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Attorneys for Plaintiff Anayeli Gutierrez

**SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ANAYELI GUTIERREZ, as an individual and on)
behalf of other similarly situated employees,)

Plaintiff,

vs.

H MART BUENA PARK, LLC, a California
corporation, and DOES 1-50, inclusive,

Case No.: 30-2021-01183505-CU-OE-CXC

) Assigned for all purposes to Honorable Judge
) Randal J. Sherman, Dept. CX-105

) **DECLARATION OF ARMOND M.
) JACKSON IN SUPPORT PLAINTIFF'S
) UNOPPOSED MEMORANDUM OF
) POINTS AND AUTHORITIES IN
) SUPPORT OF PLAINTIFFS' MOTION
) FOR ORDER APPROVING
) SETTLEMENT UNDER CALIFORNIA
) LABOR CODE SECTION 2699 ET SEQ.**

) [Concurrently filed with Notice of Motion;
) *PAGA Motion,;and Proposed Order*]

) **Hearing Date: November 4, 2022**
) **Hearing Time: 10:00 a.m.**
) **Department: CX105**

Case filed: February 9, 2021
Trial date: TBD

Reservation ID: 73816419

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 1. I am the attorney of record for Plaintiff who filed the above-captioned case against
3 and Defendant H Mart Buena Park, LLC (referred to herein as “Defendant”). I am licensed and
4 admitted to practice law in all state courts of California. This declaration is submitted in support of
5 Plaintiff’s Unopposed Memorandum of Points and Authorities in Support of Plaintiff’s Motion for
6 Order Approving Settlement Under California Labor Code section 2699 et seq. (“PAGA Motion”),
7 filed concurrently herewith. The parties entered into a settlement agreement. Attached hereto as
8 **Exhibit A** is a true and correct copy of the settlement agreement.

9 2. Pursuant to California Labor Code Section 2699(1)(2), on August 3, 2022, I
10 submitted the Plaintiff’s Memorandum of Points and Authorities in Support of Plaintiff’s Motion
11 for Order Approving Settlement Under California Labor Code Section 2699 et seq. and a copy of
12 the parties’ settlement agreement to the California Labor and Workforce Development Agency
13 (“LWDA”). Attached hereto as **Exhibit B** is a true and correct copy of the notice.

14 3. Plaintiff filed a civil action entitled *Gutierrez v. H Mart Buena Park, et al.*, filed in
15 Orange Superior Court Case 30-2021-01183505-CU-OE-CXC (hereinafter referred to as “the
16 Action”). During each phase of discovery, Plaintiff’s counsel engaged in detailed case analysis
17 based on the information revealed. Calculations were performed, as well as an analysis of the risks
18 and rewards of continued litigation.

19 4. After Defendant produced the requested sampling and documentation, Plaintiff
20 retained an expert to analyze these records. I reviewed the wage and hour policies and payroll data
21 and worked with the expert to perform a report that allowed the party to analyze the purported
22 violations of the Defendant, shift counts, pay periods, number of aggrieved employees and policies
23 and procedures and how they apply to the data. This information allowed Plaintiff to evaluate the
24 claims in preparation for mediation. The parties engaged in a full day mediation on September 17,
25 2021 with Steve Rottman that ultimately resulted in a settlement through a mediator’s proposal.
26 Thereafter, the parties executed a long form settlement agreement. Plaintiff also took into account
27 the uncertainty and risk of the outcome of further litigation, and the difficulty and delays inherent
28 in such litigation. Plaintiff and Counsel also considered the burdens of proof necessary to establish

1 liability of the claims asserted in the case, both generally and in response to Defendants' defenses,
2 and the difficulties in establishing penalties, and other relief sought in the case, particularly where,
3 as here, Plaintiff may face difficulty obtaining the cooperation of PAGA Members who are current
4 employees, given their likely reluctance to aid in the prosecution of a lawsuit against their
5 employer. Based on the foregoing, Plaintiff and PAGA Counsel determined that the Settlement set
6 forth in the Agreement is fair, adequate, and reasonable and is in the best interests of the PAGA
7 Members.

8 5. Throughout the litigation, my office performed a thorough investigation into the
9 claims at issue, which included: (1) determining Plaintiff's suitability as a private attorney general
10 through interviews, background investigations, and analyses of his employment files and related
11 records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar
12 PAGA actions as to the claims brought, the nature of the positions, and the type of employer; (4)
13 analyzing a sample of employees' time and wage records; (5) reviewing Defendant's employment
14 policies and practices; (6) researching settlements in similar cases; (7) evaluating Plaintiff's claims
15 and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief;
16 and (9) participating in the mediation.

17 6. By engaging in such a thorough investigation and evaluation of Plaintiff's claims, I
18 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement
19 Agreement, is fair, reasonable, an adequate, and is in the best interests of the LWDA in light of all
20 known facts and circumstances, including the risk of significant delay and uncertainty associated
21 with litigation, and various defenses asserted by Defendant. Based upon review of the payroll
22 documents, below is the analysis of the alleged Labor Code violations segmented byway of factual
23 predicates to support Labor Code violations.

24 **Meal Break Violations**

25 7. Based upon the payroll records, it was determined that the maximum exposure
26 amounted to \$79,515.60 based upon a 26.8% violation rate during 2,967 (2,967 * 26.8% (795
27 violations) pay periods during the relevant time period. Based upon the risk assessment while
28 incorporating the argument from Defendant that it had a policy or practice that a manager was

1 allegedly available to break these employees during meal periods during each shift, a discount of
2 50% was applied equating to an exposure amount of \$39,757.80.

3 **Rest Break Violations**

4 8. A conservative assumption while applying the same violation rate for meal breaks
5 would also amount to \$29,700 based upon a 10% violation rate during 2,967 (2,967 * 10% (297
6 violations) pay periods during the relevant time period. For rest breaks, a 50% discount rate was
7 applied amounting to \$14,850.

8 **Overtime Wage Violations**

9 9. Overtime wage violations were based upon the allegation that the aggrieved
10 employees were subjected to a policy of pre-shift checks and post-shift work activities off-the-
11 clock. Assuming a 100% violation rate based upon 2,967 pay periods amounted to \$296,700 in
12 penalty exposure. Again, given there is no substantative records to support these violations, a 75%
13 discount rate was applied amounting to \$67,425.

14 **Minimum Wage Violations**

15 10. Minimum wage violations were based upon the allegation that the aggrieved
16 employees were subjected to a policy of pre-shift checks and post-shift work activities off-the-
17 clock. Assuming a 100% violation rate based upon 2,967 pay periods amounted to \$296,700 in
18 penalty exposure. Given there is no substantative records to support these violations, a 75%
19 discount rate was applied amounting to \$67,425.

20 **Wage Statements**

21 11. This wage statement claim is based upon Defendants failing to provide include
22 complete and accurate information on wage statements including total hours worked, total wages
23 earned, and applicable hourly rate. The exposure under Labor Code 226(a) would amount to
24 \$296,700 in penalty exposure. Given that the wage statement claims were based upon either a
25 26.8% violation rate for premium wages for meal breaks or violations that are not necessarily
26 reported by normal payroll records, a 65% discount was applied amounting to \$103,845.

203 Penalty Violations

12. This penalty claim is based upon purported minimum wage or overtime violations. It was estimated that 24 employees were terminated, laid off, or resigned whom were subjected to Labor Code violations. Each employee would presumably be entitled to \$3,705.60 equating to \$74,112 in penalties.

13. The violation of Labor Code 432 and 1198.5 applied to Plaintiff only and penalties would amount to \$200.

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

1 year California licensed attorney with a billable rate of \$440 per hour which should be considered
2 reasonable. Another attorney at my office Anthony Filer Jr. also worked on this matter whom is a
3 1-year California licensed attorney with a billable rate of \$250 per hour which should be
4 considered reasonable. Yesenia Villalba whom is a paralegal with over five years of legal
5 experience with a billable rate of \$145 which should be considered reasonable. Maria Ocampo as
6 case administrator with approximately three years of legal experience with a billable rate of \$125
7 which should be considered reasonable. Norma Gouridine as legal secretary with approximately one
8 year of legal experience with a billable rate of \$100 which should be considered reasonable.

9 15. In January 2017, I officially stated my own practice Jackson Law, APC. Throughout
10 my career, I have litigated or currently litigating approximately over 100 wage and hour Private
11 Attorney General Act cases and/or class action cases. I have litigated over 100 employment cases,
12 including wage and hour cases. I was also a member of the California Employment Law
13 Association (“CELA”) and argued before the Ninth Circuit and responsible for a published opinion.
14 Based upon my experience, I believe the benefit conferred by the proposed Settlement is eminently
15 fair and reasonable, and is in the best interests of the State of California and the PAGA
16 Representative Group Members because (1) of the monetary benefits provided to the State such as
17 (payroll taxes, income taxes etc.) for an ongoing business, (2) benefit to the PAGA Representative
18 Group as Defendant changed its practices that appears to advise the employees of their rights
19 enabling them to take their rest breaks and meal breaks as well as retain their jobs and receive some
20 monies for penalties they would not have received but for this lawsuit; and (3) the risk, delay, and
21 uncertainty of continued litigation on Plaintiff and Plaintiff’s counsel.

22 16. To date, costs are approximately \$11,544.30. Attached hereto as **Exhibit C**, is a true
23 and correct copy of Plaintiff’s costs spreadsheet maintained by Jackson Law, APC’s law firm
24 practice management software.

25 **Attorneys’ Fees**

26 17. To date, attorneys’ fees are approximately \$31,366.95. Attached hereto as **Exhibit**
27 **D**, is a true and correct copy of Plaintiff’s attorneys’ fees spreadsheet maintained by Jackson Law,
28 APC’s law firm practice management software.

1 18. Attached hereto as **Exhibit E** is a true and correct copy of the October 9, 2020, letter
2 pursuant to the California Private Attorney General Act.

3 19. Attached hereto as **Exhibit F** is a true and correct copy of the Laffey Matrix.

4 20. Below is a non-exhaustive list of all prior wage and hour representative actions on
5 which I have served as lead or co-counsel.

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

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

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

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

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

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

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

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

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

23 10. *Luis v. Second Street Corporation dba Huntley House Hotel*, Los Angeles County
24 Superior Court, Case No. BC691018

25 11. *Venegas, at al. v. Bergen Shippers Corp, et al*, Los Angeles County Superior Court,
26 Case No. BC715217

27 12. *Bernal v. Bristol Equity Partners LP et al*, Orange County Superior Court, Case No. 30-
28 2016-00854699-CU-OE-CXC

1 13. *Rowe v. Rasier-CA, LLC*, Orange County Superior Court,
2 Case No. 30-2018-00989673-CU-OE-CXC
3 14. *Abarca v. Habit Restaurants, LLC, The et al*, Orange County Superior Court, Case No.
4 30-2016-00840385-CU-OE-CJC
5 15. *Radilla v. States Logistics Services, Inc.*, Orange County Superior Court,
6 Case No. 30-2018-00978231-CU-WT-CJC
7 16. *Rodriguez v. Lampson Sewing Incorporated et al*, Orange County Superior Court, Case
8 No. 30-2017-00900653-CU-OE-CJC
9 17. *January v. Discovery Management Inc. et al*, Los Angeles Superior Court,
10 Case No. BC635918
11 18. *Angel Hernandez v. Merchants Landscape Services, Inc. et al.*, Los Angeles Superior
12 Court, Case No. BC674131
13 19. *Quezada v. Garden Fresh Restaurant Corp. et al*, Orange County Superior Court, Case
14 No. 30-2016-00840321-CU-OE-CJC
15 20. *Munoz v. Batten Down, Inc. et al*, Los Angeles County Superior Court, Case No.
16 BC617880
17 21. *Salgado v. Resort at Pelican Hill, LLC et al*, Orange County Superior Court, Case No.
18 30-2016-00840386-CU-OE-CJC
19 22. *Darmawati v. Westview Services Inc.*, Orange County Superior Court, Case No. 30-
20 2015-00795449-CU-OE-CJC
21 23. *Escobar v. Westcoast Textiles, Inc. et al*, Orange County Superior Court,
22 Case No. 30-2018-00979111-CU-OE-CXC
23 24. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case No.
24 30-2017-00900648-CU-OE-CXC
25 25. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case No.
26 8:19-cv-00564
27 26. *Plascencia v. RM HQ, LLC, dba Real Mex Restaurants*, Orange County Superior Court,
28 Case No. 30-2017-00926015-CU-OE-CXC

- 1 27. *Casas v. PC Hospitality et al.*, Orange County Superior Court,
2 Case No. 30-2016-00877489-CU-OE-CXC
- 3 28. *Leon v. SWH Mimi's Caf , LLC*, Orange County Superior Court,
4 Case No. 30-2018-00978815-CU-OE-CXC
- 5 29. *Quintanilla v. Southwest Wine & Spirits, LLC*, Los Angeles Superior Court, Case No.
6 BC653817
- 7 30. *Fabiola Rodriguez v. Second Floor Food, Drinks and Art, LLC*, Orange County
8 Superior Court, Case No. 30-2018-00981362-CU-WT-CXC
- 9 31. *Santiseban v. Rod Fraser Enterprises, Inc. et al*, Orange County Superior Court,
10 Case No. 30-2017-00904202-CU-OE-CXC
- 11 32. *Milano v. Lev Tambor dba Distractions Lounge*, Orange County Superior Court,
12 Case No. 30-2018-00966582-CU-WT-CXC
- 13 33. *Ajin v. Lymi, Inc*, Los Angeles County Superior Court, Case No. BC696168
- 14 34. *Recinos v. Pacific American Fish Co., et al*, Los Angeles Superior Court,
15 Case No. BC710735
- 16 35. *Valle-Valdez v. St. Jude Hospital Yorba Linda, et al*, Orange County Superior Court,
17 Case No. 30-2015-00795457-CU-OE-CJC
- 18 36. *Juarez v. Arakelian Enterprises, Inc., et al*, Los Angeles Superior Court,
19 Case No. BC710736
- 20 37. *Solarzano v. T&J Fresh Co. dba Chomp Sushi*, Orange County Superior Court,
21 Case No. 30-2018-00981299-CU-OE-CXC
- 22 38. *Taylor v. G.I. Trucking Company dba Estes West et al*, Los Angeles Superior Court,
23 Case No. BC722778
- 24 39. *Rendon v. L & L Foods Holdings, LLC, et al*, Orange County Superior Court, Case No.
25 30-2018-00982745-CU-OE-CXC
- 26 40. *Magana v. Zara USA, Inc., et al*, Orange County Superior Court,
27 Case No. 8:18-cv-02249-AG (ADSx)
- 28 41. *Flores v. ABM Industry Groups, LLC et al*, Orange County Superior Court,

Case No. 30-2018-00971152-CU-WT-CJC

42. *Diaz v. Macy's West Stores, Inc. dba Macy's*, Central District of California,

Case No. SACV19-00303 ODW (MAAx)

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

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

45. *Munoz v. 8947 Sunset Pizza, LLC et al.*, Los Angeles Superior Court,

Case No. BC646999

I declare under penalty of perjury and under the laws of the State of California that the foregoing statements are true and correct and stated of my own personal knowledge. I have signed this declaration on August 3, 2022, in Irvine, California.

/s/ Armond M. Jackson
Armond M. Jackson

EXHIBIT A

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Attorneys for Defendant
H MART BUENA PARK, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE - WEST JUSTICE CENTER

ANAYELI GUTIERREZ,

Plaintiff,

v.

H MART BUENA PARK, LLC, a
California corporation, and DOES 1-50,
inclusive,

Defendants.

CASE NO.: 30-2021-01221358-CU-WT-WJC
[Unlimited Jurisdiction]

*Assigned for all purposes to the
Honorable Walter Schwarm, Dept. W08*

PAGA SETTLEMENT AGREEMENT

This Stipulation of Settlement (“PAGA Settlement Agreement”) is made by and between Plaintiff Anayeli Gutierrez (“Plaintiff”), on her own behalf and on behalf of all members of the PAGA Group, as defined below, and Defendant H Mart Buena Park, LLC (“Defendant”), in the lawsuit entitled *Anayeli Gutierrez v. H Mart Buena Park, LLC*, the Orange County Superior Court, Case No. 30-2021-01183505-CU-OE-CXC (the “Litigation”). The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate. This PAGA Settlement Agreement resolves all claims that were asserted or could have been asserted against H Mart Buena Park, LLC pertaining to the claims in the Litigation.

1 **I. DEFINITIONS**

2 **A. Administrative Costs.** All administrative costs of settlement, including cost of
3 notice to the Settlement Group, administration, and any fees and costs incurred or charged by the
4 Settlement Administrator in connection with the execution of its duties under this Stipulation of
5 Settlement.

6 **B. Agreement.** The terms “Agreement” or “Settlement Agreement” are used
7 synonymously herein to mean this PAGA Settlement Agreement for purposes of Resolution.

8 **C. Court.** The term “Court” as used herein means the Superior Court of the State of
9 California for the County of Orange.

10 **D. Date of Approval.** The terms “Date of Approval” or “Approval” as used herein
11 mean the date of the PAGA Settlement Approval Hearing.

12 **E. Defendant.** The term “Defendant” as used herein means: H Mart Buena Park,
13 LLC.

14 **F. Litigation.** The term “Litigation” as used herein means the action entitled filed in
15 Orange County Superior Court, Case No. 30-2021-01183505-CU-OE-CXC.

16 **G. Plaintiff.** The term “Plaintiff” as used herein means Anayeli Gutierrez. The term
17 Plaintiff shall be used synonymously with the term PAGA Representative.

18 **H. Net Settlement Amount.** The term “Net Settlement Amount” as used herein
19 means the Settlement Amount minus any award of attorneys’ fees and Litigation costs,
20 Administrative Costs, and PAGA Enhancement Payment, and Plaintiff’s Individual Settlement
21 Payment. The remaining Net Settlement amount will be disbursed as follows: seventy-five percent
22 (75%) of penalties payable to the LWDA (“LWDA Payment”), twenty-five percent (25%) to the
23 PAGA employees (“PAGA GROUP PAYMENT”) pursuant to California’s Private Attorney
24 General Act (“PAGA”), and as provided in Sections VI and X, respectively.

25 **I. Net Settlement Payments.** The term “Net Settlement Payment(s)” shall include
26 payments made to the Settlement Group as part of the Resolution.

27 **J. LWDA Payment.** The term “LWDA Payment” as used herein means seventy-five
28 percent (75%) of the remainder of the Settlement Amount after the deduction of any award of

attorneys' fees, Litigation costs, and Administrative Costs and the PAGA Enhancement Payment, to be paid to Labor and Workforce Development Agency ("LWDA"). This amount shall be calculated as follows: Settlement Amount minus (Court approved amounts for attorneys' fees, Litigation costs, and Administrative Costs) times 75%.

K. PAGA GROUP PAYMENT. The term "PAGA GROUP PAYMENT" as used herein means Twenty-five percent (25%) of the remainder of the Settlement Amount after the deduction of any award of attorneys' fees, Litigation costs, and Administrative Costs, PAGA Enhancement Payment, and Plaintiff's Individual Settlement Payment. This amount shall be calculated as follows: Settlement Amount minus (Court approved amounts for attorneys' fees, Litigation costs, and Administrative Costs) times 25%.

L. PAGA Enhancement Payment. The amount the Court awards to Plaintiff, which will not exceed a monetary amount of up to Five Thousand Dollars (\$5,000.00) for the Plaintiff, subject to Court approval, in recognition of her actions in conferring a benefit upon the State of California and her effort and work in prosecuting the Litigation on behalf of the PAGA Group.

M. Plaintiff's Counsel. The term "Plaintiff's Counsel" as used herein means: Jackson, APC who are counsel for and acting on behalf of Plaintiff.

N. PAGA Group. The PAGA Group is defined as: All persons within the State of California who are or were employed by Defendant or provided services to Defendant in the State of California that were classified as non-exempt, paid by hourly rate or by commission, at any time within the PAGA Period.

O. PAGA Period. The term "PAGA Period" or "Settlement Period" shall refer to the time period from December 9, 2019 to the date of settlement approval.

P. Resolution. The term "Resolution" as used herein means this Agreement to resolve the Litigation.

Q. Settlement Administrator. The term "Settlement Administrator" as used herein means Simpluris, which will be responsible for the administration of the Settlement Payment, as defined below, and all related matters.

R. Settlement Agreement. The terms "Settlement Agreement" or "Agreement" are

used synonymously herein to means this PAGA Settlement Agreement.

S. Settlement Amount. The terms “Settlement Amount” and “Gross Settlement Fund” as used herein mean a fund in the sum of SEVENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$75,000.00) which shall be paid by Defendant, and from which all Net Settlement Payments, PAGA Enhancement Payment, Plaintiff’s Individual Settlement Payment, Court approved attorneys’ fees and Litigation costs pursuant to Section XIII, Administrative Costs pursuant to Section VIII, and distribution to the LWDA pursuant to Section XVI shall be paid, except as provided herein.

The Parties currently estimate that there are approximately 117 individuals in the PAGA Group, who worked an aggregate total of approximately 2,967 pay periods during the PAGA Period, all of which shall be confirmed by the Settlement Administrator.

II. BACKGROUND

A. On October 9, 2020, Plaintiff sent a letter to LWDA alleging Defendant’s violation of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1194, 1198, 1198.5, 2698, 2699, *et seq.*, 2802, any applicable IWC Wage Order(s) (“PAGA Letter”).

B. On February 9, 2021, Plaintiff filed his Complaint alleging a single case of action for penalties pursuant to Labor Code § 2699(f) for alleged violations and penalties under California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1194, 1198, 1198.5, 2698, 2699, *et seq.*, 2802, any applicable IWC Wage Order(s), and any other claims asserted in the PAGA Letter (“Complaint”). In the Litigation, Plaintiff alleges that Defendant failed to pay their employees all wages in full and on a timely basis for all hours worked, including hours that were not properly paid as overtime and minimum wages, and failed to provide meal and rest periods. Plaintiff alleges that the aforementioned conduct resulted in the employees receiving inaccurate wage statements.

C. Following the filing of the Litigation, counsel for the Parties met and conferred with respect to the potential settlement of the Litigation. Pursuant to these discussions, the Parties agreed to exchange informal discovery and engage in private mediation. The Parties subsequently

1 exchanged informal discovery, including: information and documentation concerning the claims
2 set forth in the Litigation, such as documentation regarding Plaintiff's employment and sample
3 time records and pay records for the PAGA Group; information regarding the number of putative
4 PAGA Group members and the number of current versus former employees; and the total pay
5 periods worked by the PAGA Group.

6 D. Plaintiff and Plaintiff's Counsel have engaged in good faith, arms-length
7 negotiations. On September 17, 2021, the Parties participated in a mediation with Steve Rottman,
8 which resulted in a settlement. The Parties settled the case, subject to the Approval of the Court
9 and finalization of a formal Settlement Agreement. The Parties have now entered into a more
10 detailed, formalized Settlement Agreement for submission to the Court for Approval.

11 E. Plaintiff's Counsel has conducted an investigation of the law and facts relating to
12 the claims asserted in the Litigation and has concluded, taking into account the sharply contested
13 issues involved, the expense and time necessary to pursue the Litigation through trial and any
14 appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse outcome,
15 the uncertainties of complex litigation, and the substantial benefits to be received by the Plaintiff
16 and the members of the PAGA Group pursuant to this Agreement, that a settlement with Defendant
17 on the terms and conditions set forth herein is fair, reasonable, adequate, and in the best interests
18 of the PAGA Group. Plaintiff, on her own behalf and as a representative pursuant to PAGA, has
19 agreed to settle the Litigation with Defendant on the terms set forth herein.

20 F. Defendant has concluded that, because of the substantial expense of defending
21 against the Litigation, the length of time necessary to resolve the issues presented herein, the
22 inconvenience involved, and the concomitant disruption to their business operations, it is in its
23 best interests to accept the terms of this Agreement. Defendant deny each of the allegations and
24 claims asserted against it in the Litigation. However, Defendant nevertheless desire to settle the
25 Litigation for the purpose of avoiding the burden, expense, and uncertainty of continuing litigation
26 and for the purpose of putting to rest the controversies engendered by the Litigation.

27 G. This Agreement is intended to and does effectuate the full, final, and complete
28 resolution of all allegations and claims that were asserted, or could have been asserted, in the

1 Litigation by Plaintiff.

2 **III. JURISDICTION**

3 The Parties agree that the Court has jurisdiction over the Parties and the subject matter of
4 this Litigation. The Litigation includes claims that, while Defendant deny them in their entirety,
5 would, if proven, authorize the Court to grant relief pursuant to the applicable statutes. After the
6 Court has granted Approval of the Resolution, pursuant to California Code of Civil Procedure
7 Section 664.6 the Parties agree that the Court shall retain jurisdiction of this action solely for the
8 purpose of interpreting, implementing, and enforcing this Resolution consistent with the terms set
9 forth herein, and the Parties and their counsel submit to the jurisdiction of the Court for purposes
10 of interpreting, implementing, and enforcing this Agreement and all orders and judgments entered
11 in connection therewith.

12 **IV. STATEMENT OF NO ADMISSION**

13 A. Defendant denies liability to Plaintiff and to the PAGA Group upon any claim or
14 cause of action. This Agreement does not constitute, and is not intended to constitute, an admission
15 by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against
16 it in the Litigation.

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

1 before the Court that has as its purpose the interpretation, implementation, or enforcement of this
2 Agreement or any orders or judgments of the Court entered in connection with the Resolution.

3 C. None of the documents produced or created by Plaintiff or the PAGA Group in
4 connection with the claims procedures or claims resolution procedures constitute, and they are not
5 intended to constitute, an admission by Defendant of any violation of any federal, state, or local
6 law, statute, ordinance, regulation, rule, or executive order, or any obligation or duty at law or in
7 equity.

8 D. Nothing in this Agreement will be construed as an admission or acknowledgement
9 of any kind that any group should or would be given collective treatment in the Litigation or in
10 any other action or proceeding. Further, neither this Agreement nor the Court's actions with regard
11 to this Agreement will be admissible in any court or other tribunal regarding the propriety of
12 collective treatment. In the event that this Agreement is not approved by the Court or any appellate
13 court, is terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have
14 waived, limited, or affected in any way any claims, rights, or remedies in the Litigation, and
15 Defendant will not be deemed to have waived, limited, or affected in any way any of their
16 objections or defenses in the Litigation.

17 **V. RELEASE, DISMISSAL, AND CONFIDENTIALITY**

18 **A. Release of Claims for PAGA Penalties**

19 Upon Approval by the Court of this Settlement, Plaintiff will release all claims, rights, or
20 cause of action seeking civil penalties available to LWDA or any agency acting under the authority
21 of the LWDA under the California Labor Code predicated on the claims, allegations, contentions,
22 and representations asserted in the Litigation, during the Settlement Period, against Defendant and
23 all of its current or former parent companies, subsidiary companies and/or related companies,
24 partnerships, joint ventures, and/or staffing agencies, all of its related entities' predecessors and
25 successors, all of its employees, officers, principals, directors, stockholders, owners
26 representatives, assigns, attorneys, agents, insurers, employee benefit programs, and any other
27 persons acting by, through, under, or in concert with any of the persons or entities listed in this
28 subsection and their successors ("Released Parties").

1 **B. Publicity.**

2 Plaintiff and her counsel agree that they have not and will not publish the Resolution. More
3 specifically, Plaintiff and her counsel agree that they will not report the Settlement in any medium
4 or in any publication, shall not post or report anything regarding the claims of Plaintiff or the
5 Settlement on any website, and shall not contact any reporters or media regarding the Settlement.
6 However, nothing in the provision shall be construed from as preventing the Parties from taking
7 following actions: (a) the Parties shall have the right to disclose the Resolution as may be required
8 under federal or state tax and/or securities laws or under Generally Accepted Accounting
9 Principles; (b) the Parties may refer to the Resolution, describe its terms, and file the settlement
10 agreement with the Court, the California LWDA, and the Settlement Administrator in connection
11 with any proceedings which are reasonably necessary to obtain Approval of the Settlement; and,
12 (c) the Parties or their representatives may communicate with accountants or legal advisors
13 regarding the Resolution. Except for the previously listed exceptions, in response to any inquiries
14 about the Litigation, the Parties may state that “the case was resolved, and it was resolved
15 confidentially.”

16 **VI. SETTLEMENT ADMINISTRATOR**

17 Plaintiff and Defendant, through their respective counsel, have selected Simpluris as the
18 Settlement Administrator to administer the Resolution, which includes but is not limited to
19 distributing and responding to inquiries about the Notice of Resolution and calculating all amounts
20 to be paid from the Net Settlement Fund. Charges and expenses of the Settlement Administrator,
21 estimated to be no more than Seven Thousand Five Hundred Dollars (\$7,500) will be paid from
22 the Settlement Amount. Any charges and expenses of the Settlement Administrator greater than
23 the allocated Seven Thousand Five Hundred Dollars (\$7,500) will come from the Settlement
24 Amount. If the actual Settlement Administrator fees are less than the Parties’ estimation, the
25 difference between the actual and estimated Settlement Administrator fees will be included in the
26 Net Settlement Amount.

27 **VII. NOTICE**

28 Plaintiff and Defendant, through their respective attorneys, have jointly prepared a Notice

of PAGA Settlement (the “Notice”), which in substance will be provided to the members of the PAGA Group as follows:

As soon as practicable following Approval of the Resolution, but no later than twenty-one (21) calendar days after the Court’s Approval, Defendant will provide to the Settlement Administrator the following information about each PAGA Group member: (1) name; (2) last known address; (3) number of pay periods as a PAGA Group member during the PAGA period; and (4) social security number (“PAGA List”).

The Settlement Administrator shall run all the addresses provided through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information. Within Fourteen (14) days after the Settlement Administrator’s receipt of the PAGA List, the Settlement Administrator will mail the Notice of Resolution together with a settlement payment to all PAGA Group members by first-class United States mail, postage prepaid, with directions to the Postmaster to forward the Notice and return all undeliverable Notices to the Settlement Administrator. For each Notice of PAGA Settlement and settlement payment that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by performing an additional skip trace and shall re-mail the Notice and settlement check no later than ten (10) calendar days following receipt of the undeliverable Notice. The Notice will be provided in English.

VIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS

A. Distribution Formula.

Members of the PAGA Group will receive a lump sum payment as good and valuable consideration for the waiver and release of claims set forth in Section V(A), above, in an amount determined by the Settlement Administrator in accordance with the provisions of this Agreement.

The lump sum payment to each member of the PAGA Group will be determined by dividing the Net Settlement Amount by the total number of pay periods worked by all members of the PAGA Group during the Settlement Period (the “Pay Period Amount”) and then multiplying the Pay Period Amount by the number of pay periods worked by the individual PAGA member.

1 **B. Funding of Resolution.**

2 The funding of the Settlement Amount will be completed at one time with funds provided
3 to and escrowed by the Settlement Administrator. The funds used for the Settlement Amount shall
4 be paid to the Claims Administrator by Defendant within thirty (30) business days of its receipt of
5 a notice of entry of the Court's Approval order.

6 If a PAGA Group member is deceased at the time of distribution, the Settlement
7 Administrator shall distribute the deceased PAGA Group Member's Net Settlement Payment to
8 the deceased PAGA Group member's legal heir(s). In the event of a dispute as to the legal heir(s),
9 the Settlement Administrator shall notify the executor of the deceased PAGA Group member's
10 estate and attempt to place the deceased PAGA Group member's payment in escrow or similar
11 disposition such that any competing heirs may take whatever action they wish to resolve ultimate
12 disposition of such money and the Settlement Administrator and the Parties hereto may disclaim
13 any further interest in or obligation in relation to such money.

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

19 Settlement checks will specifically indicate that they are void if not negotiated within one
20 hundred eighty 180 days of their issuance. Any settlement checks that remain uncashed one
21 hundred eighty (180) or more calendar days after issuance by the Settlement Administrator shall
22 be voided. The Settlement Administrator will remit the entire amount of each PAGA Group
23 member's uncashed Individual Settlement Payment to the California State Controller for deposit
24 in the Unclaimed Property Fund in the name of the PAGA Group member to whom the uncashed
25 Individual Settlement Payment was drafted.

26 **C. PAGA Enhancement Payment.**

27 Subject to Court approval, the Plaintiff shall receive an Enhancement Award of up to Five
28 Thousand Dollars (\$5,000.00) for services as the PAGA representative. The PAGA Enhancement

1 Payment will be paid from the Gross Settlement Fund and Settlement Amount and shall not
2 constitute payment to any other PAGA Group members other than Plaintiff. To the extent that the
3 Court approves less than the amount of PAGA Enhancement Award that Plaintiff's Counsel
4 requests, the difference between the requested and awarded amounts will be reallocated to the Net
5 Settlement Amount, and Plaintiff shall not have the right to revoke this Settlement, and it will
6 remain binding.

7 Because it is the intent of the Parties that the PAGA Enhancement Payment represent
8 payment to Plaintiff for service to the PAGA Group, and not wages, the Settlement Administrator
9 will not withhold any taxes from the PAGA Enhancement Payment. The PAGA Enhancement
10 Payment will be reported on the IRS Form 1099, which the Settlement Administrator will provide
11 to Plaintiff and to the pertinent taxing authorities as required by law.

12 **D. Time for Distribution of the Attorney Fees, Costs, and LWDA Payment.**

13 The Settlement Administrator shall cause the Court approved attorney's fees and Litigation
14 costs and LWDA Payment to be paid at the same time and manner as the Settlement Payments to
15 the PAGA Group.

16 **IX. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

17 The amounts paid under this Agreement do not represent a modification of any previously
18 credited hours of service under any employee benefit plan, policy, or bonus program sponsored by
19 Defendant. Such amounts will not form the basis for additional contributions to, benefits under,
20 or any other monetary entitlement under, benefit plans (self-insured or not) sponsored by
21 Defendant, policies, or bonus programs. Any payments made under the terms of this Resolution
22 shall not be applied retroactively, currently, or on a going forward basis as salary, earnings, wages,
23 or any other form of compensation for the purposes of Defendant's benefit plan, policy, or bonus
24 program. Defendant retain the right to modify the language of their benefit plans, policies, and
25 bonus programs to effect this intent and to make clear that any amounts paid pursuant to this
26 Resolution are not for "hours worked," "hours paid," "hours of service," or any similar measuring
27 term as defined by applicable plans, policies, and bonus programs for purpose of eligibility,
28 vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not

1 required by this Resolution.

2 **X. PLAINTIFF'S COUNSEL'S ATTORNEYS' FEES AND LITIGATION COSTS**

3 Defendant shall not oppose an application by Plaintiff's Counsel for, and Plaintiff's
4 Counsel shall not seek or receive an amount in excess of 33.33% of the Settlement Amount for all
5 past and future attorneys' fees necessary to prosecute, settle, and administer the Litigation and this
6 Resolution. In addition, Plaintiff seeks a maximum of \$13,000 to reimburse litigation costs. Any
7 attorneys' fees or Litigation costs awarded to Plaintiff's Counsel by the Court shall be deducted
8 from the Settlement Amount for the purpose of determining the Net Settlement Amount. This
9 amount shall include all attorneys' fees, Litigation costs, and expenses for which Plaintiff and
10 Plaintiff's Counsel could claim under any legal theory whatsoever. Should the Court approve a
11 lesser percentage or amount of fees and/or Litigation costs than the amount that Plaintiff's Counsel
12 ultimately seeks, then the unapproved portion or portions shall revert to the Net Settlement
13 Amount.

14 **XI. TAXATION AND ALLOCATION**

15 For withholding tax characterization purposes and payment of taxes, the Net Settlement
16 Amount shall be deemed and is allocated by the Parties as follows ("Net Settlement Allocation"):
17 100% as penalties.

18 All PAGA Group members who cash their settlement check may receive an IRS Form 1099
19 for their portion of the settlement, if deemed required by the Settlement Administrator (in
20 compliance with IRS guidelines).

21 Plaintiff's Individual Settlement Payment will be paid from the Gross Settlement Fund to
22 Plaintiff by Defendant, as compensation for all alleged emotional injuries and related
23 compensatory damages and other related costs, with said amount to be reported on an IRS Form
24 1099 as appropriate, and for wages, income, or benefits to be reported on an IRS Form W-2 as
25 appropriate. Plaintiff will be solely responsible for the payment of any and all taxes and/or
26 contributions from any of the Defendant or withholdings including, but not limited to, any related
27 interest, costs, penalties, or other charges regardless of whether any of the Defendant should have
28 withheld or paid such taxes or made such contributions (including Social Security or Medicare).

1 Plaintiff will indemnify, reimburse, and hold each of the Defendant harmless for any and all taxes,
2 contributions, withholdings, fees, or interest owed or claimed to be owed or any penalties, fines,
3 or assessments that may be imposed on these amounts and assume any and all liability for all such
4 taxes, contributions, fees, interest, penalties, or fines assessed against the Defendant. Plaintiff will
5 also indemnify the Defendant for any and all costs they incur as a result of any claim made by any
6 federal, state, or local agency to collect monies for taxes, penalties, costs, interest, fees, or
7 contributions that are allegedly owing as a result of the amounts paid to Plaintiff or Plaintiff's
8 Counsel under this Agreement.

9 **XII. COURT APPROVAL**

10 This Agreement and the Resolution is contingent upon Approval by the Court. Plaintiff
11 and Defendant agree to take all steps as may be reasonably necessary to secure Approval of the
12 Resolution, to the extent not inconsistent with the terms of this Agreement, and will not take any
13 action adverse to each other in obtaining Court Approval of the Resolution in all respects.

14 **XIII. APPRISAL AND CERTIFICATION BY THE SETTLEMENT**
15 **ADMINISTRATOR.**

16 The Settlement Administrator shall keep Plaintiff's Counsel and Defendant's Counsel
17 apprised of all distributions from the Settlement Amount. Upon completion of administration of
18 the Settlement, the Settlement Administrator shall provide written certification of such completion
19 to Plaintiff's Counsel and Defendant's Counsel. The Settlement Administrator shall also provide
20 Defendant with a final accounting, including the names of payees and Net Settlement Payments.

21 **XIV. MISCELLANEOUS PROVISIONS**

22 **A. Stay of Litigation.**

23 Plaintiff and Defendant agree to the stay of all discovery in the Litigation, pending
24 Approval of the Resolution by the Court.

25 **B. Interpretation of the Agreement.**

26 This Agreement constitutes the entire agreement between Plaintiff and Defendant. Except
27 as expressly provided herein, this Agreement has not been executed in reliance upon any other
28 written or oral representations or terms, and no such extrinsic oral or written representations or

1 terms shall modify, vary, or contradict its terms. In entering into this Agreement, the Parties agree
2 that this Agreement is to be construed according to its terms and may not be varied or contradicted
3 by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State
4 of California, both in its procedural and substantive aspects, without regard to its conflict of laws
5 provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof,
6 will be resolved solely and exclusively in the Superior Court of the State of California for the
7 County of Los Angeles and Plaintiff and Defendant hereby consent to the personal jurisdiction of
8 the Court over them solely in connection therewith. The foregoing is only limited to disputes
9 concerning this Agreement and in no way limits or negates the enforceability and effect of any
10 other agreements signed by employees of Defendant. Plaintiff, on his own behalf and on behalf
11 of the PAGA Group, and Defendant participated in the negotiation and drafting of this Agreement
12 and had available to them the advice and assistance of independent counsel. As such, neither
13 Plaintiff nor Defendant may claim that any ambiguity in this Agreement should be construed
14 against the other.

15 The terms and conditions of this Agreement constitute the exclusive and final
16 understanding and expression of all agreements between Plaintiff and Defendant with respect to
17 the Resolution of the Litigation. The Agreement may be modified only by a writing signed by
18 counsel for all Parties or their successors-in-interest.

19 **C. Further Cooperation.**

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

23 **D. Confidentiality of Documents.**

24 Plaintiff, the Settlement Administrator, and Plaintiff's Counsel shall maintain the
25 confidentiality of all documents, deposition transcripts, declarations, and other information
26 obtained in the Litigation, unless necessary for appeal or such documents are ordered to be
27 disclosed by the Judge or by a subpoena.

28 **E. Counterparts.**

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

4 **F. Authority.**

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

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

8 Plaintiff, members of the PAGA Group, Defendant, and Released Entities are direct
9 beneficiaries of this Agreement, but there are no third-party beneficiaries.

10 **H. Force Majeure.**

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

18 **I. Deadlines Falling on Weekends or Holidays.**

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

21 **J. Severability.**

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

27 **K. Fees and Costs.**

28 Notwithstanding attorneys' fees and costs awarded to Plaintiff by the Court as set forth in

1 this Agreement, all of Defendant's and Plaintiff's own legal fees, costs, and expenses incurred in
2 this Litigation shall be borne by Defendant.

3 [Signatures to follow on next page]
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1 Dated: 22/02/2022, 2022

DocuSigned by:

57605D246A4F454...

ANAYELI GUTIERREZ, Plaintiff

2
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4 Dated: March 29, 2022

Vincent Cha Head of HR

By:

H MART BUENA PARK, LLC, Defendant

6
7 **APPROVED AS TO FORM ONLY:**

8
9 Dated: February 22, 2022

JACKSON, APC

Armond Jackson

Armond M. Jackson, Esq.

Attorneys for Plaintiff

ANAYELI GUTIERREZ

12
13
14 Dated: March 29, 2022

FISHER & PHILLIPS LLP

Soo Y. Park, Esq.

Attorney for Defendant

H MART BUENA PARK, LLC

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

I, the undersigned, am at least 18 years old and not a party to this action. I am employed in the County of Los Angeles with the law offices of Fisher & Phillips LLP and its business address is 444 South Flower Street, Suite 1500, Los Angeles, California 90071.

On [Date], I served the following document(s) on the person(s) listed below by placing ☐ *the original* ☒ *a true copy* thereof enclosed in sealed envelope(s) addressed as follows:

Armond M. Jackson
Andrea M. Fernandez-Jackson
JACKSON, APC
2 Venture Plaza, Ste. 240
Irvine, CA 92618

Attorneys for Plaintiff Anayeli Gutierrez

Tel: (949) 777-6218
Email: ajackson@jacksonapc.com
afernandez@jlaw-pc.com

- ☐ **[by MAIL]** - I enclosed the document(s) in a sealed envelope or package addressed to the person(s) whose address(es) are listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in Los Angeles California, in a sealed envelope with postage fully prepaid.
- ☐ **[by FAX]** - Based on an agreement of the parties to accept service by fax transmission, I faxed the document(s) to the person(s) at fax number(s) listed above from fax number (213) 330-4501. The fax reported no errors. A copy of the transmission report is attached.
- ☐ **[by OVERNIGHT DELIVERY]** - I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight carrier.
- ☐ **[by ELECTRONIC SERVICE]** - Based on a court order or an agreement of the parties to accept service by electronic transmission, I electronically served the document(s) to the person(s) at the electronic service address(es) listed above.
- ☐ **[by PERSONAL SERVICE]** - I delivered the document(s) to the person(s) at the address(es) listed above by (1) (a) personal delivery, or (b) by leaving the documents in an envelope/package with an individual in charge of the office, or (c) by leaving them in a conspicuous place in the office between the hours of 9:00 a.m. and 6:00 p.m., or (2) by messenger – a copy of the Messenger Declaration is attached.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed [Date], at Los Angeles, California.

By: _____

Print Name

Signature

EXHIBIT B

EXHIBIT C

Activities Export

08/02/2022

4:52 PM

Date	Type	Description	Matter	User ▲	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/11/2021	\$	Invoice No. 3964- Steven J. Rottman, LLC ● Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	1.00	\$9,000.00	-	\$9,000.00
09/10/2020	\$	mailed out: Request for Personnel file ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$0.65	-	\$0.65
10/16/2020	\$	Mailed out: Ltr of non compliance ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$0.50	-	\$0.50
02/10/2021	\$	One Legal Invoice 12777089 Documents: Complaint Civil Case Cover Sheet, Summons ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$1,449.25	-	\$1,449.25
02/10/2021	\$	Mailed out - NAR ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$1.40	-	\$1.40
10/09/2020	\$	PAGA Certified Mailer ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	2.00	\$4.75	-	\$9.50
07/06/2021	\$	One Legal Invoice_13063673 ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$13.00	-	\$13.00
09/23/2021	\$	One Legal Invoice 13227309 ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$14.25	-	\$14.25
10/01/2021	\$	One Legal Invoice_13246869 ● Unbilled	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$14.25	-	\$14.25
11/16/2021	\$	Berger Consulting Group-INVOICE # 4890	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$937.50	-	\$937.50
							\$0.00 0.00h	\$11,544.30 0.00h

Activities Export

08/02/2022
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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
● Unbilled								
10/04/2021	\$	Janney and Janney Invoice 4984770	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$75.00	-	\$75.00
● Unbilled								
02/04/2022	\$	One Legal Invoice_13495016	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$14.25	-	\$14.25
● Unbilled								
07/07/2022	\$	One Legal Invoice_13833244	00213-Gutierrez Class/PAGA	Maria Ocampo	1.00	\$14.75	-	\$14.75
● Unbilled								
							\$0.00 0.00h	\$11,544.30 0.00h

EXHIBIT D

Activities Export

08/02/2022

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
09/16/2021	 Unbilled	reviewed, edits and finalized defh complaint and FEHA complaint.	00213-Gutierrez Class/PAGA	Andrea Fernandez	2.00h	\$300.00	-	\$600.00
09/30/2021	 Unbilled	draft and send to oc joint stip	00213-Gutierrez Class/PAGA	Andrea Fernandez	0.40h	\$440.00	-	\$176.00
05/17/2022	 Unbilled	Began drafting PAGA approval motion	00213-Gutierrez Class/PAGA	Anthony Filer	0.85h	\$250.00	-	\$212.50
05/18/2022	 Unbilled	Cont. PAGA approval	00213-Gutierrez Class/PAGA	Anthony Filer	1.60h	\$250.00	-	\$400.00
05/20/2022	 Unbilled	Cont. drafting PAGA motion	00213-Gutierrez Class/PAGA	Anthony Filer	0.46h	\$250.00	-	\$115.00
05/23/2022	 Unbilled	Cont. drafting PAGA motion	00213-Gutierrez Class/PAGA	Anthony Filer	0.86h	\$250.00	-	\$215.00
07/12/2022	 Unbilled	Prep for Status Conf.	00213-Gutierrez Class/PAGA	Anthony Filer	0.61h	\$250.00	-	\$152.50
10/02/2020	 Unbilled	Analyzed case regarding completing firm systems	00213-Gutierrez Class/PAGA	Armond Jackson	2.30h	\$640.00	-	\$1,472.00
10/09/2020	 Unbilled	Analyzed case regarding completing firm systems	00213-Gutierrez Class/PAGA	Armond Jackson	3.30h	\$640.00	-	\$2,112.00
10/28/2020	 Unbilled	Read correspondence and responded via email.	00213-Gutierrez Class/PAGA	Armond Jackson	0.40h	\$640.00	-	\$256.00
					57.11h		\$0.00	\$31,366.95
							2.53h	54.58h

Activities Export

08/02/2022

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/09/2021	 	Drafted PAGA Complaint. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	2.80h	\$640.00	-	\$1,792.00
06/07/2021	 	Reviewed case notes and records. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	1.40h	\$640.00	-	\$896.00
06/17/2021	 	Drafted Amended PAGA Complaint. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	0.50h	\$640.00	-	\$320.00
07/09/2021	 	Prepared for Status Conference. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	0.20h	\$640.00	-	\$128.00
08/12/2021	 	Reviewed class data. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	3.90h	\$640.00	-	\$2,496.00
09/14/2021	 	Drafted mediation brief. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	6.10h	\$640.00	-	\$3,904.00
09/17/2021	 	Prepared for and attended mediation. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	8.90h	\$640.00	-	\$5,696.00
09/20/2021	 	Analyzed re: settlement. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	0.80h	\$640.00	-	\$512.00
01/24/2022	 	Reviewed and revised settlement agreement. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	1.90h	\$640.00	-	\$1,216.00
07/20/2022	 	Reviewed PAGA Motion. Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	3.00h	\$640.00	-	\$1,920.00
					57.11h		\$0.00 2.53h	\$31,366.95 54.58h

Activities Export

08/02/2022

4:51 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
08/11/2021		Created data rubric and reviewed data compilations  Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	4.10h	\$640.00	-	\$2,624.00
08/01/2022		Reviewed ,revised and finalized PAGA motion.  Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	4.20h	\$640.00	-	\$2,688.00
09/16/2021		Reviewed expert report and spoke to expert re: report.  Unbilled	00213-Gutierrez Class/PAGA	Armond Jackson	1.90h	\$640.00	-	\$1,216.00
02/09/2021		Drafted Civil Case Cover sheet and Summons. PDF'd and finalized documents  Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.25h	\$0.00	\$0.00	-
02/09/2021		Initiated case filing with One Legal. Submitted Complaint, Civil Case Cover Sheet and Summons  Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.17h	\$0.00	\$0.00	-
02/09/2021		Emailed & Called Case Managers for mediators and provided to Attorney AJ  Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.25h	\$0.00	\$0.00	-
02/10/2021		downloaded CONFORMED copies, prepared NAR and served.  Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.50h	\$0.00	\$0.00	-
02/10/2021		saved one legal invoice and created expense entry  Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.04h	\$0.00	\$0.00	-
					57.11h		\$0.00	\$31,366.95
							2.53h	54.58h

Activities Export

08/02/2022

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/10/2021	 	reserved-provided case caption and counsel contact info to CM ● Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.09h	\$0.00	\$0.00	-
02/11/2021	 	resubmitted caption and counsel information to case manager and saved invoice in clients file ● Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.04h	\$0.00	\$0.00	-
03/02/2021	 	saved executed NAR ● Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.04h	\$0.00	\$0.00	-
04/13/2021	 	Called client back on a VM that was left for her from Golden & Timbol ● Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.17h	\$0.00	\$0.00	-
10/01/2021	 	invoiced One Legal ● Non-billable	00213-Gutierrez Class/PAGA	Maria Ocampo	0.10h	\$0.00	\$0.00	-
10/01/2021	 	File and email serve. ● Unbilled	00213-Gutierrez Class/PAGA	Norma Gourdine	0.39h	\$0.00	-	\$0.00
01/31/2022	 	Administration: (PAGA) Outgoing call: Called Courtcall to schedule upcoming hearing 02/10/22 spoke with Angela at extension 621 ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.28h	\$0.00	\$0.00	-
01/31/2022	 	Administration: (PAGA) process coutcall confirmation and service copy in the clients electronic folder. ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.02h	\$0.00	\$0.00	-
					57.11h		\$0.00 2.53h	\$31,366.95 54.58h

Activities Export

08/02/2022

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/03/2022		Administration: (CLASS) subsequent filing Joint Status Conference Statement. ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.04h	\$0.00	\$0.00	-
02/09/2022		Administration: Outgoing call spoke to Denise Meekins at ext 875 to modified courtcall ID# 11442290 to continue date 07/14/2022 previously scheduled for 02/10/22. Emailed AJ and case administrator and notified of the change. Saved new modified courtcall confirmation in the clients electronic folder. Updated clio calendar to new continue date. Calendared OLDTF Joint Statement. ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.13h	\$0.00	\$0.00	-
02/15/2022		Administration: Process minute order received via mail. ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.04h	\$0.00	\$0.00	-
03/30/2022		Administration: Process PAGA Settlement Agreement received via email from AJ. ● Non-billable	00213-Gutierrez Class/PAGA	Norma Gourdine	0.01h	\$0.00	\$0.00	-
07/07/2022		Administration: Filed Joint Status	00213-Gutierrez	Norma	0.36h	\$0.00	\$0.00	-
					57.11h		\$0.00	\$31,366.95
							2.53h	54.58h

Activities Export

08/02/2022

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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		Conference and email serve ● Non-billable	Class/PAGA	Gourdine				
04/12/2021	🕒	Client called saying that Maria had called her and that she was returning back the call. She also wanted to know what was new in her case. ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.25h	\$145.00	-	\$36.25
08/16/2021	🕒	Formatted First Salvo, updated in Monday.com ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.25h	\$145.00	-	\$36.25
09/08/2021	🕒	Contacted client to inform her about mediation and emailed AJ ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.17h	\$145.00	-	\$24.65
09/15/2021	🕒	Client communication about mediation, no need to stay home on mediation date. ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.17h	\$145.00	-	\$24.65
09/21/2021	🕒	Drafted the Status Conference Statement and added note in Monday.com for AJ. ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.12h	\$145.00	-	\$17.40
02/22/2022	🕒	Called client and explained the PAGA Settlement and requested signature. Signed on behalf of AJ and saved in client folder. ● Unbilled	00213-Gutierrez Class/PAGA	Yesenia Villalba	0.25h	\$145.00	-	\$36.25
07/20/2022	🕒	Contacted client for signature/	00213-Gutierrez	Yesenia	0.50h	\$145.00	-	\$72.50
					57.11h		\$0.00	\$31,366.95
							2.53h	54.58h

Activities Export

08/02/2022
4:51 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
		explained the declaration. Emailed the declaration and client signed. Client also, wanted us to email her the business card of the firm since she has just been in contact with us via phone.	Class/PAGA	Villalba				
		● Unbilled						
					57.11h		\$0.00	\$31,366.95
							2.53h	54.58h

EXHIBIT E

October 9, 2020

Page 1 of 7

JACKSON APC

2 Venture Plaza, Ste. 240 * Irvine, CA 92618 * Tel: 949-281-6857 * Fax: 949-777-6218

Armond M. Jackson
ajackson@jlaw-pc.com

October 9, 2020

Sent By Certified Mail to H Mart Buena Park, LLC

Submitted Via Online to Labor and Workforce Development Agency

H Mart Buena Park, LLC
5111 Beach Boulevard
Buena Park, California 90621

**Changwook Lee Agent for Service of
Process for H Mart Buena Park, LLC**
8550 Chetle Avenue Suite B
Whittier, California 90606

**Labor and Workforce Development
Agency**
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

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

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 204, 210, 221, 226(a) 1-2, 4-5, 8-9, 226(c), 226.2, 226.3, 226.7, 510, 512, 558, 1194
Violations of California Labor Code Section 1198 (Industrial Welfare Commission Order Nos. 7-2001, 8-2001 (“Wage Orders 7 and 8”), Sections 3, 7, 11 12,
Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)
Anayeli Gutierrez v. H Mart Buena Park, LLC et al.

Dear H Mart Buena Park, LLC and Changwook Lee:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f), which provides notice to the PAGA Administrator, H Mart Buena Park, LLC, Changwook Lee by Anayeli Gutierrez (referred to herein as “Ms. Gutierrez” or “Plaintiff”) on behalf of all California aggrieved current and aggrieved former similarly situated employees of H Mart Buena

2 Venture Plaza, Ste. 240 * Irvine, CA 92618 * Tel: 949-281-6857 * Fax: 949-777-6218
Jackson Law, P.C.

October 9, 2020

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Park, LLC (“HMB”, “Defendants” or “Defendant”), a private right of action under the Private Attorney General Act (PAGA) of 2004.

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

Facts and Theories

Defendants are a supermarket grocery store chain that provides products to its customers.

This letter encompasses violations for all of Defendants California employees entitled to the California Labor code protections.

This letter encompasses violations for all of Defendant’s California employees entitled to the California Labor code protections and alleged violations in this letter. Similarly situated employees or aggrieved employees are those employees working in California as non-exempt hourly employees for Defendant including but not limited to those employees whom worked as food preparers, stockers, customer service providers and general laborers like Ms. Gutierrez.

Plaintiff worked for Defendants as a nonexempt employee. Plaintiff worked as a general laborer that performed many duties such as preparing food, general laborer tasks and customer service.

Throughout Plaintiff’s shifts, she was not provided with all 10 minute duty-free uninterrupted rest breaks approximately 10 to 15 shifts per month during its working shifts that were at or above 3.5 hour as the rest breaks were either interrupted, short, on-premises, late or not taken at all. Furthermore, all of Plaintiff’s and similarly situated employees rest breaks were required to be taken on-premises subject to the employer’s control. Plaintiff believes similarity situated aggrieved employees were under the same circumstances as her.

Furthermore, Plaintiff and other aggrieved employees were not provided with all proper 30 minute duty-free uninterrupted meal periods each five hours of their working shifts that they were entitled to when they worked over five and ten hour shifts as the meal breaks were either interrupted, short, on-premises, late or not taken at all approximately 10 to 15 shifts per month due to work responsibilities. Furthermore, all of Plaintiff’s and similarly situated employees meal breaks were required to be taken on-premises subject to the employer’s control. Plaintiff believes similarity situated aggrieved employees were under the same circumstances as her.

The Defendants have violated California Labor Code sections 226.7, 512, and Wage Orders 1, 4, 7 and 9, Sections 3, 7, 11 and 12 and any other applicable wage orders. Other similarly situated employees at the Defendants were under the same conditions as Plaintiff.

Moreover, Defendants required Plaintiff and other similarly situated employees were subjected to uncompensated waiting time while being subjected to security checks that lasted above 15 to 20 minutes before clocking-in as a pre-shift preparation in which Plaintiff and similarly situated employees would be required to put on her vest, boots, and hat taking up to 30 minutes each day. Defendants did not compensate Plaintiff this pre-shift preparation time in violation of California Labor Code section 510 and 1194 and Wage Orders 7 and 8, Sections 3 and other applicable California Labor Codes and Wage Orders.

Moreover, Defendants failed to incorporate Plaintiff's premium wages and hours worth of work, and applicable rates for all hours worked on their wage statements as required by California Labor Code section 226(a) 1-2, 4-5 and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks and rest breaks and recording their actual hours worked including but not limited to on-premises meal breaks and rest breaks, pre-shift preparation before clocking-in thereby failing to include net wages earned, gross wages earned, applicable hourly rates for all hours worked and actual hours worked or premium wages earned on their wage statements.

By virtue of not authorizing or permitting Plaintiff and all other similarly situated employees to take their entitled meal breaks and rest breaks, failing to incorporate hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, hours worked at the applicable hourly rate and deductions that should have been taken out, failing to include off-the-clock work time, the break time rates and rates and hours worth of work for meal breaks violations, and failing to include the name and address of the legal entity employer, the Defendants are violating California Labor Code Sections 201, 202, 203, 204, 226(a) 1-2, 4-5, 9, 226.2, 226.3, 226.7, 510, 512, 558, 1194 and Wage Orders 7 and 8, Sections 3, 7, 11 and 12.

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

An employer may not willfully fail to pay any wages owed to an employee who is either discharged or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. (See Lab. Code §203) Here, Defendants did not compensate Plaintiff and do not compensate other similarly situated employees at the time of separation whom is either discharged or quits despite owing them for minimum wage and or overtime wages for performing on-premises meal breaks and requirement to work through meal breaks off-the-clock and for uncompensated pre-shift preparation before clocking in.

Violation of California Labor Code § 210

Labor Code section 210, an employer may not fail to pay the wages of each employee. Here, Defendants required Plaintiff and other similarly situated employees were subjected to uncompensated waiting time while being subjected to security checks that lasted above 10 to 20 minutes before clocking-in as a pre-shift preparation in which Defendants would require its employees to put on vests, hats and boots before clocking-in.

Violation of California Labor Code § 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. Again, here, Defendant required Plaintiff and other similarly situated employees were subjected to uncompensated pre-shift preparation time while being required to put on boots, hat and vests before clocking-in that took up to 30 minutes to complete.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide “accurate itemized statement in writing” each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (See Labor Code §226, subsection (a)) Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Plaintiff’s contention that Defendants are in violation of the following California Labor Codes:

Violation of 226 (a)(1)

Section a (1) requires gross wages to be inserted on an employee’s paystubs. Plaintiff and other similarly situated employees’ paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Defendants did not accurately depict compensation as it failed to disclose applicable hourly rates and total hours worked for performing on-premises meal breaks and requirement to work through meal breaks off-the-clock, and for uncompensated pre-shift preparation time lasting up to 30 minutes.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee’s paystubs. Plaintiff and other similarly situated employees’ paystubs did not accurately reflect their total hours worked by virtue of not accurately depicting hours worked while subjected to on-premises meal breaks and requirement to work through meal breaks off-the-clock, and for uncompensated pre-shift preparation time lasting up to 30 minutes.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees’ wages to be inserted on an employee’s paystubs. Plaintiff and other similarly situated employees’ paystubs did not accurately reflect their deductions by virtue of excluding hours worked and wages earned because Defendants did not accurately depict deductions as it failed to disclose applicable hourly rates and total hours

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worked for performing on-premises meal breaks and requirement to work through meal breaks off-the-clock, and for uncompensated pre-shift preparation time lasting up to 30 minutes.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Plaintiff and other similarly situated employees' paystubs did not accurately reflect net wages earned by virtue of excluding hours worked and net wages earned because Defendants did not accurately depict compensation as it failed to disclose applicable hourly rates and total hours worked for performing on-premises meal breaks and requirement to work through meal breaks off-the-clock, and for uncompensated pre-shift preparation time lasting up to 30 minutes.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Plaintiff and other similarly situated employees' paystubs did not disclose all applicable hourly rates and corresponding number of hours failed to disclose applicable hourly rates and total hours worked as it failed to disclose applicable hourly rates and total hours worked for performing on-premises meal breaks and requirement to work through meal breaks off-the-clock, and for uncompensated pre-shift preparation time lasting up to 30 minutes.

Violation of California Labor Code Sections 226.2, 226.7, 510, 512, 1194, 1198 and Wage Orders 7, 8, Sections 7, 11, 12

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

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission. Industrial Welfare Commission Order Nos. 7-2001, 8-2001 (hereinafter "Wage Orders 7 and 8") covering the various industries comprising of Defendants employees.

Under these circumstances, Plaintiff's position at Defendants falls within Wage Orders 7 and 8 as Defendants employed Plaintiff as a non-exempt employees. Thus, below all sections and subsections that pertain to California Wage Orders 7 and 8 are applicable to Plaintiff and all similarly situated aggrieved employees that were employed or remain employed by Defendants.

California Labor Code sections 226.7, 512 and Wage Orders 7 and 8, Section 11, requires employers to provide employees with uninterrupted meal breaks for 30 minutes every 5 hours unless waived by mutual consent and the work shift is not above 6 hours. California Labor Code sections 226.7, 512 and Wage Orders 7 and 8, Section 11 requires every employer to provide its employees with uninterrupted meal breaks for 30 minutes every 5 hours if the employee works more than a 6 hour shift. As described above, Plaintiff and other similarly situated employees regularly worked above five, six and ten hour shifts and were not provided legally entitled meal

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breaks every five hours nor were they compensated premium wages for working through their meal breaks.

California Labor Code sections 226.7 and Wage Orders 7 and 8, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

Plaintiff and other similarly situated employees did not receive their entitled uninterrupted legally entitled timely rest periods and meal breaks pursuant to California Labor Code sections 226.7, 512, Wage Orders 7 and 8, Sections 11 and 12 during their employment at Defendants while regularly working above 5, 6 and 7.5 hour shifts.

Wage Orders 1, 4 7, 9, Section -7- Records

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

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

As discussed above, Defendants failed to record "meal periods" as Plaintiff and other similarly situated employees were not provided with proper meal periods. Furthermore, Defendants failed to incorporate the extra hour's worth of work when Plaintiff and other similarly situated employees worked through their entitled meal breaks and rest breaks without being paid premium wages. The extra hours worth of work at the applicable rate of pay and work were not disclosed on the itemized wage statements in violation of Wage Orders 7 and 8, Section -7- Record.

Violation of California Labor Code Section 558

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

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee's regular rate of compensation. (See Lab. Code §510) "Double time" required after twelve hours in any workday, after eight hours on the seventh day of work. Plaintiff and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week for the hours worked regarding off the-clock work during pre-shift preparation for work, on-premises meal breaks and working off-the-clock time during meal breaks.

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit. (See Lab. Code §1194) Plaintiff and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week for the hours worked regarding off the-clock work during pre-shift preparation for work, on-premises meal breaks and working off-the-clock time during meal breaks.

Conclusion

Pursuant to the above stated facts, it is Plaintiff's theory that Defendants are in violation of Labor Code Labor Code Sections 201, 202, 203, 204, 210, 221, 226(a) 1-2, 4-5, 8-9, 226 (c), 226.2, 226.3, 226.7, 510, 512, 558, 1194, and Wage Orders 7 and 8 Sections 3, 7, 11, 12. It is Plaintiff's contention that all similarly situated employees at Defendants are subjected to all of the above mentioned violations as Defendants employees.

Sincerely,
Jackson Law, APC

/s/ Armond M. Jackson

Armond M. Jackson

EXHIBIT F

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been

approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.