursuant to their claims;

22 x. Whether, as a consequence of Defendants' unlawful conduct, the
23 Class Members are entitled to restitution, and/or equitable relief; and

24 xi. Whether Defendants' affirmative defenses, if any, raise any common
25 issues of law or fact as to Plaintiffs and as to Class Members as a whole.

26 C. **Typicality:** Plaintiffs' claims are typical of the claims of the class members
27 in each of the classes. Plaintiffs and members of the Minimum Wage Class sustained damages
28 arising out of Defendants' failure to pay wages at least at minimum wage for all time the

1 employees were subject to Defendants' control. Plaintiffs and members of the Overtime Wage
2 Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime
3 hours worked. Plaintiffs and members of the Meal Period Class sustained damages arising out of
4 Defendants' failure to provide non-exempt employees with all required meal periods and/or meal
5 periods that were not less than thirty (30) minutes and/or failure to pay meal period premium
6 wages as compensation. Plaintiffs and members of the Rest Period Class sustained damages
7 arising out of Defendants' failure to provide non-exempt employees with all required rest periods
8 and/or rest periods that were of a net ten (10) minutes, rest periods that were duty-free, and/or
9 failure to pay rest period premium wages as compensation. Plaintiffs and members of the Pay Day
10 Class sustained damages arising out of Defendants' failure to timely pay them all wages earned
11 during their employment in compliance with Labor Code section 204. Plaintiffs and members of
12 the Wage Statement Class sustained damages arising out of Defendants' failure to furnish them
13 with accurate itemized wage statements in compliance with Labor Code section 226. Plaintiffs and
14 members of the Waiting Time Class sustained damages arising out of Defendants' failure to
15 provide all unpaid yet earned wages due upon separation of employment within the statutory time
16 limit.

17 D. **Adequacy of Representation:** Plaintiffs will fairly and adequately protect
18 the interests of the members of each class. Plaintiffs have no interest that is adverse to the interests
19 of the other class members.

20 E. **Superiority:** A class action is superior to other available means for the fair
21 and efficient adjudication of this controversy. Because individual joinder of all members of each
22 class is impractical, class action treatment will permit a large number of similarly situated persons
23 to prosecute their common claims in a single forum simultaneously, efficiently, and without the
24 unnecessary duplication of effort and expense that numerous individual actions would engender.
25 The expenses and burdens of individual litigation would make it difficult or impossible for
26 individual members of each class to redress the wrongs done to them, while important public
27 interests will be served by addressing the matter as a class action. The cost to and burden on the
28 court system of adjudication of individualized litigation would be substantial, and substantially

1 more than the costs and burdens of a class action. Individualized litigation would also present the
2 potential for inconsistent or contradictory judgments.

3 F. **Public Policy Consideration:** Employers throughout the state violate wage
4 and hour laws. Current employees often are afraid to assert their rights out of fear of direct or
5 indirect retaliation. Former employees fear bringing actions because they perceive their former
6 employers can blacklist them in their future endeavors with negative references or by other means.
7 Class actions provide the class members who are not named in the Complaint with a type of
8 anonymity that allows for vindication of their rights.

9 **FIRST CAUSE OF ACTION**

10 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
11 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

12 **(Against All Defendants by Plaintiffs)**

13 46. Plaintiffs hereby incorporate by reference paragraphs 1-45 above, as if fully set
14 forth below.

15 47. Pursuant to the applicable Industrial Welfare Commission (“IWC”) Wage Order
16 (“Wage Order”) codified at California Code of Regulations, title 8, section 11090, Defendants
17 were employers of Plaintiffs within the meaning of the applicable Wage Order and Labor Code
18 sections. Therefore, each of the Defendants is jointly and severally liable for the wrongs
19 complained of herein in violation of the Wage Order and Labor Code.

20 48. During the one (1) year preceding the filing of notice with LWDA, Defendants
21 violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and 1198.
22 Specifically, Defendants committed the following violations of the Labor Code:

23 49. **Failure to pay wages for all hours worked at the legal minimum wage:**
24 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
25 employees. Labor Code sections 1194 and 1197 require an employer to compensate employees for
26 all “hours worked” at least at a minimum wage rate of pay as established by the Wage Orders. This
27 includes the time an employee spends, either directly or indirectly, performing services which
28 inure to the benefit of the employer.

1 50. Plaintiffs and other current and former aggrieved California-based hourly non-
2 exempt employees worked more minutes per shift than Defendants credited them with having
3 worked. Specifically, Defendants employed policies, practices, and/or procedures including, but
4 not limited to: (1) requiring Plaintiffs and other current and former aggrieved California-based
5 hourly non-exempt employees to be subject to off-the-clock bag checks and/or security checks
6 before clocking in at the start of their shifts and/or after clocking out at the end of their shifts –
7 without paying employees for such time; (2) requiring Plaintiffs and other current and former
8 aggrieved California-based hourly non-exempt employees to be subject to off-the-clock bag checks
9 and/or security checks after clocking out for meal periods if they intended to leave the premises
10 and/or before clocking in from meal periods if they had left the premises – without paying
11 employees for such time; (3) requiring Plaintiffs and other current and former aggrieved
12 California-based hourly non-exempt employees to travel to and from a designated area while they
13 were off the clock during meal periods – without paying employees for such time; and/or (4)
14 adjusting the hours worked by Plaintiffs and other current and former aggrieved California-based
15 hourly non-exempt employees thereby not reflecting the actual time worked by Plaintiffs and other
16 current and former aggrieved California-based hourly non-exempt employees. The aforementioned
17 practices resulted in Plaintiffs and other current and former aggrieved California-based hourly non-
18 exempt employees routinely working off-the-clock without pay.

19 51. Despite California law requiring employers to pay employees for all hours worked
20 at least at a minimum wage rate, Defendants’ aforementioned policies, practices, and/or
21 procedures resulted in their failure to pay minimum wage for all hours worked by Plaintiffs and
22 other current and former aggrieved California-based hourly non-exempt employees.

23 52. Defendants’ aforementioned policies, practices, and/or procedures resulted in time
24 each day in which Plaintiffs and other current and former aggrieved California-based hourly non-
25 exempt employees were subject to the control of Defendants without being compensated for that
26 time, in violation of Labor Code sections 1194 and 1197 and the Wage Order.

27 53. **Failure to pay wages for all overtime hours worked at the overtime rate of**
28 **pay:** Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt

employees. In California, an employer is required to pay hourly employees for all “hours worked,” which includes all time that an employee is under control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services that inure to the benefit of the employer.

54. Labor Code sections 510 and 1194 require an employer to compensate employees a higher rate of pay for hours worked in excess of eight (8) hours in a workday, forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek.

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. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510.

55. Further, Labor Code section 1198 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.

56. Despite California law requiring employers to pay employees a higher rate of pay for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in any one (1) workweek, and/or the first eight (8) hours worked on the seventh day of work, Defendants failed to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees overtime wages due them for their daily overtime hours worked.

57. As stated above, Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees worked more minutes per shift than Defendants credited them with having worked. Specifically, Defendants failed to pay Plaintiff and other current and former aggrieved California-based hourly non-exempt employees overtime wages for overtime hours worked due to Defendants’ policies, practices, and/or procedures including, but not limited to: (1) requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees to be subject to off-the-clock bag checks and/or security checks before clocking

1 in at the start of their shifts and/or after clocking out at the end of their shifts – without paying
2 employees for such time; (2) requiring Plaintiffs and other current and former aggrieved
3 California-based hourly non-exempt employees to be subject to off-the-clock bag checks and/or
4 security checks after clocking out for meal periods if they intended to leave the premises and/or
5 before clocking in from meal periods if they had left the premises – without paying employees for
6 such time; (3) requiring Plaintiffs and other current and former aggrieved California-based hourly
7 non-exempt employees to travel to and from a designated area while they were off the clock during
8 meal periods – without paying employees for such time; and/or (4) adjusting the hours worked by
9 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
10 thereby not reflecting the actual time worked by Plaintiffs and other current and former aggrieved
11 California-based hourly non-exempt employees. The aforementioned practices resulted in
12 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
13 routinely working off-the-clock without pay.

14 58. To the extent that the foregoing uncompensated time occurred when Plaintiff and
15 other current and former aggrieved California-based hourly non-exempt employees worked more
16 than eight (8) in a workday, more than forty (40) hours in a workweek, and/or seven (7)
17 consecutive days, Defendants failed to pay them at their overtime rate of pay for all overtime hours
18 they worked, in violation of Labor Code sections 510, 1194, and 1198, and the applicable Wage
19 Order.

20 59. **Failure to pay wages to hourly non-exempt employees to compensate them for**
21 **workdays that Defendants failed to provide legally required and compliant meal periods:**
22 California law requires an employer to authorize or permit an employee an uninterrupted meal
23 period of no less than thirty (30) minutes in which the employee is relieved of all duties and the
24 employer relinquishes control over the employee's activities prior to the employee's sixth hour of
25 work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker Rest. Corp. v. Super Ct.*
26 *(Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an employee for a work period
27 of more than ten (10) hours per day without providing the employee with a second such meal
28 period of not less than thirty (30) minutes prior to the start of the eleventh hour of work. *Id.* If the

1 employee is not relieved of all duty during a meal period, the meal period shall be considered an
2 “on duty” meal period and counted as time worked. A paid “on duty” meal period is only
3 permitted when: (1) the nature of the work prevents an employee from being relieved of all duty;
4 and (2) the parties have a written agreement agreeing to on-duty meal periods. If an employer fails
5 to provide an employee a meal period in accordance with the law, the employer must pay the
6 employee one (1) hour of pay at the employee’s regular rate of pay for each workday that a legally
7 required meal period was not timely provided or was not duty-free. *Id.*

8 60. If an employer fails to provide an employee a meal period in accordance with the
9 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
10 for each workday that a legally required meal period was not timely provided. Labor Code section
11 226.7; Wage Order 9 at §11.

12 61. During the one (1) year prior to the filing of the PAGA Claim Notice in this case,
13 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
14 regularly worked shifts of more than five (5) hours in length. Nevertheless, Plaintiffs and other
15 current and former aggrieved California-based hourly non-exempt employees were not given an
16 uninterrupted 30-minute meal period for every five (5) hours of work because of Defendants’
17 policies, practices, and/or procedures including, but not limited to: (1) requiring Plaintiffs and
18 other current and former aggrieved California-based hourly non-exempt employees to be subject to
19 off-the-clock bag checks and/or security checks after clocking out for meal periods if they intended
20 to leave the premises and/or before clocking in from meal periods if they had left the premises –
21 thereby failing to authorize or permit employees to take duty-free meal periods of not less than
22 thirty (30) minutes for each five-hour period of work; and (2) requiring Plaintiffs and other current
23 and former aggrieved California-based hourly non-exempt employees to travel to and from a
24 designated area while they were off the clock during meal periods, resulting in meal periods that
25 were less than thirty (30) minutes due to the time it took them to travel to and from the designated
26 area.

27 62. Additionally, Defendants maintained a policy, practice, and/or procedure of failing
28 to compensate Plaintiffs and other current and former aggrieved California-based hourly non-

1 exempt employees one (1) hour of pay at their regular rate of pay for each workday Plaintiffs and
2 other current and former aggrieved California-based hourly non-exempt employees did not receive
3 all legally required and compliant meal periods, in violation of Labor Code section 226.7 and
4 Wage Order 9 at § 11.

5 63. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiffs
6 and other current and former aggrieved California-based hourly non-exempt employees not
7 receiving wages to compensate them for workdays during which Defendants did not provide them
8 with meal periods in compliance with California law.

9 64. **Failure to pay wages to hourly non-exempt employees to compensate them for**
10 **workdays that Defendants failed to provide legally required and compliant rest periods:**

11 California law requires every employer to authorize and permit an employee a rest period of ten
12 (10) net minutes for every four (4) hours worked or major fraction thereof. Labor Code section
13 226.7; Wage Order 9 at §12. If the employer fails to authorize or permit a required rest period, the
14 employer must pay the employee one (1) hour of pay at the employee's regular rate of
15 compensation for each workday the employer did not authorize or permit a legally required rest
16 period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three
17 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
18 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v.*
19 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7; Wage Order 9 at
20 §12. Rest periods, insofar as practicable, shall be in the middle of each work period. Wage Order 9
21 at §12. Additionally, the rest period requirement "obligates employers to permit – and authorizes
22 employees to take – off-duty rest periods." (*Augustus v. ABM Security Services, Inc.*, (2016) 5
23 Cal.5th 257, 269). That is, during rest periods employers must relieve employees of all duties and
24 relinquish control over how employees spend their time. *Id.*

25 65. During the one (1) year prior to the filing of the PAGA Claim Notice in this case,
26 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
27 regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants failed
28 to authorize or permit all legally required and compliant rest periods to Plaintiff and other current

1 and former aggrieved California-based hourly non-exempt employees due to Defendants' policies,
2 practices, and/or procedures including, but not limited to: (1) requiring Plaintiffs and other current
3 and former aggrieved California-based hourly non-exempt employees to be subject to off-the-clock
4 bag checks and/or security checks during their rest periods if they intended to leave the premises
5 and/or after they had left the premises – thereby failing to authorize or permit employees to take
6 duty-free rest periods of a net ten (10) minutes; and (2) requiring Plaintiffs and other current and
7 former aggrieved California-based hourly non-exempt employees to travel to and from a
8 designated area during their rest periods, resulting in rest periods that were less than a net ten (10)
9 minutes due to the time it took them to travel to and from the designated area.

10 66. Additionally, Defendants maintained a policy, practice, and/or procedure of failing
11 to compensate Plaintiffs and other current and former aggrieved California-based hourly non-
12 exempt employees one (1) hour of pay at their regular rate of pay for each workday Plaintiffs and
13 other current and former aggrieved California-based hourly non-exempt employees did not receive
14 all legally required and compliant rest periods, in violation of Labor Code section 226.7 and Wage
15 Order 9 at § 12.

16 67. Defendants' foregoing policies, practices, and/or procedures resulted in Plaintiffs
17 and other current and former aggrieved California-based hourly non-exempt employees not
18 receiving wages to compensate them for workdays during which Defendants did not provide them
19 with rest periods in compliance with California law.

20 68. **Failure to timely pay earned wages during employment:** In California, wages
21 must be paid at least twice during each calendar month on days designated in advance by the
22 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
23 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
24 16th and the 26th day of that month and wages earned between the 16th and the last day, inclusive,
25 of any calendar month must be paid between the 1st and 10th day of the following month. *Id.*
26 Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be paid
27 within seven (7) calendar days following the close of the payroll period in which wages were
28 earned. Labor Code section 204(d).

69. As a derivative of Plaintiffs' claims above, Defendants failed to timely pay Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 204. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees their earned wages within the applicable time frames outlined in Labor Code section 204.

70. **Failure to provide complete and accurate wage statements:** California law requires an employer to provide employees at the time of payment of their wages an accurate itemized statement that accurately shows all information required in Labor Code section 226, subdivision (a). Labor Code section 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 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 paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

71. Defendants committed direct violations of Labor Code section 226 through their policies, practices, and/or procedures, including but not limited to, incorrectly including vacation pay, holiday pay, and/or meal premium pay into Plaintiffs' total stated hours. Plaintiffs are informed and believe, and thereon allege, that other current and former aggrieved California-based hourly non-exempt employees were also subject to Defendants' aforementioned policies, practices, and/or procedures.

72. Additionally, as a derivative of Plaintiffs' allegations above, Defendants failed to provide complete and accurate wage and hour statements to Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees who were subject to Defendants' control for uncompensated time and who did not receive the wages they earned (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

73. **Failure to pay employees all wages due at time of termination/resignation:** An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code section 202).

74. As a result of the aforementioned violations of the Labor Code, Plaintiffs, and on information and belief, other current and former aggrieved California-based hourly non-exempt employees, were not paid their final wages in a timely manner. Minimum wages for all hours worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages (all described above), were not paid at the time of Plaintiffs' and other current and former aggrieved California-based hourly non-exempt employees' separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

75. **Failure to maintain temperature providing reasonable comfort:** Labor Code section 1198 requires an employer to comply with the standard conditions of labor for California employees as set forth by the IWC. Section 15 of Wage Order 9, states:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

76. California law requires an employer to endeavor to provide a safe and healthy workplace. (California Code of Regulations, title 8, section 3203). Further, Labor Code section 6720 required the California Division of Occupational Safety and Health (“Cal/OSHA”) to propose an indoor heat illness standard by January 1, 2019. (Labor Code section 6720). Cal/OSHA’s draft standard applies its proposed regulations to “all indoor work areas where the temperature equals or exceeds 82 degrees Fahrenheit when employees are present.”

77. At times during the one (1) year prior to the filing of the initial PAGA claim notice with LWDA, Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees were subjected to excessive heat and/or humidity resulting in temperatures equaling or exceeding 82 degrees Fahrenheit, and up to 100 degrees Fahrenheit. Additionally, at times during the one (1) year prior to the filing of the initial PAGA claim notice with LWDA, Defendants failed to provide Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees with reasonable comfort by maintaining the indoor temperature within the range of industry standards by, *inter alia*, providing adequate air conditioning or ventilation, in violation of Labor Code section 1198 and section 15 of Wage Order 9. Plaintiffs contend that it was extremely hot inside Defendants’ facility, which would be significantly hotter than the temperature outside and would reach unreasonably high temperatures where they and other current and former aggrieved California-based hourly non-exempt employees performed work. Defendant also had no heat illness prevention plan in place during most of the relevant time period.

78. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved employee, on behalf of oneself and all other current or former employees, to bring a civil action to recover civil penalties against all Defendants pursuant to the procedures specified in Labor Code section 2699.3.

79. Plaintiffs have complied with the procedures for bringing suit specified in Labor Code section 2699.3. On September 3, 2020, Plaintiffs filed an initial PAGA Claim Notice with LWDA and gave notice to Defendants by certified mail, providing notice of the specific provisions

1 of the Labor Code alleged to have been violated and including the facts and theories to support the
2 violations alleged. A true and correct copy of Plaintiffs' initial PAGA Claim Notice to LWDA and
3 to Defendants is attached hereto as **Exhibit 1**.

4 80. On November 10, 2020, Plaintiffs filed an amended PAGA Claim Notice with
5 LWDA and gave notice to Defendants by certified mail on November 9, 2020, providing notice of
6 the specific provisions of the Labor Code alleged to have been violated and including the facts and
7 theories to support the violations alleged. A true and correct copy of Plaintiffs' amended PAGA
8 Claim Notice to LWDA and to Defendants is attached hereto as **Exhibit 2**.

9 81. Pursuant to Labor Code section 2699.3, LWDA must give written notice by
10 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
11 within sixty-five (65) days of the date of the aggrieved employee or representative's written notice
12 and/or the employer may attempt to cure for certain violations. LWDA failed to provide the parties
13 notice within sixty-five (65) days of the date of Plaintiffs' initial notice that it intended to
14 investigate Plaintiffs' claims and/or Defendants failed to cure any of the alleged violations which
15 could have been cured.

16 82. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs seek civil penalties for
17 Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194,
18 1197, and 1198, for the one (1) year prior to the mailing of the initial notice to LWDA, in the
19 following amounts:

20 a. For violations of Labor Code sections 201, 202, 203, 226.7, 1197, and 1198:
21 one hundred dollars (\$100) for each employee per pay period for the initial violation and two
22 hundred dollars (\$200) for each employee per pay period for each subsequent violation, as
23 established by Labor Code section 2699(f)(2);

24 b. For violations of Labor Code section 204: one hundred dollars (\$100) for
25 any initial violation for each failure to pay each employee, and for each subsequent violation, or
26 any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each
27 employee, plus twenty-five percent (25%) of the amount unlawfully withheld, as established by
28 Labor Code section 210;

1 c. For violations of Labor Code section 226, subdivision (a): two hundred fifty
2 dollars (\$250) for each employee for each pay period for the initial violation, and for each
3 subsequent violation, one thousand dollars (\$1,000) for each underpaid employee for each pay
4 period, as established by Labor Code section 226.3;

5 d. For violations of Labor Code section 226, subdivision (a): seven hundred
6 fifty dollars (\$750) for each employee, as established by Labor Code section 226, subdivision (f);
7 and

8 e. For violations of Labor Code sections 510, 512, and 1194: fifty dollars
9 (\$50) for each employee for each pay period for the initial violation, and for each subsequent
10 violation, one hundred dollars (\$100) for each underpaid employee for each pay period, as
11 established by Labor Code section 558.

12 83. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
13 reasonable attorneys' fees and costs in connection with their claims for civil penalties.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM**

16 **WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197**

17 **(Against All Defendants by Plaintiffs and the Minimum Wage Class)**

18 84. Plaintiffs hereby incorporate by reference paragraphs 1-83 above, as if fully set
19 forth below.

20 85. At all times relevant to this Complaint, Plaintiffs and members of the Minimum
21 Wage Class were hourly non-exempt employees of Defendants.

22 86. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiffs and the
23 Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were
24 subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in
25 effect during the time the employees earned the wages.

26 87. Defendants' policies, practices, and/or procedures required Plaintiffs and members
27 of the Minimum Wage Class to be engaged, suffered, or permitted to work without being paid
28 wages for all of the time in which they were subject to Defendants' control.

1 88. Specifically, Defendants employed policies, practices, and/or procedures including,
2 but not limited to, requiring Plaintiffs and members of the Minimum Wage Class to be subject to
3 off-the-clock bag checks and/or security checks before clocking in at the start of their shifts and/or
4 after clocking out at the end of their shifts - without paying employees for such time; requiring
5 Plaintiffs and members of the Minimum Wage Class to be subject to off-the-clock bag checks
6 and/or security checks after clocking out for meal periods if they intended to leave the premises
7 and/or before clocking in from meal periods if they had left the premises - without paying
8 employees for such time; requiring Plaintiffs and members of the Minimum Wage Class to travel
9 to and from a designated area while they were off the clock during meal periods - without paying
10 employees for such time; and/or adjusting the hours worked by Plaintiffs and members of the
11 Minimum Wage Class to not reflect the actual time worked by Plaintiffs and members of the
12 Minimum Wage Class. Consequently, Plaintiffs and members of the Minimum Wage Class were
13 subject to Defendants' control without being compensated any wages, in violation of Labor Code
14 sections 1194, 1197, and the Wage Order.

15 89. As a result of Defendants' unlawful conduct, Plaintiffs and members of the
16 Minimum Wage Class have suffered damages in an amount subject to proof, to the extent that they
17 were not paid wages at a minimum wage rate for all hours worked.

18 90. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiffs and the Minimum
19 Wage Class Members are entitled to recover unpaid minimum wage, interest thereon, liquidated
20 damages in the amount of their unpaid minimum wage, and attorneys' fees and costs.

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PAY OVERTIME WAGES, IN VIOLATION OF LABOR CODE**

23 **SECTIONS 510, 1194, AND 1198**

24 **(Against All Defendants by Plaintiffs and the Overtime Class)**

25 91. Plaintiffs hereby incorporate by reference paragraphs 1-90 above, as if fully set
26 forth below.

27 92. At times relevant to this Complaint, Plaintiffs and members of the Overtime Class
28 were hourly non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194

1 and the Wage Order.

2 93. Pursuant to Labor Code sections 510 and 1194 and the Wage Order, hourly non-
3 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
4 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
5 workweek.

6 94. Labor Code section 510, subdivision (a), states in relevant part:

7 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in
8 one workday and any work in excess of 40 hours in any one workweek and the first
9 eight hours worked on the seventh day of work in any one workweek shall be
10 compensated at the rate of no less than one and one-half times the regular rate of pay
11 for an employee. Any work in excess of 12 hours in one day shall be compensated at
12 the rate of no less than twice the regular rate of pay for an employee. In addition, any
13 work in excess of eight hours on any seventh day of a workweek shall be
14 compensated at the rate of no less than twice the regular rate of pay of an employee.
15 Nothing in this section requires an employer to combine more than one rate of
16 overtime compensation in order to calculate the amount to be paid to an employee
17 for any hour of overtime work.

18 95. Further, Labor Code section 1198 provides,

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

23 96. Despite California law requiring employers to pay employees a higher rate of pay
24 for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a
25 workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime
26 wages to Plaintiffs and the Overtime Class for their daily overtime hours worked.

27 97. Specifically, Defendants' employed policies, practices, and/or procedures
28 including, but not limited to, requiring Plaintiffs and members of the Overtime Class to be subject
to off-the-clock bag checks and/or security checks before clocking in at the start of their shifts
and/or after clocking out at the end of their shifts - without paying employees for such time;
requiring Plaintiffs and members of the Overtime Class to be subject to off-the-clock bag checks
and/or security checks after clocking out for meal periods if they intended to leave the premises
and/or before clocking in from meal periods if they had left the premises - without paying

1 employees for such time; requiring Plaintiffs and members of the Overtime Class to travel to and
2 from a designated area while they were off the clock during meal periods - without paying
3 employees for such time; and/or adjusting the hours worked by Plaintiffs and members of the
4 Overtime Class to not reflect the actual time worked by Plaintiffs and members of the Overtime
5 Class.

6 98. To the extent that the foregoing unpaid time resulted from Plaintiffs and members
7 of the Overtime Class being subject to the control of Defendants when they worked more than
8 eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a
9 workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours
10 they worked, in violation of Labor Code sections 510, 1194, and 1198, and the Wage Order.

11 99. As a result of Defendants' unlawful conduct, Plaintiffs and members of the
12 Overtime Class have suffered damages in an amount subject to proof, to the extent that they were
13 not paid at their overtime rate of pay for all hours worked which constitute overtime.

14 100. Pursuant to Labor Code section 1194, Plaintiffs and members of the Overtime Class
15 are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and
16 attorneys' fees and costs.

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR**
19 **CODE SECTIONS 512 AND 226.7 AND THE WAGE ORDER**
20 **(Against All Defendants by Plaintiffs and the Meal Period Class)**

21 101. Plaintiffs hereby incorporate by reference paragraphs 1-100 above, as if fully set
22 forth below.

23 102. At all times relevant to this Complaint, Plaintiffs and members of the Meal Period
24 Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and
25 226.7 and the Wage Order.

26 103. California law requires an employer to authorize or permit an employee an
27 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
28 all duties and the employer relinquishes control over the employee's activities no later than the end

1 of the employee's fifth hour of work and a second meal period no later than the employee's tenth
2 hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker Rest. Corp. v. Super*
3 *Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at the
4 work site or facility during the meal period, the meal period must be paid. This is true even where
5 the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v.*
6 *Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee does
7 not receive a required meal or rest period that "the employer shall pay the employee one additional
8 hour of pay at the employee's regular rate of compensation for each work day that the meal or rest
9 period is not provided."

10 104. In this case, Plaintiffs and Meal Period Class Members worked shifts long enough
11 to entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
12 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
13 Plaintiffs and Meal Period Class Members of no less than thirty (30) minutes for each five-hour
14 period of work as required by law. Such policies, practices, and/or procedures included, but were
15 not limited to, requiring Plaintiffs and Meal Period Class Members to be subject to off-the-clock
16 bag checks and/or security checks after clocking out for meal periods if they intended to leave the
17 premises and/or before clocking in from meal periods if they had left the premises - thereby failing
18 to authorize or permit employees to take meal periods of not less than thirty (30) minutes for each
19 five-hour period of work; and requiring Plaintiffs and Meal Period Class Members to travel to and
20 from a designated area while they were off the clock during meal periods, resulting in meal periods
21 that were less than thirty (30) minutes due to the time it took them to travel to and from the
22 designated area.

23 105. Additionally, Defendants failed to pay Plaintiffs and Meal Period Class Members
24 one (1) hour of pay at their regular rate of pay for each workday they did not receive all legally
25 required and legally compliant meal periods. Defendants lacked a policy and procedure for
26 compensating Plaintiffs and Meal Period Class Members with premium wages when they did not
27 receive all legally required and legally compliant meal periods.

28 ///

106. Defendants' unlawful conduct alleged herein occurred in the course of employment of Plaintiffs and Meal Period Class Members and such conduct has continued through the filing of this Complaint.

107. Because Defendants failed to provide employees with meal periods in compliance with the law, Defendants are liable to Plaintiffs and Meal Period Class Members for one (1) hour of additional pay at the regular rate of compensation for each workday that Defendants did not provide all legally required and legally compliant meal periods, pursuant to Labor Code section 226.7 and the Wage Order.

108. Plaintiffs, on behalf of themselves and the Meal Period Class, seek damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

FIFTH CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7 AND THE WAGE ORDER (Against All Defendants by Plaintiffs and the Rest Period Class)

109. Plaintiffs hereby incorporate by reference paragraphs 1-108 above, as if fully set forth below.

110. At all times relevant to this Complaint, Plaintiffs and members of the Rest Period Class were employees of Defendants, covered by Labor Code section 226.7 and the Wage Order.

111. California law requires that "[e]very 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...." Wage Order 9 at § 12. Employees are entitled to 10 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code section 226.7. Additionally, the rest period requirement "obligates employers to permit – and authorizes employees to take – off-duty rest periods."

1 *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods
2 employers must relieve employees of all duties and relinquish control over how employees spend
3 their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the
4 applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the
5 employee's regular rate of compensation for each work day that the rest period is not provided."
6 Wage Order 9 at § 12; Labor Code section 226.7.

7 112. In this case, Plaintiffs and members of the Rest Period Class regularly worked shifts
8 of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices,
9 and/or procedures that resulted in their failure to authorize or permit all legally required and
10 compliant rest periods to Plaintiffs and Rest Period Class Members. Such policies, practices,
11 and/or procedures included, but were not limited to, Defendants' policy, practice, and/or procedure
12 of requiring Plaintiffs and Rest Period Class Members to be subject to off-the-clock bag checks
13 and/or security checks during their rest periods if they intended to leave the premises and/or after
14 they had left the premises - thereby failing to authorize or permit employees to take rest periods of
15 a net ten (10) minutes; and requiring Plaintiffs and Rest Period Class Members to travel to and
16 from a designated area during their rest periods, resulting in rest periods that were less than a net
17 ten (10) minutes due to the time it took them to travel to and from the designated area.

18 113. Additionally, Defendants failed to pay Plaintiffs and members of the Rest Period
19 Class one (1) hour of pay at their regular rate of pay for each workday they did not receive all
20 legally required and legally compliant rest periods. Defendants lacked a policy and procedure for
21 compensating Plaintiffs and members of the Rest Period Class with premium wages when they did
22 not receive all legally required and legally compliant rest periods.

23 114. This practice resulted in Defendants failing to pay Plaintiffs and the Rest Period
24 Class premium wages to compensate them for workdays in which Defendants did not provide
25 Plaintiffs and the Rest Period Class with all required rest periods of a net ten (10) minutes, in
26 violation of California law.

27 115. Defendants' unlawful conduct alleged herein occurred in the course of employment
28 of Plaintiffs and the Rest Period Class Members and such conduct has continued through the filing

1 of this Complaint.

2 116. Because Defendants failed to provide employees with rest periods in compliance
3 with the law, Defendants are liable to Plaintiffs and Rest Period Class Members for one (1) hour of
4 additional pay at the regular rate of compensation for each workday that Defendants did not
5 provide all legally required and legally compliant rest periods, pursuant to Labor Code section
6 226.7 and the Wage Order.

7 117. Plaintiffs, on behalf of themselves and the Rest Period Class, seek damages and all
8 other relief allowable, including a rest period premium wage for each workday Defendants failed
9 to provide all legally required and legally compliant rest periods, plus pre-judgment interest.

10 **SIXTH CAUSE OF ACTION**

11 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**
12 **VIOLATION OF LABOR CODE SECTION 204**

13 **(Against All Defendants by Plaintiffs and the Pay Day Class)**

14 118. Plaintiffs hereby incorporate by reference paragraphs 1-117 above, as if fully set
15 forth below.

16 119. Plaintiffs and the Pay Day Class have been employed by Defendants in the State of
17 California. In California, wages must be paid at least twice during each calendar month on days
18 designated in advance by the employer as regular paydays, subject to some exceptions. Labor Code
19 §204(a). Wages earned between the 1st and 15th days, inclusive, of any calendar month must be
20 paid between the 16th and the 26th day of that month and wages earned between the 16th and the
21 last day, inclusive, of any calendar month must be paid between the 1st and 10th day of the
22 following month. *Id.* Other payroll periods such as those that are weekly, biweekly, or
23 semimonthly, must be paid within seven (7) calendar days following the close of the payroll period
24 in which wages were earned. Labor Code §204(d).

25 120. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
26 to timely pay Plaintiffs' and the Pay Day Class' earned wages (including minimum wages,
27 overtime wages, meal period premium wages, and/or rest period premium wages), in violation of
28 Labor Code section 204.

121. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to pay Plaintiffs and the Pay Day Class their earned wages within the applicable time frames outlined in Labor Code section 204.

122. Defendants' failure to timely pay Plaintiffs and the Pay Day Class their earned wages in accordance with Labor Code section 204 was willful. Defendants had the ability to timely pay all wages earned by hourly workers in accordance with Labor Code section 204, but intentionally adopted policies or practices incompatible with the requirements of Labor Code section 204. When Defendants failed to timely pay Plaintiffs and the Pay Day Class all earned wages, they knew what they were doing and intended to do what they did.

123. As a result of Defendants' unlawful conduct, Plaintiffs and the Pay Day Class have suffered damages in an amount subject to proof, to the extent that they were not timely paid their earned wages pursuant to Labor Code section 204.

124. Pursuant to Labor Code section 210, Plaintiffs and the Pay Day Class are entitled to recover civil penalties as follows: (1) for any initial violation, one hundred dollars (\$100) for each failure to pay each employee; and (2) for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus twenty-five (25%) percent of the amount unlawfully withheld.

SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226

(Against All Defendants by Plaintiffs and the Wage Statement Class)

125. Plaintiffs hereby incorporate by reference paragraphs 1-124 above, as if fully set forth below.

118. At all times relevant to this Complaint, Plaintiffs and members of the Wage Statement Class were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

119. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and members of the Wage Statement Class were entitled to receive, semimonthly or at the time of each payment of

wages, an itemized wage statement accurately stating the following:

(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 period for which the employee is paid, (7) the name of the employee and his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

120. Plaintiffs allege that Defendants committed direct violations of Labor Code section 226 through their policies, practices, and/or procedures, including but not limited to, incorrectly including vacation pay, holiday pay, and/or meal premium pay into Plaintiffs' total stated hours. Plaintiffs are informed and believe, and thereon allege, that members of the Wage Statement Class were also subject to Defendants' aforementioned policies, practices, and/or procedures.

121. Additionally, as a derivative of Defendants' claims above, Plaintiffs allege that Defendants failed to provide accurate wage and hour statements to them, and on information and belief, to members of the Wage Statement Class who were subject to Defendants' control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

122. Defendants provided Plaintiffs and members of the Wage Statement Class with itemized statements which stated inaccurate information including, but not limited to, the number of hours worked, the gross wages earned, the net wages earned, and all applicable hourly rates and earnings at each rate.

123. Defendants' failure to provide Plaintiffs and members of the Wage Statement Class with accurate wage statements was knowing and intentional. Defendants had the ability to provide Plaintiffs and members of the Wage Statement Class with accurate wage statements but intentionally provided wage statements they knew were not accurate. Defendants knowingly and

1 intentionally put in place practices which deprived employees of wages and resulted in Defendants
2 knowingly and intentionally providing inaccurate wage statements. These practices included
3 Defendants' failure to include all hours worked and all wages due.

4 124. As a result of Defendants' unlawful conduct, Plaintiffs and members of the Wage
5 Statement Class have suffered injury. The absence of accurate information on their wage
6 statements has prevented earlier challenges to Defendants' unlawful pay practices, will require
7 discovery and mathematical computations to determine the amount of wages owed, and will cause
8 difficulty and expense in attempting to reconstruct time and pay records. Defendants' conduct led
9 to the submission of inaccurate information about wages and amounts deducted from wages to
10 state and federal government agencies. As a result, Plaintiffs and the Wage Statement Class are
11 required to participate in this lawsuit and create more difficulty and expense for Plaintiffs and
12 members of the Wage Statement Class from having to reconstruct time and pay records than if
13 Defendants had complied with their legal obligations.

14 125. Pursuant to Labor Code section 226(e), Plaintiffs and members of the Wage
15 Statement Class are entitled to recover fifty (50) dollars per employee for the initial pay period in
16 which a section 226 violation occurred and one hundred dollars per employee per violation for
17 each subsequent pay period, not to exceed an aggregate penalty of four thousand (4,000) dollars
18 per employee.

19 126. Pursuant to Labor Code section 226(h), Plaintiffs and members of the Wage
20 Statement Class are entitled to bring an action for injunctive relief to ensure Defendants'
21 compliance with Labor Code section 226(a). Injunctive relief is warranted because Defendants
22 continue to provide currently employed members of the Wage Statement Class with inaccurate
23 wage statements in violation of Labor Code section 226(a) and currently employed members of the
24 Wage Statement Class have no adequate legal remedy for the continuing injuries that will be
25 suffered as a result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy
26 available for ensuring Defendants' compliance with Labor Code section 226(a).

27 127. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiffs and members of the
28 Wage Statement Class are entitled to recover the full amount of penalties due under Section

226(e), reasonable attorneys' fees, and costs of suit.

EIGHTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT IN

VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203

(Against All Defendants by Plaintiffs and the Waiting Time Class)

128. Plaintiffs hereby incorporate by reference paragraphs 1-127 above, as if fully set forth below.

129. At all times relevant to this Complaint, Plaintiffs and members of the Waiting Time Class were employees of Defendants, covered by Labor Code sections 201 and 202.

130. An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72) hours of resignation (Labor Code section 202). If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

131. Defendants failed to pay Plaintiffs and members of the Waiting Time Class with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiffs are informed and believe and thereon allege that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

132. Defendants' failure to pay Plaintiffs and members of the Waiting Time Class with all wages earned prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for all overtime hours worked, meal period premium wages, and/or rest period premium wages. When Defendants failed to pay members of the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and

intended to do what they did.

133. Pursuant to either Labor Code section 201 or 202, Plaintiffs and members of the Waiting Time Class are entitled to all wages earned prior to separation of employment that Defendants have yet to pay them.

134. Pursuant to Labor Code section 203, Plaintiffs and members of the Waiting Time Class are entitled to continuation of their wages, from the day their earned and unpaid wages were due until paid, up to a maximum of thirty (30) days.

135. As a result of Defendants' conduct, Plaintiffs and members of the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to separation.

136. As a result of Defendants' conduct, Plaintiffs and members of the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid all continuation wages owed under Labor Code section 203.

137. Plaintiffs and members of the Waiting Time Class are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

NINTH CAUSE OF ACTION

UNFAIR COMPETITION

(Against All Defendants by Plaintiffs and the California Class)

138. Plaintiffs hereby incorporate by reference paragraphs 1-137 above, as if fully set forth below.

139. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. This unfair conduct includes Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to authorize or permit all legally required and legally compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and legally compliant rest periods or pay rest period premium wages;

1 failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon
2 separation of employment. Due to their unfair and unlawful business practices in violation of the
3 Labor Code, Defendants have gained a competitive advantage over other comparable companies
4 doing business in the State of California that comply with their obligations to pay minimum wages
5 for all hours worked; pay overtime wages for all overtime hours worked; authorize or permit all
6 legally required and compliant meal periods or pay meal period premium wages; authorize or
7 permit all legally required and legally compliant rest periods or pay rest period premium wages;
8 provide accurate wage and hour statements; and timely pay all wages due upon separation of
9 employment.

10 140. As a result of Defendants' unfair competition as alleged herein, Plaintiffs and
11 members of the California Class have suffered injury in fact and lost money or property, as
12 described in more detail above.

13 141. Pursuant to Business and Professions Code section 17203, Plaintiffs and members
14 of the California Class are entitled to restitution of all wages and other monies rightfully belonging
15 to them that Defendants failed to pay and wrongfully retained by means of their unlawful and
16 unfair business practices. Plaintiffs also seek an injunction against Defendants on behalf of the
17 California Class enjoining Defendants, and any and all persons acting in concert with them, from
18 engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

19 **PRAYER FOR RELIEF**

20 **WHEREFORE, PLAINTIFFS ON BEHALF OF THEMSELVES AND ON BEHALF**
21 **OF OTHER CURRENT AND FORMER AGGRIEVED CALIFORNIA-BASED HOURLY**
22 **NON-EXEMPT EMPLOYEES, PRAY AS FOLLOWS:**

23 **ON THE FIRST CAUSE OF ACTION:**

24 1. That Defendants be found to have violated the provisions of the Labor Code and
25 applicable IWC Wage Order as to Plaintiffs and all other current and former aggrieved California-
26 based hourly non-exempt employees;

27 2. For any and all legally applicable penalties during the relevant statute of limitations
28 subject to any permissible tolling, including but not limited to, those recoverable under Labor

Code sections 2699(a) and (f), 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198;

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under Labor Code section 2699(g); and

4. For other such further relief, in law and/or equity, as the Court deems just or appropriate.

AND ON THE SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, AND NINTH CAUSES OF ACTION, PLAINTIFFS ON BEHALF OF THEMSELVES AND ON BEHALF OF THOSE SIMILARLY SITUATED PRAY AS FOLLOWS:

1. That the Court determine that this action may be maintained as a class action (for the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil Procedure section 382 and any other applicable law;

2. That the named Plaintiffs be designated as class representatives for the California Class (and all sub-classes thereof);

3. For a declaratory judgment that the policies, practices, and/or procedures complained herein are unlawful; and

4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

ON THE SECOND CAUSE OF ACTION:

1. That Defendants be found to have violated the minimum wage provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Minimum Wage Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For liquidated damages pursuant to Labor Code section 1194.2;

5. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

6. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194;

7. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and,

8. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE THIRD CAUSE OF ACTION:

1. That Defendants be found to have violated the overtime provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Overtime Class;

2. For damages, according to proof, including but not limited to unpaid wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 1194, and post-judgment interest;

5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 1194; and

6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Meal Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;

4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and

5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiffs and the Rest Period Class;

2. For damages, according to proof, including unpaid premium wages;

3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SIXTH CAUSE OF ACTION:

1. That Defendants be found to have violated Labor Code 204 as to Plaintiff and the Pay Day Class;
2. For damages, according to proof;
3. For any and all legally applicable penalties, including but not limited to those recoverable pursuant to Labor Code section 210(a);
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE SEVENTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiffs and the Wage Statement Class;
2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;
3. For pre-judgment interest and post-judgment interest;
4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226(a);
5. For attorneys' fees and costs of suit, including but not limited to that recoverable under Labor Code section 226, subdivision (e); and,
6. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

1 **ON THE EIGHTH CAUSE OF ACTION:**

2 1. That Defendants be found to have violated the provisions of the Labor Code
3 regarding payment of all unpaid wages due upon resignation or termination as to Plaintiffs and the
4 Waiting Time Class;

5 2. For damages and/or penalties, according to proof, including damages and/or
6 statutory penalties under Labor Code section 203 and any other legally applicable damages or
7 penalties;

8 3. For pre-judgment interest, including under Labor Code section 218.6, and post-
9 judgment interest; and,

10 4. For such other further relief, in law and/or equity, as the Court deems just or
11 appropriate.

12 **ON THE NINTH CAUSE OF ACTION:**

13 1. That Defendants be found to have violated Business and Professions Code section
14 17200, *et seq.*, for the conduct alleged herein as to the California Class;

15 2. A declaratory judgment that the practices complained herein are unlawful;

16 3. An injunction against Defendants enjoining them, and any and all persons acting in
17 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
18 herein;

19 4. For restitution to the full extent permitted by law; and

20 5. For such other further relief, in law and/or equity, as the Court deems just or
21 appropriate.

22 Dated: November ___, 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP
LAW OFFICES OF SAHAG MAJARIAN II

24 By:

25 _____
Joseph Lavi, Esq.
26 Vincent C. Granberry, Esq.
Courtney M. Miller, Esq.
27 Melissa A. Huether, Esq.
Sahag Majarian II, Esq.
Attorneys for Plaintiffs SERGIO MEZA,
28 GABRIEL SORIA, and OMAR ORTEGA,
on behalf of themselves and all other current

and former aggrieved California-based hourly
non-exempt employees

DEMAND FOR JURY TRIAL

Plaintiffs SERGIO MEZA, GABRIEL SORIA, and OMAR ORTEGA demand a trial by
jury for themselves and the California Class on all claims so triable.

Dated: November __ 2022

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP
LAW OFFICES OF SAHAG MAJARIAN II

By: _____
Joseph Lavi, Esq.
Vincent C. Granberry, Esq.
Courtney M. Miller, Esq.
Melissa A. Huether, Esq.
Sahag Majarian II, Esq.
Attorneys for Plaintiffs SERGIO MEZA,
GABRIEL SORIA, and OMAR ORTEGA,
on behalf of themselves and all other current
and former aggrieved California-based hourly
non-exempt employees

Exhibit B

NOTICE OF SETTLEMENT OF CLASS AND PAGA ACTION

(Sergio Meza, et al. v. Caleres, Inc., et al., Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2024256)

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Settlement Payment is: \$<<__>>. See the explanation in Section 5 below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the settlement payment, you will release claims against the Defendant as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. You will still receive an Individual PAGA Payment and release the Released PAGA Claims if you are an PAGA Employee (described below). Instructions are set forth in Section 7 below.
Object	If you do not exclude yourself from the settlement, you may write to the Court about why you do not agree with the settlement or appear at the Final Approval Hearing to make an oral objection. Directions are provided in Section 8 below.

1. Why did I get this Notice?

A proposed class and PAGA action settlement (“Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Bernardino (“Court”) has been reached between Plaintiffs Sergio Meza, Gabriel Soria, and Omar Ortega (“Plaintiffs”) and Defendant Caleres, Inc. (“Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Notice because you have been identified as a member of the Settlement Class, which is defined as:

Any and all current and former hourly non-exempt employees of Defendant in California during the Class Period. The Class Period is the time from and including May 23, 2018 through July 22, 2022.

This Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On September 3, 2020, Plaintiffs filed suit in the Superior Court of the State of California, County of San Bernardino Case No. CIVDS2018557, against Defendant on behalf of a class of all hourly non-exempt employees. This lawsuit was removed to the United States District Court, Central District of California. On February 16, 2022, the suit was dismissed without prejudice.

On November 12, 2020, Plaintiffs filed a separate representative action for civil penalties pursuant to the California Private Attorneys General Act of 2004 California Labor Code section 2698, *et seq.* (“PAGA”) against Defendant in the San Bernardino County Superior Court, Case No. CIVSB204256 (the “Action”).

Thereafter, the Parties attended a full-day private mediation on May 23, 2022, with Steve Pearl, Esq. where the Parties reached the Settlement described herein. As part of the settlement reached, on [DATE], Plaintiffs filed a First Amended Complaint which alleges the following: (1) civil penalties pursuant to PAGA; (2) failure to pay wages for all hours worked at the minimum wage; (3) failure to pay overtime wages for daily overtime worked; (4) failure to provide meal and rest periods; (5) failure to timely pay wages and final wages; (6) failure to pay timely wages during employment; (7) failure to furnish accurate wage statements, (8) failure to pay timely wages upon separation or termination of employment; and (9) unfair business practices.

Defendant denies and disputes all of the claims asserted against them. Specifically, Defendant contends that they complied with California law; that Defendant is not liable for any of the unpaid wages, liquidated damages, statutory penalties or civil penalties claimed or that could be claimed in the Action; and that the Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on [PRELIMINARY APPROVAL DATE]. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and for Joseph Lavi, Vincent Granberry, Pooja V. Patel, and Melissa A. Huether of Lavi & Ebrahimian, LLP to serve as Class Counsel.

3. What are the terms of the Settlement?

Maximum Settlement Amount. Defendant has agreed to pay Five Hundred Seventy-Five Thousand Dollars and No Cents (\$575,000.00) (the “Maximum Settlement Amount”) with no reversion to Defendant. The Maximum Settlement Amount includes all payments to Participating Class Members, Attorneys’ Fees and Costs, Enhancement Payments, allocation to penalties pursuant to PAGA, and Settlement Administration Costs. The Maximum Settlement Amount does not include the employer’s share of taxes which Defendant has agreed to pay separately and in addition to Maximum Settlement Amount.

Within five (5) business days after the Effective Date, Defendant will fund the Maximum Settlement Amount by depositing the money with the Settlement Administrator. “Effective Date” means the date the Judgment is “Final” which means the date the Settlement is no longer subject to appeal. Five (5) business days after the settlement is funded, the Settlement Administrator will

mail checks for the Individual Settlement Payments to Participating Class Members and Individual PAGA Payments to PAGA Employees.

Amounts to be Paid From the Maximum Settlement Amount. The Settlement provides for certain payments to be made from the Maximum Settlement Amount as follows, which will be subject to final Court approval, and which will be deducted from the Maximum Settlement Amount before Individual Settlement Payments are paid to Settlement Class Members who do not request exclusion (“Participating Class Members”):

- Settlement Administration Costs. Payment to the Settlement Administrator, not to exceed \$12,000.00, for expenses, including, without limitation, expenses of notifying the Settlement Class Members of the Settlement, processing opt outs, and distributing Individual Settlement Payments and Individual PAGA Payments and tax forms, and handling inquiries and uncashed checks.
- Attorneys’ Fees and Costs to Class Counsel. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Maximum Settlement Amount, which is presently \$191,666.00 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$30,000. Class Counsel have been prosecuting the Action on behalf of Plaintiffs and the Settlement Class on a contingency fee basis (that is, without being paid any money) and have been paying all litigation costs and expenses.
- Enhancement Payments. Plaintiffs are requesting Enhancement Payments in an amount not to exceed Six Thousand Nine Hundred Dollars (\$6,900.00) to each named Plaintiff, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Settlement Class in initiating and prosecuting the Action, and for the risks they undertook.
- PAGA Payment. A PAGA Settlement Amount of \$50,000 out of the Maximum Settlement Amount, which shall be allocated 75% (\$37,500) to the LWDA as the LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$12,500) (“PAGA Employees Portion”) will be distributed to the PAGA Employees on a pro rata basis based on their pay periods worked during the PAGA Period.

Calculation of Payments to Participating Class Members. After all of the payments of the court-approved Enhancement Payments, the Attorneys’ Fees and Costs, the PAGA Settlement Amount, and the Settlement Administration Costs are deducted from the Maximum Settlement Amount, the remaining portion, called the “Net Settlement Amount”, shall be distributed as Individual Settlement Payments to the Participating Class Members. The Net Settlement Amount is estimated to be approximately \$ [REDACTED], based upon the above proposed deductions. The Settlement Administrator will pay an Individual Settlement Payment from the Net Settlement Amount to each Participating Class Member based on the number of workweeks each Settlement Class Member worked for Defendant as an hourly non-exempt employee in California during the Class Period (“Workweeks”). The Individual Settlement Payment for each Participating Class Member will be calculated as follows: (a) the number of Workweeks each Participating Class Member worked; divided by (b) the aggregate number of Workweeks for all Participating Class Members as calculated under subparagraph (a); and then multiplied by (c) the Net Settlement Amount.

Calculation of Payments to PAGA Employees. The PAGA Employees Portion will be distributed to Settlement Class Members who were employed during the PAGA Period (i.e., PAGA Employees). The PAGA Period is from September 3, 2019 through July 22, 2022. PAGA Employees will receive an Individual PAGA Payment based on the number of pay periods he or she worked during the PAGA Period. PAGA Employees will receive an Individual PAGA Payment regardless of whether they exclude themselves from the Settlement. Individual PAGA Payments will be calculated as follows: (a) the number of pay periods each PAGA Employee worked as an hourly non-exempt employee for Defendant in California during the PAGA Period; divided by (b) the aggregate number of pay periods worked by all PAGA Employees during the PAGA Period; and then multiplied by (c) the PAGA Employees Portion.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Settlement Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If you are a PAGA Employee you will receive an Individual PAGA Payment regardless of if you request exclusion from the Settlement. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. The settlement provides that, for tax purposes, the Individual Settlement Payments shall constitute one-third wages and two-thirds interest and penalties. The settlement also provides that, for tax purposes, each Individual PAGA Payment shall be treated as 100% penalties. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each individual are unique to him/her, and each individual may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and full funding of the Maximum Settlement Amount by Defendant to the Settlement Administrator, each Participating Class Member hereby fully, finally, and forever releases and discharges each and every one of the Released Parties from any and all claims, actions or causes of action, suits, debts obligations, damages, rights or liabilities, of whatever kind or nature, whether known or unknown, that have been asserted or could have been asserted based on the facts as alleged in the First Amended Complaint attached hereto as Exhibit A arising during the Class Period: including but not limited to failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, failure to timely pay wages and final wages, failure to furnish accurate wage statements, failure to pay timely wages during employment, and failure to pay timely wages upon separation or termination of employment ("Released Class Claims"). This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, as well as claims under Business and Professions Code section 17200 *et seq.*, the Industrial Welfare Commission Orders, and/or Labor Code Section 2698 *et seq.* based on alleged violations of the above Labor Code provisions, as alleged in the operative First Amended Complaint. The release shall run through the Class Period.

Released PAGA Claims. As of the Effective Date and full funding of the Maximum Settlement Amount by Defendant to the Settlement Administrator, each PAGA Employee and the State of California hereby fully, finally, and forever releases and discharges each and every one of the Released Parties from all claims, demands, rights, liabilities, and causes of action, suits, debts obligations, damages, rights or liabilities of whatever kind or nature, whether known or unknown, for civil penalties recoverable under the Private Attorneys General Act, Labor Code section 2699 *et seq.* (“PAGA”) that have been asserted or could have been asserted based on (i) the facts as alleged in the First Amended Complaint attached hereto as Exhibit A and/or (ii) Plaintiffs’ September 3, 2020 and November 9, 2020 letters to the LWDA, arising during the PAGA Period, including but not limited to claims for civil penalties recoverable under PAGA which (a) derive from the foregoing Released Class Claims and/or the factual and/or legal predicates underlying those claims; or (b) in any manner arise out of any of the other facts or legal theories alleged or asserted in the Action, (collectively, the “Released PAGA Claims”) (together the Released Class Claims and Released PAGA Claims are the “Released Claims”).

The “Released Parties” are (A) Caleres, Inc., and each and all past or present partners, parents, subsidiaries, or affiliates (regardless whether such partners, parents, subsidiaries, or affiliates are individuals, corporations, partnerships, limited partnerships, limited liability companies, or other forms of entity) of Defendant; (b) each and all of the predecessor or successor entities of any of those entities identified in subparagraph (a); (c) any other individuals or entities of any kind, including but not limited to any payroll companies, which have been or could be alleged to be in any manner responsible (whether on an alter ego, joint employer, integrated enterprise, or any other theory) for any violations described in the releases below and occurring as a result of employment; and (d) all past and present directors, officers, representatives, insurers, agents, shareholders, partners, members, lawyers, and employees of any of the individuals or entities identified in subparagraphs (a), (b), or (c).

This means that, if you do not timely exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant and any other Released Party about the Released Claims resolved by this Settlement. It also means that all of the Court’s orders in the Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant’s records reflect that you worked <<_____>> Workweeks for Defendant as an hourly non-exempt employee in California during the Class Period.

Based on this information, your estimated Individual Settlement Payment is <<_____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than [Response Deadline].

Defendant’s records reflect that you [are/are not] a PAGA Employee. Based on this information your estimated Individual PAGA Payment is <<_____>>.

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your Individual Settlement Payment, and, if applicable, Individual PAGA Payment, will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: (800) .

The Court will hold a Final Approval Hearing on , at to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately four months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive an Individual Settlement Payment from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendant for Released Class Claims.**

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than [Response Deadline]. The request to opt-out must be received by the Settlement Administrator and must: (1) make a statement clearly indicating that the Settlement Class Member wishes to be excluded; (2) contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (3) be signed by the Settlement Class Member; and (4) be postmarked or fax stamped by [Response Deadline] and returned to the Settlement Administrator at the specified address or fax telephone number stated in the Class Notice.

The address for the Settlement Administrator is . Written requests for exclusion that are postmarked after [Response Deadline], or are incomplete or unsigned will be rejected, and those Settlement Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I don't agree with the Settlement?

Any Settlement Class Member who has not opted out (i.e., Participating Class Member) and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs and/or the enhancement award, either in writing or in person. Objections that are in writing should: (1) contain the name, address, and the last four digits of the Social Security number of the person objecting; (2) be signed by the Participating Class Member; (3) state the grounds on which the Participating Class Member is objecting as well as any documents or evidence supporting his or her objection(s); and (4) be postmarked or fax stamped by the Response Deadline and returned to the Settlement Administrator at the specified address or fax telephone number stated in the Class Notice. A Participating Class Member may also appear at the Final Approval hearing, either in person or through his or her own attorney, if he or she wishes to object to the Settlement.

All written objections must be mailed to the Settlement Administrator at _____, no later than [Response Deadline].

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Participating Class Members who do not object and you will still be mailed a check for your Individual Settlement Payment and Individual PAGA Payment.

The addresses for Parties' counsel are as follows:

Class Counsel:

Joseph Lavi, Esq. (SBN 209776)
Vincent Granberry, Esq. (SBN 276483)
Pooja Patel, Esq. (State Bar No. 317891)
Melissa A. Huether (State Bar No. 316604)
LAVI & EBRAHIMIAN, LLP
8889 W. Olympic Blvd., Suite 200
Beverly Hills, California 90211
Telephone: (310) 432-0000
Facsimile: (310) 432-0001

Sahag Majarian II, Esq. (SBN 146621)
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Counsel for Defendant Caleres, Inc:

Christopher W. Decker, Esq. (SBN 229426)
**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**
400 South Hope Street, Ste. 1200
Los Angeles, CA 90071
Telephone: (213) 438-1283
Facsimile: (213) 239-9045

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at _____ on _____, at the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, CA 92415, in Department S-26 before Judge David Cohn. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing if they wish.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____.

This Class and PAGA Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may also get more details by examining the Court's file on the Internet via the Superior Court of San Bernardino County Public Portal page here: <https://cap.sb-court.org/search> and entering the case number CIVSB204256 under the "Case Number Search" column on the far left.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.

Exhibit C

1 Joseph Lavi, Esq. (SBN 209776)
2 Vincent C. Granberry, Esq. (SBN 276483)
3 Pooja V. Patel, Esq. (SBN 317891)
4 Melissa A. Huether, Esq. (SBN 316604)
5 **LAVI & EBRAHIMIAN, LLP**
6 8889 W. Olympic Boulevard, Suite 200
7 Beverly Hills, California 90211
8 Telephone: (310) 432-0000
9 Facsimile: (310) 432-0001
10 Emails: jlavi@lelawfirm.com
11 vgranberry@lelawfirm.com
12 ppatel@lelawfirm.com
13 mhuether@lelawfirm.com

14 Sahag Majarian II, Esq. (SBN 146621)
15 Email: sahagii@aol.com
16 **LAW OFFICES OF SAHAG MAJARIAN II**
17 18250 Ventura Boulevard
18 Tarzana, California 91356
19 Telephone: (818) 609-0807
20 Facsimile: (818) 609-0892

21 Attorneys for Plaintiffs SERGIO MEZA,
22 GABRIEL SORIA, and OMAR ORTEGA,
23 on behalf of themselves and all other current and former
24 aggrieved California-based hourly non-exempt employees

25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
26 **FOR THE COUNTY OF SAN BERNARDINO**

27 SERGIO MEZA, GABRIEL SORIA, and
28 OMAR ORTEGA, on behalf of themselves and
all other current and former aggrieved
California-based hourly non-exempt employees,

Plaintiffs,

vs.

CALERES, INC.; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: CIVSB2024256

CLASS ACTION

[Assigned for all purposes to the Hon. David S. Cohn, Dept. S26]

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with Notice of Motion and
Motion for Preliminary Approval of Class Action
Settlement; Declaration of Melissa A. Huether in
Support Thereof]*

Hearing Information:

Date: , 2022

Time: 10:00 a.m.

Dept.: S26

1 The Motion of plaintiffs Sergio Meza, Gabriel Soria and Omar Ortega (“Plaintiffs”) for
2 Preliminary Approval of Class Action Settlement came regularly for hearing before this court on
3 _____. The Court, having considered the proposed Joint Stipulation of
4 Settlement and Release (“Settlement Agreement” or “Settlement”), attached as **Exhibit 1** to the
5 Declaration of _____ filed concurrently with the Motion; having considered
6 Plaintiffs’ Motion for Preliminary Approval of Joint Stipulation of Settlement and Release,
7 memorandum of points and authorities in support thereof, and supporting declarations filed
8 therewith; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

9 1. The Court GRANTS preliminary approval of the class action settlement and
10 settlement of PAGA penalties as set forth in the Settlement Agreement, subject to any Class
11 Member objections and final review by the Court at a Final Fairness hearing. The Settlement terms
12 are within the range of reasonableness for a settlement that ultimately could be granted approval by
13 the Court at a Final Fairness hearing. All terms used herein shall have the same meaning as
14 defined in the Settlement Agreement. For purposes of the Settlement only, the Court finds that the
15 proposed settlement class is ascertainable and that there is a sufficiently well-defined community of
16 interest among the members of the settlement class in questions of law and fact. Therefore, for
17 settlement purposes only, the Court grants conditional certification of the following settlement
18 “Settlement Class”:

19 Any and all current and former hourly non-exempt employees of Defendant in
20 California during the Class Period of May 23, 2018 through July 22, 2022.

21 2. Plaintiffs are granted leave to file a First Amended Complaint, which is attached
22 hereto as **Exhibit A**, in order to effectuate the terms of the Settlement. The First Amended
23 Complaint will be deemed filed upon the entry of this Order, and will be the operative complaint in
24 the action for purposes of Settlement, including the release of claims. Defendant is not required to
25 file a responsive pleading.
26
27
28

1 3. For purposes of the settlement, the Court further designates named Plaintiffs Sergio
2 Meza, Gabriel Soria and Omar Ortega as Class Representatives, and Joseph Lavi, Esq., Vincent C.
3 Granberry, Esq., Pooja V. Patel, Esq., and Melissa A. Huether, Esq. of Lavi & Ebrahiman, LLP,
4 and Sahag Majarian of Law Offices of Sahag Majarian II as Class Counsel

5 4. The Court designates Simpluris, Inc. the third-party Settlement Administrator for
6 mailing notices.

7 5. The Court approves, as to form and content, the Class Notice attached as Exhibit B
8 to the Settlement Agreement.

9 6. The Court finds that the form of notice to the Settlement Class Members regarding
10 the pendency of the action and of the Settlement, and the methods of giving notice to the Class
11 Members, constitute the best notice practicable under the circumstances, and constitute valid, due,
12 and sufficient notice to all Class Members. The form and method of giving notice complies fully
13 with the requirements of California Code of Civil Procedure § 382, California Civil Code § 1781,
14 California Rules of Court §§ 3.766 and 3.769, the California and United States Constitutions, and
15 other applicable law.

16 7. The Court further approves the procedures for Settlement Class Members to opt-out
17 of or object to the Settlement, as set forth in the Class Notice and the Settlement Agreement. The
18 procedures and requirements for filing objections in connection with the final fairness hearing are
19 intended to ensure the efficient administration of justice and the orderly presentation of any
20 Settlement Class Member's objection to the Settlement, in accordance with the due process rights
21 of all Settlement Class Members.

22 8. The Court directs the Settlement Administrator to mail the Class Notice to the
23 Settlement Class Members by First Class Mail.

24 9. The Class Notice shall provide 45 calendar days' notice for Settlement Class
25 Members to submit disputes, opt-out of, or object to the Settlement unless the 45th day falls on a
26 Sunday or Federal holiday, in which case the deadline will be extended to the next day on which
27 the U.S. Postal Service is open.
28

10. The hearing on Plaintiffs' Motion for Final Approval of Settlement ("Final Fairness hearing") on the question of whether the Settlement should be finally approved as fair, reasonable, and adequate is scheduled in Department S26 of this Court, located at 247 West Third Street, San Bernardino, CA 92415-0210, on _____, 2023 at _____ a.m. / p.m.

11. At the Final Fairness hearing, the Court will consider: (a) whether the Settlement should be approved as fair, reasonable, and adequate for the Settlement Class Members, including review of any Settlement Class Member objections; (b) whether a judgment granting final approval of the Settlement should be entered; and (c) whether Plaintiffs' application for an enhancement payment, settlement administration costs, Class Counsel's attorneys' fees and costs, and PAGA payment to the LWDA should be granted.

12. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of Plaintiffs' application for an enhancement payment, settlement administration costs, Class Counsel's attorneys' fees and costs, and PAGA payment to the LWDA prior to the hearing on Plaintiffs' Motion for Final Approval of Settlement according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

13. An implementation schedule is below:

Event	Date
Defendant to provide class contact information to Settlement Administrator no later than:	[15 calendar days after Order granting Preliminary Approval]
Settlement Administrator to mail the Notice Packet to the Settlement Class no later than:	[15 calendar days after receipt of Class Data]
Deadline for Class Members to submit disputes, request exclusion from, or object to the Settlement:	[45 calendar days after the date of mailing of the Class Notice]
Deadline for Plaintiffs to file Motion for Final Approval of Class Action Settlement:	[16 court days before the hearing on Motion for Final Approval of Settlement]
Hearing on Motion for Final Approval of Settlement	_____

1 If any of the dates in this implementation schedule falls on a weekend, bank or court
2 holiday, the time to act shall be extended to the next business day.

3 14. Pending the Final Fairness hearing, all proceedings in this action, other than
4 proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this
5 Order, are stayed. To facilitate administration of the Settlement pending final approval, the Court
6 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or
7 administrative proceedings (including filing claims with the Division of Labor Standards
8 Enforcement of the California Department of Industrial Relations) regarding claims released by the
9 Settlement, unless and until such Class Members have filed valid Requests for Exclusion with the
10 Claims Administrator.

11 15. Counsel for the parties are hereby authorized to utilize all reasonable procedures in
12 connection with the administration of the Settlement which are not materially inconsistent with
13 either this Order or the terms of the Settlement.

14 IT IS SO ORDERED.

15
16 Dated: _____

The Honorable David S. Cohn
Judge of the Superior Court

Exhibit D

1 Joseph Lavi, Esq. (SBN 209776)
2 Vincent C. Granberry, Esq. (SBN 276483)
3 Pooja Patel, Esq. (SBN 317891)
4 Melissa A. Huether, Esq. (SBN 316604)
5 **Lavi & Ebrahimian, LLP**
6 8889 W. Olympic Boulevard, Suite 200
7 Beverly Hills, California 90211
8 Telephone: (310) 432-0000
9 Facsimile: (310) 432-0001
10 Emails: jlavi@lelawfirm.com
11 vgranberry@lelawfirm.com
12 ppatel@lelawfirm.com
13 mhuetter@lelawfirm.com

14 Sahag Majarian II, Esq. (SBN 146621)
15 Email: sahagii@aol.com
16 **LAW OFFICES OF SAHAG MAJARIAN II**
17 18250 Ventura Boulevard
18 Tarzana, California 91356
19 Telephone: (818) 609-0807
20 Facsimile: (818) 609-0892

21 Attorneys for Plaintiffs SERGIO MEZA,
22 GABRIEL SORIA, and OMAR ORTEGA,
23 on behalf of themselves and all other current and former
24 aggrieved California-based hourly non-exempt employees

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

SERGIO MEZA, GABRIEL SORIA, and OMAR
ORTEGA, on behalf of themselves and all other
current and former aggrieved California-based
hourly non-exempt employees,

Plaintiffs,

vs.

CALERES, INC.; and DOES 1 to 100, inclusive,
Defendants.

Case No.: CIVSB2024256

CLASS ACTION

*[Assigned for all purposes to the Honorable
David Cohn, Dept. S-26]*

**[PROPOSED] JUDGMENT AND ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing Information:

Date:
Time: 10:00 a.m.
Dept: S26

1 The Motion of plaintiffs Sergio Meza, Gabriel Soria, and Omar Ortega (“Plaintiffs”) for Final
2 Approval of Class Action and PAGA Settlement and Release came on regularly for hearing before
3 this Court on _____, pursuant to California Rule of Court 3.769 and this
4 Court’s earlier Order Granting Preliminary Approval of Joint Stipulation of Settlement and Release
5 (“Preliminary Approval Order”). Having considered the parties’ Joint Stipulation of Settlement and
6 Release (“Settlement” or “Settlement Agreement”) and the documents and evidence presented in
7 support thereof, and recognizing the sharply disputed factual and legal issues involved in this case,
8 the risks of further prosecution, and the substantial benefits to be received by the Participating Class
9 Members and the California Labor Workforce Development Agency (“LWDA”) pursuant to the
10 Settlement, the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable,
11 and adequate, and is the product of good faith, arm’s length negotiations between the parties. Good
12 cause appearing therefor, the Court hereby GRANTS Plaintiffs’ Motion for Final Approval of Class
13 Action and PAGA Settlement and HEREBY ORDERS THE FOLLOWING:

14 1. Final judgment is hereby entered in conformity with the Settlement and this Court’s
15 Preliminary Approval Order. All terms used herein shall have the same meaning as defined in the
16 Settlement Agreement.

17 2. The conditional class certification contained in the Preliminary Approval Order is
18 hereby made final, and the Court thus certifies, for purposes of the Settlement, a Class defined as:
19 Any and all current and former hourly non-exempt employees of Defendant in California during the
20 Class Period of May 23, 2018 through July 22, 2022.

21 3. Plaintiffs Sergio Meza, Gabriel Soria, and Omar Ortega are hereby confirmed as
22 Class Representatives, and Joseph Lavi, Esq., Vincent Granberry, Esq., Pooja Patel, Esq. and Melissa
23 A. Huether, Esq. of Lavi & Ebrahimi, LLP.; Sahag Majarian II, Esq. of LAW OFFICES OF
24 SAHAG MAJARIAN II; are hereby confirmed as Class Counsel.

25 4. Notice was provided to Class Members as set forth in the Settlement Agreement,
26 which was approved by the Court on _____, and the notice process has been
27 completed in conformity with the Court’s Orders. The Court finds that said notice was the best notice
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1 practicable under the circumstances. The Class Notice provided due and adequate notice of the
2 proceedings and matters set forth therein, informed Class Members of their rights, and fully satisfied
3 the requirements of California Code of Civil Procedure section 1781(e), California Rule of Court
4 3.769, and due process.

5 5. The Court finds that _____ Settlement Class Members objected to the Settlement,
6 that _____ Settlement Class Members validly opted out of the Settlement, and that the _____%
7 participation rate in the Settlement supports final approval.

8 6. The Court hereby approves the Settlement as set forth in the Settlement Agreement
9 as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement Agreement
10 according to its terms.

11 7. For purposes of settlement only, the Court finds that: (a) the members of the Class
12 are ascertainable and so numerous that joinder of all members is impracticable; (b) there are
13 questions of law or fact common to the Settlement Class and there is a well-defined community of
14 interest among the Settlement Class Members with respect to the subject matter of the litigation; (c)
15 the claims of the Class Representative are typical of the claims of the members of the Settlement
16 Class; (d) the Class Representative has fairly and adequately protected the interests of the Settlement
17 Class Members; (e) a class action is superior to other available methods for an efficient adjudication
18 of this controversy; and (f) Class Counsel are qualified to serve as counsel for the Class
19 Representatives and the Class.

20 8. The Court finds that given the absence of objections, and objections being a
21 prerequisite to appeal, this Order shall be considered final as of the date of notice of entry.

22 9. The Court orders that within 15 calendar days of the Effective Date (as defined in the
23 Settlement Agreement), Defendant shall transmit the amount of \$575,000.00 to _____
24 (the "Settlement Administrator"), as provided for in the Settlement Agreement.

25 10. The Court finds that the Individual Settlement Payments, as provided for in the
26 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
27 these payments in conformity with the terms of the Settlement.

1 11. The Court finds that the payment to the LWDA in the amount of \$37,500 for its 75%
2 share of the civil penalties allocated under the Private Attorneys General Act (“PAGA”) is fair,
3 reasonable, and adequate, and orders the Settlement Administrator to distribute this payment in
4 conformity with the terms of the Settlement.

5 12. The Court finds that a Class Representative incentive award in the amount of \$_____
6 to each of the Plaintiffs is appropriate for the risks undertaken and their service to the Class. The
7 Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
8 Administrator make this payment in conformity with the terms of the Settlement.

9 13. The Court finds that attorneys’ fees in the amount of \$_____ and actual litigation
10 costs of \$_____ for Class Counsel are fair, reasonable, and adequate, and orders that
11 the Settlement Administrator distribute these payments to Class Counsel in conformity with the
12 terms of the Settlement.

13 14. The Court orders that the Settlement Administrator shall be paid \$_____
14 from the Maximum Settlement Amount for all of its work done and to be done until the completion
15 of this matter, and finds that sum appropriate.

16 15. This document shall constitute a final judgment pursuant to California Rule of Court
17 3.769(h) which provides, “If the court approves the settlement agreement after the final approval
18 hearing, the court must make and enter judgment. The judgment must include a provision for the
19 retention of the court’s jurisdiction over the parties to enforce the terms of the judgment. The court
20 may not enter an order dismissing the action at the same time as, or after, entry of judgment.” The
21 Court will retain jurisdiction to enforce the Settlement, the Final Approval Order, and this Judgment.

22 16. The ____ individuals who timely and validly opted-out of this Settlement and who will
23 not be bound by this judgment are: [INSERT NAMES]

24 17. Neither defendant Caleres, Inc. (“Defendant”) nor any of the Released Parties shall
25 have any further liability for costs, expenses, interest, attorneys’ fees, or for any other charge,
26 expense, or liability, except as provided for by the Settlement Agreement.

27 18. Neither the making of the Settlement Agreement nor the entry into the Settlement
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1 Agreement constitutes an admission by Defendants, nor is this Order a finding of the validity of any
2 claims in the Action or of any other wrongdoing. Further, the Settlement Agreement is not a
3 concession, and shall not be used as an admission of any wrongdoing, fault, or omission of any entity
4 or persons; nor may any action taken to carry out the terms of the Settlement Agreement be construed
5 as an admission or concession by or against Defendant or any related person or entity.

6 19. The Parties will bear their own costs and attorneys' fees except as otherwise provided
7 by this Court's Order awarding Class Counsels' award for attorneys' fees and litigation costs.

8 20. By virtue of this Judgment and as of the date Defendant funds the settlement, all
9 Participating Class Members (as defined in the Settlement Agreement), have released and discharged
10 Defendant and each of the Released Parties) from any and all claims, actions or causes of action,
11 suits, debts obligations, damages, rights or liabilities, of whatever kind or nature, whether known or
12 unknown, that have been asserted or could have been asserted based on the facts as alleged in the
13 operative First Amended Complaint arising during the Class Period: including but not limited to
14 failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all
15 hours worked (including off-the clock work), failure to provide meal and rest periods, failure to
16 timely pay wages and final wages, failure to furnish accurate wage statements, failure to pay timely
17 wages during employment, and failure to pay timely wages upon separation or termination of
18 employment ("Released Class Claims"). This Release shall include all claims and theories arising
19 under the California Labor Code, wage orders, and applicable regulations, including Labor Code
20 Sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, 1198, as well as claims under
21 Business and Professions Code section 17200 et seq., the Industrial Welfare Commission Orders,
22 and/or Labor Code Section 2698 et seq. based on alleged violations of the above Labor Code
23 provisions, as alleged in the operative First Amended Complaint. (collectively, the "Released
24 Claims"). The period of this release shall extend from May 23, 2018 through July 22, 2022.

25 21. Also, by virtue of this Judgment and as of the date Defendant funds the settlement,
26 Plaintiffs Meza, Soria and Ortega have released, in addition to the Released Claims described above,
27 all claims, whether known or unknown, under federal or state law, against the Released Parties.

1 Plaintiffs understand that this release includes unknown claims and that each is, as a result, waiving
2 all rights and benefits afforded by Section 1542 of the California Civil Code, which provides: “A
3 general release does not extend to claims that the creditor or releasing party does not know or suspect
4 to exist in his or her favor at the time of executing the release and that, if known by him or her, would
5 have materially affected his or her settlement with the debtor or released party.”

6 22. As of the date Defendant funds the settlement, this Judgment also bars (i) any and all
7 PAGA Employees, and (ii) the California Labor Workforce and Development Agency, any other
8 agency of the State of California, or any person acting on its behalf, from pursuing all claims,
9 demands, rights, liabilities, and causes of action, suits, debts obligations, damages, rights or liabilities
10 of whatever kind or nature, whether known or unknown, for civil penalties recoverable from any
11 Released Party under the Private Attorneys General Act, Labor Code section 2699 et seq. (“PAGA”)
12 that have been asserted or could have been asserted based on (i) the facts as alleged in the operative
13 First Amended Complaint and/or (ii) Plaintiffs’ September 3, 2020 and November 9, 2020 letters to
14 the LWDA, arising during the PAGA Period, including but not limited to claims for civil penalties
15 recoverable under PAGA which (a) derive from the foregoing Released Class Claims and/or the
16 factual and/or legal predicates underlying those claims; or (b) in any manner arise out of any of the
17 other facts or legal theories alleged or asserted in the Action. (collectively, the “Released PAGA
18 Claims”) The period of this release shall extend from September 3, 2019 through July 22, 2022 The
19 res judicata effect of the Judgment will be the same as that of this release.

20 23. The settlement administrator shall file a final report by _____
21 indicating the disbursements were made pursuant to the settlement.

22 24. A status conference regarding distribution of the settlement funds is set for
23 _____ at _____ a.m./p.m. in Department S26 of the above-
24 captioned Court

25 IT IS SO ORDERED.

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27 Dated: _____
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The Honorable David S. Cohn
Judge of the Superior Court

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**[PROPOSED] JUDGMENT AND ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**