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EDUARDO CORDERO on behalf of themselves and
others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO - CIVIL DIVISION

MICHAEL HOOKER, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

EXEL, INC. DBA DHL SUPPLY CHAIN;
EXEL INC.; and DOES 1 to 100, inclusive,

Defendants.

CASE NO.: CIVDS2023046
[Unlimited Jurisdiction]

*Assigned for all purposes to the
Honorable David Cohn, Dept. S26*

STIPULATION OF RESOLUTION

Complaint Filed: October 19, 2020
Trial Date: NONE SET

1 Plaintiffs MICHAEL HOOKER and EDUARDO CORDERO (“Plaintiffs”) and
2 Defendant EXEL INC. (“Defendant”), by and through their respective counsel, hereby stipulate
3 and agree as follows:

4 This Stipulation of Resolution is made by and between the Named Plaintiffs, Michael
5 Hooker (“Hooker”) and Eduardo Cordero (“Cordero”), on their own behalf and on behalf of all
6 members of the Settlement Class, as defined below, on the one hand, and Exel Inc. *dba* DHL
7 Supply Chain (“Defendant”) on the other hand (collectively the “Parties”), in the lawsuits entitled
8 *Michael Hooker, et al. v. Exel Inc. et al.* Case Nos. CIVDS2023046 and CIVSB2028046, both
9 filed in San Bernardino County Superior Court. This Stipulation of Resolution resolves all claims
10 that were asserted or could have been asserted against Defendant based on the facts alleged,
11 pertaining to the claims in the Litigation.

12 **I. DEFINITIONS**

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

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

19 **C. Class Counsel.** The term “Class Counsel” as used herein means: Lavi &
20 Ebrahimian, LLP, and all the lawyers of that firm, specifically including but not limited to Joseph
21 Lavi, Esq., Vincent C. Granberry, Esq., and Melissa A. Huether, Esq., Courtney M. Miller, Esq.,
22 and Law Offices of Sahag Majarian II and all the lawyers of that firm, specifically including but
23 not limited to Sahag Majarian II, Esq., who are (or were at some time) counsel for and acting on
24 behalf of Named Plaintiffs and the Settlement Class. The term Class Counsel shall be used
25 synonymously with the term Plaintiff’s Counsel.

26 **D. Class Period.** The term “Class Period” shall mean October 19, 2016 to December
27 15, 2021.

28 **E. Court.** The term “Court” as used herein means the Superior Court of the State of

California for the County of San Bernardino.

F. Defense Counsel. The term “Defense Counsel” shall mean and refer to Chris Boman, Boris Sorsher, Ashton Riley, and Kristina Buan from the firm of Fisher & Phillips LLP.

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

H. Date of Final Approval. The terms “Date of Final Approval” or “Final Approval” as used herein mean the final formal judgment entered by the Court at the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

I. Defendant. The term “Defendant” as used herein means Exel Inc. *dba* DHL Supply Chain (USA).

J. Litigation. The term “Litigation” as used herein means the actions entitled *Michael Hooker, et al. v. Exel Inc. et al.*, Case Nos. CIVDS2023046 and CIVSB2028046, both filed in San Bernardino County Superior Court.

K. Named Plaintiffs. The term “Named Plaintiffs” as used herein means Michael Hooker (“Hooker”) and Eduardo Cordero (“Cordero”).

L. Net Settlement Amount. The term “Net Settlement Amount” as used herein means the Settlement Amount minus any award of attorneys’ fees and Litigation costs, Administrative Costs, enhancement to the Named Plaintiffs, and penalties recoverable pursuant to California’s Private Attorney General Act (“PAGA”) (the “PAGA Settlement”), and as provided in Sections XIII, VIII, XIV, XV, and XVI, respectively.

M. Individual Settlement Payments. The term “Individual Settlement Payment(s)” shall include payments made to the Settlement Class as part of the Resolution, including wages, penalties and interest.

N. Resolution. The term “Resolution” as used herein means this Agreement to resolve the Litigation.

O. Settlement Administrator. The term “Settlement Administrator” as used herein means Simpluris, Inc. which will be responsible for the administration of the Settlement Amount, as defined below, and all related matters.

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

Q. Settlement Amount. The term “Settlement Amount” as used herein means the sum of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00). From the Settlement Amount all: Individual Settlement Payments, Court-approved attorneys’ fees and Litigation costs pursuant to Section XIII, Administrative Costs pursuant to Section VIII, enhancement to Named Plaintiffs pursuant to Section XIV, statutory penalties and interest pursuant to Section XV, PAGA Settlement pursuant to Section XVI shall be paid, except as provided herein. Defendant shall pay employer’s share of payroll taxes on the portion of the net settlement fund which is considered wages separate and in addition to this Settlement Amount.

R. Settlement Class Members. For settlement purposes only, the Parties agree to the certification of a “Settlement Class” pursuant to California *Code of Civil Procedure* § 382 defined as: all former non-exempt employees employed by Defendant who did not enter into an arbitration agreement and worked in California during the Class Period and whose claims are not entirely extinguished by *Chacon v. Exel Inc.*, San Bernardino County Superior Court Case No. CIVDS1721284.

S. PAGA Period. The term “PAGA Period” as used herein means the time period from October 28, 2019 to December 15, 2021.

II. BACKGROUND

A. In the Litigation, the Named Plaintiffs allege, *inter alia*, on behalf of themselves

1 and all others similarly situated, that Defendant violated California state wage and hour laws, the
2 California *Business and Professions Code* Section 17200 *et seq.*, and PAGA, as a result of
3 Defendant's California wage and hour policies and practices. Specifically, Plaintiffs allege that
4 Defendant failed to pay employees for all hours worked at the minimum wage and/or applicable
5 overtime rates of pay, failed to include all remuneration when calculating the applicable overtime
6 rate of pay, failed to authorize or permit all legally required and compliant meal periods or pay
7 meal period premium wages, failed to include all remuneration when calculating employees'
8 regular rate of pay for purposes of paying meal period premium wages, failed to authorize or
9 permit all legally required and compliant rest periods or pay rest period premium wages, failed
10 to include all remuneration when calculating employees' regular rate of pay for purposes of
11 paying rest period premium wages, failed to timely pay earned wages during employment, failed
12 to provide accurate wage statements, and failed to timely pay all wages upon separation of
13 employment.

14 Class Counsel conducted discovery that yielded information and documentation
15 concerning the claims set forth in the Litigation, such as Defendant's policies and procedures
16 regarding the payment of wages, the provision of meal and rest breaks, time keeping policies,
17 including recording hours, issuance of wage statements, and providing all wages at separation,
18 as well as information regarding the number of putative class members, their hours worked,
19 average number of hours worked, the wage rates in effect, and the number of workweeks worked
20 by putative class members during the Class Period.

21 B. Named Plaintiffs and Class Counsel have engaged in good faith, arms-length
22 negotiations with Defendant concerning possible resolution of the claims asserted in the
23 Litigation. The Parties participated in a mediation before Steven Pearl, Esq. The Parties accepted
24 Mr. Pearl's mediator's proposal, resulting in a tentative settlement of the Litigation, subject to
25 the approval of the Court. The Parties negotiated and executed a Memorandum of Understanding
26 at the conclusion of the mediation, and have since engaged in extended negotiations about the
27 terms and conditions of the Resolution. The Parties have now entered into this more detailed,
28 formalized Settlement Agreement for submission to the Court for preliminary and Final

1 Approval.

2 C. Class Counsel has conducted an investigation of the law and facts relating to the
3 claims asserted in the Litigation and have concluded, taking into account the sharply contested
4 issues involved, the defenses asserted by Defendant, the expense and time necessary to pursue
5 the Litigation through trial and any appeals, the risks and costs of further prosecution of the
6 Litigation, the risk of an adverse outcome, the uncertainties of complex litigation, and the
7 substantial benefits to be received by the Named Plaintiffs and the members of the Settlement
8 Class pursuant to this Agreement, that a settlement with Defendant on the terms and conditions
9 set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement Class.
10 Named Plaintiffs, on their own behalf and on behalf of the Settlement Class, have agreed to settle
11 the Litigation with Defendant on the terms set forth herein.

12 D. Defendant has concluded that, because of the substantial expense of defending
13 against the Litigation, the length of time necessary to resolve the issues presented herein, the
14 inconvenience involved, and the concomitant disruption to its business operations, it is in
15 Defendant's best interests to accept the terms of this Agreement. Defendant denies each of the
16 allegations and claims asserted against it in the Litigation. However, Defendant nevertheless
17 desires to settle the Litigation for the purpose of avoiding the burden, expense and uncertainty of
18 continuing litigation and for the purpose of putting to rest the controversies engendered by the
19 Litigation.

20 E. This Agreement is intended to and does effectuate the full, final and complete
21 resolution of all allegations and claims that were asserted, or could have been asserted, in the
22 Litigation by Named Plaintiffs and members of the Settlement Class.

23 **III. JURISDICTION**

24 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
25 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
26 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted
27 Final Approval of the Resolution and after the Court has ordered the entry of Judgment, pursuant
28 to California *Code of Civil Procedure* Section 664.6 the Court shall retain jurisdiction of this

1 action solely for the purpose of interpreting, implementing, and enforcing this Resolution
2 consistent with the terms set forth herein.

3 **IV. STIPULATION OF CLASS CERTIFICATION**

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

13 **V. MOTION FOR PRELIMINARY APPROVAL AND FOR LEAVE TO**
14 **FILE SECOND AMENDED COMPLAINT; DEFENDANT'S ANSWER**

15 The Parties will enter into a joint stipulation to consolidate the lawsuits filed in the
16 Litigation (*Michael Hooker, et al. v. Exel Inc. et al.*, Case Nos. CIVDS2023046 and
17 CIVSB2028046). Once complete, Named Plaintiffs will bring a motion before the Court for an
18 order preliminarily approving the Resolution including the Notice of Proposed Class Action
19 Resolution, which is attached hereto as **Exhibit "1"**, and including certification of the Settlement
20 Class for settlement purposes only. By that motion, they will concurrently seek leave to file the
21 Second Amended Complaint, which is attached hereto as **Exhibit "2"** and which consolidates all
22 allegations in the Litigation. Defendant shall file an Answer to the Second Amended Complaint,
23 thereby making a general appearance in the Litigation and subjecting itself to the Court's
24 jurisdiction.

25 The date that the Court grants Preliminary Approval of this Agreement will be the
26 "Preliminary Approval Date." Class Counsel will prepare the Motion for Preliminary Approval;
27 on the same date on which it is filed with the Court, Class Counsel shall concurrently submit it
28 to the Labor & Workforce Development Agency in compliance with Labor Code § 2698 *et seq.*,

1 the Private Attorneys General Act ("PAGA").

2 **VI. STATEMENT OF NO ADMISSION**

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

7 B. Nothing in this Agreement, nor any action taken in implementation thereof, nor
8 any statements, discussions or communications, nor any materials prepared, exchanged, issued
9 or used during the course of the negotiations leading to this Agreement or the Resolution, is
10 intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be
11 used or be admissible in any way in this case or any other judicial, arbitral, administrative,
12 investigative or other forum or proceeding as evidence of any violation of any federal, state, or
13 local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law
14 or in equity. The Parties themselves agree not to introduce, use, or admit this Agreement, directly
15 or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other
16 forum or proceeding, as purported evidence of any violation of any federal, state, or local law,
17 statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in
18 equity, or for any other purpose. Notwithstanding the foregoing, this Agreement may be used in
19 any proceeding before the Court that has as its purpose the interpretation, implementation, or
20 enforcement of this Agreement or any orders or judgments of the Court entered in connection
21 with the Resolution.

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

27 D. The Parties agree that class certification pursuant to California *Code of Civil*
28 *Procedure* Section 382 under the terms of this Agreement is for settlement purposes only.

Nothing in this Agreement will be construed as an admission or acknowledgement of any kind that any class should be certified or given collective treatment in the Litigation or in any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard to this Agreement will be admissible in any court or other tribunal regarding the propriety of class certification or collective treatment. In the event that this Agreement is not approved by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Named Plaintiffs will not be deemed to have waived, limited or affected in any way any claims, rights or remedies in the Litigation, and Defendant will not be deemed to have waived, limited, or affected in any way any of their objections or defenses in the Litigation.

VII. WAIVER, RELEASE AND CONFIDENTIALITY

A. Release as to All Settlement Class Members.

Upon the Date of Final Approval and full funding of the Settlement Amount, for the Settlement Period and the PAGA Period, Named Plaintiffs and all members of the Settlement Class, except those that make a valid and timely request to be excluded from the Settlement Class and Resolution, waive, release, discharge, and promise never to assert in any forum any and all wage-related claims against Defendant, its respective subsidiaries, affiliates, predecessors or successors in interest, or the officers, directors, shareholders, employees, attorneys, agents, assigns, insurers, re-insurers, of any of them, that were alleged in the Litigation or which could have been alleged in the Litigation based on the facts alleged, including: 1) failure to pay wages at minimum wage; 2) failure to pay overtime and double time wages, including failure to pay overtime and double time wages at the proper regular rate; 3) failure to authorize or permit meal periods, pay meal period premiums, and/or pay meal period premiums at the proper regular rate; 4) failure to authorize or permit rest periods, pay rest period premiums, and/or pay rest period premiums at the proper regular rate; 5) failure to timely pay wages during employment; 6) failure to provide complete and accurate wage statements; 7) failure to timely pay all wages due at time of separation of employment; 8) violation of Business & Professions Code § 17200, *et seq.*; 9) civil penalties pursuant to PAGA based on the claims described in (1) through (8) above; and 10) any other applicable provisions of state or federal law, including the applicable IWC wage orders,

1 based on the facts alleged in the Litigation.

2 **B. General Release by Named Plaintiffs Only.**

3 In addition to the release made in Section VII(A), Named Plaintiffs make the additional
4 following general release of all claims, known or unknown. Named Plaintiffs releases Defendant,
5 and each of its respective subsidiaries, affiliates, predecessors or successors in interest, officers,
6 directors, shareholders, employees, attorneys, agents, assigns, insurers, and re-insurers of any of
7 them, from all claims, demands, rights, liabilities and causes of action of every nature and
8 description whatsoever, known or unknown, asserted or that might have been asserted prior to
9 the final approval of settlement, whether in tort, contract, or for violation of any state or federal
10 statute, rule or regulation arising out of, relating to, or in connection with any act or omission by
11 or on the part of any Defendant. (The release set forth in this Paragraph B shall be referred to
12 hereinafter as the "General Release.")

13 With respect to the General Release, Named Plaintiffs stipulate and agree that, upon the
14 Date of Final Approval and Defendant's full funding of the Settlement Amount, Named Plaintiffs
15 shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by
16 law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other
17 similar provision under federal or state law, which provides:

18
19 **A GENERAL RELEASE DOES NOT EXTEND TO**
20 **CLAIMS, WHICH THE CREDITOR DOES NOT KNOW OR**
21 **SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE**
22 **TIME OF EXECUTING THE RELEASE, WHICH IF**
23 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY**
24 **AFFECTED HIS OR HER SETTLEMENT WITH THE**
25 **DEBTOR.**

26 Accordingly, if the facts relating in any manner to this Resolution are found hereafter to be other
27 than or different from the facts now believed to be true, the release of claims contained herein
28 shall be effective as to all unknown claims.

26 **C. Publicity.**

27 Named Plaintiffs and their counsel agree that they have not and will not publish the
28 Litigation or the Resolution. Named Plaintiffs will state that "the case was resolved and it was

resolved confidentially” in response to any inquiries.” Class counsel shall not report the Litigation or the Resolution in any medium or in any publication, shall not post or report anything regarding the claims of Named Plaintiffs or the Settlement Class or the Resolution on their website, and shall not contact any reporters or media regarding the Resolution. Despite this provision, Class Counsel can discuss the Resolution with the court for purposes of obtaining preliminary and Final Approval and with Named Plaintiffs and the Settlement Class.

VIII. SETTLEMENT ADMINISTRATOR

Named Plaintiffs and Defendant, through their respective counsel, have selected Simpluris, Inc. as the Settlement Administrator to administer the Resolution, which includes but is not limited to distributing and responding to inquiries about the Notice of Proposed Class Action Resolution and Workweek Dispute Form, determining the validity of any disputes and opt-outs and calculating all amounts to be paid from the Net Settlement Amount. Charges and expenses of the Settlement Administrator, estimated to be \$10,000.00, will be paid from the Settlement Amount. Any charges and expenses of the Settlement Administrator greater than the allocated \$10,000.00 will come from the Settlement Amount. If the actual Settlement Administrator fees are less than the Parties’ estimation, the difference between the actual and estimated Settlement Administrator fees will revert to the participating Settlement Class members.

IX. NOTICE, OBJECTIONS AND EXCLUSION RIGHTS

Named Plaintiffs and Defendant, through their respective attorneys, have jointly prepared a Notice of Class Action Resolution and Workweek Dispute Form (**Exhibit “1”**) which in substance will be provided to the members of the Settlement Class as follows:

As soon as practicable following Preliminary Approval of the Resolution, but no later than twenty-one (21) calendar days after the Court’s Preliminary Approval order, Defendant will provide to the Settlement Administrator the following information about each Settlement Class Member (“Class List”): (1) name; (2) last known home address; (3) number of Eligible Workweeks and if applicable, number of Eligible Pay Periods during the PAGA Period; and (4) social security number. Defendant further agrees to consult with the Settlement Administrator

1 prior to the production date to ensure that the format will be acceptable to the Settlement
2 Administrator.

3 The Settlement Administrator shall run all the addresses provided through the United
4 States Postal Service NCOA database (which provides updated addresses for any individual who
5 has moved in the previous four years who has notified the U.S. Postal Service of a forwarding
6 address) to obtain current address information, and shall mail the Notice and Workweek Dispute
7 Form to the members of the Settlement Class via first-class regular U.S. Mail using the most
8 current mailing address information available within fifteen (15) calendar days of the receipt of
9 the Class List from Defendant. The Notice shall provide that the members of the Settlement
10 Class have forty-five (45) days to postmark or fax-stamp a dispute to their Eligible Workweeks,
11 to request exclusion from the Settlement, or to submit an objection to the Settlement to the
12 Settlement Administrator ("Response Deadline").

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

22 If a Notice is returned as undeliverable after the initial notice mailing, the Settlement
23 Administrator will perform a skip trace using the name, Social Security number, and original
24 mailing address, in an attempt to locate a more current address. If the Settlement Administrator
25 is successful in locating a new address, it will re-mail the Notice to the Settlement Class Member.
26 Further, any Notices returned with a forwarding address to the Settlement Administrator, as non-
27 deliverable before the deadline date, shall be sent to the forwarding address affixed thereto. The
28 Settlement Administrator will re-mail a returned Notice within three (3) business days or receipt.

1 No later than twenty-five (25) days before the Final Approval Hearing, the Settlement
2 Administrator shall provide counsel for Defendant and Class Counsel with a declaration attesting
3 to the completion of the Notice process, including the number of attempts to obtain valid mailing
4 addresses for re-sending of any returned Notices, as well as the number of workweek disputes
5 and opt-outs.

6 **B. Objections.**

7 In order for any Settlement Class member to object to this Resolution, or any term of it,
8 the person making the objection must not submit a request for exclusion (i.e., must not opt out).
9 A Settlement Class member making an objection, personally or through an attorney, must submit
10 his or her objection to the Settlement Administrator by mail or fax, postmarked or fax-stamped
11 by the Response Deadline. If the Settlement Class Member timely submits a written objection,
12 he or she may appear personally or through an attorney, at his or her own expense, at the Final
13 Approval hearing to present his or her objection directly to the Court. However, any attorney
14 who will represent an individual objecting to this Resolution must file a notice of appearance
15 with the Court and serve Class Counsel and Defense Counsel no later than Response Deadline.
16 If a Settlement Class Member objects to the Resolution, the Settlement Class Member will remain
17 a member of the Settlement Class and if the Court approves this Agreement, the Settlement Class
18 Member will be bound by the terms of the Resolution and Final Approval in the same way and
19 to the same extent as a Settlement Class Member who does not object. The date of mailing of
20 the Notice to the objecting Settlement Class member shall be conclusively determined according
21 to the records of the Settlement Administrator. The Court retains final authority with respect to
22 the consideration and admissibility of any Settlement Class member objections.

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

25 **C. Opportunity to be Excluded.**

26 In order for any Settlement Class Member to validly exclude himself or herself from the
27 Settlement Class and the Resolution (i.e., opt out), he or she must submit a written request for
28 exclusion ("Request to be Excluded") must be signed by the Settlement Class Member or his or

her authorized representative and must be mailed or faxed to the Settlement Administrator, postmarked or fax-stamped by no later than the Response Deadline. The Notice shall contain instructions on how to opt out.

The date of the initial mailing of the Notice, and the date the signed Request to be Excluded was postmarked or fax-stamped, shall be conclusively determined according to the records of the Settlement Administrator. Any Settlement Class Member who timely and validly submits a Request to be Excluded from the Settlement Class and the Resolution will not be entitled to any portion of the Net Settlement Amount, will not be bound by the terms and conditions of the Resolution, and will not have any right to object, appeal, or comment thereon.

Any Settlement Class Member who does not timely submit a Request to be Excluded from the Settlement Class will be deemed included in the Settlement Class in accordance with this Resolution. Named Plaintiffs waive any right to be excluded from the Settlement Class.

D. Cooperation.

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

X. DISPUTE PROCEDURE

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

A. Workweek and Pay Period Information.

In the Notice each Settlement Class Member will receive a calculation of the total number of his or her: Eligible Work Weeks during the Settlement Period and Eligible Pay Periods during the PAGA Period, if applicable.

A Settlement Class Member's Eligible Workweek is any workweek during which the class member worked for Defendant during the Settlement Period. A Settlement Class Member's amount of Eligible Workweeks may be further reduced to the extent a Class Member participated

1 in the settlement reached in *Chacon v. Exel Inc.*, San Bernardino County Superior Court Case
2 No. CIVDS1721284, with a release period of July 24, 2014 to June 25, 2018 (the “*Chacon*
3 Settlement”). Specifically, if a Class Member participated in the settlement reached in the
4 *Chacon* Settlement, his or her Eligible Workweeks will be reduced by the number of workweeks
5 in the overlapping time periods of the *Chacon* Settlement and the Resolution.

6 If a member of the Settlement Class does not dispute the number of Eligible Workweeks
7 or Eligible Pay Periods set forth in the Notice, such person need not take further action to
8 participate in the Resolution. If the member of the Settlement Class disputes the number of
9 Eligible Workweeks or Eligible Pay Period set forth in the Notice, such person must follow the
10 directions in the Notice, including preparing a statement setting forth the number of Eligible
11 Workweeks or Eligible Pay Periods that such person believes in good faith is correct and stating
12 that the Settlement Class Member authorizes the Settlement Administrator to review the
13 Settlement Class Member’s personnel file to determine such information and attaching any
14 relevant documentation in support thereof. The Settlement Class Member must mail the signed
15 and completed Eligible Workweek dispute no later than the Response Deadline, or the number
16 of Eligible Workweeks set forth in the Notice will govern the Individual Settlement Payments to
17 the member of the Settlement Class.

18 Upon timely receipt of any such challenge, the Settlement Administrator, in consultation
19 with counsel for Defendant, will review the pertinent payroll records showing the dates the
20 Settlement Class Member was employed and the pertinent leave(s) taken, which records
21 Defendant agrees to make available to the Settlement Administrator.

22 After consulting with counsel for Defendant, the Settlement Administrator shall compute
23 the number of Eligible Workweeks and Eligible Pay Periods to be used in computing the
24 Settlement Class member’s share of the Net Settlement Amount. In the event there is a disparity
25 between the dates a Settlement Class member claims he or she worked during the Settlement
26 Period and the dates indicated by Defendant’s records, Defendant’s records will control unless
27 inconsistent with paycheck stub(s) (or bona fide copies thereof) provided by the Settlement Class
28 member, in which case the paycheck stub(s) will control. The Settlement Administrator’s

1 decision as to the total number of Eligible Workweeks or Eligible Pay Periods shall be final and
2 non-appealable. The Settlement Administrator shall send written notice of the decision on any
3 such claim to the Settlement Class Member and counsel for Defendant within ten (10) calendar
4 days of receipt of the dispute.

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

6 **A. Distribution Formula.**

7 Settlement Class Members who do not opt out will receive a lump sum payment as good
8 and valuable consideration for the waiver and release of claims set forth in Section VII(A), above,
9 in an amount determined by the Settlement Administrator in accordance with the provisions of
10 this Agreement. Every Settlement Class Member will be entitled to receive a potential payment
11 calculated by first dividing the Net Settlement Amount by the total number of Eligible
12 Workweeks for all Settlement Class Members to yield the "Workweek Amount". Then, the
13 Settlement Administrator will multiply the Workweek Amount by each Settlement Class
14 Member's number of Eligible Workweeks (as determined by the Settlement Administrator in
15 accordance with Section X, above) to yield the Individual Settlement Payment. Each Individual
16 Settlement Payment will be reduced for the employees' share of any applicable withholding taxes
17 based on the Parties stipulated allocation of the Net Settlement Amount as provided for in Section
18 XV, below. Similarly, the amount allocated to the Employees Portion will be distributed by first
19 dividing the Employees Portion by the total number of Eligible Pay Periods for all Settlement
20 Class Members who worked during the PAGA Period to yield a Pay Period Amount. The
21 Settlement Administrator will then multiply the Pay Period Amount by the number of Eligible
22 Pay Periods worked by the Settlement Class Member during the PAGA Period (as determined
23 by the Settlement Administrator in accordance with Section X, above) to yield each "Individual
24 PAGA Payment".

25 **B. Funding of Resolution.**

26 Within twenty one (21) calendar days following the date on which the Court grants Final
27 Approval of the Resolution, Defendant will deposit the Settlement Amount and an amount
28 sufficient to pay the employer's share of payroll taxes into an interest-bearing trust account for

the benefit of the Settlement Class Members, Plaintiffs, and Class Counsel, through the Settlement Administrator. At no time prior to Final Approval of the Resolution shall Defendant be required to escrow any portion of the Settlement Amount.

C. Time for Distribution.

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

The Settlement Administrator will remit the entire amount of each Settlement Class Member's uncashed Individual Settlement Payment and/or Individual PAGA Payment as follows: Any checks issued by the Settlement Administrator to Settlement Class Members shall be negotiable for one hundred and eighty (180) calendar days. Those funds represented by checks returned as undeliverable and those checks remaining uncashed for more than 180 days after issuance (collectively, "Voided Settlement Checks") shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code Section 1500 et seq. for the benefits of those Settlement Class Members who did not cash their checks until such time they claim their property. The parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code Section 384, as the entire Net Settlement Amount and Employees Portion will be paid out to Settlement Class Members, whether or not they all cash their settlement checks.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace search and, if another address is identified, shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the monies represented by the check shall be turned over according to the above procedures.

XII. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN

The amounts paid under this Agreement do not represent a modification of any previously credited hours of service under any employee benefit plan, policy or bonus program sponsored

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

XIII. CLASS COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS

Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$133,320, which represents 33.33% of the Settlement Amount for all past and future attorneys' fees necessary to prosecute, settle and administer the Litigation and this Resolution ("Attorneys' Fees"). Additionally, Defendant shall not oppose an application by Class Counsel for, and Class Counsel shall not seek or receive an amount in excess of \$10,000.00, which represents all past and future Litigation costs and expenses necessary to prosecute, settle and administer the Litigation and this Resolution ("Litigation Costs"). Any Attorneys' Fees or Litigation Costs awarded to Class Counsel by the Court shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount. The "future" aspect of these amounts include, without limitation, all time and expenses expended by Class Counsel in defending the Resolution and securing preliminary and Final Approval (including any appeals therein). There will be no additional charge of any kind to either the members of the Settlement Class or request for additional consideration from Defendant for such work. This amount shall include all Attorneys' Fees, Litigation Costs and expenses for which Named Plaintiffs and Class Counsel could claim under any legal theory whatsoever. Within thirty (30) calendar days following the Date of Final Approval, the Settlement Administrator

1 shall disburse payment from the Settlement Amount for the amount of Attorneys' Fees and
2 Litigation Costs approved by the Court to Class Counsel. Should the Court approve a lesser
3 percentage or amount of Attorneys' Fees and/or Litigation Costs than the amount that Class
4 Counsel ultimately seeks, then the unapproved portion or portions shall remain a part of the Net
5 Settlement Amount to be distributed between the participating Settlement Class members on a
6 pro-rata basis.

7 **XIV. ENHANCEMENT TO NAMED PLAINTIFFS**

8 Defendant shall not oppose an application by Named Plaintiffs and Named Plaintiffs shall
9 not seek or receive an amount in excess of \$8,500.00 for Plaintiff Hooker and \$1,000 for Plaintiff
10 Cordero participation in and assistance with the Litigation. Any enhancement awarded to Named
11 Plaintiffs by the Court shall be deducted from the Settlement Amount for the purpose of
12 determining the Net Settlement Amount, and shall be reported on IRS Form 1099. If the Court
13 approves an enhancement of less than a total amount of \$9,500.00 to Named Plaintiffs, then the
14 unapproved portion or portions shall remain a part of the Net Settlement Amount to be distributed
15 between the participating Settlement Class Members on a pro-rata basis.

16 **XV. TAXATION AND ALLOCATION**

17 The Parties agree that all employees' shares of employment taxes and other legally-
18 required employee withholdings will be withheld from payments to the members of the
19 Settlement Class and Named Plaintiffs based on the Parties stipulated allocation of the Net
20 Settlement Amount as provided for in this Section.

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

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

- 27 (1) 20% as wages; and
28 (2) 80% as penalties and interest.

1 Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by
2 the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code,
3 the regulations promulgated thereunder, or other applicable tax law, is changed after the date of
4 this Agreement, the processes set forth in this Section may be modified in a manner to bring
5 Defendant into compliance with any such changes.

6 Any and all employees' shares of employment taxes will be paid from the Settlement
7 Amount based on the stipulated Net Settlement Allocation. Defendant shall pay employer's share
8 of payroll taxes on the portion of the Net Settlement Amount which is considered wages separate
9 and in addition to this Settlement Amount.

10
11 **CIRCULAR 230 DISCLAIMER.**

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

///

1 **XVI. PRIVATE ATTORNEY GENERAL ACT ALLOCATION**

2 In order to implement the terms of this Resolution and to settle claims alleged under the
3 Private Attorneys' General Act, California *Labor Code* section 2698 *et seq.*, the Parties agree to
4 allocate Five Thousand Dollars and Zero Cents (\$5,000.00) to the PAGA claim ("PAGA
5 Settlement Amount") from which \$3,750 (i.e., 75% of \$5,000) will be paid to the California
6 Labor & Workforce Development Agency ("LWDA") as penalties ("LWDA Payment"). The
7 remaining 25% or \$1,250 will be distributed on a pro rata basis to Settlement Class Member who
8 were employed during the PAGA Period ("Employees Portion"). Within thirty (30) calendar
9 days following the Date of Final Approval, the Settlement Administrator shall disburse the
10 LWDA Payment.

11 **XVII. COURT APPROVAL**

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

20 **XVIII. MISCELLANEOUS PROVISIONS**

21 **A. Stay of Litigation.**

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

24 **B. Interpretation of the Agreement.**

25 This Agreement constitutes the entire agreement between Named Plaintiffs and
26 Defendant. Except as expressly provided herein, this Agreement has not been executed in
27 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
28 written representations or terms shall modify, vary or contradict its terms. In entering into this

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

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

20 **C. Further Cooperation.**

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

25 **D. Confidentiality of Documents.**

26 After the expiration of any appeals period, Named Plaintiffs, the Settlement
27 Administrator, and Class Counsel shall maintain the confidentiality of all documents, deposition
28 transcripts, declarations and other information obtained in the lawsuit, unless necessary for

1 appeal or such documents are ordered to be disclosed by the Court or by a subpoena.

2 **E. Counterparts.**

3 The Agreement may be executed in one or more actual or non-original counterparts, all
4 of which will be considered one and the same instrument and all of which will be considered
5 duplicate originals.

6 **F. Authority.**

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

9 **G. No Third-Party Beneficiaries.**

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

12 **H. Deadlines Falling on Weekends or Holidays.**

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

15 **I. Severability.**

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

21 **J. Escalator Clause**

22 Defendant estimates the putative class consists of approximately 17,887 Eligible
23 Workweeks. Should the number of Eligible Workweeks increase by more than 10% this will
24 increase the portion of the settlement proportionally for each percent over the 10% amount.

DATE: April 15, 2022

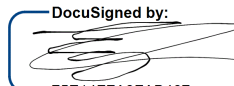
PLAINTIFF MICHAEL HOOKER

By: 
EC464EC42FF8498...

MICHAEL HOOKER

DATE: April 15, 2022

PLAINTIFF EDUARDO CORDERO

By: 
75E14FFA3FAB467...

EDUARDO CORDERO

DATE: April __, 2022

FISHER & PHILLIPS LLP

By: _____
CHRISTOPHER J. BOMAN
BORIS SORSHER
ASHTON M. RILEY
KRISTINA N. BUAN
Attorneys for Defendant
EXEL, INC.

DATE: April 18, 2022

LAVI & EBRAHIMIAN / LAW OFFICES OF
SAHAG MAJARIAN II

By: 
871E0169FCF244D...

JOSEPH LAVI
VINCENT C. GRANBERRY
COURTNEY M. MILLER
SAHAG MAJARIAN II
Attorneys for Plaintiffs

DATE: April __, 2022

PLAINTIFF MICHAEL HOOKER

By: _____
MICHAEL HOOKER

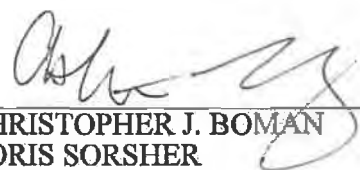
DATE: April __, 2022

PLAINTIFF EDUARDO CORDERO

By: _____
EDUARDO CORDERO

DATE: April 27, 2022

FISHER & PHILLIPS LLP

By:  _____
CHRISTOPHER J. BOMAN
BORIS SORSHER
ASHTON M. RILEY
KRISTINA N. BUAN
Attorneys for Defendant
EXEL, INC.

DATE: April __, 2022

LAVI & EBRAHIMIAN / LAW OFFICES OF
SAHAG MAJARIAN II

By: _____
JOSEPH LAVI
VINCENT C. GRANBERRY
COURTNEY M. MILLER
SAHAG MAJARIAN II
Attorneys for Plaintiffs

DATE: April 25, 2022

EXEL INC. DBA DHL SUPPLY CHAIN (USA)

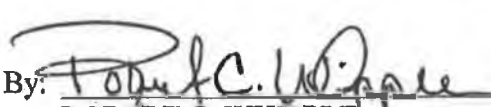
By:  _____
ROBERT C. WHIPPLE
Associate General Counsel

Exhibit 1

NOTICE OF SETTLEMENT OF CLASS ACTION

(Michael Hooker, et al. v. Exel Inc. d/b/a DHL Supply Chain, Superior Court of the State of California, County of San Bernardino, Case No. CIVDS2023046)

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 to be Excluded 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 PAGA Claims if you are an employee who worked during the PAGA Period (further explained 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 action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Bernardino (the “Court”) has been reached between Plaintiffs Michael Hooker and Eduardo Cordero (“Plaintiffs”) and Defendant Exel Inc. d/b/a DHL Supply Chain (“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:

all former non-exempt employees employed by Defendant who did not enter into an arbitration agreement and worked in California during the Class Period and whose claims are not entirely extinguished by *Chacon v. Exel Inc.*, San Bernardino County Superior Court Case No. CIVDS1721284.

The Class Period is the period of time from October 19, 2016 to December 15, 2021. This Class 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 October 19, 2020, Plaintiff Michael Hooker filed suit in the Superior Court of the State of California, County of San Bernardino, Case No. CIVDS2023046, against Defendant on behalf of a class of all hourly non-exempt employees. On December 22, 2020, Plaintiff Hooker filed a representative action pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) in the Superior Court of the State of California, County of San Bernardino, Case No. CIVSB2028046. Thereafter, Plaintiff Hooker filed a First Amended Complaint in both actions to add Eduardo Cordero as a named plaintiff.

Thereafter, the Parties attended a full-day private mediation on December 15, 2021, with Steven Pearl, Esq. where the Parties reached the Settlement described herein.

On [Date of SAC], the Plaintiffs filed a Second Amended Complaint which consolidated the allegations of the class action and PAGA action for purposes of settlement (the “Action”). The Second Amended Complaint alleges that Defendant failed to pay employees for all hours worked at the minimum wage and/or applicable overtime/double time rates of pay; failed to provide legally complaint meal periods and/or pay meal period premium wages and/or pay meal period premium wages at the proper rate; failed to provide legally complaint rest periods and/or pay rest period premium wages and/or pay rest period premium wages at the proper rate; owes statutory penalties for failure to provide accurate wage statements; failed to timely pay employees; owes waiting time penalties in the form of continuation wages for failure to timely pay employee all earned and unpaid wages due upon separation of employment; owes applicable civil penalties; and owes civil penalties pursuant to the Private Attorneys General Act of 2004 (PAGA).

Defendant denies and disputes all of the claims asserted against them. Specifically, Defendant contends that Plaintiffs and the Settlement Class Members were properly compensated for wages under California law; that Plaintiffs and the Settlement Class Members were provided with all wages (including minimum and overtime/double time wages) and meal and rest periods in compliance with California law; that Defendant complied with California wage statement requirements; that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action; and that the Action cannot be maintained as a class 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 Named Plaintiffs (“Named Plaintiffs” means the Plaintiffs who retained counsel and represent the class), and for Joseph Lavi, Vincent Granberry, Melissa A. Huether, and Courtney M. Miller of Lavi & Ebrahimi, LLP and Sahag Majarian of Law Offices of Sahag Majarian II to serve as Class Counsel.

3. What are the terms of the Settlement?

Settlement Amount. Defendant has agreed to pay Four Hundred Thousand Dollars (\$400,000) (the “Settlement Amount”) with no reversion to Defendant. The Settlement Amount includes all payments of Individual Settlement Payments to Settlement Class Members contemplated by the Settlement, Individual PAGA Payments to employees who worked during the PAGA period, the

Settlement Administration Costs, Attorneys' Fees and Litigation Costs to Class Counsel, and enhancement payments to Named Plaintiffs, and payment to the Labor and Workforce Development Agency ("LWDA") for its share of the PAGA Settlement Amount. Any employer-side payroll taxes on the portion of the Individual Settlement Payments allocated to wages shall be separately paid by Defendant.

Within twenty-one (21) calendar days of Final Approval of the Settlement, Defendant will fund the Settlement Amount by depositing the money with the Settlement Administrator. Thirty (30) calendar days after the settlement is funded, the Settlement Administrator will mail checks for the Individual Settlement Payments to participating Settlement Class Members and Individual PAGA Payments to employees who worked during the PAGA Period.

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

- Settlement Administration Costs. Payment to the Settlement Administrator, not to exceed \$10,000, 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 Settlement Amount, which is presently \$133,320 and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$10,000. 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 has been paying all litigation costs and expenses.
- Enhancement Payments. Plaintiffs are requesting enhancement payments in an amount not to exceed Eight Thousand Five Hundred Dollars (\$8,500.00) to Plaintiff Hooker and One Thousand Dollars (\$1,000.00) to Plaintiff Cordero, 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 \$5,000 out of the Settlement Amount, which shall be allocated 75% (\$3,750) to the LWDA as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA ("LWDA Payment") and 25% (\$1,250) will be distributed to Settlement Class Members who worked during the PAGA period on a pro rata basis based on their pay periods during the PAGA Period ("Employees Portion").

Calculation of Payments to Settlement Class Members. After all of the payments of the court-approved enhancement payments, the Attorneys' Fees and Litigation Costs, the PAGA Settlement Amount, and the Settlement Administration fees are deducted from the Settlement Amount, the remaining portion, called the "Net Settlement Amount", shall be distributed as Individual Settlement Payments to the Settlement Class Members who do not request to be excluded. The Net Settlement Amount is estimated to be approximately \$232,180, based upon the above proposed deductions. The Settlement Administrator will pay an Individual Settlement Payment from the

Net Settlement Amount to each Settlement Class Member based on the number of weeks each Settlement Class Member worked for Defendant during the Class Period (“Eligible Workweeks”). The Individual Settlement Payment for each Settlement Class Member will be calculated as follows: the Settlement Administrator will divide the Net Settlement Amount by the total number of Eligible Workweeks for all Settlement Class Members to compute the “Workweek Amount.” Then, the Settlement Administrator will multiply the Workweek Amount by each Settlement Class Member’s number of Eligible Workweeks (as determined by the Settlement Administrator) to yield the Individual Settlement Payment. Each Individual Settlement Payment will be reduced for the employees’ share of any applicable withholding taxes based on the Parties stipulated allocation of the Net Settlement Amount. A Settlement Class Member’s amount of Eligible Workweeks may be reduced to the extent that the Class Member participated in the Chacon Settlement, wherein the class period was July 24, 2014 to June 25, 2018.

Calculation of Payments to Settlement Class Members Who Worked During the PAGA Period. The portion of the settlement allotted to aggrieved employees who worked during the PAGA Period will be distributed to Settlement Class Members who were employed during the PAGA Period. The PAGA Period is from October 28, 2019 to December 15, 2021. Settlement Class Members who worked during the PAGA Period will receive an Individual PAGA Payment based on the number of pay periods he or she worked during the PAGA Period. Settlement Class Members who worked during the PAGA Period will receive an Individual PAGA Payment regardless of whether they exclude themselves from the Settlement. Individual PAGA Payments will be calculated as follows: the amount allocated to the Employees Portion will be determined by first dividing the Employees Portion by the total number of Eligible Pay Periods for all Settlement Class Members who worked during the PAGA Period to yield a Pay Period Amount. The Settlement Administrator will then multiply the Pay Period Amount by the number of Eligible Pay Periods worked by the Settlement Class Member during the PAGA Period to yield each Individual PAGA Payment.

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 an employee who worked during the PAGA Period, 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 Parties agree that the Individual Settlement Payments shall constitute 20% wages (“wage portion”) and 80% penalties (“non-wage portion”). 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 of any funds received. 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 Claims. Upon the Date of Final Approval and full funding of the Settlement Amount, for the Settlement Period and the PAGA Period, Named Plaintiffs and all members of the Settlement Class, except those that make a valid and timely request to be excluded from the Settlement Class and Resolution, waive, release, discharge, and promise never to assert in any forum any and all wage-related claims against Defendant, its respective subsidiaries, affiliates, predecessors or successors in interest, or the officers, directors, shareholders, employees, attorneys, agents, assigns, insurers, re-insurers, of any of them, that were alleged in the Litigation or which could have been alleged in the Litigation based on the facts alleged, including: 1) failure to pay wages at minimum wage; 2) failure to pay overtime and double time wages, including failure to pay overtime and double time wages at the proper regular rate; 3) failure to authorize or permit meal periods, pay meal period premiums, and/or pay meal period premiums at the proper regular rate; 4) failure to authorize or permit rest periods, pay rest period premiums, and/or pay rest period premiums at the proper regular rate; 5) failure to timely pay wages during employment; 6) failure to provide complete and accurate wage statements; 7) failure to timely pay all wages due at time of separation of employment; 8) violation of Business & Professions Code § 17200, *et seq.*; 9) civil penalties pursuant to PAGA based on the claims described in (1) through (8) above; and 10) any other applicable provisions of state or federal law, including the applicable IWC wage orders, based on the facts alleged in the Litigation.

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 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 <<____>> weeks for Defendant as non-exempt employee in California during the Class Period. You were previously part of the settlement in *Chacon v. Exel Inc.*, San Bernardino County Superior Court Case No. CIVDS1721284 and received payment for <<____>> weeks.

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 signed and completed workweek dispute form attached below 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] an employee who worked during the PAGA Period. 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: **Simpluris, Inc. (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 the claims otherwise released by this Settlement.**

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 the following statement or a similar statement: "I wish to exclude myself from the settlement reached in the matter of *Hooker v. Exel Inc. d/b/a DHL Supply Chain*. I understand that, by excluding myself, I will not receive any money (other than the PAGA Settlement Amount) from the settlement reached in this matter"; (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 this 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 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 Settlement Class Member; (3) state the grounds on which the Settlement 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 this Class Notice. A Settlement 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 Settlement 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. (State Bar No. 209776)
Vincent Granberry, Esq. (State Bar No. 276483)
Melissa A. Huether (State Bar No. 316604)
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Sahag Majarian II, Esq. (SBN 146621)
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Law Offices of Sahag Majarian II
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Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Counsel for Defendant:

CHRISTOPHER J. BOMAN (SBN 198798)
BORIS SORSHER (SBN 251718)
ASHTON M. RILEY (SBN 310528)
KRISTINA N. BUAN (SBN 311661)
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 851-2424
Facsimile: (949) 851-0152

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, Spring Street Courthouse, located at 247 West Third Street, San Bernardino, California 92415, in Department S26 before Judge David S. 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 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 Smart Search Portal page for the California Superior Court for the County of San Bernardino and entering the Case No. CIVDS2023046.

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.

Michael Hooker, et al. v. Exel Inc. d/b/a DHL Supply Chain, Superior Court of the State of California, County of San Bernardino, Case No. CIVDS2023046

WORKWEEK DISPUTE FORM

Submit this form if you wish to object to the proposed Settlement of the action.

If you want to dispute the number of workweeks credited to you in the attached Notice to the Settlement, you must complete and submit this form by mail or fax to the Settlement Administrator at *Hooker v. Exel Inc d/b/a DHL Supply Chain* Settlement, [address], [City], [State] [Zip], postmarked or faxed on or before **[Response Deadline]** at:

Hooker v. Exel Inc d/b/a DHL Supply Chain Settlement Administrator

c/o _____

FAX NUMBER: _____

By submitting this form, you dispute the number of workweeks which have been credited to you. If you have additional evidence, you may submit that for consideration. The Settlement Administrator will evaluate your dispute using materials from Defendant including your personnel file and confer with counsel for Defendant as necessary to resolve the dispute. Defendant's records will control unless bona fide evidence to the contrary is submitted.

To be valid, you must provide the following information and sign below:

Full name: _____

Address: _____

City, State, Zip Code: _____

Last four digits of your social security number or Employee ID: _____

Number of workweeks you contend are correct: _____

Your Signature: _____

Date: _____

Exhibit 2

Joseph Lavi, Esq. (SBN 209776)
Vincent C. Granberry, Esq. (SBN 276483)
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Attorneys for Plaintiffs MICHAEL HOOKER and
EDUARDO CORDERO on behalf of themselves and
others similarly situated

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

MICHAEL HOOKER, on behalf of himself
and others similarly situated,

Plaintiffs,

vs.

EXEL, INC. DBA DHL SUPPLY CHAIN;
EXEL INC.; and DOES 1 to 100, inclusive,

Defendants.

Case No.: CIVDS2023046

CLASS ACTION

*[ASSIGNED FOR ALL PURPOSES TO THE
HONORABLE DAVID COHN, DEPT. S-26]*

**PLAINTIFFS MICHAEL HOOKER AND
EDUARDO CORDERO'S SECOND
AMENDED COMPLAINT FOR
DAMAGES AND RESTITUTION FOR:**

- 1. FAILURE TO PAY WAGES AT
MINIMUM WAGE FOR ALL
HOURS WORKED IN
VIOLATION OF LABOR CODE
SECTIONS 1194 AND 1197**
- 2. FAILURE TO PAY OVERTIME
WAGES FOR OVERTIME
WORKED IN VIOLATION OF
LABOR CODE SECTIONS 510
AND 1194**

3. **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7**
4. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**
5. **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN VIOLATION OF LABOR CODE SECTION 204**
6. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
7. **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**
8. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**
9. **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA"), LABOR CODE SECTIONS 2698, ET SEQ.**

DEMAND FOR JURY TRIAL

COME NOW Plaintiffs MICHAEL HOOKER and EDUARDO CORDERO (collectively, "Plaintiffs") who allege and complain against Defendants EXEL, INC. DBA DHL SUPPLY CHAIN; EXEL INC.; and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

///

///

1 **I. INTRODUCTION**

2 1. This is a class action lawsuit and representative action seeking unpaid wages and
3 interest thereon for failure to pay employees for all hours worked at the minimum wage and/or
4 applicable overtime rates of pay; failure to include all remuneration when calculating the
5 applicable overtime rate of pay; failure to authorize or permit all legally required and compliant
6 meal periods or pay meal period premium wages; failure to include all remuneration when
7 calculating employees' regular rate of pay for purposes of paying meal period premium wages;
8 failure to authorize or permit all legally required and compliant rest periods or pay rest period
9 premium wages; failure to include all remuneration when calculating employees' regular rate of
10 pay for purposes of paying rest period premium wages; penalties for failure to timely pay earned
11 wages during employment; penalties for failure to provide accurate wage statements; waiting time
12 penalties in the form of continuation wages for failure to timely pay employees all wages due upon
13 separation of employment; injunctive relief and other equitable relief; reasonable attorneys' fees
14 pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of
15 Plaintiffs and others similarly situated.

16 **II. JURISDICTION AND VENUE**

17 2. This Court has jurisdiction over Plaintiffs' and putative class members' claims for
18 unpaid wages and interest thereon for failure to pay employees for all hours worked at the
19 minimum wage and/or applicable overtime rates of pay; failure to include all remuneration when
20 calculating the applicable overtime rate of pay; failure to authorize or permit all legally required
21 and compliant meal periods or pay meal period premium wages; failure to include all
22 remuneration when calculating employees' regular rate of pay for purposes of paying meal period
23 premium wages; failure to authorize or permit all legally required and compliant rest periods or
24 pay rest period premium wages; failure to include all remuneration when calculating employees'
25 regular rate of pay for purposes of paying rest period premium wages; penalties for failure to
26 timely pay earned wages during employment; penalties for failure to provide accurate wage
27 statements; waiting time penalties in the form of continuation wages for failure to timely pay
28 employees all wages due upon separation of employment; and claims for injunctive relief and

1 restitution under Business and Professions Code sections 17200, *et seq.*, for the following reasons:
2 Defendants operate throughout California; Defendants employed Plaintiffs and putative class
3 members in locations throughout California, including but not limited to San Bernardino County
4 at 5151 E. Philadelphia Street, Ontario, California 91761, and at 9211 Kaiser Way, Fontana,
5 California 92335; more than two-thirds of putative class members are California citizens; the
6 principal violations of California law occurred in California; no other class actions have been filed
7 against Defendants in the last four (4) years alleging wage and hour violations; the conduct of
8 Defendants forms a significant basis for Plaintiffs' and putative class members' claims; and
9 Plaintiffs and putative class members seek significant relief from Defendants.

10 **III. PARTIES**

11 3. Plaintiffs brings this action on behalf of themselves and other members of the
12 general public similarly situated. The named Plaintiffs and the class of persons on whose behalf
13 this action is filed are current, former, and/or future employees of Defendants who work, worked,
14 or will work for Defendants as hourly non-exempt employees. At all times mentioned herein, the
15 currently named Plaintiffs are and were residents of California and were employed by Defendants
16 as hourly non-exempt employees within the four (4) years prior to the filing of this action.

17 4. Plaintiff MICHAEL HOOKER has been employed by Defendants as an hourly
18 non-exempt employee from in or around January 2020 to May 3, 2021. Plaintiff EDUARDO
19 CORDERO was employed by Defendants as an hourly non-exempt employee from on or about
20 October 8, 2008, until on or about October 20, 2020.

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

24 6. Plaintiffs are informed and believe and thereon allege that Defendant EXEL, INC.
25 DBA DHL SUPPLY CHAIN is authorized to do business within the State of California and is
26 doing business in the State of California and/or that Defendants DOES 1-33 are, and at all times
27 relevant hereto, were persons acting on behalf of Defendant EXEL, INC. DBA DHL SUPPLY
28 CHAIN in the establishment of, or ratification of, the aforementioned illegal wage and hour

1 practices or policies. Defendant EXEL, INC. DBA DHL SUPPLY CHAIN operates in San
2 Bernardino County and employed Plaintiffs and putative class members in San Bernardino
3 County, including at 5151 E. Philadelphia Street, Ontario, California 91761, and at 9211 Kaiser
4 Way, Fontana, California 92335.

5 7. Plaintiffs are informed and believe and thereon allege that Defendant EXEL INC. is
6 authorized to do business within the State of California and is doing business in the State of
7 California and/or that Defendants DOES 34-66 are, and at all times relevant hereto, were persons
8 acting on behalf of Defendant EXEL INC. in the establishment of, or ratification of, the
9 aforementioned illegal wage and hour practices or policies. Defendant EXEL INC. operates in San
10 Bernardino County and employed Plaintiffs and putative class members in San Bernardino
11 County, including at 5151 E. Philadelphia Street, Ontario, California 91761, and at 9211 Kaiser
12 Way, Fontana, California 92335.

13 8. Plaintiffs are informed and believe and thereon allege that Defendants DOES 67-
14 100 are individuals unknown to Plaintiffs. Each of the individual Defendants is sued individually
15 in his or her capacity as an agent, shareholder, owner, representative, manager, supervisor,
16 independent contractor and/or employee of each Defendant and participated in the establishment
17 of, or ratification of, the aforementioned illegal wage and hour practices or policies.

18 9. Plaintiffs are unaware of the true names of Defendants DOES 1-100. Plaintiffs sue
19 said Defendants by said fictitious names and will amend this Complaint when the true names and
20 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
21 by law or by the Court. Plaintiffs are informed and believe that each of the fictitiously named
22 Defendants is in some manner responsible for the events and allegations set forth in this
23 Complaint.

24 10. Plaintiffs are informed and believe and thereon allege that at all relevant times,
25 each Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
26 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
27 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
28 the other Defendants in a joint enterprise for profit, and bore such other relationships to some or

1 all of the other Defendants so as to be liable for their conduct with respect to the matters alleged in
2 this Complaint. Plaintiffs are further informed and believe and thereon allege that each Defendant
3 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant
4 times, each Defendant knew or should have known about, authorized, ratified, adopted, approved,
5 controlled, aided and abetted the conduct of all other Defendants. As used in this Complaint,
6 “Defendant” means “Defendants and each of them,” and refers to the Defendants named in the
7 particular cause of action in which the word appears and Defendants EXEL, INC. DBA DHL
8 SUPPLY CHAIN; EXEL INC.; and DOES 1 to 100, inclusive.

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

13 12. Plaintiffs make the allegations in this Complaint without any admission that, as to
14 any particular allegation, Plaintiffs bear the burden of pleading, proving, or persuading and
15 Plaintiffs reserve all of Plaintiffs’ rights to plead in the alternative.

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

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

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

28 ///

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

4 16. In this case, Defendants failed to pay Plaintiffs and similarly situated employees all
5 wages at the applicable minimum wage for all hours worked due to Defendants’ policies,
6 practices, and/or procedures including, but not limited to: (1) requiring Plaintiffs and similarly
7 situated employees to wait in line to check in upon their entry into the building and/or to check out
8 upon their exit from the building while they were off the clock, including before and after their
9 shifts and during their meal periods when they left the building – without paying employees for
10 such time; (2) requiring Plaintiffs and similarly situated employees to undergo off-the-clock
11 security checks, including bag checks, for example, before clocking in for their shifts, while
12 clocked out for meal periods if they left the building during their meal periods, and/or after
13 clocking out for the end of their shifts – without paying employees for such time; (3) requiring
14 Plaintiffs and similarly situated employees to wait in line to clock in for the start of their shifts
15 and/or to clock in from their meal periods – without paying employees for such time; (4) requiring
16 Plaintiffs and similarly situated employees to arrive 10-15 minutes before the start of their shifts in
17 order to account for the lines they would need to wait in and/or security checks they had to
18 undergo before clocking in for their shifts – without paying employees for such time; (5)
19 understaffing their worksites which resulted in Plaintiffs and similarly situated employees
20 frequently having to work through their meal periods in order to keep up with the demands of their
21 work, either working off the clock or on the clock but subject to Defendants’ auto deduction of a
22 meal period if a meal period had not been recorded – without paying employees for such time; (6)
23 requiring Plaintiffs and similarly situated employees to travel to and from a designated area while
24 they were off the clock for meal periods – without paying employees for such time; and (7) failing
25 to pay Plaintiffs and similarly situated employees any wages for work meetings they attended after
26 their scheduled shifts. The aforementioned practices resulted in Plaintiffs and similarly situated
27 employees routinely working off the clock without pay.

28 ///

1 17. 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,
4 in violation of Labor Code sections 1194, 1197, and the Wage Order.

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

11 19. Labor Code sections 510 and 1194 require an employer to compensate employees
12 at 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 20. In this case, Defendants failed to pay overtime wages to Plaintiffs and similarly
24 situated employees for all overtime hours worked due to Defendants' policies, practices, and/or
25 procedures including, but not limited to: (1) requiring Plaintiffs and similarly situated employees
26 to wait in line to check in upon their entry into the building and/or to check out upon their exit
27 from the building while they were off the clock, including before and after their shifts and during
28 their meal periods when they left the building – without paying employees for such time; (2)
requiring Plaintiffs and similarly situated employees to undergo off-the-clock security checks,
including bag checks, for example, before clocking in for their shifts, while clocked out for meal
periods if they left the building during their meal periods, and/or after clocking out for the end of

1 their shifts – without paying employees for such time; (3) requiring Plaintiffs and similarly
2 situated employees to wait in line to clock in for the start of their shifts and/or to clock in from
3 their meal periods – without paying employees for such time; (4) requiring Plaintiffs and similarly
4 situated employees to arrive 10-15 minutes before the start of their shifts in order to account for
5 the lines they would need to wait in and/or security checks they had to undergo before clocking in
6 for their shifts – without paying employees for such time; (5) understaffing their worksites which
7 resulted in Plaintiffs and similarly situated employees frequently having to work through their
8 meal periods in order to keep up with the demands of their work, either working off the clock or
9 on the clock but subject to Defendants’ auto deduction of a meal period if a meal period had not
10 been recorded – without paying employees for such time; (6) requiring Plaintiffs and similarly
11 situated employees to travel to and from a designated area while they were off the clock for meal
12 periods – without paying employees for such time; and (7) failing to pay Plaintiffs and similarly
13 situated employees any wages for work meetings they attended after their scheduled shifts. The
14 aforementioned practices resulted in Plaintiffs and similarly situated employees routinely working
15 off the clock without pay.

16 21. Plaintiffs and similarly situated employees routinely earned overtime wages while
17 working for Defendants. For example, Plaintiff EDUARDO CORDERO usually worked 10-12
18 hours per day, six (6) days per week.

19 22. To the extent that the foregoing uncompensated time occurred when Plaintiffs and
20 similarly situated employees worked more than eight (8) in a workday, more than forty (40) hours
21 in a workweek, and/or seven (7) consecutive days, Defendants failed to pay them at their overtime
22 rate of pay for all overtime hours they worked, in violation of Labor Code sections 510, 1194, and
23 1198, and the applicable Wage Order.

24 23. **Failure to pay overtime at the proper overtime rate by failing to include all**
25 **remuneration when calculating the regular rate of pay for purposes of paying overtime:**
26 Under California law, when determining the regular rate of pay for purposes of calculating
27 employees’ proper overtime premium pay, an employer must consider not only straight hourly
28 wage compensation but must also include payment of all remuneration earned during the

1 applicable time period.

2 24. At times, Plaintiffs and similarly situated hourly non-exempt employees received
3 additional remuneration during pay periods in which they had worked over eight (8) hours in a
4 day, over forty (40) hours in a week, and/or seven (7) consecutive days in a workweek. In this
5 case, Defendants maintained a policy, practice, and/or procedure of failing to include all
6 remuneration, including, but not limited to: (1) bonuses for being an “essential worker” during the
7 COVID-19 pandemic; (2) bonuses for high performance in shipping and/or receiving; (3) taxable
8 fringe payments; and/or (4) and non-discretionary gift cards; when calculating Plaintiffs’ and
9 similarly situated employees’ regular rate of pay for the purpose of paying overtime. Defendants’
10 foregoing policies, practices, and/or procedures resulted in Defendants paying their hourly non-
11 exempt employees less overtime than they should have received.

12 25. Defendants’ policies and procedures were applied to all hourly non-exempt
13 employees in California and resulted in Plaintiffs and similarly situated employees not receiving
14 all overtime wages due to them, in violation of Labor Code sections 510, 1194, and the Wage
15 Order.

16 26. **Failure to authorize or permit legally required and compliant meal periods to**
17 **employees, failure to pay meal period premium wages, and/or failure to pay meal period**
18 **premiums at employees’ regular rate of pay:** Defendants often employed hourly non-exempt
19 employees, including the named Plaintiffs and others similarly situated, for shifts longer than five
20 (5) hours in length.

21 27. California law requires an employer to authorize or permit an uninterrupted meal
22 period of no less than thirty (30) minutes no later than the end of the employee’s fifth hour of
23 work and a second meal period no later than the employee’s tenth hour of work. (Labor Code
24 section 512; Wage Order 9 at §11). If the employee is not relieved of all duties during a meal
25 period, the meal period shall be considered an “on duty” meal period and counted as time worked.
26 A paid “on duty” meal period is only permitted when (1) the nature of the work prevents an
27 employee from being relieved of all duty and (2) the parties have a written agreement agreeing to
28 on-duty meal periods. If the employee is not free to leave the work premises or worksite during the

1 meal period, even if the employee is relieved of all other duty during the meal period, the
2 employee is subject to the employer's control and the meal period is counted as time worked.

3 28. If an employer fails to provide an employee a meal period in accordance with the
4 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
5 for each workday that a legally required and compliant meal period was not provided. (Labor
6 Code section 226.7; Wage Order 9 at §11).

7 29. In this case, Plaintiffs and similarly situated employees worked shifts long enough
8 to entitle them to meal periods under California law. Nevertheless, Defendants failed to authorize
9 or permit Plaintiffs and similarly situated employees to take all legally required and complaint
10 meal periods due to Defendants' policies, practices, and/or procedures including, but not limited
11 to: (1) requiring Plaintiffs and similarly situated employees to wait in lines to check out and/or
12 check in upon their exit and/or entry into the building when they left the building during their meal
13 periods – resulting in meal periods that were not duty-free and/or were less than thirty (30)
14 minutes; (2) requiring Plaintiffs and similarly situated employees to undergo security checks,
15 including bag checks, for example, while clocked out for meal periods if they left the building
16 during their meal periods – resulting in meal periods that were not duty-free and/or were less than
17 thirty (30) minutes; (3) requiring Plaintiffs and similarly situated employees to wait in line to
18 clock in from their meal periods – resulting in meal periods that were not duty-free and/or were
19 less than thirty (30) minutes; (4) understaffing their worksites which resulted in Plaintiffs and
20 similarly situated employees frequently having to work through their meal periods, to take late,
21 short, or interrupted meal periods, and/or to miss meal periods altogether in order to keep up with
22 the demands of their work; (5) auto-deducting meal periods from Plaintiffs' and similarly situated
23 employees' time records even if Plaintiffs and similarly situated employees did not take legally
24 required and compliant meal periods; (6) requiring Plaintiffs and similarly situated employees to
25 travel to and from a designated area while they were off the clock for meal periods – resulting in
26 meal periods that were not duty-free and/or were less than thirty (30) minutes; and (7) failing to
27 provide a second meal period to Plaintiffs and similarly situated employees whey they worked
28 over ten (10) hours in a shift.

1 30. Additionally, Defendants failed to pay premium wages to Plaintiffs and similarly
2 situated employees to compensate them for each workday the employees did not receive all legally
3 required and compliant meal periods. Defendants employed policies and procedures which
4 ensured that employees did not receive any meal period premium wages to compensate them for
5 workdays in which they did not receive all legally required and compliant meal periods.

6 31. Further, on occasions that Defendants paid Plaintiffs and similarly situated
7 employees additional remuneration as well as meal period premium wages for late, missed, short,
8 on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the meal period
9 premium wages at one (1) hour of pay at the employees' regular rate of pay due to Defendants'
10 failure to include all remuneration, including, but not limited to: (1) bonuses for being an
11 "essential worker" during the COVID-19 pandemic; (2) bonuses for high performance in shipping
12 and/or receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards; when
13 calculating employees' regular rate of pay for the purpose of paying premium wages. This practice
14 resulted in Plaintiffs and similarly situated employees not receiving premium wages they earned at
15 the proper regular rate.

16 32. The aforementioned policies, practices, and/or procedures of Defendants resulted in
17 Plaintiffs and similarly situated employees not being provided with all legally required and
18 compliant meal periods and/or not receiving premium wages at the proper regular rate to
19 compensate them for such instances, all in violation of California law.

20 33. **Failure to authorize or permit legally required and compliant rest periods to**
21 **employees, failure to pay rest period premium wages, and/or failure pay rest period**
22 **premiums at employees' regular rate of pay:** Defendants often employed non-exempt
23 employees, including the named Plaintiffs and others similarly situated, for shifts of more than
24 three-and-a-half (3.5) hours.

25 34. California law requires every employer to authorize and permit an employee a rest
26 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. (Labor
27 Code section 226.7; Wage Order 9 at §12). Under California law, "[e]mployees are entitled to 10
28 minutes' rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more

1 than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so
2 on.” (*Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor
3 Code section 226.7; Wage Order 9 at §12). Rest periods, insofar as practicable, shall be in the
4 middle of each work period. (Wage Order 9 at §12). Additionally, the rest period requirement
5 “obligates employers to permit – and authorizes employees to take – off-duty rest periods.”
6 (*Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269). That is, during rest periods
7 employers must relieve employees of all duties and relinquish control over how employees spend
8 their time. *Id.*

9 35. If an employer fails to provide an employee a rest period in accordance with the
10 law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay
11 for each workday that a legally required and compliant rest period was not provided. (Labor Code
12 section 226.7; Wage Order 9 at §12).

13 36. In this case, Plaintiffs and similarly situated employees regularly worked shifts of
14 more than three-and-a-half (3.5) hours. Nevertheless, Defendants failed to authorize or permit
15 Plaintiffs and similarly situated employees to take all legally required and complaint rest periods
16 due to Defendants’ policies, practices, and/or procedures including, but not limited to: (1)
17 requiring Plaintiffs and similarly situated employees to wait in lines to check out and/or check in
18 upon their exit and/or entry into the building when they left the building during their rest periods –
19 resulting in rest periods that were not duty-free and/or were less than a net ten (10) minutes; (2)
20 requiring Plaintiffs and similarly situated employees to undergo security checks, including bag
21 checks, for example, if they left the building during their rest periods – resulting in rest periods
22 that were not duty-free and/or were less than a net ten (10) minutes; (3) understaffing their
23 worksites which resulted in Plaintiffs and similarly situated employees frequently having to work
24 through their rest periods, to take late, short, or interrupted rest periods, and/or to miss rest periods
25 altogether in order to keep up with the demands of their work; (4) prohibiting Plaintiffs and
26 similarly situated employees from leaving Defendants’ premises during their rest periods –
27 resulting in rest periods that were not duty-free; and (5) requiring Plaintiffs and similarly situated
28 employees to travel to and from a designated area during their rest periods – resulting in rest

1 periods that were not duty-free and/or less than a net ten (10) minutes.

2 37. Additionally, Defendants failed to pay premium wages to Plaintiffs and similarly
3 situated employees to compensate them for each workday the employees did not receive all legally
4 required and compliant rest periods. Defendants employed policies and procedures which ensured
5 that employees did not receive any rest period premium wages to compensate them for workdays
6 in which they did not receive all legally required and compliant rest periods.

7 38. Further, on occasions that Defendants paid Plaintiffs and similarly situated
8 employees additional remuneration as well as rest period premium wages for late, missed, short,
9 on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the rest period
10 premium wages at one (1) hour of pay at the employees' regular rate of pay due to Defendants'
11 failure to include all remuneration including, but not limited to: (1) bonuses for being an "essential
12 worker" during the COVID-19 pandemic; (2) bonuses for high performance in shipping and/or
13 receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards; when
14 calculating employees' regular rate of pay for the purpose of paying premium wages. This practice
15 resulted in Plaintiffs and similarly situated employees not receiving premium wages they earned at
16 the proper regular rate.

17 39. The aforementioned policies, practices, and/or procedures of Defendants resulted in
18 Plaintiffs and similarly situated employees not being provided with all legally required and
19 compliant rest periods and/or not receiving premium wages at the proper regular rate to
20 compensate them for such instances, all in violation of California law.

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

1 earned. Labor Code section 204(d).

2 41. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
3 to timely pay Plaintiffs' and similarly situated employees' earned wages (including minimum
4 wages, overtime wages, overtime wages at the proper rate, meal period premium wages, meal
5 period premium wages at the regular rate, rest period premium wages, and/or rest period premium
6 wages at the regular rate), in violation of Labor Code section 204.

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

10 43. **Failure to provide complete and accurate wage statements:** Labor Code section
11 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must
12 "furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages
13 earned, (2) total hours worked by the employee, except for any employee whose compensation is
14 solely based on a salary and who is exempt from payment of overtime under subdivision (a) of
15 Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of
16 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis,
17 (4) all deductions, provided, that all deductions made on written orders of the employee may be
18 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period
19 for which the employee is paid, (7) the name of the employee and his or her social security
20 number, (8) the name and address of the legal entity that is the employer, and (9) all applicable
21 hourly rates in effect during the pay period and the corresponding number of hours worked at each
22 hourly rate by the employee."

23 44. Defendants committed direct violations of Labor Code section 226 by failing to
24 provide Plaintiffs and similarly situated employees an accurate itemized wage statement due to
25 Defendants' policies, practices, and/or procedures, including, but not limited to: showing variable
26 overtime rates with no indication of how they were calculated; and/or showing overtime rates that
27 were sometimes less than one-and-one-half (1.5) times the employee's stated regular rate of pay;
28 and as a result, incorrectly reflecting gross wages earned.

1 45. Additionally, as a derivative of Plaintiffs' claims above, Defendants failed to
2 provide accurate wage statements to Plaintiffs and similarly situated employees who were subject
3 to Defendants' control for uncompensated time and who did not receive all their earned wages
4 (including minimum wages, overtime wages, overtime wages at the proper rate, meal period
5 premium wages, meal period premium wages at the regular rate, rest period premium wages,
6 and/or rest period premium wages at the regular rate), in violation of Labor Code 226.

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

11 47. Plaintiffs allege that as a result of Defendants' failure to pay Plaintiff EDUARDO
12 CORDERO and similarly situated employees all their earned wages (including minimum wages,
13 overtime wages, overtime wages at the proper rate, meal period premium wages, meal period
14 premium wages at the regular rate, rest period premium wages, and/or rest period premium wages
15 at the regular rate), Defendants failed to pay those employees timely after each employee's
16 termination and/or resignation, in violation of Labor Code sections 201, 202, and 203.

17 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

18 48. Plaintiffs bring this action on behalf of themselves, on behalf of all others similarly
19 situated, and on behalf of the general public, and as a member of a Class defined as follows:

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

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

1 C. **Regular Rate Class:** All current and former hourly non-exempt employees
2 employed by Defendants in California at any time from four (4) years prior to the filing of the
3 initial Complaint in this action through the date notice is mailed to a certified class who received
4 additional remuneration that was not included in calculating the overtime pay earned during pay
5 periods that employees worked more than eight (8) hours in a workday, more than forty (40) hours
6 in a workweek, and/or seven (7) days in a workweek.

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

12 E. **Meal Period Premium Wages Class:** All current and former hourly non-
13 exempt employees employed by Defendants in California at any time from four (4) years prior to
14 the filing of the initial Complaint in this action through the date notice is mailed to a certified class
15 who received additional remuneration during pay periods in which they were paid meal period
16 premium wages and whose regular rate of pay did not include such additional remuneration when
17 Defendants calculated those employees' meal period premium wages.

18 F. **Rest Period Class:** All current and former hourly non-exempt employees
19 employed by Defendants in California at any time from four (4) years prior to the filing of the
20 initial Complaint in this action through the date notice is mailed to a certified class who worked
21 shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods
22 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

23 G. **Rest Period Premium Wages Class:** All current and former hourly non-
24 exempt employees employed by Defendants in California at any time from four (4) years prior to
25 the filing of the initial Complaint in this action through the date notice is mailed to a certified class
26 who received additional remuneration during pay periods in which they were paid rest period
27 premium wages and whose regular rate of pay did not include such additional remuneration when
28 Defendants calculated those employees' rest period premium wages.

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

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

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

14 K. **California Class:** All aforementioned classes are herein collectively
15 referred to as the “California Class.”

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

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

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

25 i. Whether Defendants violated Labor Code sections 1194 and/or 1197
26 by not paying employees’ wages at a minimum wage rate for all time that the Minimum Wage
27 Class Members were subject to Defendants’ control but were not paid;

28 ii. Whether Defendants violated Labor Code sections 510 and 1194 by

1 not paying employees' wages at an overtime wage rate for all overtime hours that the Overtime
2 Class Members were subject to Defendants' control but were not paid;

3 iii. Whether Defendants violated Labor Code sections 510 and 1194 by
4 failing to include all remuneration when calculating the overtime rate of pay for the Regular Rate
5 Class Members;

6 iv. Whether Defendants violated Labor Code sections 512 and 226.7, as
7 well as the applicable Wage Order, by employing Meal Period Class Members and Meal Period
8 Premium Wages Class Members without providing all required and compliant meal periods,
9 paying meal period premium wages, and/or not including all remuneration when paying meal
10 period premium wages;

11 v. Whether Defendants violated Labor Code section 226.7 by
12 employing Rest Period Class Members and Rest Period Premium Wages Class Members without
13 providing all required and compliant rest periods, paying rest period premium wages, and/or not
14 including all remuneration when paying rest period premium wages;

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

17 vii. Whether Defendants failed to provide Wage Statement Class
18 Members with accurate itemized statements at the time they received their itemized statements;

19 viii. Whether Defendants failed to provide Waiting Time Class Members
20 with all their earned wages upon separation of employment within the statutory time period;

21 ix. Whether Defendants committed unlawful business acts or practice
22 within the meaning of Business and Professions Code sections 17200, *et seq.*;

23 x. Whether Class Members are entitled to unpaid wages, penalties, and
24 other relief pursuant to their claims;

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

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

1 C. **Typicality:** Plaintiffs' claims are typical of the claims of the class members in each
2 of the classes. Plaintiffs and members of the Minimum Wage Class sustained damages arising out
3 of Defendants' failure to pay wages at least at minimum wage for all time the employees were
4 subject to Defendants' control. Plaintiffs and members of the Overtime Class sustained damages
5 arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiffs and
6 members of the Regular Rate Class sustained damages arising out of Defendants' failure to pay
7 overtime wages at the proper rate for overtime hours worked. Plaintiffs and members of the Meal
8 Period Class and Meal Period Premium Wages Class sustained damages arising out of
9 Defendants' failure to authorize or permit all required and compliant meal periods, failure to pay
10 meal period premium wages as compensation, and/or failure to pay meal period premiums wages
11 at the regular rate of pay. Plaintiffs and members of the Rest Period Class and Rest Period
12 Premium Wages Class sustained damages arising out of Defendants' failure to authorize or permit
13 all required and compliant rest periods, failure to pay meal period premium wages as
14 compensation, and/or failure to pay meal period premiums wages at the regular rate of pay.
15 Plaintiffs and members of the Pay Day Class sustained damages arising out of Defendants' failure
16 to timely pay them all wages earned during their employment in compliance with Labor Code
17 section 204. Plaintiffs and members of the Wage Statement Class sustained damages arising out of
18 Defendants' failure to furnish them with accurate itemized wage statements in compliance with
19 Labor Code section 226. Plaintiffs and members of the Waiting Time Class sustained damages
20 arising out of Defendants' failure to provide all unpaid yet earned wages due upon separation of
21 employment within the statutory time limit.

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

25 E. **Superiority:** A class action is superior to other available means for the fair
26 and efficient adjudication of this controversy. Because individual joinder of all members of each
27 class is impractical, class action treatment will permit a large number of similarly situated persons
28 to prosecute their common claims in a single forum simultaneously, efficiently, and without the

unnecessary duplication of effort and expense that numerous individual actions would engender. The expenses and burdens of individual litigation would make it difficult or impossible for individual members of each class to redress the wrongs done to them, while important public interests will be served by addressing the matter as a class action. The cost to and burden on the court system of adjudication of individualized litigation would be substantial, and substantially more than the costs and burdens of a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

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

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES AT MINIMUM WAGE FOR ALL HOURS WORKED IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197 AND THE WAGE ORDER

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

50. Plaintiffs hereby incorporate by reference paragraphs 1-49 above, as if fully set forth below.

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

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

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

1 54. In this case, Defendants failed to pay Plaintiffs and Minimum Wage Class
2 Members all wages at the applicable minimum wage for all hours worked due to Defendants'
3 policies, practices, and/or procedures including, but not limited to: (1) requiring Plaintiffs and
4 Minimum Wage Class Members to wait in line to check in upon their entry into the building
5 and/or to check out upon their exit from the building while they were off the clock, including
6 before and after their shifts and during their meal periods when they left the building – without
7 paying employees for such time; (2) requiring Plaintiffs and Minimum Wage Class Members to
8 undergo off-the-clock security checks, including bag checks, for example, before clocking in for
9 their shifts, while clocked out for meal periods if they left the building during their meal periods,
10 and/or after clocking out for the end of their shifts – without paying employees for such time; (3)
11 requiring Plaintiffs and Minimum Wage Class Members to wait in line to clock in for the start of
12 their shifts and/or to clock in from their meal periods – without paying employees for such time;
13 (4) requiring Plaintiffs and Minimum Wage Class Members to arrive 10-15 minutes before the
14 start of their shifts in order to account for the lines they would need to wait in and/or security
15 checks they had to undergo before clocking in for their shifts – without paying employees for such
16 time; (5) understaffing their worksites which resulted in Plaintiffs and Minimum Wage Class
17 Members frequently having to work through their meal periods in order to keep up with the
18 demands of their work, either working off the clock or on the clock but subject to Defendants'
19 auto deduction of a meal period if a meal period had not been recorded – without paying
20 employees for such time; (6) requiring Plaintiffs and Minimum Wage Class Members to travel to
21 and from a designated area while they were off the clock for meal periods – without paying
22 employees for such time; and (7) failing to pay Plaintiffs and Minimum Wage Class Members any
23 wages for work meetings they attended after their scheduled shifts.

24 55. Therefore, Defendants suffered, permitted, and required their hourly employees to
25 be subject to Defendants' control without paying wages for that time. This resulted in Plaintiffs
26 and Minimum Wage Class Members being subject to Defendants' control without being
27 compensated any wages, in violation of Labor Code sections 1194, 1197, and the Wage Order.
28

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

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

SECOND CAUSE OF ACTION

**FAILURE TO PAY OVERTIME WAGES FOR OVERTIME WORKED VIOLATION OF
LABOR CODE SECTIONS 510 AND 1194 AND THE WAGE ORDER**

(Against All Defendants by Plaintiffs, the Overtime Class, and the Regular Rate Class)

58. Plaintiffs hereby incorporate by reference paragraphs 1-57 above, as if fully set forth below.

59. At times relevant to this Complaint, Plaintiffs and members of the Overtime Class and Regular Rate Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and the Wage Order.

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

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

Eight hours of labor constitutes a day's work. 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. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

1 62. Overtime is based upon an employee's regular rate of pay. "The regular rate at
2 which an employee is employed shall be deemed to include all remuneration for employment paid
3 to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement
4 Policies and Interpretations Manual, Section 49.1.2.

5 63. In this case, Defendants failed to pay overtime wages to Plaintiffs and Overtime
6 Class Members for all overtime hours worked due to Defendants' policies, practices, and/or
7 procedures including, but not limited to: 1) requiring Plaintiffs and Overtime Class Members to
8 wait in line to check in upon their entry into the building and/or to check out upon their exit from
9 the building while they were off the clock, including before and after their shifts and during their
10 meal periods when they left the building – without paying employees for such time; (2) requiring
11 Plaintiffs and Overtime Class Members to undergo off-the-clock security checks, including bag
12 checks, for example, before clocking in for their shifts, while clocked out for meal periods if they
13 left the building during their meal periods, and/or after clocking out for the end of their shifts –
14 without paying employees for such time; (3) requiring Plaintiffs and Overtime Class Members to
15 wait in line to clock in for the start of their shifts and/or to clock in from their meal periods –
16 without paying employees for such time; (4) requiring Plaintiffs and Overtime Class Members to
17 arrive 10-15 minutes before the start of their shifts in order to account for the lines they would
18 need to wait in and/or security checks they had to undergo before clocking in for their shifts –
19 without paying employees for such time; (5) understaffing their worksites which resulted in
20 Plaintiffs and Overtime Class Members frequently having to work through their meal periods in
21 order to keep up with the demands of their work, either working off the clock or on the clock but
22 subject to Defendants' auto deduction of a meal period if a meal period had not been recorded –
23 without paying employees for such time; (6) requiring Plaintiffs and Overtime Class Members to
24 travel to and from a designated area while they were off the clock for meal periods – without
25 paying employees for such time; and (7) failing to pay Plaintiffs and Overtime Class Members any
26 wages for work meetings they attended after their scheduled shifts.

27 ///

28 ///

1 64. Plaintiffs and Overtime Class Members routinely earned overtime wages while
2 working for Defendants. For example, Plaintiff EDUARDO CORDERO usually worked 10-12
3 hours per day, six (6) days per week.

4 65. To the extent that the foregoing unpaid time resulted from Plaintiffs and Overtime
5 Class Members being subject to the control of Defendants when they worked more than eight (8)
6 hours in a workday, more than forty (40) hours in a workweek, and/or seven (7) 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 and 1194 and the Wage Order.

9 66. Additionally, at times, Plaintiffs and Regular Rate Class Members received
10 additional remuneration during pay periods in which they had worked over eight (8) hours in a
11 day, over forty (40) hours in a week, and/or seven (7) consecutive days in a workweek. In this
12 case, Defendants maintained a policy, practice, and/or procedure of failing to include all
13 remuneration, including, but not limited to: (1) bonuses for being an “essential worker” during the
14 COVID-19 pandemic; (2) bonuses for high performance in shipping and/or receiving; (3) taxable
15 fringe payments; and/or (4) and non-discretionary gift cards; when calculating Plaintiffs’ and
16 Regular Rate Class Members’ regular rate of pay for the purpose of paying overtime. Defendants’
17 foregoing policy, practice, and/or procedure resulted in Defendants paying their hourly non-
18 exempt employees less overtime than they should have received.

19 67. As a result of Defendants’ unlawful conduct, Plaintiffs and members of the
20 Overtime Class and Regular Rate Class have suffered damages in an amount subject to proof, to
21 the extent that they were not paid at their overtime rate of pay for all hours worked which
22 constitute overtime.

23 68. Pursuant to Labor Code section 1194, Plaintiffs and members of the Overtime
24 Class and Regular Rate Class are entitled to recover the full amount of their unpaid overtime
25 wages, prejudgment interest, and attorneys’ fees and costs.

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27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR**
3 **CODE SECTIONS 512 AND 226.7 AND THE WAGE ORDER**

4 **(Against All Defendants by Plaintiffs, the Meal Period Class, and the Meal Period Premium**
5 **Wages Class)**

6 69. Plaintiffs hereby incorporate by reference paragraphs 1-68 above, as if fully set
7 forth below.

8 70. At all times relevant to this Complaint, Plaintiffs and members of the Meal Period
9 Class and Meal Period Premium Wages Class were hourly non-exempt employees of Defendants,
10 covered by Labor Code sections 512 and 226.7 and the Wage Order.

11 71. California law requires an employer to authorize or permit an employee an
12 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
13 all duties and the employer relinquishes control over the employee's activities no later than the
14 end of the employee's fifth hour of work and a second meal period no later than the employee's
15 tenth hour of work. (Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker Rest. Corp. v.*
16 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004). If the employer requires the employee to remain
17 at the work site or facility during the meal period, the meal period must be paid. This is true even
18 where the employee is relieved of all work duties during the meal period. (*Bono Enterprises, Inc.*
19 *v. Bradshaw* (1995) 32 Cal.App.4th 968). If the employee is not free to leave the work premises or
20 worksite during the meal period, even if the employee is relieved of all other duty during the meal
21 period, the employee is subject to the employer's control and the meal period is counted as time
22 worked.

23 72. If an employer fails to provide an employee a meal period in accordance with the
24 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
25 for each workday that a legally required and compliant meal period was not provided. (Labor
26 Code section 226.7; Wage Order 9 at §11).

27 73. As previously noted, "[t]he regular rate at which an employee is employed shall be
28 deemed to include all remuneration for employment paid to, or on behalf, of the employee." See

1 Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual,
2 Section 49.1.2.

3 74. In this case, Plaintiffs and Meal Period Class Members worked shifts long enough
4 to entitle them to meal periods under California law. Nevertheless, Defendants failed to authorize
5 or permit Plaintiffs and Meal Period Class Members to take all legally required and complaint
6 meal periods due to Defendants’ policies, practices, and/or procedures including, but not limited
7 to: (1) requiring Plaintiffs and Meal Period Class Members to wait in lines to check out and/or
8 check in upon their exit and/or entry into the building when they left the building during their meal
9 periods – resulting in meal periods that were not duty-free and/or were less than thirty (30)
10 minutes; (2) requiring Plaintiffs and Meal Period Class Members to undergo security checks,
11 including bag checks, for example, while clocked out for meal periods if they left the building
12 during their meal periods – resulting in meal periods that were not duty-free and/or were less than
13 thirty (30) minutes; (3) requiring Plaintiffs and Meal Period Class Members to wait in line to clock
14 in from their meal periods – resulting in meal periods that were not duty-free and/or were less than
15 thirty (30) minutes; (4) understaffing their worksites which resulted in Plaintiffs and Meal Period
16 Class Members frequently having to work through their meal periods, to take late, short, or
17 interrupted meal periods, and/or to miss meal periods altogether in order to keep up with the
18 demands of their work; (5) auto-deducting meal periods from Plaintiffs’ and Meal Period Class
19 Members’ time records even if Plaintiffs and Meal Period Class Members did not take legally
20 required and compliant meal periods; (6) requiring Plaintiffs and Meal Period Class Members to
21 travel to and from a designated area while they were off the clock for meal periods – resulting in
22 meal periods that were not duty-free and/or were less than thirty (30) minutes; and (7) failing to
23 provide a second meal period to Plaintiffs and Meal Period Class Members when they worked
24 over ten (10) hours in a shift.

25 75. Additionally, Defendants failed to pay premium wages to Plaintiffs and Meal
26 Period Class Members to compensate them for each workday the employees did not receive all
27 legally required and compliant meal periods. Defendants employed policies and procedures which
28 ensured that employees did not receive any meal period premium wages to compensate them for

1 workdays in which they did not receive all legally required and compliant meal periods.

2 76. Further, on occasions that Defendants paid Plaintiffs and Meal Period Premium
3 Wages Class Members additional remuneration as well as meal period premium wages for late,
4 missed, short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the
5 meal period premium wages at one (1) hour of pay at the employees' regular rate of pay due to
6 Defendants' failure to include all remuneration, including, but not limited to: (1) bonuses for being
7 an "essential worker" during the COVID-19 pandemic; (2) bonuses for high performance in
8 shipping and/or receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards;
9 when calculating employees' regular rate of pay for the purpose of paying premium wages. This
10 practice resulted in Plaintiffs and Meal Period Premium Wages Class Members not receiving
11 premium wages they earned at the proper regular rate.

12 77. The aforementioned policies, practices, and/or procedures of Defendants resulted in
13 Plaintiffs and members of the Meal Period Class and Meal Period Premium Wages Class not being
14 provided with all legally required and compliant meal periods and/or not receiving premium
15 wages at the proper regular rate to compensate them for such instances, all in violation of
16 California law.

17 78. Defendants' unlawful conduct alleged herein occurred in the course of employment
18 of Plaintiffs and members of the Meal Period Class and Meal Period Premium Wages Class, and
19 such conduct has continued through the filing of this Complaint.

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

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

FOURTH 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, the Rest Period Class, and the Rest Period Premium
Wages Class)**

81. Plaintiffs hereby incorporate by reference paragraphs 1-80 above, as if fully set forth below.

82. At all times relevant to this Complaint, Plaintiffs and members of the Rest Period Class and Rest Period Premium Wages Class were hourly non-exempt employees of Defendants, covered by Labor Code section 226.7 and the Wage Order.

83. 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.” (*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.*

84. If an employer fails to provide an employee a rest period in accordance with the law, the employer must pay the employee one (1) hour of pay at the employee’s regular rate of pay for each workday that a legally required and compliant rest period was not provided. (Labor Code section 226.7; Wage Order 9 at §12).

85. As previously noted, “[t]he regular rate at which an employee is employed shall be deemed to include all remuneration for employment paid to, or on behalf, of the employee.” *See*

1 Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual,
2 Section 49.1.2.

3 86. In this case, Plaintiffs and Rest Period Class Members regularly worked shifts of
4 more than three-and-a-half (3.5) hours. Nevertheless, Defendants failed to authorize or permit
5 Plaintiffs and Rest Period Class Members to take all legally required and complaint rest periods
6 due to Defendants’ policies, practices, and/or procedures including, but not limited to: (1)
7 requiring Plaintiffs and Rest Period Class Members to wait in lines to check out and/or check in
8 upon their exit and/or entry into the building when they left the building during their rest periods –
9 resulting in rest periods that were not duty-free and/or were less than a net ten (10) minutes; (2)
10 requiring Plaintiffs and Rest Period Class Members to undergo security checks, including bag
11 checks, for example, if they left the building during their rest periods – resulting in rest periods
12 that were not duty-free and/or were less than a net ten (10) minutes; (3) understaffing their
13 worksites which resulted in Plaintiffs and Rest Period Class Members frequently having to work
14 through their rest periods, to take late, short, or interrupted rest periods, and/or to miss rest periods
15 altogether in order to keep up with the demands of their work; (4) prohibiting Plaintiffs and Rest
16 Period Class Members from leaving Defendants’ premises during their rest periods – resulting in
17 rest periods that were not duty-free; and (5) requiring Plaintiffs and Rest Period Class Members to
18 travel to and from a designated area during their rest periods – resulting in rest periods that were
19 not duty-free and/or less than a net ten (10) minutes.

20 87. Additionally, Defendants failed to pay premium wages to Plaintiffs and Rest Period
21 Class Members to compensate them for each workday the employees did not receive all legally
22 required and compliant rest periods. Defendants employed policies and procedures which ensured
23 that employees did not receive any rest period premium wages to compensate them for workdays
24 in which they did not receive all legally required and compliant rest periods.

25 88. Further, on occasions that Defendants paid Plaintiffs and Rest Period Premium
26 Wages Class Members additional remuneration as well as rest period premium wages for late,
27 missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the
28 rest period premium wages at one (1) hour of pay at the employees’ regular rate of pay due to

1 Defendants' failure to include all remuneration including, but not limited to: (1) bonuses for being
2 an "essential worker" during the COVID-19 pandemic; (2) bonuses for high performance in
3 shipping and/or receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards;
4 when calculating employees' regular rate of pay for the purpose of paying premium wages. This
5 practice resulted in Plaintiffs and Rest Period Premium Wages Class Members not receiving
6 premium wages they earned at the proper regular rate.

7 89. The aforementioned policies, practices, and/or procedures of Defendants resulted in
8 Plaintiffs and members of the Rest Period Class and Rest Period Premium Wages Class not being
9 provided with all legally required and compliant rest periods and/or not receiving premium wages
10 at the proper regular rate to compensate them for such instances, all in violation of California law.

11 90. Defendants' unlawful conduct alleged herein occurred in the course of employment
12 of Plaintiffs and members of the Rest Period Class and Rest Period Premium Wages Class, and
13 such conduct has continued through the filing of this Complaint.

14 91. Because Defendants failed to provide employees with rest periods in compliance
15 with the law, Defendants are liable to Plaintiffs and members of the Rest Period Class and Rest
16 Period Premium Wages Class for one (1) hour of additional pay at the regular rate of
17 compensation for each workday that Defendants did not provide all legally required and compliant
18 rest periods, pursuant to Labor Code section 226.7 and the Wage Order.

19 92. Plaintiffs, on behalf of themselves and members of the Meal Period Class and Meal
20 Period Premium Wages Class, seek damages and all other relief allowable, including a rest period
21 premium wage for each workday Defendants failed to provide all legally required and compliant
22 rest periods, plus pre-judgment interest.

23 **FIFTH CAUSE OF ACTION**

24 **FAILURE TO TIMELY PAY EARNED WAGES DURING EMPLOYMENT IN**

25 **VIOLATION OF LABOR CODE SECTION 204**

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

27 93. Plaintiffs hereby incorporate by reference paragraphs 1-92 above, as if fully set
28 forth below.

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

10 95. As a derivative of Plaintiffs' claims above, Plaintiffs allege that Defendants failed
11 to timely pay Plaintiffs' and Pay Day Class Members' earned wages (including minimum wages,
12 overtime wages, overtime wages at the proper rate, meal period premium wages, meal period
13 premium wages at the regular rate, rest period premium wages, and/or rest period premium wages
14 at the regular rate), in violation of Labor Code section 204.

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

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

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

27 99. Pursuant to Labor Code section 210, Plaintiffs and Pay Day Class Members are
28 entitled to recover civil penalties as follows: (1) for any initial violation, one hundred dollars

1 (\$100) for each failure to pay each employee; and (2) for each subsequent violation, or any willful
2 or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus
3 twenty-five (25%) percent of the amount unlawfully withheld.

4 **SIXTH CAUSE OF ACTION**

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

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

8 100. Plaintiffs hereby incorporate by reference paragraphs 1-99 above, as if fully set
9 forth below.

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

13 102. Pursuant to Labor Code section 226, subdivision (a), Plaintiffs and Wage Statement
14 Class Members were entitled to receive, semimonthly or at the time of each payment of wages, an
15 itemized wage statement accurately stating the following:

16 (1) gross wages earned, (2) total hours worked by the employee, except for any
17 employee whose compensation is solely based on a salary and who is exempt from
18 payment of overtime under subdivision (a) of Section 515 or any applicable order of
19 the Industrial Welfare Commission, (3) the number of piece-rate units earned and
20 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
21 deductions, provided that all deductions made on written orders of the employee
22 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
23 dates of the period for which the employee is paid, (7) the name of the employee
24 and his or her social security number, except that by January 1, 2008, only the last
25 four digits of his or her social security number or an employee identification number
26 other than a social security number may be shown on the itemized statement, (8) the
27 name and address of the legal entity that is the employer, and (9) all applicable
28 hourly rates in effect during the pay period and the corresponding number of hours
worked at each hourly rate by the employee.

103. Defendants committed direct violations of Labor Code section 226 by failing to
provide Plaintiffs and Wage Statement Class Members with accurate itemized wage statements
due to Defendants' policies, practices, and/or procedures, including, but not limited to: showing
variable overtime rates with no indication of how they were calculated; and/or showing overtime
rates that were sometimes less than one-and-one-half (1.5) times the employee's stated regular rate

1 of pay; and as a result, incorrectly reflecting gross wages earned.

2 104. Additionally, as a derivative of Plaintiffs' claims above, Defendants failed to
3 provide complete and accurate itemized wage statements to Plaintiffs and Wage Statement Class
4 Members who were subject to Defendants' control for uncompensated time and who did not
5 receive all their earned wages (including minimum wages, overtime wages, overtime wages at the
6 proper rate, meal period premium wages, meal period premium wages at the regular rate, rest
7 period premium wages, and/or rest period premium wages at the regular rate), in violation of
8 Labor Code section 226.

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

13 106. Defendants' failure to provide Plaintiffs and Wage Statement Class Members with
14 accurate wage statements was knowing and intentional. Defendants had the ability to provide
15 Plaintiffs and Wage Statement Class Members with accurate wage statements but intentionally
16 provided wage statements it knew were not accurate. Defendants knowingly and intentionally put
17 in place practices which deprived employees of wages and resulted in Defendants' knowing and
18 intentional providing of inaccurate wage statements. These practices included Defendants' failure
19 to include all hours worked and all wages due.

20 107. As a result of Defendants' unlawful conduct, Plaintiffs and Wage Statement Class
21 Members have suffered injury. The absence of accurate information on their wage statements has
22 prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and
23 mathematical computations to determine the amount of wages owed, and will cause difficulty and
24 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the
25 submission of inaccurate information about wages and amounts deducted from wages to state and
26 federal government agencies. As a result, Plaintiffs and the Wage Statement Class are required to
27 participate in this lawsuit and create more difficulty and expense for Plaintiffs and Wage
28 Statement Class Members from having to reconstruct time and pay records than if Defendants had

1 complied with their legal obligations.

2 108. Pursuant to Labor Code section 226(e), Plaintiffs and Wage Statement Class
3 Members are entitled to recover fifty (50) dollars per employee for the initial pay period in which
4 a section 226 violation occurred and one hundred dollars per employee per violation for each
5 subsequent pay period, not to exceed an aggregate penalty of four thousand (4,000) dollars per
6 employee.

7 109. Pursuant to Labor Code section 226(h), Plaintiffs and Wage Statement Class
8 Members are entitled to bring an action for injunctive relief to ensure Defendants' compliance
9 with Labor Code section 226(a). Injunctive relief is warranted because Defendants continue to
10 provide currently employed members of the Wage Statement Class with inaccurate wage
11 statements in violation of Labor Code section 226(a) and currently employed Wage Statement
12 Class Members have no adequate legal remedy for the continuing injuries that will be suffered as a
13 result of Defendants' ongoing unlawful conduct. Injunctive relief is the only remedy available for
14 ensuring Defendants' compliance with Labor Code section 226(a).

15 110. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiffs and Wage Statement
16 Class Members are entitled to recover the full amount of penalties due under Section 226(e),
17 reasonable attorneys' fees, and costs of suit.

18 **SEVENTH CAUSE OF ACTION**

19 **FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT**

20 **IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

21 **(Against All Defendants by Plaintiff EDUARDO CORDERO and the Waiting Time Class)**

22 111. Plaintiffs hereby incorporate by reference paragraphs 1-110 above, as if fully set
23 forth below.

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

26 113. An employer is required to pay all unpaid wages timely after an employee's
27 employment ends. The wages are due immediately upon termination (Labor Code section 201) or
28 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.*

114. Defendants failed to pay Plaintiff EDUARDO CORDERO 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.

115. Defendants' failure to pay Plaintiff EDUARDO CORDERO and Waiting Time Class Members 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 failure to pay minimum wages, overtime wages, overtime wages at the proper rate, meal period premium wages, meal period premium wages at the regular rate, rest period premium wages, and/or rest period premium wages at the regular rate. When Defendants failed to pay Plaintiff EDUARDO CORDERO and 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.

116. Pursuant to either Labor Code section 201 or 202, Plaintiff EDUARDO CORDERO and Waiting Time Class Members are entitled to all wages earned prior to separation of employment that Defendants have yet to pay them.

117. Pursuant to Labor Code section 203, Plaintiff EDUARDO CORDERO and Waiting Time Class Members 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.

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

119. As a result of Defendants' conduct, Plaintiff EDUARDO CORDERO and Waiting Time Class Members 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.

120. Plaintiff EDUARDO CORDERO and Waiting Time Class Members are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

EIGHTH CAUSE OF ACTION

UNFAIR COMPETITION

(Against All Defendants by Plaintiffs and the California Class)

121. Plaintiffs hereby incorporate by reference paragraphs 1-120 above, as if fully set forth below.

122. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of California 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 for all hours worked at the minimum wage and/or applicable overtime rates of pay; failure to include all remuneration when calculating the applicable overtime rate of pay; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to include all remuneration when calculating employees' regular rate of pay for purposes of paying meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; failure to include all remuneration when calculating employees' regular rate of pay for purposes of paying rest period premium wages; failure to timely pay earned wages during employment; failure to provide accurate wage statements; and failure to timely pay employees all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay employees for all hours worked at the minimum wage and/or applicable overtime rates of pay; include all remuneration when calculating the applicable overtime rate of pay; authorize or permit all legally required and

1 compliant meal periods or pay meal period premium wages; include all remuneration when
2 calculating employees' regular rate of pay for purposes of paying meal period premium wages;
3 authorize or permit all legally required and compliant rest periods or pay rest period premium
4 wages; include all remuneration when calculating employees' regular rate of pay for purposes of
5 paying rest period premium wages; timely pay earned wages during employment; provide accurate
6 wage statements; and timely pay employees all wages due upon separation of employment.

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

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

16 **NINTH CAUSE OF ACTION**

17 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
18 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

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

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

22 126. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order
23 ("Wage Order") codified at California Code of Regulations, title 8, section 11090, Defendants
24 were employers of Plaintiffs within the meaning of the applicable Wage Order and Labor Code
25 sections. Therefore, each of the Defendants is jointly and severally liable for the wrongs
26 complained of herein in violation of the Wage Order and Labor Code.

27 127. During the one (1) year preceding the filing of the Initial PAGA Claim Notice with
28 LWDA, Defendants violated Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194,

1 1197, and 1198. Specifically, Defendants committed the following violations of the Labor Code:

2 **128. Failure to pay wages for all hours worked at the legal minimum wage:**

3 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
4 employees. In California, an employer is required to pay hourly employees for all “hours worked,”
5 which includes all time that an employee is under control of the employer and all time the
6 employee is suffered and permitted to work. This includes the time an employee spends, either
7 directly or indirectly, performing services which inure to the benefit of the employer.

8 129. Labor Code sections 1194 and 1197 require an employer to compensate employees
9 for all “hours worked” at least at a minimum wage rate of pay as established by the IWC and the
10 Wage Orders.

11 130. Plaintiffs and other current and former aggrieved California-based hourly non-
12 exempt employees worked more minutes per shift than Defendants credited them with having
13 worked. Specifically, Defendants employed policies, practices, and/or procedures including, but
14 not limited to: (1) requiring Plaintiffs and other current and former aggrieved California-based
15 hourly non-exempt employees to wait in line to check in upon their entry into the building and/or
16 to check out upon their exit from the building while they were off the clock, including before and
17 after their shifts and during their meal periods when they left the building – without paying
18 employees for such time; (2) requiring Plaintiffs and other current and former aggrieved
19 California-based hourly non-exempt employees to undergo off-the-clock security checks,
20 including bag checks, for example, before clocking in for their shifts, while clocked out for meal
21 periods if they left the building during their meal periods, and/or after clocking out for the end of
22 their shifts – without paying employees for such time; (3) requiring Plaintiffs and other current
23 and former aggrieved California-based hourly non-exempt employees to wait in line to clock in for
24 the start of their shifts and/or to clock in from their meal periods – without paying employees for
25 such time; (4) requiring Plaintiffs and other current and former aggrieved California-based hourly
26 non-exempt employees to arrive 10-15 minutes before the start of their shifts in order to account
27 for the lines they would need to wait in and/or security checks they had to undergo before clocking
28 in for their shifts – without paying employees for such time; (5) understaffing their worksites

1 which resulted in Plaintiffs and other current and former aggrieved California-based hourly non-
2 exempt employees frequently having to work through their meal periods in order to keep up with
3 the demands of their work, either working off the clock or on the clock but subject to Defendants'
4 auto deduction of a meal period if a meal period had not been recorded – without paying
5 employees for such time; (6) requiring Plaintiffs and other current and former aggrieved
6 California-based hourly non-exempt employees to travel to and from a designated area while they
7 were off the clock for meal periods – without paying employees for such time; and (7) failing to
8 pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt
9 employees any wages for work meetings they attended after their scheduled shifts.

10 131. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
11 employees to be subject to Defendants' control without paying wages for that time. This resulted
12 in Plaintiffs and other current and former aggrieved California-based hourly non-exempt
13 employees working time for which they were not compensated any wages, in violation of Labor
14 Code sections 1194 and 1197, and the applicable Wage Order.

15 132. **Failure to pay wages for all overtime hours worked at the overtime wage rate:**
16 Defendants employed many of their employees, including Plaintiffs, as hourly non-exempt
17 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
18 which includes all time that an employee is under control of the employer and all time the
19 employee is suffered and permitted to work. This includes the time an employee spends, either
20 directly or indirectly, performing services that inure to the benefit of the employer.

21 133. Labor Code sections 510 and 1194 require an employer to compensate employees a
22 higher rate of pay for hours worked in excess of eight (8) hours in a workday, forty (40) hours in a
23 workweek, and on any seventh consecutive day of work in a workweek. Any work in excess of
24 eight (8) hours in one workday, any work in excess of forty (40) hours in any one (1) workweek,
25 and the first eight (8) hours worked on the seventh day of work in any one (1) workweek, shall be
26 compensated at the rate of no less than one-and-one-half (1.5) times the regular rate of pay for an
27 employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate
28 of no less than twice the regular rate of pay for an employee. In addition, any work in excess of

1 eight (8) hours on any seventh day of a workweek shall be compensated at the rate of no less than
2 twice the regular rate of pay of an employee. Labor Code section 510.

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

8 135. As described above, Plaintiffs and other current and former aggrieved California-
9 based hourly non-exempt employees worked more minutes per shift than Defendants credited
10 them with having worked. Specifically, Defendants employed policies, practices, and/or
11 procedures including, but not limited to: (1) requiring Plaintiffs and other current and former
12 aggrieved California-based hourly non-exempt employees to wait in line to check in upon their
13 entry into the building and/or to check out upon their exit from the building while they were off
14 the clock, including before and after their shifts and during their meal periods when they left the
15 building – without paying employees for such time; (2) requiring Plaintiffs and other current and
16 former aggrieved California-based hourly non-exempt employees to undergo off-the-clock
17 security checks, including bag checks, for example, before clocking in for their shifts, while
18 clocked out for meal periods if they left the building during their meal periods, and/or after
19 clocking out for the end of their shifts – without paying employees for such time; (3) requiring
20 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
21 to wait in line to clock in for the start of their shifts and/or to clock in from their meal periods –
22 without paying employees for such time; (4) requiring Plaintiffs and other current and former
23 aggrieved California-based hourly non-exempt employees to arrive 10-15 minutes before the start
24 of their shifts in order to account for the lines they would need to wait in and/or security checks
25 they had to undergo before clocking in for their shifts – without paying employees for such time;
26 (5) understaffing their worksites which resulted in Plaintiffs and other current and former
27 aggrieved California-based hourly non-exempt employees frequently having to work through their
28 meal periods in order to keep up with the demands of their work, either working off the clock or

1 on the clock but subject to Defendants' auto deduction of a meal period if a meal period had not
2 been recorded – without paying employees for such time; (6) requiring Plaintiffs and other current
3 and former aggrieved California-based hourly non-exempt employees to travel to and from a
4 designated area while they were off the clock for meal periods – without paying employees for
5 such time; and (7) failing to pay Plaintiffs and other current and former aggrieved California-based
6 hourly non-exempt employees any wages for work meetings they attended after their scheduled
7 shifts.

8 136. The foregoing policies, practices, and/or procedures resulted in time during each
9 workday that Plaintiffs and other current and former aggrieved California-based hourly non-
10 exempt employees were under the control of Defendants but were not compensated for such time.

11 137. Plaintiffs and other current and former aggrieved California-based hourly non-
12 exempt employees routinely earned overtime wages while working for Defendants. For example,
13 Plaintiff EDUARDO CORDERO usually worked 10-12 hours per day, six (6) days per week.

14 138. To the extent that the foregoing uncompensated time occurred on workdays that
15 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
16 already worked eight (8) in a workday, forty (40) hours in a workweek and/or seven consecutive
17 days, this unpaid time should have been paid at the overtime rate of pay for Plaintiffs and other
18 current and former aggrieved California-based hourly non-exempt employees, pursuant to Labor
19 Code sections 510, 1194, 1198, and the Wage Order.

20 139. **Failure to pay overtime at the proper overtime rate by failing to include all**
21 **remuneration in calculating the regular rate of pay for purposes of paying overtime:**
22 Defendants employed hourly non-exempt employees, including Plaintiffs, with a compensation
23 structure that included additional remuneration, including, but not limited to, bonus compensation.

24 140. As noted above, Labor Code sections 510 and 1194 require an employer to
25 compensate employees a higher rate of pay for hours worked as follows:

26 Any work in excess of eight hours in one workday and any work in excess of 40
27 hours in any one workweek and the first eight hours worked on the seventh day of
28 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

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

3 Labor Code section 510.

4 141. Overtime is based upon an employee's regular rate of pay. "The regular rate at
5 which an employee is employed shall be deemed to include all remuneration for employment paid
6 to, or on behalf, of the employee." See Division of Labor Standards Enforcement – Enforcement
7 Policies and Interpretations Manual, Section 49.1.2.

8 142. Plaintiffs and other current and former aggrieved California-based hourly non-
9 exempt employees worked overtime hours under state law during pay periods that they earned
10 additional remuneration, including, but not limited to, bonus compensation.

11 143. When Defendants paid overtime wages to Plaintiffs and other current and former
12 aggrieved California-based hourly non-exempt employees, Defendants failed to pay the overtime
13 wages at the proper overtime rate of pay due to their failure to include all remuneration when
14 calculating the overtime rate of pay. Specifically, Defendants maintained a policy, practice, and/or
15 procedure of failing to include all remuneration, including, but not limited to: (1) bonuses for
16 being an "essential worker" during the COVID-19 pandemic; (2) bonuses for high performance in
17 shipping and/or receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards;
18 when calculating Plaintiffs' and other current and former aggrieved California-based hourly non-
19 exempt employees' regular rate of pay for the purpose of paying overtime.

20 144. The foregoing policy, practice, and/or procedure resulted in Defendants failing to
21 pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt
22 employees at their proper overtime rate of pay for all overtime hours worked, in violation of Labor
23 Code sections 510, 1194, 1198, and the Wage Order.

24 145. **Failure to pay wages to hourly non-exempt employees to compensate them for**
25 **workdays that Defendants failed to provide legally required and compliant meal periods or**
26 **pay meal period premiums at employees' regular rate of pay:** Plaintiffs and other current and
27 former aggrieved California-based hourly non-exempt employees regularly worked shifts of more
28 than five (5) hours in length.

1 146. California law requires an employer to authorize or permit an employee an
2 uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of
3 all duties and the employer relinquishes control over the employee's activities prior to the
4 employee's sixth hour of work. Labor Code sections 226.7, 512; Wage Order 9 at §11; *Brinker*
5 *Rest. Corp. v. Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. An employer may not employ an
6 employee for a work period of more than ten (10) hours per day without providing the employee
7 with a second such meal period of not less than thirty (30) minutes prior to the start of the eleventh
8 hour of work. *Id.* If the employee is not relieved of all duty during a meal period, the meal period
9 shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal
10 period is only permitted when: (1) the nature of the work prevents an employee from being
11 relieved of all duty; and (2) the parties have a written agreement agreeing to on-duty meal periods.

12 147. If an employer fails to provide an employee a meal period in accordance with the
13 law, the employer must pay the employee one (1) hour of pay at the employee's regular rate of pay
14 for each workday that a legally required and compliant meal period was not provided. Labor Code
15 section 226.7; Wage Order 9 at §11.

16 148. As previously noted, "[t]he regular rate at which an employee is employed shall be
17 deemed to include all remuneration for employment paid to, or on behalf, of the employee." *See*
18 Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual,
19 Section 49.1.2.

20 149. In this case, Defendants failed to authorize or permit all legally required and
21 compliant meal periods to Plaintiffs and other current and former aggrieved California-based
22 hourly non-exempt employees due to Defendants' policies, practices, and/or procedures including,
23 but not limited to: (1) requiring Plaintiffs and other current and former aggrieved California-based
24 hourly non-exempt employees to wait in lines to check out and/or check in upon their exit and/or
25 entry into the building when they left the building during their meal periods – resulting in meal
26 periods that were not duty-free and/or were less than thirty (30) minutes; (2) requiring Plaintiffs
27 and other current and former aggrieved California-based hourly non-exempt employees to undergo
28 security checks, including bag checks, for example, while clocked out for meal periods if they left

1 the building during their meal periods – resulting in meal periods that were not duty-free and/or
2 were less than thirty (30) minutes; (3) requiring Plaintiffs and other current and former aggrieved
3 California-based hourly non-exempt employees to wait in line to clock in from their meal periods
4 – resulting in meal periods that were not duty-free and/or were less than thirty (30) minutes; (4)
5 understaffing their worksites which resulted in Plaintiffs and other current and former aggrieved
6 California-based hourly non-exempt employees frequently having to work through their meal
7 periods, to take late, short, or interrupted meal periods, and/or to miss meal periods altogether in
8 order to keep up with the demands of their work; (5) auto-deducting meal periods from Plaintiffs’
9 and other current and former aggrieved California-based hourly non-exempt employees’ time
10 records even if Plaintiffs and other current and former aggrieved California-based hourly non-
11 exempt employees did not take legally required and compliant meal periods; (6) requiring
12 Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees
13 to travel to and from a designated area while they were off the clock for meal periods – resulting
14 in meal periods that were not duty-free and/or were less than thirty (30) minutes; and (7) failing to
15 provide a second meal period to Plaintiffs and other current and former aggrieved California-based
16 hourly non-exempt employees when they worked over ten (10) hours in a shift.

17 150. Defendants also failed to pay employees one (1) hour of pay at their regular rate of
18 pay for each workday that Plaintiffs and other current and former aggrieved California-based
19 hourly non-exempt employees did not receive all legally required and compliant meal periods, in
20 violation of Labor Code section 226.7 and Wage Order 9 at §11.

21 151. Finally, on occasions when Defendants paid Plaintiffs and other current and former
22 aggrieved California-based hourly non-exempt employees a “premium” wage for late, missed,
23 short, on-premise, on-duty, and/or interrupted meal periods, Defendants failed to pay the one (1)
24 additional hour of pay at Plaintiffs’ and other current and former aggrieved California-based
25 hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants maintained
26 a policy, practice, and/or procedure of failing to include all remuneration, including, but not
27 limited to: (1) bonuses for being an “essential worker” during the COVID-19 pandemic; (2)
28 bonuses for high performance in shipping and/or receiving; (3) taxable fringe payments; and/or (4)

1 and non-discretionary gift cards; when calculating Plaintiffs’ and other current and former
2 aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of
3 paying meal period premiums.

4 152. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiffs
5 and other current and former aggrieved California-based hourly non-exempt employees not
6 receiving premium wages or not receiving premium wages at the regular rate, to compensate them
7 for workdays in which Defendants failed to authorize or permit them to take all legally required
8 and compliant meal periods, as required by Labor Code section 226.7 and Wage Order 9 at §11.

9 153. **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 or**
11 **pay rest period premiums at employees’ regular rate of pay:** Plaintiffs and other current and
12 former aggrieved California-based hourly non-exempt employees regularly worked shifts of more
13 than three-and-a-half (3.5) hours.

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

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1 155. As previously noted, “[t]he regular rate at which an employee is employed shall be
2 deemed to include all remuneration for employment paid to, or on behalf, of the employee.” See
3 Division of Labor Standards Enforcement – Enforcement Policies and Interpretations Manual,
4 Section 49.1.2.

5 156. In this case, Defendants failed to authorize or permit all legally required and
6 compliant rest periods to Plaintiffs and other current and former aggrieved California-based hourly
7 non-exempt employees due to their policies, practices, and/or procedures including, but not
8 limited to: (1) requiring Plaintiffs and other current and former aggrieved California-based hourly
9 non-exempt employees to wait in lines to check out and/or check in upon their exit and/or entry
10 into the building when they left the building during their rest periods – resulting in rest periods
11 that were not duty-free and/or were less than a net ten (10) minutes; (2) requiring Plaintiffs and
12 other current and former aggrieved California-based hourly non-exempt employees to undergo
13 security checks, including bag checks, for example, if they left the building during their rest
14 periods – resulting in rest periods that were not duty-free and/or were less than a net ten (10)
15 minutes; (3) understaffing their worksites which resulted in Plaintiffs and other current and former
16 aggrieved California-based hourly non-exempt employees frequently having to work through their
17 rest periods, to take late, short, or interrupted rest periods, and/or to miss rest periods altogether in
18 order to keep up with the demands of their work; (4) prohibiting Plaintiffs and other current and
19 former aggrieved California-based hourly non-exempt employees from leaving Defendants’
20 premises during their rest periods – resulting in rest periods that were not duty-free; and (5)
21 requiring Plaintiffs and other current and former aggrieved California-based hourly non-exempt
22 employees to travel to and from a designated area during their rest periods – resulting in rest
23 periods that were not duty-free and/or less than a net ten (10) minutes.

24 157. Defendants also failed to pay employees one (1) hour of pay at their regular rate of
25 pay for each workday that Plaintiffs and other current and former aggrieved California-based
26 hourly non-exempt employees did not receive all legally required and compliant rest periods, in
27 violation of Labor Code section 226.7 and Wage Order 9 at §12.

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158. Finally, on occasions when Defendants did pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees a “premium” wage for late, missed, short, on-premise, on-duty, and/or interrupted rest periods, Defendants failed to pay the one (1) additional hour of pay at Plaintiffs’ and other current and former aggrieved California-based hourly non-exempt employees’ regular rate of compensation. Specifically, Defendants maintained a policy, practice, and/or procedure of failing to include all remuneration, including, but not limited to: (1) bonuses for being an “essential worker” during the COVID-19 pandemic; (2) bonuses for high performance in shipping and/or receiving; (3) taxable fringe payments; and/or (4) and non-discretionary gift cards; when calculating Plaintiffs’ and other current and former aggrieved California-based hourly non-exempt employees’ regular rate of pay for the purpose of paying rest period premiums.

159. Defendants’ foregoing policies, practices, and/or procedures resulted in Plaintiffs and other current and former aggrieved California-based hourly non-exempt employees not receiving premium wages or not receiving premium wages at the regular rate to compensate them for workdays in which Defendants failed to authorize or permit them to take all legally required and compliant rest periods, as required by Labor Code section 226.7 and Wage Order 9 at §12.

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

161. 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, overtime wages at the proper rate,

1 meal period premium wages, meal period premium wages at the regular rate, rest period premium
2 wages, and/or rest period premium wages at the regular rate), in violation of Labor Code section
3 204. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to
4 pay Plaintiffs and other current and former aggrieved California-based hourly non-exempt
5 employees their earned wages within the applicable time frames outlined in Labor Code section
6 204.

7 162. **Failure to provide complete and accurate wage statements:** California law
8 requires an employer to provide employees at the time of payment of their wages an accurate
9 itemized statement that accurately shows all information required in Labor Code section 226,
10 subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his
11 or her wages, the employer must "furnish each of his or her employees ... an itemized statement in
12 writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any
13 employee whose compensation is solely based on a salary and who is exempt from payment of
14 overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
15 Commission, (3) the number of piece-rate units earned and any applicable piece rate if the
16 employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on
17 written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
18 (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the
19 employee and his or her social security number, (8) the name and address of the legal entity that is
20 the employer, and (9) all applicable hourly rates in effect during the pay period and the
21 corresponding number of hours worked at each hourly rate by the employee."

22 163. Defendants committed direct violations of Labor Code section 226 by failing to
23 provide Plaintiffs and other current and former aggrieved California-based hourly non-exempt
24 employees an accurate itemized wage statement due to their policies, practices, and/or procedures,
25 including, but not limited to: showing variable overtime rates with no indication of how they were
26 calculated and/or showing overtime rates that were sometimes less than one and one half times the
27 employee's stated regular rate of pay, and as a result, incorrectly reflecting gross wages earned.

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164. Additionally, as a derivative of Plaintiffs' claims above, Defendants failed to provide 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 all their earned wages (including minimum wages, overtime wages, overtime wages at the proper overtime rate, meal period premium wages, meal period premium wages at the proper regular rate, rest period premium wages, and/or rest period premium wages at the proper rate), in violation of Labor Code section 226.

165. **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).

166. As a result of Defendants' aforementioned violations of the Labor Code (including failure to pay minimum wages, overtime wages, overtime wages at the proper overtime rate, meal period premium wages, meal period premium wages at the proper regular rate, rest period premium wages, and/or rest period premium wages at the proper rate), Defendants failed to timely pay Plaintiff EDUARDO CORDERO and other former aggrieved California-based hourly non-exempt employees all their final wages after each employee's termination and/or resignation, as required by Labor Code sections 201, 202, and 203.

167. **Failure to maintain temperatures 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.

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

3 168. California law requires an employer to endeavor to provide a safe and healthy
4 workplace. (California Code of Regulations, title 8, section 3203). Further, Labor Code section
5 6720 required the California Division of Occupational Safety and Health (“Cal/OSHA”) to
6 propose an indoor heat illness standard by January 1, 2019. (Labor Code section 6720).
7 Cal/OSHA’s draft standard applies its proposed regulations to “all indoor work areas where the
8 temperature equals or exceeds 82 degrees Fahrenheit when employees are present.”

9 169. At times during the one (1) year prior to the filing of the Initial PAGA Claim
10 Notice, Defendants subjected Plaintiffs and other current and former aggrieved California-based
11 hourly non-exempt employees to excessive heat and/or humidity in the workplace resulting in
12 temperatures equaling or exceeding eighty-two (82) degrees Fahrenheit. At times during the one
13 (1) year prior to the filing of the Initial PAGA Claim Notice, in violation of Labor Code section
14 1198 and section 15 of Wage Order 9, Defendants failed to provide Plaintiffs and other current
15 and former aggrieved California-based hourly non-exempt employees with reasonable comfort by
16 maintaining the indoor temperature within the range of industry standards through Defendants’
17 policies, practices, and/or procedures including, but not limited to, not providing adequate air
18 conditioning or ventilation. Plaintiffs contend that it was extremely hot inside their facilities, at
19 times exceeding one hundred (100) degrees Fahrenheit where Plaintiffs and other current and
20 former aggrieved California-based hourly non-exempt employees performed work for Defendants.

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

25 171. Plaintiffs have complied with the procedures for bringing suit specified in Labor
26 Code section 2699.3. On October 13, 2020, Plaintiff MICHAEL HOOKER filed an Initial PAGA
27 Claim Notice with LWDA and gave notice to Defendants by certified mail, providing notice of the
28 specific provisions of the Labor Code alleged to have been violated and including the facts and

1 theories to support the violations alleged. On October 28, 2020, Plaintiff MICHAEL HOOKER
2 filed an Amended PAGA Claim Notice with LWDA and gave notice to Defendants by certified
3 mail, providing notice of the specific provisions of the Labor Code alleged to have been violated
4 and including the facts and theories to support the violations alleged. On February 24, 2021,
5 Plaintiffs filed a Second Amended PAGA Claim Notice with LWDA and gave notice to
6 Defendants by certified mail, providing notice of the specific provisions of the Labor Code alleged
7 to have been violated and including the facts and theories to support the violations alleged.

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

15 173. Pursuant to Labor Code sections 2699(a) and (f), Plaintiffs seek civil penalties for
16 Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194,
17 1197, 1198, for the one (1) year preceding the filing of the Initial PAGA Claim Notice with
18 LWDA, in the following amounts:

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

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

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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.

12 174. Pursuant to Labor Code section 2699(g), Plaintiffs are entitled to an award of
13 reasonable attorneys' fees and costs in connection with her claims for civil penalties.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE, PLAINTIFFS ON THEIR OWN BEHALF AND ON BEHALF OF**
16 **THOSE SIMILARLY SITUATED, PRAY AS FOLLOWS:**

17 **ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH, SEVENTH, AND**
18 **EIGHTH CAUSES OF ACTION:**

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

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

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

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

ON THE FIRST 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 SECOND 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, the Overtime Class, and the Regular Rate 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 THIRD 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, the Meal Period Class, and the Meal Period

1 Premium Wages Class;

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

3 3. For any and all legally applicable penalties;

4 4. For pre-judgment interest, including but not limited to that recoverable under Labor

5 Code section 218.6, and post-judgment interest; and

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

8 **ON THE FOURTH CAUSE OF ACTION:**

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

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

13 3. For any and all legally applicable penalties;

14 4. For pre-judgment interest, including but not limited to that recoverable under Labor

15 Code section 218.6, and post-judgment interest; and

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

18 **ON THE FIFTH CAUSE OF ACTION:**

19 1. That Defendants be found to have violated Labor Code 204 as to Plaintiffs and the
20 Pay Day Class;

21 2. For damages, according to proof;

22 3. For any and all legally applicable penalties, including but not limited to those
23 recoverable pursuant to Labor Code section 210(a);

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

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

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

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

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

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

ON THE NINTH CAUSE OF ACTION:

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

2. For any and all legally applicable penalties during the relevant statute of limitations 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, and 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.

Dated: April __, 2022

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

By: _____
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Attorneys for Plaintiffs
MICHAEL HOOKER and EDUARDO
CORDERO on behalf of themselves and
others similarly situated

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs MICHAEL HOOKER and EDUARDO CORDERO demand a trial by jury for
3 themselves and the California Class on all claims so triable.

4
5 Dated: April __, 2022

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

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14 Attorneys for Plaintiffs
15 MICHAEL HOOKER and EDUARDO
16 CORDERO on behalf of themselves and
17 others similarly situated
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