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Attorney for EDGAR CISNEROS, PATRICK CROWLEY, and  
STANTON WOOD as Private Attorneys General

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA  
COOK DIVISION**

LILIA GARCÍA-BROWER, in her official  
capacity as Labor Commissioner for the State  
of California,

Plaintiff,

v.

ALCO HARVESTING LLC d/b/a  
BONIPAK PRODUCE, INC.;  
BETTERAVIA FARMS LLC d/b/a  
BONIPAK PRODUCE, INC.;  
BETTERAVIA INVESTMENT LLC d/b/a  
BONIPAK PRODUCE, INC.;  
GRUBSTAKE INVESTMENTS LLC d/b/a  
BONIPAK PRODUCE, INC.; BONITA  
PACKING CO. d/b/a BONIPAK  
PRODUCE, INC.; and DOES 1-20,  
inclusive,

Defendants.

Case No. 21CV02855

Consolidated with 21CV00299 and 21CV04639  
Related Cases: 22CV02506, 23CV03669

**DECLARATION OF RUBEN ESCOBEDO**

Complaint filed: 7/16/2021

Trial Date: None set

(No fee per Labor Code §§ 101, 101.5 and  
Government Code § 6103)

JESUS GUZMAN,

Plaintiff,

v.

Santa Barbara Sup. Ct. Case No. 21CV00299

Action filed: January 22, 2021

Trial date: none set

ALCO HARVESTING, LLC, BETTERAVIA  
FARMS, LLC, BONIPAK PRODUCE, INC.;  
and DOES 1-20, Inclusive,

Defendants.

STATE OF CALIFORNIA ex rel. EDGAR  
CISNEROS, as Private Attorney General,

Plaintiff(s),

v.

ALCO HARVEST, INC., a corporation;  
RANCHO HARVEST, INC., a corporation;  
JESUS MANRIQUEZ, an individual; ALAIN  
PINCOT, an individual; ROBERT M.  
FERINI, an individual; MITCHELL D.  
ARDANTZ, an individual; CRAIG A.  
READ, an individual; and JEREMY M.  
MACKENZIE, an individual; and DOES 1-  
25, inclusive,

Defendants.

San Luis Obispo Sup. Ct. Case No. 21CV04639

Action filed: February 13, 2020

Trial date: none set

1 I, Ruben Escobedo, declare as follows:

2 1. I am an attorney duly licensed to practice law and counsel of record for Edgar Cisneros,  
3 Stanton Wood, and Patrick Crowley.

4 2. I am submitting this declaration in support of Plaintiffs' motion for approval of a  
5 settlement reached in the above-referenced related actions. A true and correct copy of the settlement  
6 agreement is attached hereto as **Exhibit 1**.

7 3. I have personal knowledge of the matters set forth herein and would and could testify  
8 thereto if called as a witness herein.

9 4. I have reviewed the memorandum of points and authorities and confirm that all of the  
10 facts stated are accurate based on my review and investigation of this matter through the time that the  
11 settlement was reached.

12 **PROFESSIONAL BACKGROUND**

13 5. I have been active in the legal community since 2007, when I obtained a paralegal  
14 certification from Fullerton College and started my first position as a law clerk prior to law school. I  
15 started my legal career at the Los Angeles City Attorney's Office, where I gained early trial experience  
16 and an interest in representing public servants. I attended California State University Long Beach,  
17 where I earned a B.A. majoring in Political Science with an emphasis in Public Law. My senior thesis  
18 studied the political aspects of trial strategy and settlement decision-making in local government.

19 6. I attended law school at Chapman University School of Law (Fowler), and graduated  
20 *cum laude* in 2011. My law school training included time at Raytheon Space and Airborne Systems'  
21 legal department, where I assisted with unique transactional matters alongside former JAG attorneys.  
22 I participated in moot court and served as a teaching assistant. My paper, Achieving the Goals of  
23 Sentencing Tax Evaders After United States v. Booker, Vol. 2 Chapman Journal of Criminal Justice  
24 275 (2011), was published in the Chapman Journal of Criminal Justice, where I was a member. I  
25 passed the California Bar Examination and obtained my law license in 2011.

26 7. I also volunteered for the AMVETS Legal Clinic, a pro-bono legal clinic for military  
27 service personnel. I earned awards for highest marks in several law school courses, including civil  
28 procedure and employment law.

1           8.       From 2010-2013, during and after law school, I joined a small firm. My first formal  
2 law firm training was provided by Mohammed K. Ghods, who was previously a shareholder in the  
3 national law firm of Ross, Dixon & Bell, LLP before that firm's merger with Troutman Sanders (now  
4 Troutman Pepper). I handled various business and employment matters for the firm's clients.

5           9.       From 2013-2020, I worked at the law firm of Lynberg & Watkins, where I was a partner  
6 and primarily defended private businesses in employment litigation and municipalities in employment  
7 & personal injury litigation. I have litigated across the state, including Orange County, Riverside  
8 County, Los Angeles, San Diego County, San Bernardino County, Santa Barbara County, Kern  
9 County, Merced County, Tulare County, San Luis Obispo County, Contra Costa County, Monterey  
10 County, Alameda County, Placer County, Santa Cruz County, Ventura County, San Mateo County,  
11 Marin County, Santa Clara County, San Francisco, Sacramento County, Fresno County, and San  
12 Joaquin County.

13          10.      Although most matters settle without trial, I have tried cases successfully to verdict,  
14 both as lead counsel and second chair. I was lead counsel in the retrial following the Court of Appeal's  
15 reversal in *Butts v. Board of Trustees of California State University* (2014) 225 Cal.App.4th 825. On  
16 remand, against the plaintiff's demand for over \$7 million, I secured a complete defense verdict which  
17 was affirmed on appeal in Second District Court of Appeal Case No. B282452 (Mar. 13, 2019)  
18 (unpublished).

19          11.      I have represented both employees and employers throughout my career.

20          12.      I have been certified and appointed as class counsel in both federal and state court  
21 actions.

22          13.      I have prosecuted numerous class and PAGA actions including at the appellate level  
23 helping to establish law favorable to employees, namely *Balderas v. Fresh Start Harvesting, Inc.*  
24 (2024) 101 Cal.App.5th 533.

25          14.      I have successfully litigated employment cases in many industries, including  
26 Agriculture, Construction & Maintenance, Food Service, Education, Healthcare, Hotel & Hospitality,  
27 Janitorial, Manufacturing, Public Safety, Professional Occupations, Retail, Technology / IT, and  
28 Transportation & Distribution. In 2020, I transitioned to a solo practice where I continue my work

11 primarily in private sector employment litigation on behalf of employees.

12 15. I am licensed to practice before the U.S. Court of Appeals for the Ninth Circuit and the  
13 U.S. District Courts for the Central, Eastern, Southern, and Northern Districts of California.

14 16. I am a member of the American Society of Legal Writers, National Order of Scribes,  
15 Northern Santa Barbara County Bar Association, and San Luis Obispo County Bar Association. I  
16 have also been awarded the Rutan & Tucker, LLP Golden Quill Legal Writing Award. I have spoken  
17 at conferences and MCLE events on various topics, including ethics, employment law, deposition  
18 practice, and anti-SLAPP motions. Since 2023, I have served as co-chair of the American Bar  
19 Association Workplace and Occupational Safety and Health Law Committee.

20 17. I have served as counsel either for the prosecution or defense in connection with  
21 approximately 130 class and representative PAGA actions throughout my career.

#### 22 **ANALYSIS OF THE CASE & SETTLEMENT**

23 18. In all, six actions are pending in this Court against Alco and several related corporate  
24 entities and individuals. All the actions challenge Alco's wage-and-hour practices with respect to the  
25 same group, namely, all California non-exempt employees employed by Alco between July 16, 2018,  
26 and the conclusion of the action. In large part, these employees are domestic agricultural and  
27 temporary foreign agricultural workers on H-2A visas that Alco employed as field workers.

28 19. These cases include the following, in the order in which they were filed: (1) *Cisneros*,  
29 San Luis Obispo Sup. Ct. Case No. 21CV04639 *later transferred to this Court* (PAGA action for meal,  
30 rest, and recovery periods); (2) *Guzman*, Santa Barbara Sup. Ct. Case No. 21CV00299 (PAGA action  
31 for travel-time payment and meal and rest periods for H-2A field workers); (3) *García-Brower*, Santa  
32 Barbara Sup. Ct. Case No. 21CV02855 (public law enforcement action for paid sick leave and unpaid  
33 compensation for field workers); (4) *Rodales I*, Santa Barbara Sup. Ct. Case No. 22CV02506  
34 (individual claims for unpaid compensation, meal and rest periods, and expense reimbursement); (5)  
35 *Rodales II*, Santa Barbara Sup. Ct. Case No. 23CV03699 (PAGA action asserting the same violations  
36 as *Rodales I*); and (6) *Crowley*, Santa Barbara Sup. Ct. Case No. 23CV04823 (PAGA action asserting  
37 largely the same violations as *Rodales*).

38 20. In sum, Plaintiffs' operative complaints alleged the following causes of action against

1 Defendants: (1) failure to meet Paid Sick Leave (PSL) and COVID-19 Supplemental PSL  
2 Requirements in violation of Labor Code sections 233, 246, 246.5, 247, 248, and 248.2; (2) failure to  
3 pay contractual wages in violation of Labor Code section 216; (3) failure to pay minimum wage for  
4 all hours worked in violation of Labor Code sections 1194 and 1194.2, and the Applicable Wage  
5 Orders; (4) failure to pay overtime wages in violation of Labor Code sections 510, 1197, and 1198,  
6 and the Applicable Wage Orders; (5) failure to provide compliant rest periods and pay missed rest  
7 break premiums in violation of Labor Code section 226.7 and the Applicable Wage Orders; (6) failure  
8 to provide compliant meal periods and pay missed meal period premiums in violation of Labor Code  
9 sections 226.7 and 512, and the Applicable Wage Orders; (7) failure to maintain accurate employment  
10 records in violation of Labor Code section 1174; (8) failure to pay timely wages during employment  
11 in violation of Labor Code sections 204, 210; (9) failure to pay all wages due and owing at separation  
12 in violation of Labor Code sections 201, 202, and 203; (10) failure to reimburse business expenses in  
13 violation of Labor Code sections 2802 and 2804; (11) failure to provide complete and accurate wage  
14 statements in violation of Labor Code sections 226 and 226.3; (12) failure to provide shaded heat-  
15 recovery periods in violation of Labor Code section 226.7; and (13) deceptive, fraudulent, or otherwise  
16 unlawful business practices based on the foregoing in violation of California's Unfair Competition  
17 Law (Bus. & Prof. Code, §§ 17200–17210).

18 21. My office along with the Lex Opus firm filed the first of the related actions against  
19 Alco (the *Cisneros* action) under the PAGA alleging Alco's violations of meal, rest, and recovery  
20 period requirements. It was filed in San Luis Obispo County Superior Court on February 13, 2020,  
21 and later transferred and consolidated in this Court.

22 22. I also filed a second PAGA action against Alco in this Court (the *Crowley* action) in  
23 2023 alleging Alco's violations of meal and rest laws, as well as failure to pay all wages owed for pre-  
24 and post-shift work.

25 23. Relevant testimony and an analysis of employees' time records show Alco frequently  
26 provided employees with noncompliant meal periods in violation of Labor Code section 226.7. A total  
27 of 5% of all workweeks and pay periods had missing or noncompliant meal periods. A total of 11.2%  
28 of all second meal periods were noncompliant or missing, with that amount rising to 38% of all second

1 meal periods being noncompliant or missing in 2019.

2 24. Alco failed to provide employees with compensated, duty-free rest periods of not less  
3 than ten minutes for every major fraction of four hours worked as required by Labor Code section  
4 226.7, and Wage Order 14-2001. An analysis of employees' time records shows that Alco forced  
5 employees to work through 30.2% of their rest periods with 45% of all workweeks having rest period  
6 violations.

7 25. *Cisneros* also alleged that Alco has no weather-monitoring system in place directed to  
8 the requirements of 8 Cal. Code Regs., § 3395 to enable it to provide compliant heat-recovery  
9 procedures. Nor does Alco have a record of any heat-recovery period being taken by anyone during  
10 the relevant period. Alco had records of three heat-illness claims during the exemplar period in 2019  
11 utilized by the parties as a representative sample of the liability period.

12 26. Prior to filing the PAGA actions, pursuant to Labor Code section 2699.3, subd. (a),  
13 Plaintiffs Rodales, Guzman, Cisneros, Crowley, and Wood gave timely written notice to Defendants  
14 and the LWDA by submitting their PAGA notices. True and correct copies of Plaintiffs' PAGA  
15 notices served on Defendants and filed with the LWDA are attached hereto as **Exhibit 2**.

16 27. *Cisneros* and *Guzman* are consolidated with *García-Brower*, the Labor  
17 Commissioner's ("LCO's") enforcement action, which is designated as the lead action. Both *Rodales*  
18 cases and *Crowley* are formally related to the consolidated cases.

19 28. To facilitate joint prosecution of the various actions, the Court issued a Case  
20 Management Order requiring discovery to be completed in a coordinated fashion, and ongoing orders  
21 to ensure efficient joint prosecution of the actions. The Court ordered a phase-one bench trial regarding  
22 liability on all common claims for civil penalties for the Labor Code violations at issue.

23 29. Before and concurrent with their negotiations, the parties completed depositions of Mr.  
24 Cisneros, Mr. Guzman, and two corporate PMQ deponents. Plaintiffs obtained, through both formal  
25 and informal discovery, documents and information that allowed both sides to evaluate the potential  
26 exposure and potential risk, such as the operative employee handbook, policies and procedures related  
27 to the claims alleged in the operative complaints, Plaintiffs' personnel files, payroll and time records,  
28 and a sample of time and pay records for the aggrieved employees, and taking of multiple depositions

1 on both sides.

2 30. Over the course of litigation, the parties to *LCO*, *Guzman*, and *Cisneros* engaged in  
3 numerous settlement discussions. In October 2021, those parties mediated before Henri Bongiovi. The  
4 mediation was unsuccessful. The same parties participated in another mediation in September 2022 before  
5 Hon. Leo S. Papas but were again unsuccessful. On February 18, 2025, all parties in these actions  
6 completed a third full-day in person session before Hon. James Lambden (ret.). The cases did not settle  
7 at mediation. Justice Lambden made a mediator's proposal to settle all cases for \$4,375,000, along  
8 with his evaluation of the strength and weaknesses of the cases. Plaintiffs declined to accept it.  
9 However, the parties continued settlement discussions with Justice Lambden's assistance and they  
10 reached the agreement presented to the Court here requiring Alco to pay \$6,175,000.

11 31. After taking into account the risks and expenses of further litigation, as well as the  
12 strengths and weaknesses of all parties' cases should they proceed to trial, I concluded that the agreed-  
13 upon settlement in this action was a fair and reasonable settlement in the related actions in order to  
14 avoid the uncertainties, costs, and burdens of further litigation. The result was uncertain and prone to  
15 delay. Complexity and risk were also higher than usual because there were many different competing  
16 interest groups prosecuting Alco for many of the same violations.

17 32. The largest part of the settlement is allocated to non-PAGA relief to be distributed to  
18 the individuals who experienced violations and are owed money under the California Labor Code (i.e.,  
19 wages and statutory penalties as opposed to PAGA civil penalties). Significantly, the employees'  
20 receipt of these funds does not depend on a release of their individual claims, should they seek  
21 additional relief in their individual capacity. This factor weighed heavily in my analysis and  
22 conclusion that the settlement is fair, reasonable, and highly beneficial to all concerned.

23 33. In evaluating the proper amount to be allocated to civil penalties, I was cognizant of  
24 the fact that PAGA penalties are designed to "remediate present violations and deter future ones," and  
25 "not to redress employees' injuries" for what has happened in the past. (*Kim v. Reins International*  
26 *California, Inc.* (2020) 9 Cal.5th 73, 86.) Based on my review of the documentary evidence in this  
27 case, it was my conclusion that in response to these cases, Alco had taken additional steps and  
28 implemented new systems to ensure that at least some of the Labor Code violations were remediated.

1 For example, during the course of the litigation, Alco began automatically paying employees a meal  
2 premium wage equal to one hour's pay each day that an employee took their meal period past 5 hours  
3 of work. Alco produced and I reviewed evidence that Alco was following this procedure in practice  
4 and that Alco had tightened its compliance in several areas. Based on the evidence of Alco's changes  
5 in practice, coupled with the a total payment of \$6,175,000, \$100,000 of which was allocated to PAGA  
6 civil penalties, I concluded that the settlement in its totality fairly and reasonably remediated present  
7 violations, deterred future violations, and redressed employees' losses.

8 34. The core terms of the settlement are summarized below.

9 35. Alco is required to pay a non-reversionary settlement of \$6,175,000.00 in exchange for  
10 a release limited to the facts alleged by Plaintiffs. The settlements funds are allocated as follows:

- 11 • \$1,500,000.00 is allocated as non-wage payments to compensate the employees for alleged  
12 violations of paid sick leave and itemized wage statement laws as alleged in the *LCO's* action.  
13 This fund will be allocated pro rata based on the number of workweeks worked by aggrieved  
14 employees during the liability period, which is from July 16, 2018, through the time that the  
15 approximately 10,428 aggrieved employees as a whole have worked 349,219 pay periods  
16 (which the parties estimate occurred in September 2025).
- 17 • \$1,000,000.00 is allocated as a wage payment for unpaid minimum wages alleged in the *LCO*  
18 and *Guzman* actions, and unpaid premium wages alleged in the *Cisneros*, *Crowley*, *Rodales I*,  
19 and *Rodales II* actions. This fund will be allocated pro rata based on the number of workweeks  
20 worked by aggrieved employees during the liability period.
- 21 • \$1,500,000.00 is allocated as payments to H-2A employees for damages for alleged violations  
22 of paid sick leave laws and minimum wage violations, among others, as alleged in the *LCO's*  
23 action and the *Guzman* action. This fund will be allocated pro rata based on the number of  
24 workweeks worked by H-2A employees during the liability period.
- 25 • \$1,852,500.00 or 30% of the gross settlement amount is allocated as attorneys' fees for the  
26 private law firms that prosecuted these actions (to avoid any additional impact on the gross  
27 settlement amount, Plaintiffs' counsel agreed to deduct individual general-release payments to  
28 the named plaintiff-employees from the attorneys-fee allocation).

- \$122,500.00 is allocated to Plaintiffs' litigation expenses.
- \$100,000.00 is allocated for settlement administration expenses. The parties nominally selected Atticus Administration to administer the settlement, locate aggrieved employees, distribute notices, calculate payment amounts, and transmit settlement funds to all recipients.
- \$100,000.00 is allocated as PAGA penalties raised in the *Cisneros*, *Guzman*, *Crowley*, and *Rodales II* actions, 75% of which shall be paid to the LWDA and 25% of which shall be paid to the aggrieved employees as provided by law.

36. The settlement agreement contains releases tailored to the respective actions. Plaintiff Guzman, who the settlement agreement contemplates will return to work for Alco, released all claims that were pled or could have been pled based on the factual allegations in the operative complaints. Plaintiffs Cisneros, Crowley, Rodales, and Wood (who are not granted a path to return to work by the settlement agreement) released all known and unknown claims, including a waiver of rights under Civil Code section 1542. The LCO released "any and all Labor Code and IWC Wage Order 14 violations and penalties for the time period at issue in her Complaint or investigation into Defendants, on the facts stated in the operative complaint in the Labor Commissioner's Action."

37. Lastly, the PAGA release provides that "All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged based on the facts stated in the operative complaints and PAGA Notices asserted in the Actions for work compensated by paystubs issued by Defendant Alco Harvesting, LLC." Except for Plaintiffs Cisneros, Crowley, Guzman, Rodales, and Wood, the Agreement does not release any Aggrieved Employees' non-PAGA claims, nor claims for employment under separate paystub employers other than Defendant Alco Harvesting, LLC.

38. The settlement agreement also requires Alco to provide various forms of non-monetary relief for the benefit of the aggrieved employees, including providing additional notices to employees about paid sick leave rights, training on Labor Code compliance, and related terms.

39. Moreover, there was uncertainty regarding proving up a case involving approximately more than 10,000 employees in a manageable fashion. Alco argued that each employee's working

1 conditions were different, and there was no guarantee regarding how the Court would resolve these  
2 issues. Plaintiffs determined that the settlement was in the best interest of all concerned and properly  
3 balanced the risks against the assurance of obtaining a substantial recovery for both the State and  
4 aggrieved employees.

5 40. Plaintiffs' counsel also requests reimbursement of their actual out-of-pocket expenses  
6 incurred to prosecute this action. As indicated in the declaration of my co-counsel Jeremy Rhyne's  
7 declaration, Lex Opus's the out-of-pocket costs incurred to date to prosecute the *Cisneros* and *Crowley*  
8 actions are \$12,088. And my firm WorkWorld Law's recoverable costs to prosecute the *Crowley*  
9 action are \$559.30 to date, and WorkWorld Law's recoverable costs to prosecute the *Cisneros* action  
10 are \$479.30 to date.

11 41. The Settlement and this Motion have been submitted to the LWDA in accordance with  
12 Labor Code section 2699, subdivision (s)(2). The proof of electronic submission is attached hereto as  
13 **Exhibit 3**.

14 42. I have also confirmed by review of the LWDA's online docket that all of the complaints  
15 filed in court in all of the PAGA actions covered by the settlement (LWDA Case Nos. LWDA-CM-  
16 760633-19, LWDA-CM-809214-20, LWDA-CM-892575-22, LWDA-CM-975989-23) were  
17 submitted to the LWDA under their respective LWDA case number.

18 43. The Parties have agreed to use Atticus Administrator as the Settlement Administrator.  
19 The Settlement Administrator will be responsible for processing the settlement payments for the  
20 aggrieved employees. A true and correct copy of Atticus's bid to administer settlement checks is  
21 attached hereto as **Exhibit 4**.

22 44. The proposed cover letter to Aggrieved Employees is attached hereto as **Exhibit 5**,  
23 which fairly and adequately describes the actions, the approved Settlement, and is the best notice  
24 practicable under the circumstances.

25 45. I respectfully request that the Court grant the present motion, and approve the proposed  
26 settlement, which is fair and reasonable to all concerned.

27 ///

28 ///

1 I declare under penalty of perjury under the laws of the State of California that the foregoing  
2 is true and correct. Executed this 30th day of October, 2025.

3  
4 By:

  
5 **RUBEN ESCOBEDO**  
6 Declarant  
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# **EXHIBIT 1**

# **SETTLEMENT AGREEMENT & CONSENT ORDER**

This Settlement Agreement (“Agreement”) is made by and between: (1) Plaintiffs: the Labor Commissioner LILIA GARCIA-BROWER in her official capacity as Labor Commissioner for the State of California and Plaintiffs LAURA FRUTOS RODALES, JESUS GUZMAN, EDGAR CISNEROS, PATRICK CROWLEY, AND STANTON WOOD individually in their capacity as private attorneys general on behalf of the State of California (collectively “Plaintiffs”); and (2) Defendants: ALCO HARVESTING LLC, BETTERAVIA FARMS LLC, BETTERAVIA INVESTMENTS LLC, erroneously sued herein as BETTERAVIA INVESTMENT LLC, BONITA PACKING CO., GRUBSTAKE INVESTMENTS LLC, RANCHO HARVEST, INC., BONIPAK PRODUCE, INC., JESUS MANRIQUEZ, ALAIN PINCOT, ROBERT M. FERINI, MITCHELL D. ARDANTZ, CRAIG A. READ, and JEREMY M. MACKENZIE (collectively, “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

## **I. Definitions**

- 1.1 “Actions” means all the Plaintiffs’ lawsuits against Defendants captioned Lilia García-Brower et al. v. Alco Harvesting LLC et al., case number 21CV02855 (“Labor Commissioner’s Action”); Patrick Crowley et al v. Alco Harvesting LLC case number 23CV04823 (“Crowley Action”); Laura Frutos Rodales. v. Alco Harvesting LLC, et al., case number 22CV02506 (“Rodales Action”); Laura Frutos Rodales v. Alco Harvesting LLC, et al., case number 23CV03669 (“Rodales Actions”); Jesus Guzman v. Alco Harvesting LLC, et al., case number 21CV00299 (“Guzman Action”); and Edgar Cisneros v. Alco Harvest, Inc. et al., case number 21CV04639 (“Cisneros Action”) all pending in the Superior Court of the State of California for the County of Santa Barbara. The Labor Commissioner’s Action is designated the lead action, and the remaining actions are consolidated with and/or related to the Labor Commissioner’s Action.
- 1.2 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.3 “Administrator” means Atticus Administration or any other third-party administrator agreed upon by all parties, the third-party agreed to the Parties to locate Aggrieved Employees, distribute notice through formal and informal means to Aggrieved Employees, administer the Settlement, calculate the settlement distribution amount, and transmit settlement funds to Plaintiffs, Aggrieved Individuals and Plaintiffs’ counsel.
- 1.4 “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National

Change of Address database, skip traces, online campaigns, targeted ads, and direct contact by the Administrator with Aggrieved Employees.

- 1.5 “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendants’ possession including the Aggrieved Employee’s name, whether the employee was employed in an H-2A visa status during the Liability Period, last-known permanent home mailing address, phone number, WhatsApp number, email address, Facebook Messenger contact information, Social Security number, Individual Taxpayer Identification Number, passport number, and number of Pay Periods. Defendant will be in compliance with this Agreement by producing all available information in its possession, custody or control including information maintained in its electronic employee personnel system and information maintained in other systems including Facebook, WhatsApp, or on paper documents.
- 1.6 “Aggrieved Employee” means all individuals who are or were employed by Alco Harvesting LLC as non-exempt employees under I.W.C. Wage Order 14-2001 in California during the Liability Period including both non-H-2A employees and H-2A Employees.
- 1.7 “Approval Order” means the order approving these settlement terms entered by the Court following Plaintiffs’ motion for the Court’s approval of this Settlement Agreement & Consent Order.
- 1.8 “Court” means the Superior Court of the State of California for the County of Santa Barbara.
- 1.9 “Defendants” means named Defendants ALCO HARVESTING LLC, BETTERAVIA FARMS LLC, BETTERAVIA INVESTMENTS LLC, erroneously sued herein as BETTERAVIA INVESTMENT LLC, BONITA PACKING CO., GRUBSTAKE INVESTMENTS LLC, RANCHO HARVEST, INC., BONIPAK PRODUCE, INC., JESUS MANRIQUEZ, ALAIN PINCOT, ROBERT M. FERINI, MITCHELL D. ARDANTZ, CRAIG A. READ, and JEREMY M. MACKENZIE.
- 1.10 “Defense Counsel” means the attorneys representing Defendants, Alden Parker and Rebecca Hause-Schultz from Fisher Phillips, LLP.
- 1.11 “Effective Date” means the date when the Court enters the Approval Order.
- 1.12 “Gross Settlement Amount” means \$6,175,000.00, which is the total amount Defendants agree to pay under this Settlement Agreement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay: (i) Wage Payments, (ii) Non-Wage Payments, (iii) H-2A Employee Payments, (iv) PAGA Penalties, (v) PAGA Counsel Fees Payment, (vi) PAGA Counsel Litigation Expenses Payment, (vii) the Individual Plaintiff Claim Payments, and (viii) the Administrator’s Expenses Payment.

- 1.13 “H-2A Employee Payment” means the H-2A Employees’ pro rata share of the \$1,500,000 payable to H-2A Employees as wage payments under this Agreement in addition to their Non-Wage Payment, Individual PAGA Payment and Wage Payment as calculated below. This payment provides to the Aggrieved H-2A Employees for damages for alleged violations of paid sick leave laws and minimum wage violations, among others, as alleged in the Labor Commissioner’s Action and the Guzman action.
- 1.14 “H-2A Employees” means all individuals who are or were employed by Alco Harvesting LLC as non-exempt employees in California during the Liability Period under the terms of an H-2A visa for employment with Alco Harvesting, LLC.
- 1.15 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the Liability Period.
- 1.16 “Liability Period” means the period from July 16, 2018, through the date the escalator clause in paragraph eight (8) is triggered.
- 1.17 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (m).
- 1.18 “LWDA” means the California Labor and Workforce Development Agency.
- 1.19 “Non-Wage Payment” means the Aggrieved Employee’s pro rata share of the amount of \$1,500,000.00 payable to Aggrieved Employees as non-wage payments under this Agreement. This payment compensates the Aggrieved Employees for alleged violations of paid sick leave and itemized wage statement laws as alleged in the Labor Commissioner’s Action.
- 1.20 “PAGA Notice” means Plaintiffs’ written claims submitted to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.21 “PAGA Penalties” means the total of PAGA civil penalties to be paid from the Gross Settlement Amount (at least \$100,000.00), allocated 25% to the Aggrieved Employees (at least \$25,000.00) and the 75% to LWDA (at least \$65,000.00) in settlement of PAGA claims. This payment is civil penalties raised in the Cisneros, Guzman, Crowley, and Rodales Actions.
- 1.22 “Individual Plaintiff Claim Payment(s)” means the payments to Plaintiffs Rodales, Guzman, Cisneros, Crowley, and Wood in satisfaction for their individual causes of action and claims in their respective complaints in the Actions.
- 1.23 “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.24 “Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the Liability Period.

- 1.25 “Plaintiffs’ Counsel” means the attorneys representing the Plaintiffs in the Actions and includes: Alec L. Segarich and Anel Flores from the Division of Labor Standards Enforcement of the Department of Industrial Relations for the State of California (“DLSE Counsel”); and Denise Silva, Corrie Meals, and Sandra Aguila from the California Rural Legal Assistance, Inc.; Dawson Morton of the Law Offices of Dawson Morton; Jeremy Rhyne of Lex Opus; Ruben Escobedo of WorkWorld Law Corp.; and Jonathan Melmed, and Meghan N. Higday of Melmed Law Group P.C. (collectively “PAGA Counsel”).
- 1.26 “Plaintiffs’ Counsel Fees Payment” and “Plaintiff’s Counsel Litigation Expenses Payment” mean the amounts allocated to Plaintiffs’ Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Actions.
- 1.27 “Plaintiffs” means Lilia García-Brower in her capacity as Labor Commissioner for the State of California (“Labor Commissioner”), Laura Frutos Rodales (“Rodales”, Jesus Guzman (“Guzman”), Edgar Cisneros (“Cisneros”), Patrick Crowley (“Crowley”), and Stanton Wood (“Wood”), the named plaintiffs in the Actions.
- 1.28 “Released Claims” means the claims being released by the Plaintiffs and Plaintiffs’ Counsel and as described in Paragraph 5 below.
- 1.29 “Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, representatives, agents, and affiliates, individually and in their business capacities.
- 1.30 “Settlement” means the disposition of the Actions effected by this Agreement and the Approval Order.
- 1.31 “Wage Payment” means the Aggrieved Employee’s pro rata share of the amount of \$1,000,000.00 payable to Aggrieved Employees as wages under this Agreement. This payment is meant to provide to the Aggrieved Employees unpaid minimum wages alleged in the Labor Commissioner and Guzman Actions, and unpaid premium wages alleged in the Cisneros, Crowley, and Rodales Actions.

## **II. Recitals**

- 2.1 Plaintiffs brought these Actions by filing five separate operative complaints alleging causes of action against Defendants for **(1)** failure to meet Paid Sick Leave (PSL) and COVID-19 Supplemental PSL Requirements in violation of Labor Code sections 233, 246, 246.5, 247, 248, and 248.2; **(2)** failure to pay contractual wages in violation of Labor Code section 216; **(3)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and 1194.2, and the Applicable Wage Orders; **(4)** failure to pay overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the Applicable Wage Orders; **(5)** failure to provide compliant rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the Applicable Wage

Orders; **(6)** failure to provide compliant meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage Orders; **(7)** failure to maintain accurate employment records in violation of Labor Code section 1174; **(8)** failure to pay timely wages during employment in violation of Labor Code sections 204, 210; **(9)** failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202, and 203; **(10)** failure to reimburse business expenses in violation of Labor Code sections 2802 and 2804; **(11)** failure to provide complete and accurate wage statements in violation of Labor Code sections 226 and 226.3; **(12)** failure to provide shaded heat-recovery periods in violation of Labor Code section 226.7; and **(13)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210).

- 2.2 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs Rodales, Guzman, Cisneros, Crowley, and Wood gave timely written notice to Defendants and the LWDA by submitting their PAGA Notices.
- 2.3 The Parties scheduled an initial mediation session on November 17, 2020, with Henry Bongiovi, Esq. The first session of mediation with Mr. Bongiovi was unsuccessful.
- 2.4 The Parties scheduled a second mediation session on September 9, 2022, with the Hon. Leo Papas. The second session of mediation with Judge Papas was unsuccessful.
- 2.5 On February 18, 2025, the Parties participated in an all-day mediation presided over by the Hon. James Lambden. Post-mediation negotiations led to this Agreement to settle the Actions.
- 2.6 Prior to mediation, Plaintiffs obtained, through both formal and informal discovery, various documents and information that allowed both sides to evaluate the potential exposure and potential risk, such as the operative employee handbook, policies and procedures related to the claims alleged in the Operative Complaints, Plaintiffs' personnel files, payroll and time records, and a sample of time and pay records for the Aggrieved Employees, and taking of multiple depositions on both sides.
- 2.7 The Parties, Plaintiffs' Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

### **III. Monetary Terms**

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay \$6,175,000.00 and no more as the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will

disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:

- 3.2.1 To Plaintiffs: Plaintiffs' settlement payments for Plaintiffs' additional individual claims with \$55,000.00 for Patrick Crowley, \$55,000.00 to Jesus Guzman, \$30,000.00 to Laura Frutos Rodales, and \$30,000.00 to Stanton Wood, and \$5,000 to Edgar Cisneros (in addition to any Individual PAGA Payments, Wage Payments, Non-Wage Payments, and H-2A Employee Payments the Plaintiffs may be entitled to receive as determined by the Administrator). If the Court approves Individual Plaintiff Claim Payments less than the amount requested, the Administrator will retain the remainder to be distributed as PAGA Penalties. The Parties agree Plaintiff's Individual Settlements will not be payable until the Effective Date and conditional upon Approval of the Settlement by the Court.
- 3.2.2 To Plaintiffs' Counsel: A Plaintiffs' Counsel Fees Payment of not more than 30% of the Gross Settlement Amount, less the Individual Plaintiff Claim Payments, which is currently estimated to be \$1,677,500 and a Plaintiffs' Counsel Litigation Expenses Payment of not more than \$122,500.00. Plaintiffs' Counsel Fee Payment will be split as follows: up to \$335,500.00 to California Rural Legal Assistance, Inc., up to \$335,500.00 to WorkWorld Law Corp., up to \$335,500.00 to Lex Opus, and up to \$335,500 to Melmed Law Group, P.C.; and up to \$335,500 to Law Offices of Dawson Morton. Plaintiffs' Counsel Fees Payment and Plaintiffs' Counsel Litigation Expenses Payment, Plaintiffs and/or Plaintiffs' Counsel will seek Court approval for any Plaintiffs' Counsel Fees Payment and Plaintiffs' Counsel Litigation Expenses Payment. If the Court approves a Plaintiffs' Counsel Fees Payment and/or a Plaintiffs' Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to be distributed as Non-Wage Payments. Released Parties shall have no liability to Plaintiffs' Counsel or any other Plaintiffs' counsel arising from any claim to any portion of any Plaintiffs' Counsel Fee Payment and/or Plaintiffs' Counsel Litigation Expenses Payment. The Administrator will pay the Plaintiffs' Counsel Fees Payment and Plaintiffs' Counsel Expenses Payment using one or more IRS 1099 Forms. Plaintiffs' Counsel assumes full responsibility and liability for taxes owed on the Plaintiffs' Counsel Fees Payment and the Plaintiffs' Counsel Litigation Expenses Payment.

- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed \$100,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less, or the Court approves payment less, than \$100,000.00, the Administrator will apply those funds to Non-Wage Payments. If the Administrator Expenses Payment exceeds \$100,000, that additional cost will be borne equally by each Plaintiffs' Counsel who received a Litigation Expenses Payment or Fees Payment.
- 3.2.4 To the Aggrieved Employees for the Wage Payment: the Wage Payment of \$1,000,000.
- 3.2.4.1 The Administrator will calculate each Aggrieved Employee's pro rata share of the Wage Payment by **(a)** dividing \$1,000,000 by the total number of Liability Period Pay Periods worked by all Aggrieved Employees during the Liability Period, and **(b)** multiplying the result by each Aggrieved Employee's Liability Period Pay Periods.
- 3.2.4.2 The Administrator will report the Wage Payment on W-2 Forms issued for each of the Aggrieved Employees. Defendants will pay any non-discretionary payroll tax deductions, including employer portions of Social Security, Medicare, Unemployment, Employment Training Tax and State Disability, owed under this Agreement in connection with the Wage Payment.
- 3.2.5 To the Aggrieved Employees for the Non-Wage Payment: the Non-Wage Payment of \$1,500,000.
- 3.2.5.1 The Administrator will calculate each Aggrieved Employee's pro rata share of the Non-Wage Payment by **(a)** dividing \$1,500,000 by the total number of Liability Period Pay Periods worked by all Aggrieved Employees during the Liability Period, and **(b)** multiplying the result by each Aggrieved Employee's Liability Period Pay Periods.
- 3.2.5.2 The Administrator will report Non-Wage Payment on IRS 1099 Forms issued for each of the Aggrieved Employees.
- 3.2.6 In addition to the above Aggrieved Employee payments, for those employees designated H-2A Employees the Administrator will calculate for the H-2A Employee Payment:
- 3.2.6.1 The Administrator will calculate each H-2A Employee's pro rata share of the H-2A Employee Payment by

(a) dividing \$1,500,000 by the total number of Liability Period Pay Periods worked by all H-2A Employees during the Liability Period, and (b) multiplying the result by each H-2A Employee's Liability Period Pay Periods.

3.2.7 To the LWDA and Aggrieved Employees for PAGA Penalties: PAGA Penalties in the amount of at least \$100,000.00 to be paid from the Gross Settlement Amount, with 75% (at least \$75,000.00) allocated to the LWDA PAGA Payment and 25% (at least \$25,000.00) allocated to the Individual PAGA Payments.

3.2.7.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (at least \$25,000.00) by the total number of Liability Period Pay Periods worked by all Aggrieved Employees during the Liability Period, and (b) multiplying the result by each Aggrieved Employee's Liability Period Pay Periods.

3.2.7.2 The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **IV. Settlement Funding and Payments**

- 4.1 Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 10,428 Aggrieved Employees who worked a total 317,472 Pay Periods.
- 4.2 Aggrieved Employee Data. Within fifteen (15) days of the Approval Order, Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet (.xlsx), comma separated value (.csv) or other machine-readable format acceptable to the Administrator. To protect the Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Plaintiffs' Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.
- 4.3 Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than

fourteen (14) days after the Effective Date. Upon payment in full of the Gross Settlement Amount, including any additional amount owed under Paragraph 8 below, all Actions shall be administratively closed and this Settlement Agreement and Consent Order issued as a final order of the Court.

- 4.4 Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will issue an electronic notice to all Aggrieved Employees whose Aggrieved Employee Data includes electronic contact information (telephone, WhatsApp, Facebook Messenger or email) and a mailed notice to all Aggrieved Employees whose Aggrieved Employee Data does not include alternative contact information. The notices shall be approved by the Court as part of the motion to approve this Settlement Agreement. The electronic notice shall inform Aggrieved Employees of the availability of the Settlement funds and the option of electronic payment. Within 28 days the Administrator shall begin payment to the Aggrieved Employees for all Individual PAGA Payments, the LWDA PAGA Payment, the Wage Payments, the Non-Wage Payments, the H-2A Employees Payments, the Administration Expenses Payment, the Plaintiffs' Counsel Fees Payment, the Plaintiffs' Counsel Litigation Expenses Payment, and the Individual Plaintiff Claim Payments.

4.4.1 The Administrator will issue payments for the Individual PAGA Payments, Wage Payments, Non-Wage Payments, and H-2A Employee Payments and send them to the Aggrieved Employees using the best available payment option for all payments—for individuals whose permanent address is in a foreign country the Administrator shall use electronic payments, including bank transfers, and the administrator shall use check or electronic payment for employees with a permanent U.S. address. The face of each check shall prominently state the date (not less than one hundred eighty (180) days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2 The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator will also void any check and issue an alternative electronic payment to any Aggrieved Employees who requests electronic payment during the 180-day check validity period. The Administrator shall promptly re-issue payment in electronic or

check format to any Aggrieved Employee whose original payment was not received prior to the void date.

- 4.4.3 For any Employee or Aggrieved Employee whose Individual PAGA Payment, Individual Wage Payment, Individual Non-Wage Payment, or H-2A Employee Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the Industrial Relations Unpaid Wage Fund pursuant to Labor Code section 96.7.
- 4.4.4 The payment of Individual PAGA Payments, Wage Payments, Non-Wage Payments, or H-2A Employee Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Employee or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

## **V. Releases of Claims**

Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiffs will release claims against all Released Parties as follows:

- 5.1 Release by Plaintiff Guzman: Plaintiff Guzman and Plaintiff's representatives, agents, attorneys, heirs, administrators, successors, and assigns from all claims that were pled or could have been pled based on the factual allegations in the operative complaints in the Actions filed by Cisneros, Crowley, Guzman, Rodales and Wood, that occurred during the Liability Period, that were alleged based on the facts contained in the Actions and the PAGA Notices ("Plaintiffs' Release"). Plaintiff Guzman's Release does not extend to any employment pursuant to payroll prepared by an entity other than Alco Harvesting, nor to any claims that arose outside the Liability Period or for intentional torts based on factual allegations outside of those made in the operative complaints.
- 5.2 Plaintiffs Cisneros, Crowley, Rodales, and Wood, (on behalf of themselves and her spouses, heirs, executors, administrators, trustees, and/or permitted assigns) also agrees to a general release of any and all claims against the Released Parties—which shall include without limitation any and all claims which in any way relate to her employment with Defendants or cessation thereof, under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Complaint or not, including but not limited to any claims under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act, the California Fair Employment and Housing Act, Age Discrimination in Employment Act of 1967, the California Private Attorney General Act, California Labor Code, or any Industrial Welfare Commission Wage Order—known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, have existed, upon any theory of law or equity now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time

to the date of execution hereof (“Plaintiffs’ Cisneros, Crowley, Rodales, and Wood’s Released Claims”).

- 5.3 Waiver of Civil Code section 1542. Plaintiffs Cisneros, Crowley, Rodales, and Wood expressly waive and relinquish, to the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the California Civil Code, which provides: “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” Notwithstanding the provisions of section 1542, and for the purpose of implementing a full and complete release and discharge of all of the claims released herein, Plaintiffs (including the Covered Employees with respect to the Released Claims only) expressly acknowledges that this Settlement is intended to include in its effect, without limitation, all claims released herein which Plaintiff does not know or suspects to exist in her favor at the time of execution hereof, and that the Settlement contemplates the extinguishment of all such claims. Neither Plaintiff nor the Covered Employees are releasing their respective claims or vested rights to any Employee Stock Option Plan (“ESOP”) or similar plan as a result of employment with Defendant. Plaintiffs Cisneros, Crowley, Rodales, and Wood may hereafter discover facts in addition to or different from those which they now know or believe to be true with respond to the subject matter of Plaintiff’s Released Claims and , but Plaintiffs, upon the Effective Date, shall be deemed to have fully, finally, and forever settled and released any and all of Plaintiff’s Released Claims, known or unknown. Plaintiffs shall not be permitted to seek any further payment or any personal relief of any kind, including any payment for damages, wages, fees, costs, penalties, or interest, other than the consideration Plaintiff is receiving under this Joint Stipulation of Settlement, on account of Plaintiffs Released Claims.
- 5.4 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged based on the facts stated in the operative complaints and PAGA Notices asserted in the Actions for work compensated by paystubs issued by Defendant Alco Harvesting, LLC. With the exception of Plaintiffs Cisneros, Crowley, Guzman, Rodales, and Wood, this Agreement does not release any of the Aggrieved Employees’ non-PAGA claims, nor claims for employment under separate paystub employers other than Defendant Alco Harvesting, LLC.
- 5.5 Release by the Labor Commissioner. The Labor Commissioner generally releases Released Parties from all liability for any and all Labor Code and IWC Wage Order 14 violations and penalties for the time period at issue in her Complaint or investigation into Defendants, on the facts stated in the operative complaint in the Labor Commissioner’s Action.

## **VI. Motion or Application for Approval of Settlement**

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1 **Plaintiffs' Responsibilities.** At least 7 days before filing a motion to approve this Agreement with the Court, PAGA Counsel will prepare and deliver to Defense Counsel for review all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (s)(2), including **(i)** a draft motion and proposed Order Granting Approval of PAGA Settlement; **(ii)** a draft ("Notice to Aggrieved Employees"); **(iii)** a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiffs, Plaintiffs' Counsel or Defense Counsel; and **(iv)** a signed declaration from PAGA Counsel attesting to their timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), the operative complaints in each Action (Labor Code section 2699, subd. (s)(1)), and this Agreement (Labor Code section 2699, subd. (s)(2))).
- 6.2 **Responsibilities of Plaintiffs' Counsel.** PAGA Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than sixty (60) days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. The Parties will use best efforts to obtain a hearing date for approval of this Settlement on or before the next-calendared case management conference, currently set for August 26, 2025. Plaintiffs' Counsel are responsible for delivering the Court's Approval Order to the Administrator.
- 6.3 **Duty to Cooperate.** If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, Plaintiffs' Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, Plaintiffs' Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

## **VII. Settlement Administration**

- 7.1 **Selection of Administrator.** The Parties have jointly selected the Settlement Administrator to serve as the Administrator and verified that, as a condition of appointment, the Settlement Administrator agrees to be bound by this Agreement

and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

- 7.2 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.3 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

### **VIII. Employee Size Estimates and Escalator Clause**

Based on its records, Defendants estimate and represent that, as of July 30, 2025 there are approximately 10,428 Aggrieved Employees who worked approximately 317,472 Pay Periods. If the verified number of Pay Periods increases by more than 10%, the Gross Settlement Amount would escalate proportionally. By way of example, if the Pay Periods increased by 11%, the Gross Settlement Amount would increase 1%. If this provision is triggered so as to increase the Gross Settlement Amount, the Parties agree that the PAGA Penalties and Plaintiffs’ Counsel Fees Payment will increase proportionally.

### **IX. Continuing Jurisdiction of the Court**

The Parties agree that, after entry of the Approval Order, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Approval Order, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law. This Agreement is enforceable under California Code of Civil Procedure § 664.6 and the Court shall retain jurisdiction pursuant to Code of Civil Procedure § 664.6 to enforce the terms herein.

- 9.1 Waiver of Right to Appeal. Provided the Approval Order is consistent with the terms and conditions of this Agreement, specifically including the Plaintiffs’ Counsel Fees Payment and Plaintiffs’ Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Approval Order, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Approval Order becomes final, except as to matters that do not affect the amount of the PAGA Penalties.

### **X. Non-Monetary Terms**

- 10.1 Labor Commissioner’s Office

- 10.1.1 Defendants agree that the housing of H-2A employees constitutes a place of labor pursuant to Labor Code § 90, and Alco Harvesting LLC consents to the Labor Commissioner's Office having free access to that housing and all places of labor consistent with Labor Code § 90 and for no other purpose.
- 10.1.2 Defendants will post notices and confirm with LCO their posting of notices in H-2A housing and on field equipment including transportation buses, summarizing workers' rights under paid sick leave, minimum wage and travel time law. The DIR's current "Supplemental Notice to Employee: California Rights and Protections for H-2A Agricultural Workers" shall be sufficient for this purpose. This notice should be available in Spanish and English. Defendants also agree to provide in-house one hour of manager/supervisor training regarding wage and hour requirements. The record of such training shall be provided to the Labor Commissioner's Office by no later than sixty (60) days after entry of the Approval Order.
- 10.1.3 The Labor Commissioner's Office and Alco Harvesting LLC shall arrange for a mutually agreeable date and time after the Approval Order for a joint press conference with the Labor Commissioner's Office and a representative from Alco. The location of the joint press conference can be on site in Santa Maria in one of the fields where workers are present or at another mutually agreeable site, such as the courthouse. All Plaintiffs may also be present. If the Conference is hosted on site or in a field, Alco shall receive a list of the Plaintiffs that will attend before the conference so it may coordinate sufficient room and seating.
- 10.1.4 No later than January 31, 2026, Alco Harvesting LLC will provide verification to the Labor Commissioner's Office of all required notices provided to California non-exempt workers under Labor Code section 2810.5 who worked at any time during calendar year 2025.
- 10.1.5 For 5 years after the Effective Date, in addition to what is required by statute, Defendants' notices under Labor Code section 2810.5 to California non-exempt employees will state that paid sick leave can be used for the employee's own sickness, preventive care or diagnosis, medical appointments, the care of immediate family members, responding to domestic violence-related issues, for those workers who work outside it can be used to avoid smoke, heat, or flooding conditions created by a local or state emergency, including if an employee's worksite is closed because of said conditions, if they or a family member are a victim of a crime, for the purposes described in paragraph (3) of subdivision (a), or

subdivision (b), of Section 12945.8 of the Government Code, and that employees can see what paid sick leave they have available at any time on their most recent itemized wage statement (or a separate writing if that is how Defendants provide this information).

## 10.2 Plaintiff Guzman

10.2.1 Defendants agree to extend an offer of rehire to Plaintiff Guzman for a contract term of at least six months starting on or after November 1, 2025, under the terms of an H-2A job order within 24 months following the entry of this order. Defendants shall submit a job order for H-2A workers and shall use their best efforts to obtain approval for an appropriate job order to satisfy this term. Guzman will be offered an employment position with pay equal to other H-2A workers and with the type of position in which Alco Harvesting LLC previously employed him. Defendants shall petition for an employment-based visa for Plaintiff Guzman under the H-2A visa program or such successor program as may exist at the time of the petition. Defendants shall also list Plaintiff Guzman on the USCIS I-129 visa form, or such successor form as may exist, as a visa recipient so that Plaintiff Guzman may be issued a visa by the U.S. Consulate in Mexico. The date of any required visa interview shall be provided to Plaintiffs' counsel at least 14 days in advance of the visa interview.

10.2.2 The offer will be made after Approval of Settlement is granted by the Court. Plaintiff Guzman understands and agrees he will be required to complete visa paperwork with a visa facilitator, who may be an Alco Employee, to be designated and paid for by Defendant Alco. Plaintiff Guzman will likely need to participate in an interview at the U.S. Consulate. Alco cannot guarantee Plaintiff Guzman will receive a visa from the U.S. Government but will use its best efforts to apply for H-2A labor certification and reserve a visa spot for Plaintiff Guzman to facilitate a visa on Guzman's behalf, within the regulatory framework of the H-2A program or its successor. Alco shall inform Plaintiff Guzman's counsel of the time, date, and location of Plaintiff's Consular interview. The parties agree to meet and confer during the pendency of government approval of the H-2A contract regarding Consular location and estimated need for Plaintiff's arrival at the Consulate.

## **XI. Additional Provisions**

11.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement. Nothing in this

Agreement is intended or should be construed as an admission by Defendants. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 11.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 11.3 Attorney Authorization. Plaintiffs' Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 11.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 11.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 11.6 No Tax Advice. Neither Plaintiffs, Plaintiffs' Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 11.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 11.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

- 11.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 11.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 11.11 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 11.12 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 11.13 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 11.14 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

### **APPROVAL AND EXECUTION BY PARTIES**

#### **PLAINTIFFS:**

Dated: 8/26/2025

Signed by:  
*Laura Frutos Rodales*  
5E496954ACA4E436

LAURA FRUTOS RODALES  
Plaintiff and Private Attorney General

Dated: 9/5/2025

Signed by:  
*Jesus Guzman*  
833000EDC00E436  
JESUS GUZMAN  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
EDGAR CISNEROS  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICK CROWLEY  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
STANTON WOOD  
Plaintiff and Private Attorney General

Dated: 9-5-2025

STATE OF CALIFORNIA  
  
By: Daniel Yu   
Title: Assistant Chief

**DEFENDANTS:**

Dated: Sep 19, 2025

ALCO HARVESTING LLC  
BETTERAVIA FARMS LLC  
BETTERAVIA INVESTMENTS LLC,  
erroneously sued herein as BETTERAVIA  
INVESTMENT LLC  
BONITA PACKING CO.  
GRUBSTAKE INVESTMENTS LLC  
RANCHO HARVEST, INC.  
JESUS MANRIQUEZ  
ALAIN PINCOT  
ROBERT M. FERINI  
MITCHELL D. ARDANTZ  
CRAIG A. READ  
JEREMY M. MACKENZIE

  
Jeremy MacKenzie (Sep 19, 2025 14:01:35 PDT)  
By: Jeremy MacKenzie  
Title: President

Dated: \_\_\_\_\_

\_\_\_\_\_  
EDGAR CISNEROS  
Plaintiff and Private Attorney General



Dated: 08 / 29 / 2025  
\_\_\_\_\_

\_\_\_\_\_  
PATRICK CROWLEY  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
STANTON WOOD  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

STATE OF CALIFORNIA

By: \_\_\_\_\_

Title: \_\_\_\_\_

**DEFENDANTS:**

Dated: \_\_\_\_\_

ALCO HARVESTING LLC  
BETTERAVIA FARMS LLC  
BETTERAVIA INVESTMENTS LLC,  
erroneously sued herein as BETTERAVIA  
INVESTMENT LLC  
BONITA PACKING CO.  
GRUBSTAKE INVESTMENTS LLC  
RANCHO HARVEST, INC.  
JESUS MANRIQUEZ  
ALAIN PINCOT  
ROBERT M. FERINI  
MITCHELL D. ARDANTZ  
CRAIG A. READ  
JEREMY M. MACKENZIE

\_\_\_\_\_  
By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
EDGAR CISNEROS  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICK CROWLEY  
Plaintiff and Private Attorney General

Dated: 08 / 31 / 2025  
\_\_\_\_\_

  
\_\_\_\_\_  
STANTON WOOD  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

STATE OF CALIFORNIA

By: \_\_\_\_\_

Title: \_\_\_\_\_

**DEFENDANTS:**

Dated: \_\_\_\_\_

ALCO HARVESTING LLC  
BETTERAVIA FARMS LLC  
BETTERAVIA INVESTMENTS LLC,  
erroneously sued herein as BETTERAVIA  
INVESTMENT LLC  
BONITA PACKING CO.  
GRUBSTAKE INVESTMENTS LLC  
RANCHO HARVEST, INC.  
JESUS MANRIQUEZ  
ALAIN PINCOT  
ROBERT M. FERINI  
MITCHELL D. ARDANTZ  
CRAIG A. READ  
JEREMY M. MACKENZIE

\_\_\_\_\_  
By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: 08 / 26 / 2025

Edgar Cisneros  
EDGAR CISNEROS  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICK CROWLEY  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

\_\_\_\_\_  
STANTON WOOD  
Plaintiff and Private Attorney General

Dated: \_\_\_\_\_

STATE OF CALIFORNIA

By: \_\_\_\_\_

Title: \_\_\_\_\_

**DEFENDANTS:**

Dated: \_\_\_\_\_

ALCO HARVESTING LLC  
BETTERAVIA FARMS LLC  
BETTERAVIA INVESTMENTS LLC,  
erroneously sued herein as BETTERAVIA  
INVESTMENT LLC  
BONITA PACKING CO.  
GRUBSTAKE INVESTMENTS LLC  
RANCHO HARVEST, INC.  
JESUS MANRIQUEZ  
ALAIN PINCOT  
ROBERT M. FERINI  
MITCHELL D. ARDANTZ  
CRAIG A. READ  
JEREMY M. MACKENZIE

\_\_\_\_\_  
By: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM BY COUNSEL**

**PLAINTIFFS' COUNSEL:**

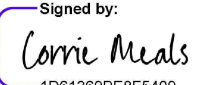
Dated: 9/5/2025

**Division of Labor Standards Enforcement**

  
\_\_\_\_\_  
Alec Segarich  
Attorney for Plaintiff Lilia Garcia-Brower,  
in her capacity as Labor Commissioner

Dated: 9/5/2025

**California Rural Legal Assistance, Inc.**

Signed by:  
  
\_\_\_\_\_  
1D61369BE8F5409...  
Corrie Meals  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

**Law Offices of Dawson Morton**

\_\_\_\_\_  
Dawson Morton  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

**WorldWork Law Corp.**

\_\_\_\_\_  
Ruben Escobedo  
Attorneys for Plaintiffs

**APPROVED AS TO FORM BY COUNSEL**

**PLAINTIFFS' COUNSEL:**

Dated: \_\_\_\_\_

**Division of Labor Standards Enforcement**

\_\_\_\_\_  
Alec Segarich  
Attorney for Plaintiff Lilia Garcia-Brower,  
in her capacity as Labor Commissioner

Dated: \_\_\_\_\_

**California Rural Legal Assistance, Inc.**

\_\_\_\_\_  
Corrie Meals  
Attorneys for Plaintiffs

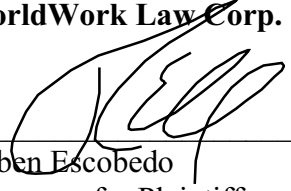
Dated: \_\_\_\_\_

**Law Offices of Dawson Morton**

\_\_\_\_\_  
Dawson Morton  
Attorneys for Plaintiffs

Dated: 9/4/2025

**WorldWork Law Corp.**

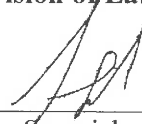
  
\_\_\_\_\_  
Ruben Escobedo  
Attorneys for Plaintiffs

**APPROVED AS TO FORM BY COUNSEL**

**PLAINTIFFS' COUNSEL:**

Dated: 9/5/2025

**Division of Labor Standards Enforcement**



Alec Segarich  
Attorney for Plaintiff Lilia Garcia-Brower,  
in her capacity as Labor Commissioner

Dated: \_\_\_\_\_

**California Rural Legal Assistance, Inc.**

\_\_\_\_\_  
Corrie Meals  
Attorneys for Plaintiffs

Dated: 9/5/2025

**Law Offices of Dawson Morton**



Dawson Morton  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

**WorldWork Law Corp.**

\_\_\_\_\_  
Ruben Escobedo  
Attorneys for Plaintiffs

Dated: 9/4/25

**Lex Opus**

  
\_\_\_\_\_  
Jeremy Rhyne  
Attorneys for Plaintiffs

Dated: \_\_\_\_\_

**Melmed Law Group P.C.**

\_\_\_\_\_  
Meghan N. Higday  
Attorneys for Plaintiffs

**DEFENSE COUNSEL:**

Dated: \_\_\_\_\_

**Fisher Phillips, LLP**

\_\_\_\_\_  
Alden Parker  
Attorneys for Defendants

Dated: \_\_\_\_\_

**Lex Opus**

\_\_\_\_\_  
Jeremy Rhyne  
Attorneys for Plaintiffs

Dated: 8/26/2025

**Melmed Law Group P.C.**

*Meghan Higday*  
\_\_\_\_\_  
Meghan N. Higday  
Attorneys for Plaintiffs

**DEFENSE COUNSEL:**

Dated: \_\_\_\_\_

**Fisher Phillips, LLP**

\_\_\_\_\_  
Alden Parker  
Attorneys for Defendants

# 9-8-2025 Alco Global Settlement - All Plaintiffs and Plaintiffs Counsel Signatures

Final Audit Report

2025-09-19

|                 |                                               |
|-----------------|-----------------------------------------------|
| Created:        | 2025-09-15                                    |
| By:             | Desiree Herrera (dherrera@fisherphillips.com) |
| Status:         | Signed                                        |
| Transaction ID: | CBJCHBCAABAAyqL2N1P199rcnbBu6ucZwKOTkvCz8XIA  |

## "9-8-2025 Alco Global Settlement - All Plaintiffs and Plaintiffs Counsel Signatures" History



Document created by Desiree Herrera (dherrera@fisherphillips.com)

2025-09-15 - 6:15:06 PM GMT



Document emailed to jeremy.mackenzie@alcoharvesting.com for signature

2025-09-15 - 6:17:16 PM GMT



Email viewed by jeremy.mackenzie@alcoharvesting.com

2025-09-19 - 9:00:31 PM GMT



Signer jeremy.mackenzie@alcoharvesting.com entered name at signing as Jeremy MacKenzie

2025-09-19 - 9:01:33 PM GMT



Document e-signed by Jeremy MacKenzie (jeremy.mackenzie@alcoharvesting.com)

Signature Date: 2025-09-19 - 9:01:35 PM GMT - Time Source: server



Agreement completed.

2025-09-19 - 9:01:35 PM GMT



Adobe Acrobat Sign

## **EXHIBIT 2**

December 6, 2019

**VIA ELECTRONIC FILING**

CALIFORNIA LABOR AND  
WORKFORCE DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
455 Golden Gate Avenue, 10th Floor  
San Francisco, CA 94102

**VIA U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

ALCO HARVEST, INC.  
Attn. Jesus Manriquez  
1225 La Brea Ave.  
Santa Maria, CA 93458

RANCHO HARVEST, INC.  
Attn. Jesus Manriquez  
1225 La Brea Ave.  
Santa Maria, CA 93458

Alain Pincot  
633 Woodbridge  
Santa Maria, CA 93455

Robert M. Ferini  
1280 Whispering Meadow Ln.  
Nipomo, CA 93444

Mitchell D. Ardantz  
6670 Avila Valley Drive  
San Luis Obispo, CA 93405

Craig A. Reade  
5975 Oak Valley Dr.  
Santa Maria, CA 93455

Jeremy M. Mackenzie  
302 Palomar  
Pismo Beach, CA 93449

**Re: Edgar Cisneros' Notice of Claims/Labor Code Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.***

To the California Labor and Workforce Development Agency; and ALCO HARVEST, INC., RANCHO HARVEST, INC., Alain Pincot, Robert M. Ferini, Mitchell D. Ardantz, Craig A. Reade, and Jeremy M. Mackenzie ("Employer"):

Lex Opus represents Edgar Cisneros, who intends to bring an action under the Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698, *et seq.*, on behalf of himself

and approximately more than 2,000 similarly situated current and former aggrieved employees, and the People of the State of California (hereinafter collectively “Employees”).

Employer cannot compel Employees to arbitrate these PAGA claims. *Tanguilig v. Bloomingdale's, Inc.* (2016) 5 Cal.App.5th 665, 677 (PAGA claim "is not subject to arbitration under a private arbitration agreement between the plaintiff and his or her employer" because "the real party in interest in a PAGA suit, the state, has not agreed to arbitrate the claim").

Cisneros has standing to pursue PAGA claims for all violations, including all of those experienced by other Employees. “[A]ny Labor Code penalties recoverable by state authorities may be recovered in a PAGA action by a person who was employed by the alleged violator and affected by at least one of the violations alleged in the complaint.” *Huff v. Securitas Sec. Servs. USA, Inc.* (2018) 23 Cal.App.5th 745, 754. “[S]o long as [an employee is] affected by at least one Labor Code violation, he can sue under PAGA to recover penalties for any alleged violation....” *Id.*, at 761.

Each Employer committed and/or is responsible for the following conduct alleged herein below as employer, joint employer, “other person acting on behalf of an employer[s]....” (Lab. Code, § 558, subd. (a) and § 558.1, subd. (a). Likewise, all of the Employers are liable, jointly and severally, for all of the conduct alleged herein below. Every reference to “Employer” below includes each of them individually and also collectively.

PAGA, specifically Section 2699, subdivision (a) of the California Labor Code, permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Employees intend to bring a civil action to recover civil penalties for the violations identified below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil penalties specifically set forth within the text of the California Labor Code. Those penalties are sought for violations committed against Employees of Employer

\* \* \*

Pursuant to Section 2699.3, subdivision (a)(1), the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation, are as follows:

**A. Failure to Provide or Pay for Recovery Periods**

“An employer shall not require an employee to work during a ... recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of ... the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.” Cal. Lab. Code, § 226.7, subd. (b). “As used in this section, ‘recovery period’ means a cooldown period afforded an employee to prevent heat illness.” Cal. Lab. Code, § 226.7, subd. (a). “A rest or recovery period mandated pursuant to a state law ... shall be counted as hours worked, for which there shall be no deduction from wages.” Cal. Lab. Code, § 226.7, subd. (d). “If an employer fails

to provide an employee a ... recovery period in accordance with a state law ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided." Cal. Lab. Code, § 226.7, subd. (c).

Pursuant to the applicable regulation, "[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shade shall be located as close as practicable to the areas where employees are working. Subject to the same specifications, the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite." Cal. Code Regs., tit. 8, § 3395, subd. (d)(1).

"Employees shall be allowed and encouraged to take a preventative cool-down rest in the shade when they feel the need to do so to protect themselves from overheating. Such access to shade shall be permitted at all times. An individual employee who takes a preventative cool-down rest (A) shall be monitored and asked if he or she is experiencing symptoms of heat illness; (B) shall be encouraged to remain in the shade; and (C) shall not be ordered back to work until any signs or symptoms of heat illness have abated, but in no event less than 5 minutes in addition to the time needed to access the shade." Cal. Code Regs., tit. 8, § 3395, subd. (d)(3). "For purposes of this section, preventative cool-down rest period has the same meaning as 'recovery period' in Labor Code Section 226.7(a)." Cal. Code Regs., tit. 8, § 3395, subd. (e)(6).

"When temperatures reach 95 degrees or above, the employer shall ensure that the employee takes a minimum ten-minute net preventative cool-down rest period every two hours. The preventative cool-down rest period required by this paragraph may be provided concurrently with any other meal or rest period required by Industrial Welfare Commission Order No. 14 (8 CCR 11140) if the timing of the preventative cool-down rest period coincides with a required meal or rest period thus resulting in no additional preventative cool-down rest period required in an eight hour workday. If the workday will extend beyond eight hours, then an additional preventative cool-down rest period will be required at the conclusion of the eighth hour of work; and if the workday extends beyond ten hours, then another preventative cool-down rest period will be required at the conclusion of the tenth hour and so on." Cal. Code Regs., Title 8, § 3395, subd. (e)(6).

Throughout Employees' employment, Employer failed to allow or encourage shaded recovery periods as required by law when temperatures exceeded eighty degrees and when temperatures were eighty degrees and lower. Employer also failed to ensure that Employees took cool-down rest periods at any time, including when temperatures reached ninety-five degrees. Employer is subject to civil penalties for its violation of § 226.7 and § 3395.

## **B. Failure to Provide Compliant Rest Periods or Pay Rest Premiums**

Pursuant to Industrial Welfare Commission Wage Order 14, employers must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4) hours worked or major fraction thereof. Duty-free rest periods must be paid. An employer who fails to provide a duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

“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 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

Throughout Employees’ employment, Employer maintained an illegal practice of not providing Employees with sanctioned 10-minute rest periods, which were controlled and ordered by managers. Employees first rest periods were routinely provided late, interrupted, or not provided at all, and Employees were not free of all duties or free to leave the premises. Employees were often ridiculed and reprimanded for slacking off if they attempted to take a rest period. Additionally, Employer failed to provide Employees with a compliant second rest period for the majority of their employment. For some Employees, Employer regularly denied all paid rest periods as required by law on the ground that an extra-long meal period was provided.

In addition, pursuant to the applicable regulation, “[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit ... [t]he amount of shade present shall be at least enough to accommodate the number of employees on ... rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shade shall be located as close as practicable to the areas where employees are working.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(1).

Employees incorporate the preceding sections herein. Employer’s rest periods, to the extent any were provided, were noncompliant because they failed to provide sufficient shade when temperatures exceeded eighty degrees so that Employees could sit in a normal posture fully in the shade without touching each other. Accordingly, Employer is subject to civil penalties for its violation of § 226.7 and § 3395.

## **C. Failure to Provide Compliant Meal Periods or Pay Meal Premiums**

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

second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” Cal. Lab. Code, § 512, subd. (a).

Pursuant to Labor Code sections 226.7 and 512, and Wage Order 14, duty-free meal periods of no less than thirty (30) minutes are required for all non-exempt employees who work at least five (5) hours in a work period per day. The employee must be free to leave the employer’s premises. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Time records of meal periods must be kept. Meal periods must be paid when the employee is not relieved of all duties or free to leave the premises. An employer who fails to provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for each day in which a duty-free meal period is not provided.

“If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.” Cal. Lab. Code, § 226.7, subd. (c).

“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 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

Employees incorporate the preceding sections herein. Throughout Employees’ employment, although Employees were entitled to a meal period within the first five (5) hours of work, Employer regularly scheduled Employees’ first meal periods after such time, regularly provided less than 30 minutes of time for meal periods, and failed to provide a second meal period after 10 hours of work as required by law.

In addition, pursuant to the applicable regulation, “[w]hen the outdoor temperature in the work area exceeds 80 degrees Fahrenheit ... the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(1). The amount of shade present during meal periods “shall be at least enough to accommodate the number of employees ... so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shade shall be located as close as practicable to the areas where employees are working.” Cal. Code Regs., tit. 8, § 3395, subd. (d)(1).

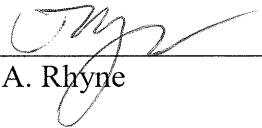
Employees incorporate the preceding sections herein. Employer's meal periods, to the extent any were provided, were noncompliant because they failed to provide sufficient shade when temperatures exceeded eighty degrees so that Employees could sit in a normal posture fully in the shade without touching each other. Accordingly, Employer is subject to civil penalties for its violation of § 226.7 and § 3395.

\* \* \*

Please do not hesitate to contact the undersigned if you would like to discuss this matter further. Thank you for your attention to this matter.

Sincerely,

LEX OPUS

  
\_\_\_\_\_  
Jeremy A. Rhyne



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

October 9, 2020

Betteravia Farms, LLC

VIA CERTIFIED MAIL

Robert P. Ferini  
1850 Stowell Rd.  
Santa Maria, CA 93458

Bonipak Produce  
1850 W. Stowell Rd.  
Santa Maria, CA 93458

VIA CERTIFIED MAIL

ALCO Harvesting, LLC  
Jesus Manriquez  
1225 La Brea Ave.  
Santa Maria, CA 93458

VIA CERTIFIED MAIL

PAGA Administrator  
Labor and Workforce Development Agency  
1515 Clay Street, Suite 801  
Oakland, CA 94162

SUBMITTED ONLINE

**RE: ALCO Harvesting, Betteravia Farms, LLC, Bonipak Produce, Notice of Violations of the Labor Code Pursuant to the Private Attorneys General Act, California Labor Code sections 2698, et seq., and Notice of Liability Pursuant as Client Employers Pursuant to Labor Code § 2810.3**

Dear PAGA Administrator and Employers:

California Rural Legal Assistance, Inc. represents Jesus Guzman who was employed by ALCO Harvesting, LLC for multiple seasons through July 3, 2020. This correspondence serves to provide notice that ALCO Harvesting has committed labor code violations.

ALCO Harvesting is a farm labor contractor based and primarily operating out of Santa Maria, California. ALCO Harvesting provides services to Bonipak Produce. All Harvesting are completed at locations owned or operated by Betteravia Farms. In accordance with Labor Code § 2810.3(d), this letter serves as notice to Bonipak and Betteravia Farms of their civil liability and legal responsibility for the Labor law violations related to the payment of wages.

Jesus Guzman is an H-2A employee. He has worked for ALCO Harvesting in both Santa Maria, California and Yuma, Arizona since 2018. His most recent H-2A order was from November 5, 2019 through March of 2020 but was extended to December 1, 2020. The H-2A order ending on



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

December 1, 2020 requested approximately 315 workers and guaranteed that Guzman and all other workers employed under that Order would receive no less than three-quarters of the wages that would be paid under the full contract period, as required by statute. Workers harvested organic broccoli, cauliflower, and Romaine lettuce. Guzman picked and packed Romaine lettuce.

ALCO Harvesting, as an H-2A employer, as a condition of being allowed to bring in and employ H-2A workers, was and is required to reimburse H-2A employees for in-bound and out-bound travel and subsistence expenses for travel from their place of recruitment – in this case Mexico -- to the worksite. Recruitment for these jobs took place at various locations in Mexico, most recently in or about November 2019. During the two years that Guzman worked for ALCO as an H-2A worker, he and other H-2A workers traveled from their place of recruitment to San Luis Rio Colorado, Mexico, and then to the U.S. as directed by ALCO, and incurred transportation and subsistence expenses. Guzman and, other H-2 workers who incurred similar expenses did not receive any compensation for their inbound transportation or subsistence expenses. At termination, they were entitled to be paid for the cost of outbound transportation but were not paid. Carlos Encinas, an agent of ALCO Harvesting, informed all H-2A workers that inbound and outbound costs were the workers' responsibility.

During each of the seasons that Guzman worked, including from November 2019 to date, ALCO Harvesting failed to pay Guzman and other workers for all hours worked. ALCO Harvesting directed Guzman and other workers to report at a specific time and location for pick up and transport to the work site. Guzman and H-2A workers had no option but to take employer provided transportation to and from the worksites and were at all times under the direction and control of the employer while being transported, but were not compensated for this time. After arriving at the work location Guzman and other workers were directed to wait to clock-in and were required to perform work prior to clocking-in but were not paid for this time. At a specific time, each day Guzman and others were directed to clock-out and were then required to pack and put their tools away, while off the clock. Guzman and the other H-2A workers were then transported back to their employer provided housing by ALCO. At all times from the time they reported to the pick-up point to the time they were dropped off at the employer provided housing Guzman and other workers were under the direction and control of ALCO, but were not compensated for this time at the minimum wage, contract rate, or applicable overtime rate. Guzman and other workers would work an average of 9.5 - 10 hours per day, exclusive of transportation and waiting time. However, ALCO only paid straight time if they worked more than 50 hours of clocked in time a week.

In both seasons, Guzman and other workers were denied full meal periods and rest periods as they were required to take those breaks outside of the fields, but time walking out of and back to the lettuce beds was counted as meal or rest period time, preventing them from taking a full uninterrupted 30-minute meal period or 10 minute rest period.



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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On July 3, 2020 Guzman had a sore throat and a cold and sought medical attention because there had been approximately 30 known Covid-19 cases within the company including in Guzman's crew. Medical personal conducted a Covid-19 test and Guzman was told to quarantine while he waited for his test results. That same day, Guzman informed Carlos Encinas, an agent of ALCO Harvesting, that the hospital had conducted a Covid-19 test and that he was told to quarantine. Encinas was furious and with an aggressive tone told Guzman that he could only offer a semi a-isolated room (he would be sharing a room with another H-2A employee with a confirmed Covid-19 result).

Because of his symptoms and the direction to quarantine, on July 3, 2020, Guzman verbally requested sick time, but his request was denied.

Guzman, and other workers employed by ALCO were essential workers and entitled to sick leave under Family First Coronavirus Response Act and California's Covid-19 Supplemental Paid Sick Leave. Additionally, Guzman, and other H-2A employees had accrued sick leave by operation of Labor Code section 246. When Guzman began having problems breathing, he made the decision to leave to seek medical attention. Guzman did so and was away from work on Saturday, July 4, 2020 and Sunday, July 5, 2020. On Monday, July 6, 2020, Guzman called Encinas to let him know that he felt better and was ready to return to work. Encinas terminated his employment. A couple of days later, Guzman fell ill again, and it took 40 days to recover. During this time, Guzman received no sick pay.

On approximately July 16, 2020 Guzman got his test results indicating he tested positive for Covid-19. By the end of July of 2020, Santa Barbara County Health Department reported that there were approximately 85 confirmed cases linked to the Covid-19 outbreak at ALCO Harvesting in Santa Maria, California. Guzman is informed and believes that other ALCO workers requested but were denied sick leave based on Covid-19 symptoms, diagnosis or a directive to quarantine.

In the spring and summer of 2020 ALCO Harvesting systematically engaged in a practice of retaliatory actions against Guzman and other H-2A workers. Guzman was terminated after requesting sick leave. At least one known H-2A worker had their visa ripped after complaining of the existing work conditions regarding the Covid-19 outbreak. As a result of the termination, Guzman and similarly situated H-2A workers, were not paid their  $\frac{3}{4}$  guarantee as indicated by statute and contract.

Guzman did not receive a final check for all owed wages. At termination, Guzman was owed two full weeks of pay. He later received partial payment of \$750.00 twelve (12) days after being terminated. However, Guzman is still owed \$100.00 for one week, in addition to an entire week of pay; plus, unpaid wages for off the clock time, transportation time, premium compensation for denied meal and rest periods and the uncompensated inbound and outbound travel and subsistence expenses.



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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Although Guzman and other workers received wage statements, they did not accurately reflect all hours worked, or the correct hourly rate of pay for all credited hours.

As a result of the practices described above, Guzman and other aggrieved employees suffered the following Labor Code violations, at all times mentioned, including during the one year period prior to the submission of this complaint:

- a. Labor Code sections §201 and/or §202 - failure to provide prompt payment of wages to employees on termination or resignation;
- b. Labor Code section §226 - failure to provide an accurate itemized wage statement to employees;
- c. Labor Code § 1197- failure to pay minimum wages due for all hours worked and paying less than minimum wage due for the first work weeks as a result of offset of transportation and subsistence expenses;
- d. Labor Code sections §860 §558, and §1194 - failure to pay overtime wages at the appropriate rate of pay;
- e. Labor Code §233 and California Labor Code §§ 246 and 246.5 - failure to grant and pay medical leave;
- f. Labor Code §223 - failure to pay the three-quarter guarantee as required by statute and Contract;
- g. Labor Code § 2802 - failure to reimburse transportation and daily subsistence to and from the place of employment;
- h. Labor Code § 226.7 - failure to provide compliant meal and rest periods; and
- i. Labor Code § 98.6 and § 246.5 - retaliation for complaining about unsafe working conditions and requesting authorized sick leave.

Mr. Guzman seeks enforcement of the above-listed Labor Code provisions for himself and other aggrieved employees.

You may contact me at (805) 922-4564 if you have any questions regarding this letter.

Sincerely,  
California Rural Legal Assistance, Inc.



Sandra Aguila  
Law Clerk



# CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

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Cc: The Saqui Law Group, P.C.  
Michael C. Saqui, Esq.  
1410 Rocky Ridge Dr., Suite 330  
Roseville, CA 95661

The Saqui Law Group, P.C.  
512 Pajaro Street, Suite 14  
Salinas, CA 93901

July 1, 2022

*Filed via the LWDA's PAGA Claim Notice Online Form*

*Copies Sent via Certified U.S. Mail to:*

Alco Harvesting LLC  
Jeremy Mark Mackenzie, Registered Agent  
208 Capistrano  
Shell Beach, California 93449

Alco Harvesting LLC Headquarters  
1850 W. Stowell Rd.  
Santa Maria, California 93449

**Re:   *Laura Frutos Rodales v. Alco Harvesting LLC***

**Notice of Intent to File Suit Pursuant to California Labor Code  
Section 2699**

To Whom It May Concern:

This office represents Laura Frutos Rodales (“Plaintiff”) and a group of the putative class members in a forthcoming lawsuit against Alco Harvesting LLC (“Defendant”). The action, entitled *Laura Frutos Rodales v. Alco Harvesting LLC*, is to be filed in the Superior Court of the State of California for the County of Santa Barbara (the “Action”). A copy of the complaint as currently drafted, and as is intended to be filed in the Action, is enclosed as **Exhibit A**. This letter incorporates by reference the facts, law, and allegations of Exhibit A.

This letter serves as notice pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), codified at California Labor Code sections 2698 through 2699.6, that we intend to include representative claims in the Action for civil penalties under PAGA on behalf of a group of aggrieved employees. For the purposes of this letter, “Aggrieved Employees” is defined as: *All individuals who are or were employed by Defendant(s) as non-exempt employees in California, from one year prior to the mailing of this notice through the date of trial.*

As set forth in more detail in Exhibit A, Defendant violated its obligations to Plaintiff and the Aggrieved Employees under California law by: failing to pay minimum wages for all hours worked, failing to pay all overtime wages earned, failing to provide lawful rest periods and pay missed rest period premiums, failing to provide lawful meal periods and pay missed meal period premiums, failing to maintain accurate records, failing to reimburse all necessary business expenses, failing to provide accurate and complete wage statements, failing to pay all wages in full and on time during employment, and failing to pay all wages due upon termination.

**Notice of Intent to File PAGA Action**

July 1, 2022

Page 2 of 2

Because of these systemic violations, Defendant violated: Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2084, and California Industrial Welfare Commission Wage Orders Wage Orders 13-2001 and/or 14-2001, and others that may be applicable. (Cal. Code of Regs., tit. 8, §§ 11130, 11140.) The enclosed Complaint further details: **(1)** the alleged violations; **(2)** the facts and theories supporting these violations; **(3)** the people and entities, dates, classifications, violations, events, and actions at issue; and **(4)** the illegal practices instituted by Defendant.

Together with this correspondence, the enclosed complaint provides notice that we intend to proceed with a claim for civil penalties in the Action pursuant to PAGA. (See Lab. Code, §§ 2698–2699.6.) We intend to fully prosecute the representative claims alleged in the complaint, including by obtaining civil penalties under PAGA.

Please do not hesitate to contact me if you have any questions.

Sincerely,

*Meghan Higday*  
**MEGHAN N. HIGDAY**

*Enclosure*

# EXHIBIT A

**MELMED LAW GROUP P.C.**  
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Attorneys for Plaintiff and the Putative Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA**

LAURA FRUTOS RODALES, an individual, on  
behalf of herself and all others similarly situated,

Plaintiff,

v.

ALCO HARVESTING LLC, a California  
Limited Liability Company; and DOES 1 TO 50,

Defendants.

Case Number: \_\_\_\_\_

**Class Action Complaint For:**

1. Failure to Pay All Minimum Wages,
2. Failure to Pay All Overtime Wages,
3. Failure to Provide Rest Periods and Pay Missed Rest Period Premiums,
4. Failure to Provide Meal Periods and Pay Missed Meal Period Premiums,
5. Failure to Maintain Accurate Employment Records,
6. Failure to Pay Wages Timely during Employment,
7. Failure to Pay All Wages Earned and Unpaid at Separation,
8. Failure to Indemnify All Necessary Business Expenditures,
9. Failure to Furnish Accurate Itemized Wage Statements, and
10. Violations of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210).

Plaintiff Laura Frutos Rodales (“Plaintiff”), on behalf of herself and all other similarly situated employees within the State of California, complains and alleges of defendants Alco Harvesting LLC and Does 1 to 50 (collectively, “Defendants”), and each of them, as follows:

**I. INTRODUCTION**

1. This is a class action complaint brought pursuant to California Code of Civil Procedure section 382.

2. The “Class Period” as used herein, is defined as the period from four years prior to the filing of this action and continuing into the present and ongoing. Defendants’ violations of California’s laws as described more fully below have been ongoing throughout the Class Period and are still ongoing.

3. Plaintiff brings this class action on behalf of herself and the following class: *All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period* (the “Class Members”). (Code Civ. Proc., § 382.)

4. Plaintiff brings this action on behalf of herself and the Class Members, as a class action, against Defendants for:

- A. Failure to pay all minimum wages,
- B. Failure to pay all overtime wages,
- C. Failure to provide rest periods and pay missed rest period premiums,
- D. Failure to provide meal periods and pay missed meal period premiums,
- E. Failure to maintain accurate employment records,
- F. Failure to pay wages timely during employment,
- G. Failure to pay all wages earned and unpaid at separation,
- H. Failure to indemnify all necessary business expenditures,
- I. Failure to furnish accurate itemized wage statements, and

1 J. Violations of California’s Unfair Competition Law (“UCL”) (Bus. & Prof.  
2 Code, §§ 17200–17210).

3 5. Plaintiff is informed and believes and thereon alleges that the California Industrial  
4 Welfare Commission (“IWC”) Wage Orders applicable to the facts of this case are IWC Wage Orders  
5 13-2001 and/or 14-2001 (the “Applicable Wage Orders”) and possibly others that may be applicable.  
6 (Cal. Code of Regs., tit. 8, §§ 11130, 11140.) Plaintiff reserves the right to amend or modify the  
7 definition of “Applicable Wage Orders” with greater specificity or add additional IWC Wage Orders  
8 if additional applicable wage orders are discovered in litigation.

9 **II. JURISDICTION & VENUE**

10 6. This Court has subject matter jurisdiction over all causes of action asserted herein  
11 pursuant to Article VI, section 10, of the California Constitution and Code of Civil Procedure section  
12 410.10 because this is a civil action in which the matter in controversy, exclusive of interest, exceeds  
13 \$25,000, and because each cause of action asserted arises under the laws of the State of California or  
14 is subject to adjudication in the courts of the State of California.

15 7. This Court has personal jurisdiction over Defendants because Defendants have caused  
16 injuries in the County of Santa Barbara and the State of California through their acts, and by their  
17 violation of the California Labor Code and California state common law. Defendants transact millions  
18 of dollars of business within the State of California. Defendants own, maintain offices, transact  
19 business, have an agent or agents within the County of Santa Barbara, and/or otherwise are found within  
20 the County of Santa Barbara, and Defendants are within the jurisdiction of this Court for purposes of  
21 service of process.

22 8. Venue as to Defendants is proper in this judicial district, pursuant to section 395 of the  
23 Code of Civil Procedure. Defendants operate within California and do business within Santa Barbara  
24 County, California. The unlawful acts alleged herein have a direct effect on Plaintiff and all of  
25 Defendants’ employees identified above within Santa Barbara County and surrounding counties where  
26 Defendants may remotely operate.

27 9. This matter is not appropriate for removal under the Class Action Fairness Act (28  
28 U.S.C. § 1332) as the amount in controversy for Plaintiff’s and the Class Members’ claims, in

1 aggregate, is less than \$5 million. Additionally, all the allegations herein occurred in the State of  
2 California. As such, even if the amount in controversy did exceed \$5 million this matter would still  
3 not be appropriate for removal under the “local controversy” exception to the Class Action Fairness  
4 Act. (28 U.S.C. § 1332, subd. (d)(4)(A).)

5 **III. THE PARTIES**

6 **A. PLAINTIFF**

7 10. At all relevant times, Plaintiff, who is over the age of 18, was and currently is a citizen  
8 of California residing in the State of California. Defendants employed Plaintiff as a non-exempt hourly  
9 employee in the County of Santa Barbara.

10 11. Plaintiff brings this action on behalf of herself and the following class pursuant to  
11 section 382 of the Code of Civil Procedure as follows: *All individuals who are or were employed by*  
12 *Defendants as non-exempt employees in California during the Class Period* (the “Class Members”).

13 12. The Class Members, at all times pertinent hereto, are or were employees of Defendants  
14 during the relevant statutory period.

15 **B. DEFENDANTS**

16 13. Plaintiff is informed and believes and thereon alleges that Defendants were authorized  
17 to and doing business in Santa Barbara County and is and/or was the legal employer of Plaintiff and  
18 the other Class Members during the applicable statutory periods. Plaintiff and the other Class Members  
19 were, and are, subject to Defendants’ policies and/or practices complained of herein and have been  
20 deprived of the rights guaranteed to them by: California Labor Code sections 201, 202, 203, 204, 210,  
21 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2802,  
22 2804, and others that may be applicable; California Business and Professions Code sections 17200  
23 through 17210 (“UCL”); and the Applicable Wage Orders (Cal. Code of Regs., tit. 8, §§ 11130, 11140).

24 14. Plaintiff is informed and believes, and based thereon alleges, that during the Class  
25 Period, Defendants did (and continue to do) business in the State of California, County of Santa  
26 Barbara. Defendants operations are headquartered in Santa Barbara County.

27 15. Plaintiff does not know the true names or capacities, whether individual, partner, or  
28 corporate, of the defendants sued herein as Does 1 to 50, inclusive, and for that reason, said defendants

1 are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this  
2 complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and  
3 thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were  
4 responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff  
5 and the other Class Members to be subject to the unlawful employment practices, wrongs, injuries, and  
6 damages complained of herein.

7 16. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned  
8 herein, Defendants were and/or are the employers of Plaintiff and the other Class Members. At all  
9 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged  
10 to have been done by the named Defendants. Furthermore, the Defendants, and each of them, were the  
11 agents, servants, and employees of each and every one of the other Defendants, as well as the agents  
12 of all Defendants, and at all times herein mentioned were acting within the course and scope of said  
13 agency and employment. Defendants, and each of them, approved of, condoned, or otherwise ratified  
14 every one of the acts or omissions complained of herein.

15 17. At all relevant times, Defendants, and each of them, were members of and engaged in a  
16 joint venture, partnership, and common enterprise, and acting within the course and scope of and in  
17 pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff is informed,  
18 and believes, and thereon alleges, that all Defendants were joint employers for all purposes of Plaintiff  
19 and the other Class Members.

#### 20 **IV. COMMON FACTS & ALLEGATIONS**

21 18. Plaintiff and the other Class Members (collectively, the “Class Members”) are, and were  
22 at all relevant times, employed by the Defendants within the State of California.

23 19. The Class Members are, and were, at all relevant times, non-exempt employees for the  
24 purposes of minimum wages, overtime, rest breaks, meal periods, and the other claims alleged in this  
25 complaint.

26 20. Specifically, Plaintiff was employed by Defendants within the statutory Class Period,  
27 working as an hourly, non-exempt planter for Defendants. Plaintiff’s duties included planting,  
28 cultivating, harvesting, and tending to vegetables.

1           **A.       MINIMUM WAGE VIOLATIONS**

2           21.     Labor Code section 1197 requires employees to be paid at least the minimum wage fixed  
3 by the IWC, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code  
4 section 1194 entitles “any employee receiving less than the legal minimum wage . . . to recover in a  
5 civil action the unpaid balance of the full amount of this minimum wage.” Likewise, the Applicable  
6 Wage Orders also obligate employers to pay each employee minimum wages for all hours worked.  
7 (Cal. Code of Regs., tit. 8, §§ 11130, 11140.) Labor Code section 1198 makes unlawful the  
8 employment of an employee under conditions that the IWC Wage Orders prohibit.

9           22.     These minimum wage standards apply to each hour that employees work. Therefore,  
10 an employer’s failure to pay for any particular time worked by an employee is unlawful, even if  
11 averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage  
12 above minimum wage. (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314, 324.)

13           23.     Here, Defendants failed to fully conform their pay practices to the requirements of the  
14 law during the relevant statutory periods. The Class Members were not compensated for all hours  
15 worked including, but not limited to, all hours they were subject to the control of Defendants and/or  
16 suffered or permitted to work under the California Labor Code and the Applicable Wage Orders.  
17 Among other violations, the Class Members were subject to the control of Defendants while off-the-  
18 clock and did not receive minimum wage for each hour worked.

19           24.     Labor Code sections 1194, subdivision (a), and 1194.2, subdivision (a), provide that an  
20 employer who has failed to pay its employees the legal minimum wage is liable to pay those employees  
21 the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages  
22 due and interest thereon.

23           25.     When employees, such as the Class Members, are not paid for all hours worked under  
24 Labor Code section 1194, they are entitled to recover minimum wages for the time which they received  
25 no compensation. (See *Sillah v. Command International Security Services* (N.D. Cal. 2015) 154  
26 F.Supp.3d 891 [employees suing for failure to pay overtime could recover liquidated damages under  
27 Labor Code section 1194.2 if they also showed they were paid less than minimum wage].)  
28

1           26. Labor Code section 1197.1 authorizes employees who are paid less than the minimum  
2 wage fixed by an applicable state or local law, or by an order of the IWC, a civil penalty, among other  
3 damages, as follows:

4           (1) “For any initial violation that is intentionally committed, one hundred  
5 dollars (\$100) for each underpaid employee for each pay period for  
6 which the employee is underpaid.”

7           (2) “For each subsequent violation for the same specific offense, two  
8 hundred fifty dollars (\$250) for each underpaid employee for each pay  
9 period for which the employee is underpaid regardless of whether the  
10 initial violation is intentionally committed.” (Lab. Code, § 1197.1, subd.

11           (a).)

12           27. As set forth above, Defendants failed to fully compensate the Class Members for all  
13 minimum wages. Accordingly, the Class Members are entitled to recover liquidated damages for  
14 violations of Labor Code section 1197.1.

15           28. Based upon these same factual allegations, the Class Members are likewise entitled to  
16 penalties under Labor Code sections 1199.

17           **B. OVERTIME VIOLATIONS**

18           29. Labor Code section 510 requires employers to compensate employees who work more  
19 than eight hours in one workday, forty hours in a workweek, and for the first eight hours worked on  
20 the seventh consecutive day no less than one and one-half times the regular rate of pay for an employee.  
21 (Lab. Code, § 510, subd. (a).) Further, Labor Code section 510 obligates employers to compensate  
22 employees at no less than twice the regular rate of pay when an employee works more than twelve  
23 hours in a day or more than eight hours on the seventh consecutive day of work. (Lab. Code, § 510,  
24 subd. (a).) These rules are also reflected in the Applicable Wage Orders.

25           30. IWC Wage Order 14-2001, section 3(A), is similar, but provides in pertinent part:

26           “(1) Such employees shall not be employed more than ten (10) hours in any  
27 one workday or more than six (6) days in any workweek unless the  
28 employee receives one and one-half (1½) times such employee’s regular

1 rate of pay for all hours worked over ten (10) hours in any workday and  
2 for the first eight (8) hours on the seventh (7th) day of work and double  
3 the employee's regular rate of pay for all hours worked over eight (8) on  
4 the seventh (7th) day of work in the workweek.

5 “(2) For employers of more than 25 employees:

6 “(a) Starting January 1, 2019, an employee shall not be employed more than  
7 nine and one-half (9½) hours per workday or fifty-five (55) hours per  
8 workweek unless the employee receives one and one-half (1½) times  
9 such employee's regular rate of pay for all hours worked over nine and  
10 one-half (9½) hours in any one workday or more than fifty-five (55)  
11 hours in any one workweek.

12 “(b) Starting January 1, 2020, an employee shall not be employed more than  
13 nine (9) hours per workday or fifty (50) hours per workweek unless the  
14 employee receives one and one-half (1½) times such employee's regular  
15 rate of pay for all hours worked over nine (9) hours in any one workday  
16 or more than fifty (50) hours in any one workweek.” (Cal. Code of Regs.,  
17 tit. 8, § 11140, subd. 3.)

18 31. In accordance with Labor Code section 1194 and the Applicable Wage Orders, the Class  
19 Members could not then agree and cannot now agree to work for a lesser wage than the amount  
20 provided by Labor Code sections 510 or the Applicable Wage Orders.

21 32. Here, Defendants violated their duty to accurately and completely compensate the Class  
22 Members for all overtime worked. The Class Members periodically worked hours that entitled them  
23 to overtime compensation under the law but were not fully compensated for those hours.

24 33. Defendants also had a policy and practice of denying the Class Members meal breaks,  
25 but nevertheless deducting meal break time from the Class Members' pay. As a result, the Class  
26 Members' on-the-clock hours were unlawfully reduced below what was actually worked and, by  
27 extension, overtime hours were also reduced below what was actually worked. The Class Members  
28 were thus periodically shorted the full amount of overtime pay lawfully owed.

1           34.     These actions were and are in clear violation of California’s overtime laws as set forth  
2 in Labor Code sections 510, 1194, 1199, and the Applicable Wage Orders. (Cal. Code of Regs., tit. 8,  
3 §§ 11130, 11140.) As a result of Defendants’ faulty policies and practices, the Class Members were  
4 not compensated for all hours worked or paid accurate overtime compensation.

5           **C.     REST BREAK VIOLATIONS**

6           35.     Pursuant to Labor Code section 226.7 and the Applicable Wage Orders, Defendants  
7 were and are required to provide the Class Members with compensated, duty-free rest periods of not  
8 less than ten minutes for every major fraction of four hours worked. Under the Applicable Wage  
9 Orders, an employer must authorize and permit all employees to take ten minute duty free rest periods  
10 for every major fraction of four hours worked. (Cal. Code of Regs., tit. 8, §§ 11130, 11140.)

11          36.     Likewise, Labor Code section 226.7 provides that “[a]n employer shall not require an  
12 employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute,  
13 or applicable regulation, standard, or order of the Industrial Welfare Commission . . . .” (Lab. Code, §  
14 226.7, subd. (b).) Labor Code section 226.7 also provides that employers must pay their employees  
15 one additional hour of pay at the employee’s regular rate for each workday that a “meal or rest or  
16 recovery period is not provided.” (Lab. Code, § 226.7, subd. (c).) The “regular rate” for these purposes  
17 must factor in all nondiscretionary payments for work performed by the employee, including non-  
18 discretionary bonuses, commissions, and other forms of wage payments exceeding the employees’ base  
19 hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 878.) Thus, the Wage  
20 Orders set when and for how long the rest period must take place and the Labor Code establishes that  
21 violations of the IWC Wage Orders are unlawful and sets forth the premium pay employer must pay  
22 their employees when employers fail to provide rest periods.

23          37.     The California Supreme Court has held that, during required rest periods, “employers  
24 must relieve their employees of all duties and relinquish any control over how employees spend their  
25 break time.” (*Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 260.) Relinquishing  
26 control over employees during rest periods requires that employees be “free to leave the employer’s  
27 premises” and be “permitted to attend to personal business.” (*Id.* at p. 275.) The *Brinker* Court  
28

1 explained in the context of rest breaks that employer liability attaches from adopting an unlawful  
2 policy:

3 “An employer is required to authorize and permit the amount of rest break time  
4 called for under the wage order for its industry. If it does not—if, for example,  
5 it adopts a uniform policy authorizing and permitting only one rest break for  
6 employees working a seven-hour shift when two are required—it has violated  
7 the wage order and is liable.” (*Brinker Rest. Corp. v. Superior Court* (2012) 53  
8 Cal.4th 1004, 1033.)

9 38. Here, Defendants periodically did not permit the Class Members to take compliant duty-  
10 free rest breaks, free from Defendants’ control as required by Labor Code section 226.7, the Applicable  
11 Wage Orders, and applicable precedent. (See *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th  
12 257, 269 [concluding that “during rest periods employers must relieve employees of all duties and  
13 relinquish control over how employees spend their time.”].) At all relevant times, the Class Members  
14 were periodically not provided with legally-compliant and timely rest periods of at least ten minutes  
15 for each four hour work period, or major fraction thereof due to Defendants’ unlawful rest period  
16 policies/practices. The Class Members were often expected and required to continue working through  
17 rest periods to meet the expectations Defendants and finish the workday. In some cases when the Class  
18 Members worked more than ten hours in a shift, Defendants failed to authorize and/or permit a third  
19 mandated rest period. As a result, the Class Members were periodically unable to take compliant rest  
20 periods.

21 39. In such cases where Defendants did not offer the Class Members the opportunity to  
22 receive a compliant off-duty rest period, “the court may not conclude employees voluntarily chose to  
23 skip those breaks.” (*Alberts v. Aurora Behavioral Health Care* (2015) 241 Cal.App.4th 388, 410  
24 (2015) [“If an employer fails to provide legally compliant meal or rest breaks, the court may not  
25 conclude employees voluntarily chose to skip those breaks.”]; *Brinker Rest. Corp. v. Superior Court*,  
26 *supra*, 53 Cal.4th at p. 1033 [“No issue of waiver ever arises for a rest break that was required by law  
27 but never authorized; if a break is not authorized, an employee has no opportunity to decline to take  
28 it.”].)

1           40.     In addition to failing to authorize and permit compliant rest periods, the Class Members  
2 were not compensated with one hour's worth of pay at their regular rate of compensation when they  
3 were not provided with a compliant rest period in accordance with Labor Code section 226.7,  
4 subdivision (c). Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage  
5 Orders.

6           41.     Based on the foregoing, Plaintiff seeks to recover, on behalf of herself and other non-  
7 exempt employees, rest period premiums and penalties.

8           **D.     MEAL BREAK VIOLATIONS**

9           42.     Labor Code section 512 and the Applicable Wage Orders require employers to provide  
10 employees with a thirty-minute uninterrupted and duty-free meal period within the first five hours of  
11 work. (Lab. Code, § 512, subd. (a) ["An employer shall not employ an employee for a work period of  
12 more than five hours per day without providing the employee with a meal period of not less than 30  
13 minutes . . . ."]; Cal. Code of Regs., tit. 8, §§ 11130, 11140 ["No employer shall employ any person  
14 for a work period of more than five (5) hours without a meal period of not less than 30 minutes . . . ."].)  
15 Additionally, an employee who works more than ten hours per day is entitled to receive a second thirty-  
16 minute uninterrupted and duty-free meal period. (Lab. Code, § 512, subd. (a) ["An employer shall not  
17 employ an employee for a work period of more than 10 hours per day without providing the employee  
18 with a second meal period of not less than 30 minutes . . . ."].)

19           43.     "An on-duty meal period is permitted only when the nature of the work prevents an  
20 employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal  
21 break." (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal.App.5th 926, 932.) The written agreement must  
22 include a provision allowing the employee to revoke it at any time. (*Ibid.*) Generally, the California  
23 Department of Industrial Relations, Division of Labor Standards Enforcement ("DLSE") and courts  
24 have "found that the nature of the work exception applies: (1) where the work has some particular  
25 external force that requires the employee to be on duty at all times, and (2) where the employee is the  
26 sole employee of a particular employer." (*Id.* at p. 945, internal quotation marks omitted; *Abdullah v.*  
27 *U.S. Security Associates, Inc.* (9th Cir. 2013) 731 F.3d 952, 958–959.) "[I]t is the employer's obligation  
28 to determine whether the nature of the work prevents an employee from being relieved before requiring

1 an employee to take an on-duty meal period.” (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th  
2 at p. 946.)

3 44. Here, the Class Members were never asked to sign any enforceable document agreeing  
4 to an on-duty meal period. Moreover, nothing in the nature of their work involved the kind of “external  
5 force” that might justify on-duty meal breaks. (*Lubin v. The Wackenhut Corp.*, *supra*, 5 Cal.App.5th  
6 at p. 945.) Nevertheless, Defendants periodically did not provide compliant off-duty meal periods  
7 within the first five hours of work for the Class Members.

8 45. As with rest breaks, meal breaks must be duty-free. (*Brinker Restaurant Corp. v.*  
9 *Superior Court* (2012) 53 Cal.4th 1004, 1035 [“The IWC’s wage orders have long made a meal period’s  
10 duty-free nature its defining characteristic.”].) Relinquishing control over employees during meal  
11 periods requires that employees be “free to leave the employer’s premises” and be “permitted to attend  
12 to personal business.” (*Augustus v. ABM Security Services, Inc.*, *supra*, 2 Cal.5th at p. 275.) Under  
13 Labor Code section 512, if an employer maintains a uniform policy that does not authorize and permit  
14 the amount of meal time called for under the law (as specified in the Labor Code and/or applicable  
15 IWC Wage Order), “it has violated the wage order and is liable.” (*Brinker Restaurant Corp. v. Superior*  
16 *Court*, *supra*, 53 Cal.4th at p. 1033.)

17 46. During the applicable statutory periods here, the Class Members were periodically  
18 denied legally-compliant and timely off-duty meal periods of at least thirty minutes due to Defendants’  
19 unlawful meal period policy and practices. As a result of Defendants’ uniform meal period policies  
20 and practices, the Class Members were often not permitted to take compliant first meal periods before  
21 the end of the fifth hour of work. The Class Members were also periodically not permitted to take  
22 second meal periods for shifts in excess of ten hours. Defendants thus violated Labor Code section  
23 512 and the Applicable Wage Orders by failing to advise, authorize, or permit the Class Members to  
24 receive thirty-minute, off-duty meal periods within the first five hours of their shifts.

25 47. Labor Code section 226.7 provides that “[a]n employer shall not require an employee  
26 to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or  
27 applicable regulation, standard, or order of the Industrial Welfare Commission.” (Lab. Code, § 226.7,  
28 subd. (b).) Labor Code section 226.7, subdivision (c), and the Applicable Wage Orders further obligate

1 employers to pay employees one additional hour of pay at the employee’s regular rate of compensation  
2 for each workday that the meal period is not provided. (Lab. Code, § 226.7, subd. (c); Cal. Code of  
3 Regs., tit. 8, §§ 11130, 11140 [“If an employer fails to provide an employee a meal period in accordance  
4 with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay  
5 at the employee’s regular rate of compensation for each workday that the meal period is not  
6 provided.”].) The “regular rate” for these purposes must factor in all nondiscretionary payments for  
7 work performed by the employee, including non-discretionary bonuses, commissions, and other forms  
8 of wage payments exceeding the employees’ base hourly rate. (*Ferra v. Loews Hollywood Hotel, LLC*  
9 (2021) 11 Cal.5th 858, 878.)

10 48. Accordingly, for each day that the Class Members did not receive compliant meal  
11 periods, they were and are entitled to receive meal period premiums pursuant to Labor Code section  
12 226.7 and the Applicable Wage Orders. Defendants, however, failed to pay the Class Members  
13 applicable meal period premiums for many workdays that the employees did not receive a compliant  
14 meal period. Thus, Defendants have violated Labor Code section 226.7 and the Applicable Wage  
15 Orders.

16 49. Based on the foregoing, Plaintiff seeks to recover, on behalf of herself and other non-  
17 exempt employees, meal period premiums and penalties.

18 **E. UNTIMELY WAGES DURING EMPLOYMENT**

19 50. Labor Code section 204 expressly requires employers who pay employees on a weekly,  
20 biweekly, or semimonthly basis to pay all wages “not more than seven calendar days following the  
21 close of the payroll period.” Labor Code section 210, subdivision (a), makes employers who violate  
22 Labor Code section 204 subject to a penalty of:

23 “(1) For any initial violation, one hundred dollars (\$100) for each failure to  
24 pay each employee.

25 “(2) For each subsequent violation, or any willful or intentional violation, two  
26 hundred dollars (\$200) for each failure to pay each employee, plus 25  
27 percent of the amount unlawfully withheld.” (Lab. Code, § 210, subd.  
28 (a).)

1           51.     Notably, the penalty provided by Labor Code section 210 is “[i]n addition to, and  
2 entirely independent and apart from, any other penalty provided in this article . . . .” (Lab. Code, § 210,  
3 subd. (a).)

4           52.     Due to Defendants’ failure to pay the Class Members the wages described above, along  
5 with rest and meal break premiums, Defendants failed to timely pay the Class Members within seven  
6 calendar days following the close of payroll in accordance with Labor Code section 204 on a regular  
7 and consistent basis. (See *Parson v. Golden State FC, LLC* (N.D. Cal., May 2, 2016, No. 16-CV-  
8 00405-JST) 2016 WL 1734010, at p. \*3–5, 2016 U.S. Dist. LEXIS 58299 [finding that a failure to pay  
9 rest period premiums can support claims under Labor Code sections 203 and 204].)

10           **F.     UNTIMELY WAGES AT SEPARATION**

11           53.     Labor Code section 203 provides “if an employer willfully fails to pay . . . any wages  
12 of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty”  
13 for up to thirty days. (Lab. Code § 203; *Mamika v. Barca* (1998) 68 Cal.App.4th 487, 492.) As a result  
14 of Defendants’ failure to pay the Class Members for the wages described above, along with rest and  
15 meal break premiums, Defendants violated and continue to violate Labor Code section 203.

16           54.     Due to Defendants’ faulty pay policies, those Class Members whose employment with  
17 Defendants concluded were not compensated for each and every hour worked at the appropriate rate.  
18 Defendants have failed to pay formerly-employed Class Members whose sums were certain at the time  
19 of termination within at least seventy-two hours of their resignation and have failed to pay those sums  
20 for thirty days thereafter.

21           **G.     FAILURE TO REIMBURSE BUSINESS EXPENSES**

22           55.     At all relevant times herein, Defendants were subject to Labor Code section 2802, which  
23 states that “an employer shall indemnify his or her employees for all necessary expenditures or losses  
24 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her  
25 obedience to the directions of the employer.” The purpose of this section is to “prevent employers  
26 from passing along their operating expenses onto their employees.” (*Gattuso v. Harte-Hanks Shoppers,*  
27 *Inc.* (2007) 42 Cal.4th 554, 562.)  
28

1           56.     At all relevant times herein, Defendants were subject to Labor Code section 2804, which  
2 states that “any contract or agreement, express or implied, made by any employee to waive the benefits  
3 of this article or any part thereof, is null and void, and this article shall not deprive any employee or his  
4 personal representative of any right or remedy to which he is entitled under the laws of this State.”

5           57.     Thus, the Class Members were and are entitled to reimbursement for the expenses they  
6 incurred during the course of their duties. The duty to reimburse even extends to the use of equipment  
7 the employee may already own and would be required to pay for anyway. (*Cochran v. Schwan’s Home*  
8 *Serv., Inc.* (2014) 228 Cal.App.4th 1137, 1144 [“The threshold question in this case is this: Does an  
9 employer always have to reimburse an employee for the reasonable expense of the mandatory use of a  
10 personal cell phone, or is the reimbursement obligation limited to the situation in which the employee  
11 incurred an extra expense that he or she would not have otherwise incurred absent the job? The answer  
12 is that reimbursement is always required. Otherwise, the employer would receive a windfall because it  
13 would be passing its operating expenses on to the employee.”].)

14           58.     Here, Defendants failed to fully reimburse the Class Members for necessary  
15 expenditures incurred as a direct consequence and requirement of performing their job duties, including  
16 the costs associated with their personal cell phone, tools, safety supplies, and uniforms they required  
17 to perform their work. Consequently, Defendants failed to comply with Labor Code section 2802.

#### 18           **H.     WAGE STATEMENT VIOLATIONS**

19           59.     Defendants also failed to provide accurate itemized wage statements in accordance with  
20 Labor Code sections 226, subdivisions (a)(1), (2), (5), and (9). Labor Code section 226, subdivision  
21 (a), obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage  
22 statement in writing showing:

- 23                   (1)     The gross wages earned;
- 24                   (2)     The total hours worked by the employee;
- 25                   (3)     The number of piece-rate units earned and any applicable piece rate if  
26                             the employee is paid on a piece rate basis;
- 27                   (4)     All deductions, provided that all deductions made on written orders of  
28                             the employee may be aggregated and shown as one item;

- (5) The net wages earned;
- (6) The inclusive dates of the period for which the employee is paid;
- (7) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) The name and address of the legal entity that is the employer; and
- (9) All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

60. Due to Defendants' failure to pay the Class Members properly as described above, the wage statements issued do not indicate the correct amount of gross wages earned, total hours worked, or the net wages earned, or the applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Thus, Defendants have violated Labor Code section 226, subdivisions (a)(1), (2), (5), and (9).

61. In addition to Labor Code section 226, subdivision (a), Defendants also knowingly and intentionally failed to provide the Class Members with accurate itemized wage statements in violation of Labor Code section 226, subdivision (e). Defendants knew that they were not providing the Class Members with wage statements required by California law but nevertheless failed to correct their unlawful practices and policies. (See *Garnett v. ADT LLC* (E.D. Cal. 2015) 139 F.Supp.3d 1121, 1134 [finding the defendant knowingly and intentionally violated Labor Code section 226 because the "[d]efendant knew that it was not providing total hours worked to plaintiff or other employees paid on commission" even though it believed that employees paid solely on commission or commission and salary "are exempt and therefore we do not record hours on a wage statement."].)

#### **I. RECORDKEEPING VIOLATIONS**

62. Labor Code section 226, subdivision (a), requires employers to keep an accurate record of, among other things, all hours worked by employees. Labor Code section 226.3 provides, in pertinent part, as follows:

1 “Any employer who violates subdivision (a) of Section 226 shall be subject to a  
2 civil penalty in the amount of two hundred fifty dollars (\$250) per employee per  
3 violation in an initial citation and one thousand dollars (\$1,000) per employee  
4 for each violation in a subsequent citation, for which the employer fails to  
5 provide the employee a wage deduction statement or fails to keep the records  
6 required in subdivision (a) of Section 226. The civil penalties provided for in  
7 this section are in addition to any other penalty provided by law.” (Lab. Code,  
8 § 226.3, emphasis added.)

9 63. Likewise, Labor Code section 1174, subdivision (d), requires every employer, including  
10 Defendants, to:

11 “Keep, at a central location in the state or at the plants or establishments at which  
12 employees are employed, payroll records showing the hours worked daily by  
13 and the wages paid to, and the number of piece-rate units earned by and any  
14 applicable piece rate paid to, employees employed at the respective plants or  
15 establishments. These records shall be kept in accordance with rules established  
16 for this purpose by the commission, but in any case shall be kept on file for not  
17 less than three years. An employer shall not prohibit an employee from  
18 maintaining a personal record of hours worked, or, if paid on a piece-rate basis,  
19 piece-rate units earned.” (Lab. Code, § 1174, subd. (d), emphasis added.)

20 64. As explained in detail above, Defendants failed to provide the Class Members with  
21 accurate itemized wage statements. Defendants did so, in part, because they failed to accurately track  
22 hours worked by the Class Members. Defendants have thus failed to keep accurate records of the “total  
23 hours worked by the employee[s]” in violation of Labor Code section 226, subdivision (a), and are  
24 therefore subject to the penalties provided by Labor Code section 226.3. These penalties are “in  
25 addition to any other penalty provided by law.” (Lab. Code, § 226.3.)

26 65. The failure to accurately track hours worked also resulted in a failure of Defendants to  
27 keep a record of all “payroll records showing the hours worked daily by” Defendants’ employees,  
28

1 including Plaintiff and the other Class Members, in violation of Labor Code section 1174, subdivision  
2 (d).

3 **V. CLASS ACTION ALLEGATIONS**

4 66. As mentioned above, Plaintiff brings this action on behalf of herself and the Class  
5 Members pursuant to section 382 of the Code of Civil Procedure.

6 67. **Numerosity/Ascertainability:** The Class Members are so numerous that joinder of all  
7 members would be unfeasible and not practicable. The membership of the class is unknown to Plaintiff  
8 at this time; however, it is estimated that the number of Class Members is greater than 100 individuals.  
9 The identity of such membership is readily ascertainable via inspection of Defendants' employment  
10 records.

11 68. **Common Questions of Law and Fact Predominate/Well Defined Community of**  
12 **Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated  
13 non-exempt employees, which predominate over questions affecting only individual members  
14 including, without limitation to:

15 A. Whether Defendants' pay policies/practices resulted in a failure to pay the Class  
16 Members for all hours worked, including all minimum wages;

17 B. Whether Defendants' pay policies/practices resulted in a failure to pay the Class  
18 Members for all required overtime wages at the Class Members' regular rate of pay;

19 C. Whether Defendants' rest period policies and practices afforded legally  
20 compliant rest periods or compensation in lieu thereof;

21 D. Whether Defendants' meal period policies and practices afforded legally  
22 compliant meal periods or compensation in lieu thereof;

23 E. Whether Defendants maintained accurate employment records;

24 F. Whether Defendants timely paid all wages during employment;

25 G. Whether Defendants timely paid all wages earned and unpaid at separation;

26 H. Whether Defendants indemnified their employees for all necessary business  
27 expenditures;  
28

1 I. Whether Defendants furnished legally-compliant wage statements to the Class  
2 Members pursuant to Labor Code section 226; and

3 J. Whether Defendants' violations of the Labor Code and the Applicable Wage  
4 Orders amounted to a violation of California's UCL.

5 69. **Predominance of Common Questions:** Common questions of law and fact  
6 predominate over questions that affect only individual Class Members. The common questions of law  
7 set forth above are numerous and substantial and stem from Defendants' uniform policies and practices  
8 applicable to each individual class member, such as Defendants' uniform policy and practice of failing  
9 to pay for all hours worked, Defendants' uniform policies and practices which failed to provide  
10 compliant rest periods, Defendants' uniform policies and practices which failed to provide compliant  
11 meal periods, Defendants' failure to provide accurate itemized wage statements, and others. As such,  
12 the common questions predominate over individual questions concerning each individual class  
13 member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

14 70. **Typicality:** The claims of Plaintiff are typical of the claims of the Class Members  
15 because Plaintiff was employed by Defendants as a non-exempt employee in California during the  
16 statute(s) of limitation applicable to each cause of action pleaded in this complaint. As alleged herein,  
17 Plaintiff, like the other Class Members, was deprived of minimum, regular, and overtime wages  
18 because of Defendants' unlawful timekeeping policies and practices, was deprived of rest periods and  
19 premium wages in lieu thereof, was deprived of meal periods and premium wages in lieu thereof, was  
20 subject to Defendants' uniform rest period policies and practices, was subject to Defendants' uniform  
21 meal period policies and practices, was not provided accurate itemized wage statements, was not paid  
22 all wages in full and on time, , and was subject to other similar policies and practices to which the Class  
23 Members were subject.

24 71. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to  
25 represent fairly and adequately the interests of the Class Members. Moreover, Plaintiff's attorneys are  
26 ready, willing, and able to fully and adequately represent the Class Members and Plaintiff. Plaintiff's  
27 attorneys have prosecuted numerous wage-and-hour class actions in state and federal court in the past  
28 and are committed to vigorously prosecuting this action on behalf of the Class Members.

1           72.     **Superiority:** The California Labor Code is broadly remedial in nature and serves an  
2 important public interest in establishing minimum working conditions and standards in California.  
3 These laws and labor standards protect the average working employee from exploitation by employers  
4 who have the responsibility to follow the laws and who may seek to take advantage of superior  
5 economic and bargaining power in setting onerous terms and conditions of employment. The nature  
6 of this action and the format of laws available to Plaintiff and the Class Members make the class action  
7 format a particularly efficient and appropriate procedure to redress the violations alleged herein. If  
8 each employee were required to file an individual lawsuit, Defendants would necessarily gain an  
9 unconscionable advantage since they would be able to exploit and overwhelm the limited resources of  
10 each individual plaintiff with their vastly superior financial and legal resources.

11           73.     Moreover, requiring each Class Member to pursue an individual remedy would also  
12 discourage the assertion of lawful claims by employees who would be disinclined to file an action  
13 against their former or current employer for real and justifiable fear of retaliation and permanent  
14 damages to their careers at subsequent employment. Further, the prosecution of separate actions by  
15 the individual Class Members, even if possible, would create a substantial risk of inconsistent or  
16 varying verdicts or adjudications with respect to the individual Class Members against Defendants  
17 herein, and which would establish potentially incompatible standards of conduct for Defendants or  
18 legal determinations with respect to individual Class Members which would, as a practical matter, be  
19 dispositive of the interest of the other Class Members not parties to adjudications or which would  
20 substantially impair or impede the ability of the Class Members to protect their interests.

21           74.     Further, the claims of the individual Class Members are not sufficiently large to warrant  
22 vigorous individual prosecution considering the concomitant costs and expenses attending thereto. As  
23 such, the Class Members identified above are maintainable as a class under section 382 of the Code of  
24 Civil Procedure.

1 **VI. CAUSES OF ACTION**

2 **First Cause of Action**

3 *Failure to Pay All Minimum Wages*

4 *(Against All Defendants)*

5 75. Plaintiff realleges and incorporates by reference all previous paragraphs.

6 76. Section 4 of the Applicable Wage Orders and Labor Code section 1197 establish the  
7 right of employees to be paid minimum wages for all hours worked, in amounts set by state law. (Lab.  
8 Code, § 1197; Cal. Code of Regs., tit. 8, §§ 11130, 11140.) Labor Code sections 1194, subdivision (a),  
9 and 1194.2, subdivision (a), provide that an employee who has not been paid the legal minimum wage  
10 as required by Labor Code section 1197 may recover the unpaid balance, together with attorneys' fees  
11 and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest  
12 accrued thereon.

13 77. Here, Defendants failed to fully conform their pay practices to the requirements of the  
14 law during the relevant statutory periods. Plaintiff and the other Class Members were not compensated  
15 for all hours worked including, but not limited to, all hours they were subject to the control of  
16 Defendants and/or suffered or permitted to work under the Labor Code and the Applicable Wage  
17 Orders.

18 78. Labor Code section 1198 makes unlawful the employment of an employee under  
19 conditions that the IWC Wage Orders prohibit. Labor Code sections 1194, subdivision (a), and 1194.2,  
20 subdivision (a), provide that an employer who has failed to pay its employees the legal minimum wage  
21 is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages  
22 in an amount equal to the wages due and interest thereon.

23 79. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,  
24 Plaintiff and the other Class Members have sustained economic damages, including but not limited to  
25 unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover  
26 economic and statutory damages and penalties and other appropriate relief because of Defendants'  
27 violations of the Labor Code and Applicable Wage Orders.  
28

80. Defendants' practices and policies regarding illegal employee compensation are unlawful and create an entitlement to recovery by Plaintiff and the other Class Members in a civil action for the unpaid amount of minimum wages, liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code sections 204, 218.5, 1194, 1194.2, 1197, and 1198, and Code of Civil Procedure section 1021.5.

## **Second Cause of Action**

### *Failure to Pay All Overtime Wages*

*(Against All Defendants)*

81. Plaintiff realleges and incorporates by reference all previous paragraphs.

82. This cause of action is brought pursuant to Labor Code sections 204, 510, 1194, and 1198, which provide that non-exempt employees are entitled to overtime wages for all overtime hours worked and provide a private right of action for the failure to pay all overtime compensation for overtime work performed. At all times relevant herein, Defendants were required to properly pay Plaintiff and the other Class Members for all overtime wages earned pursuant to Labor Code section 1194 and the Applicable Wage Orders. Defendants caused Plaintiff and the other Class Members to work overtime hours but did not compensate them at one and one-half times their regular rate of pay for such hours in accordance with California law. Likewise, Defendants caused Plaintiff and the other Class Members to work double-time hours but did not compensate them at twice their regular rate of pay for such hours in accordance with California law.

83. Defendants failed to fully conform their pay practices to the requirements of California law. This unlawful conduct includes but is not limited to Defendants' uniform and unlawful pay policies and practices of failing to accurately record all the time that non-exempt employees were under the supervision and control of Defendants. The foregoing policies and practices are unlawful and allow Plaintiff and the other Class Members to recover in a civil action the unpaid amount of overtime premiums owing, including interest thereon, statutory penalties, attorney's fees, and costs of suit according to Labor Code section 204, 510, 1194, and 1198, the Applicable Wage Orders, and Code of Civil Procedure section 1021.5.

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90. As a result, Defendants are responsible for paying premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit pursuant to the Applicable Wage Orders and Labor Code sections 226.7 and 512, and Civil Code sections 3287, subdivision (b), and 3289. (See Cal. Code of Regs., tit. 8, §§ 11130, 11140.)

### **Fifth Cause of Action**

### *Failure to Maintain Accurate Employment Records*

*(Against All Defendants)*

91. Plaintiff realleges and incorporates by reference all previous paragraphs.

92. Pursuant to California Labor Code section 1174, subdivision (d), an employer shall keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

93. Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer's failure to maintain accurate and complete records.

94. Defendant has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and the other Class Members. Thus, Plaintiff and the other Class Members have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records showing the hours worked daily by, and the wages paid to, employees at those respective locations pursuant to Labor Code 1174.

### **Sixth Cause of Action**

### *Failure to Pay Wages Timely during Employment*

*(Against All Defendants)*

95. Plaintiff realleges and incorporates by reference all previous paragraphs.

96. Labor Code section 200 provides that “wages” include all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, pieces, commission basis, or other method of calculation. Labor Code section 204 states that all

1 wages earned by any person in any employment are payable twice during the calendar month and must  
2 be paid not more than seven days following the close of the period when the wages were earned. Labor  
3 Code section 210, subdivision (a), makes employers who violate Labor Code section 204 subject to a  
4 penalty of \$100 for any initial failure to timely pay each employee's full wages and \$200 for each  
5 subsequent violation, plus 25% of the amount unlawfully withheld.

6 97. Labor Code section 216 establishes that it is a misdemeanor for any person, with regards  
7 to wages due, to "falsely deny the amount or validity thereof, or that the same is due, with intent to  
8 secure himself, his employer or other person, any discount upon such indebtedness, or with intent to  
9 annoy, harass, oppress, hinder, delay, or defraud, the person to whom such indebtedness is due."

10 98. Defendants as a matter of established company policy and procedure in the State of  
11 California, scheduled, required, suffered, and/or permitted Plaintiff and the other Class Members, to  
12 work without full compensation, to work without legally-compliant off-duty meal periods, to work  
13 without legally-compliant off-duty rest periods, and thereby failed to fully pay Plaintiff and the other  
14 Class Members within seven days of the close of payroll, as required by law.

15 99. Defendants, as a matter of established company policy and procedure in the State of  
16 California, falsely deny they owe Plaintiff and the other Class Members these wages, with the intent of  
17 securing for itself a discount upon its indebtedness and/or to annoy, harass, oppress, hinder, delay,  
18 and/or defraud Plaintiff and the other Class Members.

19 100. Defendants' pattern, practice, and uniform administration of its corporate policy of  
20 illegally denying employees compensation, as described herein, is unlawful and entitles Plaintiff and  
21 the other Class Members to recover, pursuant to Labor Code section 218, the unpaid balance of the  
22 compensation owed to them in a civil action and any applicable penalties, attorney fees, and interest  
23 owed to them pursuant to Labor Code sections 210 and 218.5.

24 **Seventh Cause of Action**

25 *Failure to Pay All Wages Earned and Unpaid at Separation*

26 *(Against All Defendants)*

27 101. Plaintiff realleges and incorporates by reference all previous paragraphs.  
28

102. The actionable period for this cause of action is three years prior to the filing of this complaint through the present, and ongoing until the violations are corrected or the class is certified. (*Pineda v. Bank of America, N.A.* (2010) 50 Cal.4th 1389, 1395; *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1109; Code Civ. Proc., § 338, subd. (a).) Labor Code sections 201 and 202 of the California Labor Code require Defendants to pay all compensation due and owing to its former employees (including the formerly-employed Class Members) during the actionable period for this cause of action at or around the time that their employment is or was terminated, or ended.

103. Section 203 of the Labor Code provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for penalties in the form of continued compensation up to thirty workdays.

104. Due to Defendants' faulty pay policies, those Class Members whose employment with Defendants has concluded were not compensated for each and every hour worked at the appropriate rate. Defendants have willfully failed to pay those formerly-employed Class Members whose sums were certain at the time of termination within seventy-two hours of their resignation and have failed to pay those sums for thirty days thereafter as required by Labor Code sections 201 through 203.

105. As a result, Defendants are liable to the formerly-employed Class Members for waiting time penalties amounting to thirty days wages for the formerly-employed Class Members pursuant to Labor Code section 203. (See, e.g., DLSE Manual, § 4.3.4 [failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties].)

### **Eighth Cause of Action**

### *Failure to Indemnify All Necessary Business Expenditures*

*(Against All Defendants)*

106. Plaintiff realleges and incorporates by reference all previous paragraphs.

107. California Labor Code Section 2802 states that employers must “indemnify” an employee for “all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.” Likewise, Labor Code section 2804 states that “any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article

1 shall not deprive any employee or his personal representative of any right or remedy to which he is  
2 entitled under the laws of this State.”

3 108. Here, Plaintiff and the other Class Members paid out of pocket for necessary business  
4 expenditures incurred as a direct consequence and requirement of performing their job duties, including  
5 the costs associated with their personal cell phone, tools, safety supplies, and uniforms they required  
6 to perform their work. Despite knowing that Plaintiff and the other Class Members incurred these  
7 necessary business expenses, and requiring Plaintiff and the other Class Members to use such items,  
8 Defendants did not reimburse them.

9 109. Thus, Plaintiff and the other Class Members are entitled to recover the cost of such  
10 necessary business expenses, plus interest from the date each incurred such business expenses, plus  
11 fees and costs. (Lab. Code, § 2802, subds. (b), (c).)

12 **Ninth Cause of Action**

13 *Failure to Furnish Accurate Itemized Wage Statements*

14 *(Against All Defendants)*

15 110. Plaintiff realleges and incorporates by reference all previous paragraphs.

16 111. Labor Code section 226, subdivision (a), obligates employers, semi-monthly or at the  
17 time of each payment to furnish an itemized wage statement in writing showing:

- 18 (1) The gross wages earned;
- 19 (2) The total hours worked by the employee;
- 20 (3) The number of piece-rate units earned and any applicable piece rate if  
21 the employee is paid on a piece rate basis;
- 22 (4) All deductions, provided that all deductions made on written orders of  
23 the employee may be aggregated and shown as one item;
- 24 (5) The net wages earned;
- 25 (6) The inclusive dates of the period for which the employee is paid;
- 26 (7) The name of the employee and only the last four digits of his or her social  
27 security number or an employee identification number other than a social  
28 security number;

1 (8) The name and address of the legal entity that is the employer; and

2 (9) All applicable hourly rates in effect during the pay period and the  
3 corresponding number of hours worked at each hourly rate by the  
4 employee.

5 112. As set forth above, Defendants issued and continues to issue wage statements to its non-  
6 exempt employees including Plaintiff and the other Class Members that are inadequate under Labor  
7 Code section 226, subdivision (a). By failing to pay Plaintiff and the other Class Members properly as  
8 described above, Defendants failed to include required information on their wage statements, including,  
9 but not limited to, the gross wages earned, the net wages earned in violation of Labor Code section  
10 226, subdivision (a).

11 113. Defendants' failure to comply with Labor Code section 226, subdivision (a), of the  
12 Labor Code was knowing and intentional. (Lab. Code, § 226, subd. (e)).

13 114. As a result of Defendants' issuance of inaccurate itemized wage statements to Plaintiff  
14 and the other Class Members in violation of Labor Code section 226, subdivision (a), Plaintiff and the  
15 other Class Members are each entitled to recover an initial penalty of \$50, and subsequent penalties of  
16 \$100, up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiff and per each Class  
17 Member from Defendants pursuant to Labor Code section 226, subdivision (e), along with costs and  
18 reasonable attorneys' fees.

19 **Tenth Cause of Action**

20 *Violations of California's Unfair Competition Law*

21 *(Against All Defendants)*

22 115. Plaintiff realleges and incorporates by reference all previous paragraphs.

23 116. Defendants have engaged and continue to engage in unfair and/or unlawful business  
24 practices in California in violation of California Business and Professions Code section 17200 through  
25 17210, by committing the unlawful acts described above. Defendants' utilization of these unfair and  
26 unlawful business practices deprived and continue to deprive Plaintiff and the other Class Members of  
27 compensation to which they are legally entitled. These practices constitute unfair and unlawful  
28 competition and provide an unfair advantage over Defendants' competitors who have been and/or are

1 currently employing workers and attempting to do so in honest compliance with applicable wage and  
2 hour laws.

3 117. Because Plaintiff is a victim of Defendants' unfair and unlawful conduct alleged herein,  
4 Plaintiff for herself and on behalf of the Class Members, seeks full restitution of monies, as necessary  
5 and according to proof, to restore any and all monies withheld, acquired and/or converted by  
6 Defendants pursuant to Business and Professions Code sections 17203 and 17208.

7 118. The acts complained of herein occurred within the four years prior to the initiation of  
8 this action and are continuing into the present and ongoing.

9 119. Plaintiff was compelled to retain the services of counsel to file this Court action to  
10 protect her interests and those of the Class Members, to obtain restitution and injunctive relief on behalf  
11 of Defendants' current non-exempt employees and to enforce important rights affecting the public  
12 interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which Plaintiff  
13 is entitled to recover under Code of Civil Procedure section 1021.5.

14 **VII. DEMAND FOR JURY TRIAL**

15 120. Plaintiff hereby demands trial by jury of Plaintiff's and the Class Members' claims  
16 against Defendants.

17 **VIII. PRAYER FOR RELIEF**

18 Plaintiff prays for judgment for herself and for all others on whose behalf this suit is brought  
19 against Defendants, as follows:

- 20 1. For an order certifying the proposed class;
- 21 2. For an order appointing Plaintiff as representative of the class;
- 22 3. For an order appointing Plaintiff's counsel as counsel for the class;
- 23 4. For the failure to pay all minimum wages, compensatory, consequential, general, and  
24 special damages according to proof pursuant to Labor Code sections 1194, 1194.2,  
25 1197, and others as may be applicable;
- 26 5. For the failure to pay all overtime wages, compensatory, consequential, general, and  
27 special damages according to proof pursuant to Labor Code sections 204, 510, 1194,  
28 1198, and others as may be applicable;

- 1       **6.**     For the failure to provide rest periods and pay missed rest period premiums,  
2           compensatory, consequential, general, and special damages according to proof pursuant  
3           to Labor Code section 226.7;
- 4       **7.**     For the failure to provide meal periods and pay missed meal period premiums,  
5           compensatory, consequential, general, and special damages according to proof pursuant  
6           to Labor Code sections 226.7 and 512;
- 7       **8.**     For the failure to maintain accurate employment records, penalties pursuant to Labor  
8           Code sections 226.3, 1174.5, and others that may be applicable;
- 9       **9.**     For the failure to pay wages timely during employment, the unpaid balance of the  
10          compensation owed to Plaintiff and the other Class Members and any applicable  
11          penalties owed to them pursuant to Labor Code section 210;
- 12      **10.**    For the failure to pay all wages earned and unpaid at separation, statutory waiting time  
13          penalties pursuant to Labor Code sections 201 through 203, for the Class Members who  
14          quit or were fired in an amount equal to their daily wage multiplied by thirty days, as  
15          may be proven;
- 16      **11.**    For the failure to indemnify all necessary business expenditures, all unreimbursed  
17          business expenses, and interest thereon, that are owed, pursuant to Labor Code section  
18          2802, and attorney fees, pursuant to Labor Code section 2802, subdivision (c);
- 19      **12.**    For the violations of California's Unfair Competition Law, restitution to Plaintiff and  
20          the other Class Members of all money and/or property unlawfully acquired by  
21          Defendants by means of any acts or practices declared by this Court to be in violation  
22          of Business and Professions Code sections 17200 through 17210;
- 23      **13.**    Prejudgment interest on all due and unpaid wages pursuant to Labor Code section 218.6  
24          and Civil Code sections 3287 and 3289;
- 25      **14.**    On all causes of action for which attorneys' fees may be available, for attorneys' fees  
26          and costs as provided by Labor Code sections 218.5, 226, Code of Civil Procedure  
27          section 1021.5, and others as may be applicable;
- 28

1       **15.**     For an order enjoining Defendants, and each of them, and their agents, servants, and  
2               employees, and all persons acting under, in concert with, or for them, from acting in  
3               derogation of any rights or duties adumbrated in this complaint; and

4       **16.**     For such other and further relief, this Court may deem just and proper.

5     Dated: July 1, 2022

**MELMED LAW GROUP P.C.**

*Meghan Higday*

**MEGHAN N. HIGDAY**

Attorney for Plaintiff and the Putative Class



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August 17, 2023

**VIA ELECTRONIC FILING**

CALIFORNIA LABOR AND  
WORKFORCE DEVELOPMENT AGENCY  
Attn. PAGA Administrator  
455 Golden Gate Avenue, 10th Floor  
San Francisco, CA 94102

**VIA U.S. CERTIFIED MAIL**

Alco Harvesting LLC  
1850 W Stowell Rd  
Santa Maria, CA 93458

**Re: Patrick Crowley & Stanton Wood Notice of Claims/Labor Code Private  
Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.***

To the California Labor & Workforce Development Agency and Alco Harvesting LLC  
and all entities related thereto (“Employer”):

WorkWorld Law Corp. represents Patrick Crowley & Stanton Wood, who intend to bring an action under the Private Attorneys General Act of 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, on behalf of approximately 5,000 aggrieved non-exempt employees employed by Alco Harvesting LLC between August 17, 2022, and the conclusion of the forthcoming action (“Statutory Period”), and the People of the State of California (hereinafter collectively “Employees”).

Mr. Crowley and Mr. Wood intend to proceed with the Supreme-Court-approved option of “paring away” their individual claims herein such that the only claims asserted herein are non-arbitrable nonindividual claims. (*See Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1122 [“[p]aring away the plaintiff’s individual claims does not deprive the plaintiff of standing to pursue representative claims under PAGA”], quoting *Piplack v. In-N-Out Burgers* (2023) 88 Cal.App.5th 1281, 1291; *see also Johnson v. Maxim Healthcare Services, Inc.* (2021) 66 Cal.App.5th 924, 930 [approving purely nonindividual PAGA claim with no individual PAGA claim assertable].) Mr. Crowley and Mr. Wood allege one or more violations committed against them for the sole purpose of meeting PAGA’s standing requirement to proceed on behalf of all aggrieved employees. (*See Adolph*, at p. 1128 [“And even where a plaintiff concedes the applicability of an arbitration agreement, the plaintiff does not breach the agreement by alleging

in a complaint that one or more violations were committed against the plaintiff for the purpose of meeting PAGA's standing requirements"].) However, Mr. Crowley seeks relief under the PAGA for violations committed against Mr. Wood, and Mr. Wood seeks relief under the PAGA for violations committed against Mr. Crowley.

PAGA, specifically Section 2699, subdivision (a) of the California Labor Code, permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Employees intend to bring a civil action to recover civil penalties for the violations identified below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil penalties specifically set forth within the text of the California Labor Code. Those penalties are sought for violations committed against Employees of Alco Harvesting LLC.

**I. MR. CROWLEY AND MR. WOOD ARE AGGRIEVED EMPLOYEES WHO HAVING STANDING TO ASSERT NONINDIVIDUAL PAGA CLAIMS.**

**A. Mr. Crowley's Employment with Alco Harvesting LLC**

Mr. Stanton Wood worked for Alco Harvesting as a shop welder from May 28, 2021 to January 16, 2023. As a welder, Mr. Wood drew plans, took measurements, and repaired anything that needed to be fixed such as harvesters, loaders, trucks, and trailers.

Alco typically asked employees to clock in and out on a tablet to track the hours they worked. There were usually many problems with the tablet so employees, including Mr. Wood, were asked to write their times on a timecard and the direct supervisor would manually input it on the computer. Even if the tablet was working, employees continued tracking their time on a timecard.

Mr. Wood's usual work schedule was from 7:00 AM to 5:00 PM, with the occasional overtime. During those work hours, Mr. Wood did not get any rest breaks. Mr. Wood's duties required hard labor and he felt like he really needed those rest breaks, but taking rest breaks was discouraged by management.

Mr. Wood's direct supervisor Mr. Victor Esparza directed shop employees to clock out for their meal period but continue working so they could finish assigned projects. Mr. Wood was instructed to write meal periods down although he did not actually take it so it would not flag an issue with their Human Resources department. In reality, meal periods were rarely taken before 12:00 PM and sometimes taken as late as 2:30 PM. On the days that Mr. Wood was not able to clock out or take a meal period, Mr. Esparza assured him he would input it manually later. Employees did not take a second meal period when they worked longer hours. On some occasions, Mr. Esparza told employees he would manually input a second lunch so they would not have to stay at work later.

When Mr. Wood finally did take his meal period later, he took it in the warehouse. He started to realize that when he remained on site his meal periods were always interrupted so he decided to start leaving the work site.

Supervisors were forced to change time records to make sure the company passed audits. For example, Mr. Wood's supervisor, Mr. Crowley, was instructed by his direct supervisor Mr. Jeremy MacKenzie to alter the timecards every week to make it look like everyone took their meal periods. Mr. MacKenzie explained that this practice was to ensure Human Resources would not be flagged for any penalties. HR told Mr. Crowley not to change anything, but Mr. MacKenzie told him to make it right for HR. Alco Harvesting regularly altered the Employees' timecards to fraudulently create the appearance that the company was providing timely, compliant meal periods.

Mr. Wood knew what Mr. Esparza was instructing employees to do was wrong and they needed their breaks. Mr. Wood reported the lack of breaks and the falsification of the meal periods at least three times to Human Resources director Ms. Sandy Leyva and Ms. Maribel Alvarado. Mr. Wood started taking notes of issues he was encountering since February 24, 2022, and presented those to Alco Harvesting's HR. HR informed Mr. Wood they would investigate, but swept the violations under the rug, as it has been attempting to do for years.

#### **B. Mr. Crowley's Employment with Alco Harvesting LLC**

Mr. Patrick Crowley was hired to work for Alco Harvesting as a shop manager on or about August 26, 2019. Alco Harvesting classified Mr. Crowley as a salaried exempt employee. In this position, Mr. Crowley was authorized to make independent decisions and manage staff.

In or around May 2021, the new position of Operations Manager was filled by Mr. Will Hames. When Mr. Hames arrived, Mr. Crowley no longer made independent decisions or judgments. Every decision had to go through Mr. Hames. Mr. Hames had high expectations and micro-managed Mr. Crowley's work which quickly became an issue. Mr. Crowley was expected to communicate what he was doing 2-3 times a day. Mr. Crowley did what was asked of him. Mr. Crowley was not allowed to manage although he was given the title. Mr. Hames and Mr. Mackenzie controlled everything and told Mr. Crowley everything to do and he relayed it to the employees.

Around May 2021, Mr. Hames asked Mr. Crowley to drive back and forth between Santa Maria to Yuma, Arizona daily for almost a week straight to complete different duties he was asked to do such as transporting trucks, employee vehicles, and other equipment. These tasks were not in his job description and were clearly non-exempt duties. Around June 2021, Mr. Hames required Mr. Crowley to sign a document indicating that Mr. Crowley was agreeing to do whatever Mr. Hames asked, whether it was in his job description or not. Mr. Crowley took on a non-managerial role that should have been reclassified as non-exempt. However, Alco Harvesting failed to do so, resulting in derivative violations of the California Labor Code, including a failure to pay or provide overtime, minimum wages, compliant meal-and-rest breaks,

timely regular payment of wages for same, accurate wage statements, and timely payment of all wages owed at the time of separation.

Around July 2021, Mr. Hames took over managing the shop although it was not within his title. Mr. Hames started changing what Mr. Crowley was doing and the employees he had in positions. The shop foreman was let go and Mr. Crowley was not allowed to promote his own shop foreman. Mr. Crowley asked to be reassigned because the shop was heading in a direction he did not like due to his management duties being stripped. Mr. Crowley was informed that Alco Harvesting needed someone to look after the company's hotels and do other special projects (errands) for the company.

On July 30, 2021, Mr. Crowley was reassigned as an Asset & Special Projects Manager. He was not given a salary increase although he was given multiple job titles umbrellaed under one. He held the title of Asset Manager, Special Projects Manager, and Fleet Manager at the same time.

When he started the new position, the duties changed. Mr. Crowley no longer managed the shop of the employees. The job description offer letter included gathering and presenting bids for special projects on Alco properties, overseeing projects, organizing CAR requests and invoicing, maintaining records on fleet maintenance, safety, and inspections, managing GPS systems, managing equipment reports, managing several programs for driver training, and managing fleet information. Sprinkled within his new position was managing and assigning tasks to staff, although Mr. Crowley no longer had any independent discretion or judgment to properly called a manager.

Mr. Crowley was given assigned duties but still had to do more than what was assigned. For example, Mr. Crowley had to go through water tanks and conduct PH testing for an audit. It took him about 40 hours to complete the PH testing. Mr. Crowley estimates that 20% of his day was spent doing things outside his job description. Mr. Crowley was also managing the remodeling projects being doing in properties in Santa Maria, CA and Yuma, AZ.

Mr. Crowley was still required to work 55 hours a week, 6 days a week. This was verbally conveyed to him on multiple occasions by Mr. Mackenzie, Mr. Hames, and Human Resources manager Sandy Leyva. Mr. Crowley asked if he still had to work that long if he completed his tasks sooner, but they said it was mandatory. At one point Mr. Crowley noticed his paystub stopped reflecting 55 hours and instead said 40 hours. He asked Mr. Hames if they were working less hours, but Mr. Hames said he did not know but he still had to work 55 hours.

Mr. Crowley averaged about 60 hours of work per week. On the weeks he had to travel back and forth between CA and AZ he averaged 75+ hours a week. None of these overtime hours were compensated. With so much to do, Mr. Crowley did not have the opportunity to take rest or meal periods. There was nothing ever communicated to him regarding breaks. He assumed he just took them whenever he could. He was rarely off-duty. He was still receiving calls and emails while on vacation. Being interrupted was the norm.

Upper management was aware that Mr. Crowley was working 10 hours daily and 5 hours on Saturdays. They were aware that sometimes Mr. Crowley spent his Sundays driving the 7 hours back and forth between Santa Maria and Yuma and had no day off. Mr. Crowley mentioned it to Mr. Hames once and Mr. Hames response was "do what you have to do."

Mr. Crowley complained to Mr. Mackenzie about the way he was managed. Mr. Crowley voiced his displeasure about not being able to do what he was hired to do but it did not get him anywhere. Mr. Mackenzie did nothing to reevaluate whether Mr. Crowley should be reclassified to a non-exempt position given the clear information that he was no longer doing primarily exempt work after Mr. Hames came on board.

## **II. NONINDIVIDUAL CLAIMS**

Pursuant to Section 2699.3, the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation, are as follows:

### **A. Failure to Pay Minimum Wages Owed**

Section 1197 provides that "[t]he minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful."

Pursuant to Section 1197.1, "(a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: (1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203."

Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage for all time worked, including time during Employees' meal periods and other hours worked "off the clock," which must be paid at a rate of not less than minimum wage pursuant to California law. Employer paid zero dollars for this time. Consequently, Employer violated the foregoing minimum wage laws.

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## **B. Failure to Pay Overtime Wages Owed**

“The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Cal. Lab. Code, § 1198. Prior to January 1, 2019, pursuant to Industrial Welfare Commission Wage Order 14, “employees shall not be employed more than ten (10) hours in any one workday or more than six (6) days in any workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over ten (10) hours in any workday and for the first eight (8) hours on the seventh (7th) day of work and double the employee’s regular rate of pay for all hours worked over eight (8) on the seventh (7th) day of work in the workweek.”

Effective January 1, 2019, for employers of more than 25 employees like Employer, Wage Order 14 provides that Employees shall not be employed more than nine and one-half (9 1/2) hours per workday or fifty-five (55) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over nine and one-half (9 1/2) hours in any one workday or more than fifty-five (55) hours in any one workweek.

Starting January 1, 2020, Employees shall not be employed more than nine (9) hours per workday or fifty (50) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over nine (9) hours in any one workday or more than fifty (50) hours in any one workweek.

Starting January 1, 2021, Employees shall not be employed more than eight and one-half (8 1/2) hours per workday or forty-five (45) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over eight and one-half (8 1/2) hours in any one workday or more than forty-five (45) hours in any one workweek.

Starting January 1, 2022, Employees shall not be employed more than eight (8) hours per workday or work in excess of forty (40) hours per workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over eight (8) hours in any workday or more than forty (40) hours in any workweek and double the employee’s regular rate of pay for all hours worked over twelve (12) hours in any one workday.

“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 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage for all time worked. Because this time was improperly not counted as hours worked, Employees also accrued additional overtime wages for hours in excess of 8 in their workdays, and/or in excess of 40 in their workweeks, that were never paid to Employees.

### **C. Failure to Provide Compliant Rest Periods or Pay Rest Premiums**

Pursuant to Industrial Welfare Commission Wage Order 14, employers must provide non-exempt employees a ten (10) minute duty-free rest period for every four (4) hours worked or major fraction thereof. Duty-free rest periods must be paid. An employer who fails to provide a duty-free rest period must pay the employee an additional one (1) hour of regular pay for each day in which a duty-free rest period is not provided. Cal. Lab. Code, § 226.7, subd. (c).

“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 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

Throughout the Statutory Period, Employer maintained an illegal practice of not providing Employees with sanctioned 10-minute rest periods, which were controlled and ordered by managers. Employees first rest periods were routinely provided late, interrupted, or not provided at all, and Employees were not free of all duties or free to leave the premises. Additionally, Employer failed to provide Employees with a compliant second rest period. For some Employees, Employer regularly denied all paid rest periods as required by law.

### **D. Failure to Provide Compliant Meal Periods or Pay Meal Premiums**

“An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.” Cal. Lab. Code, § 512, subd. (a).

Pursuant to Labor Code sections 226.7 and 512, and Wage Order 14, duty-free meal periods of no less than thirty (30) minutes are required for all non-exempt employees who work at least five (5) hours in a work period per day. The employee must be free to leave the employer’s premises. An employer may not employ an employee for a work period of more than

10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Time records of meal periods must be kept. Meal periods must be paid when the employee is not relieved of all duties or free to leave the premises. An employer who fails to provide a duty-free meal period must pay the employee an additional one (1) hour regular pay for each day in which a duty-free meal period is not provided.

“If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.” Cal. Lab. Code, § 226.7, subd. (c).

“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 as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.” Cal. Lab. Code, § 558, subd. (a).

Employees incorporate the preceding sections herein. Throughout the Statutory Period, although Employees were entitled to a meal period within the first five (5) hours of work, Employer regularly scheduled Employees’ first meal periods after such time, regularly provided less than 30 minutes of time for meal periods, failed to provide a second meal period after 10 hours of work as required by law, and otherwise failed to provide Employees compliant meal periods.

#### **E. Inaccurate Wage Statements**

“Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, ... (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, ..., 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 and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of

pay and the total hours worked for each temporary services assignment.” Cal. Lab. Code, § 226, subd. (a).

“Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.” Cal. Lab. Code, § 226.3.

Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to furnish Employees with accurate itemized statements at the time of each payment of wages showing the correct gross wages earned, correct total hours worked, correct net wages earned, and the corresponding correct number of hours worked at each applicable hourly rate. Rather than providing statements of actual time worked and a correct payment of wages based thereon, Employer failed to capture and pay Employees for all hours worked including overtime, and also failed to capture and pay premium pay for missed meal and rest periods. Consequently, Employer failed to provide Employees accurate itemized wages statements as required by Section 226.

#### **F. Untimely Payment of Wages**

Generally, “[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.” Cal. Lab. Code, § 204, subd. (a).

Generally, “[l]abor performed by a weekly-paid employee during any calendar week and prior to or on the regular payday shall be paid for not later than the regular payday of the employer for such weekly-paid employee falling during the following calendar week. Labor performed by a weekly-paid employee during any calendar week and subsequent to the regular payday shall be paid for not later than seven days after the regular payday of the employer for such weekly-paid employee falling during the following calendar week.” Cal. Lab. Code, § 204b.

Special rules govern agricultural employees, however: “All wages, other than those mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month.” Cal. Lab. Code, § 205.5.

"In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld." Cal. Lab. Code, § 210, subd. (a).

Employees incorporate the preceding sections herein. Rather than timely paying Employees all wages due within the periods set forth above, throughout Employees' employment, Employer failed to timely pay Employees for all hours worked and all premium wages.

#### **G. Failure to Pay Wages at Termination/Resignation**

"If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Cal. Lab. Code, § 201, subd. (a).

"If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting." Cal. Lab. Code, § 202, subd. (a).

"If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, 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 therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment." Cal. Lab. Code, § 203, subd. (a).

Employees incorporate the preceding sections herein. Throughout the Statutory Period, Employer failed to pay Employees at least minimum wage, overtime, and all premium wages for all time worked. These wages were owed and due to Employees at the time of their termination or resignation. Employer did not provide these payments to Employees at the time of termination or within a sufficient time of resignation as required by Labor Code sections 201 and 202. Employer's failure to timely pay these wages at the time of termination, and failure to pay Employees' continued wages for the 30-day period thereafter, constitutes a violation of Sections 201, 202, and 203.

\* \* \*

Please do not hesitate to contact the undersigned if you would like to discuss this matter further. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'Ruben Escobedo', written over a horizontal line.

Ruben Escobedo

cc: Ryan Reed, Esq., General Counsel, [Ryan.Reed@bonipak.com](mailto:Ryan.Reed@bonipak.com)

## **EXHIBIT 3**

**Ruben Escobedo**

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**From:** DIR PAGA Unit <no-reply@formassembly.com>  
**Sent:** Thursday, October 23, 2025 12:04 PM  
**To:** Ruben Escobedo  
**Subject:** Thank you for your Other Response or Document Submission

10/23/2025 12:03:29 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

## **EXHIBIT 4**

Atticus Administration, LLC  
Chris Longley – CEO

**Guzman v. Alco Harvesting**

Prepared for

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**Dawson Morton | Attorney**  
dawson@dawsonmorton.com  
P: 404.590.1295

Dawson Morton, LLC  
104 Cambridge Ave  
Decatur, GA 30030



Class Action Administration

Estimate E2025-02-E22  
Guzman v. Alco Harvesting

Prepared on May 13, 2025  
By Chris Longley – CEO | Atticus Administration LLC

# Estimate Summary

## Atticus Services & Cost Description

|                                                                        |          |
|------------------------------------------------------------------------|----------|
| NOTICE MAILING – Mailed First Class                                    | \$25,635 |
| <i>Initial notice up to 8 pages mailed to Domestic class members</i>   | Included |
| <i>Notice sent via text and/or Whats-App to all class members</i>      | Included |
| <i>Undeliverable, return mail processing, NCOA, skip-trace</i>         | Included |
| <i>English and Spanish</i>                                             | Included |
| PROJECT MANAGEMENT, ADMIN FEES, TECHNICAL COMMUNICATIONS               | \$10,625 |
|                                                                        | \$13,952 |
| <i>PO box rental</i>                                                   | Included |
| <i>IVR, 800#, live operators</i>                                       | Included |
| <i>Correspondence, out-outs, objections</i>                            | Included |
| <i>Static case website, payment selections</i>                         | Included |
| FUND, TAX, REPORTING                                                   | \$5,263  |
| <i>Setup QSF, file quarterly and annual tax returns</i>                | Included |
| DISTRIBUTION                                                           | \$29,475 |
| <i>Check printing, payment calculation and verification, bank fees</i> | Included |

**TOTAL:** **\$84,950**

PRINT NAME

Client Signature

*By signing above, I understand and agree to the pricing terms and services to be provided by Atticus Administration for the stated project.*

**PLEASE NOTE:** This estimate and pricing is for the services stated herein and is valid for 30 days from the date of the estimate. If the Settlement Agreement or other service scope document(s) require additional services not included or priced in this estimate, we will separately price those scope changes and submit an updated quote prior to proceeding with the work.

## Key Assumptions

- Class Size: **9,434 class members.**
- Notices in English and Spanish, up to 8 pages mailed to Domestic class members, **assumes up to 7,000.**
- Noticing via What's-App and/or text message for class members with a valid cell number, **assumes up to 9,800.**
- Data review, cleansing and preparing file for mailing; including NCOA, and new address searches (skip-tracing).
- Communications includes, dedicated 800#, live operators and IVR for FAQ and other correspondence.
- Website with ability to select payment methods.
- Includes one distribution to all class members. Payments mostly via CLABE or domestic wire. Checks to those with US addresses if no election.
- Employment reporting for one state.
- Class member reporting consists of W2's or 1099's.
- Uncashed funds cy pres or escheat to unclaimed property.

ROLE

Date

**Payment Terms:**

40% payable at Notice

60% payable at Distribution



# Detailed Budget

## Atticus Services & Cost Description

| DESCRIPTION                                                                    |       | UNITS                   | SUBTOTAL        |
|--------------------------------------------------------------------------------|-------|-------------------------|-----------------|
| <b>NOTICE MAILING (Data Cleansing &amp; Analysis) Mailed First Class</b>       |       | <b>9,434 Class Mbrs</b> | <b>\$25,635</b> |
| Class Data List (Review, Compile, Analysis, Cleansing, Processing)             |       | 20 Hours                | \$2,470         |
| Class Notice Review (Proof, Finalize, Print Set-Up)                            |       | 5 Hours                 | \$618           |
| Class Notice Translation: English -> <b>SPANISH</b>                            |       | 1 Translation(s)        | \$798           |
| Class Notice Printing <b>Domestic Only Mailing - Up to 7,000 Class Members</b> |       | 7,000 Printed Notices   | \$6,318         |
| Postage Stamp (within 1 ounce max weight) <b>Domestic Postage</b>              |       | 7,000 Mailed Notices    | \$4,697         |
| WhatsApp Noticing                                                              |       | 9,434 Messages          | \$6,368         |
| Notice Undeliverable Mail (Receipting, Cataloguing, NCOA, Remailing)           | 10.0% | 700 Pieces              | \$3,218         |
| Notice Request Remails (Printing, Postage, Skip-Trace Hits)                    | 3.0%  | 210 Pieces              | \$1,148         |
| <b>PROJECT MANAGEMENT</b>                                                      |       | <b>75 Hours</b>         | <b>\$9,375</b>  |
| <b>TECHNICAL SET UP (includes project kick-off)</b>                            |       | <b>10 Hours</b>         | <b>\$1,250</b>  |
| <b>COMMUNICATIONS</b>                                                          |       |                         | <b>\$13,952</b> |
| Telephone (Setup, Monthly Fee)                                                 |       | 6 Months                | \$285           |
| Website (Information Only, Payment Information)                                |       | 6 Months                | \$1,500         |
| Telephone (Messages, Voicemail, IVR, Live Operator Support)                    |       | 6 Months                | \$9,494         |
| PO Box (Setup, Monthly Fee)                                                    |       | 6 Months                | \$100           |
| Correspondence (Objections, Processing)                                        |       | Various Hours           | \$2,573         |
| <b>FUND, TREASURY &amp; TAX REPORTING</b>                                      |       |                         | <b>\$5,263</b>  |
| Establish QSF                                                                  |       | 2 Hours                 | \$260           |
| Tax Reporting (Prepare and File, Quarterly, Annual, Unemployment, Tax Forms)   |       | 8 Hours                 | \$1,040         |
| Print 1099's & W2's                                                            |       | 9,434 1099's & W2's     | \$3,963         |
| <b>DISTRIBUTION (Payment Calculations &amp; Reporting)</b>                     |       |                         | <b>\$29,475</b> |
| Check and Cover Letter (Design, Review, Finalize)                              |       | 5 Hours                 | \$618           |
| Payment Data (Calculate, Verify Payments)                                      |       | 20 Hours                | \$2,470         |
| Payment Reports (Preparation, Reconciliations)                                 |       | 20 Hours                | \$2,470         |
| Payment Inputs from Class Member Elections                                     |       | 20 Hours                | \$2,470         |
| Check Printing (Print Setup, Printing, Mail Prep)                              |       | 9,434 Checks or Wires   | \$9,001         |
| Check Mailing Postage (will be 1x mailings)                                    |       | 9,434 Mail or Wire Fees | \$8,302         |
| Check Undeliverable Mail (Receipting, Cataloguing, NCOA, Remailing)            | 7.0%  | 660 Pieces              | \$1,715         |
| Bank Fees (Account Setup, Monthly Fee)                                         |       | 6 Months                | \$2,429         |
| <b>DATA STORAGE</b>                                                            |       | <b>n/a</b>              | <b>\$0</b>      |
|                                                                                |       |                         |                 |
|                                                                                |       | <b>TOTAL</b>            | <b>\$84,950</b> |

## Operating Assumptions

- Class Size: **9,434 class members.**
- Class notice up to 8 pages (English and Spanish) mailed to only Domestic class members, **assumes up to 7,000.** Price includes postage and handling fees.
- Text message and Whats-App noticing to all class members, **assumes up to 9,800.**
- Data review, cleansing and preparing file for mailing; including NCOA, new address searches, and skip tracing if required.
- Communications includes, PO box, mail correspondence, 800# with live phone operators and IVR.
- Static website to host court documents and payment selections.
- All class members who do not opt-out will receive a payment. Assumes most will be using a CLABE or domestic wire transfer.
- Project management assumes 85 hours at a blended rate of \$125 per hour. Includes summary reporting on a weekly basis and all requested declarations.
- Qualified Settlement Fund assumes 6 months. Price tax reporting both state and federal returns. All bank fees are included in pricing.
- Disbursement includes positive pay "anti-fraud" features.



# Thank you



Chris Longley – CEO

612-315-9007 (Direct)

651-755-2552 (Direct)

[clongley@atticusadmin.com](mailto:clongley@atticusadmin.com)

1295 Northland Drive Suite 160  
St. Paul, MN 55120

[www.atticusadmin.com](http://www.atticusadmin.com)

## **EXHIBIT 5**

<<Mailing Date>>

To: <<First Name>><<Last Name>>  
<<Address>>  
<<City>> <<State>> <<Zip>>

Re: Settlement Payment for *Lilia Garcia -Brower v Alco Harvesting LLC et al*  
Superior Court of the State of California for the County of Santa Barbara, Cook Division  
Case No. 21CV02855

### **A Settlement Which Pays You Money**

This notice concerns the resolution of lawsuits were brought against Alco Harvesting, LLC by former co-workers and the State of California. This notice impacts your rights as money is owed to you and the notice explains how you can receive your funds. A settlement, approved by the Court, includes money payable to you because you have been identified as an Aggrieved Employee.

Your share of the funds is based on the total number of pay periods that you were issued a wage statement during the period July 16, 2018, until \_\_\_\_\_. Records reflect that you had <<#>> pay periods in that time. Records indicate that you were [or were not] an H-2A Worker during these pay periods. Your settlement share is a total of \$\_\_\_\_\_, which includes \_\_\_\_\_ amount \_\_\_\_\_ in unpaid wages and \_\_\_\_\_ amount \_\_\_\_\_ in penalties.

You may receive your payment by electronic deposit or by check. Please contact the Settlement Administrator, Atticus Administration, to indicate your preference.

If you have a bank account in the USA or in Mexico your funds may be deposited directly to your account. You should provide the Mexican bank name, the account and *CLABE* number. For an American account please provide the bank name, routing and account number. You may also confirm your address for a mailed check. If you do not respond a check will be mailed to you.

### **What the Alco Harvesting Lawsuits were About**

This payment is from the settlement of lawsuits filed by former employees and by the State of California. The lawsuits by former employees of Alco Harvesting sought recovery of unpaid wages and civil penalties pursuant to the California Private Attorneys General Act of 2004. Plaintiffs alleged that Alco violated multiple provisions of the California Labor Code and Wage Orders by failing to provide Paid Sick Leave and COVID-19 Supplemental Requirements; failing to pay contractually promised wages, failing to properly pay minimum and overtime wages, not providing compliant meal and rest periods or the required premium pay, timely pay wages upon termination, provide compliant wage statements, keep requisite payroll records, and reimburse business expenses, and deceptive, fraudulent, or otherwise unlawful business practices.

### **How This Affects Your Rights**

As part of the resolution of the lawsuit, the Court approved a settlement where you and other Aggrieved Employees are deemed to release all claims for PAGA penalties, those described above, that were alleged based on the facts stated in the operative complaints and PAGA Notices asserted in the lawsuits for work compensated by paystubs issued by Defendant Alco Harvesting, LLC. These claims are for the period July 16, 2018, to July 30, 2025. The release also extends to other officers, directors and companies related to Alco Harvesting but only for time periods when you received a paystub from Alco Harvesting, LLC.

The release does not include individual claims, including any underlying individual claims for unpaid

minimum, overtime or other wages.

**If You Have Questions, Contact Atticus Administration**

**Do not call or write the Court or Office of the Clerk of the Court to ask questions about the settlement.** If you have any questions concerning the settlement, you may contact the Settlement Administrator via WhatsApp \_\_\_, by email \_\_\_, on the settlement website ([link](#)) or at <<**TOLL FREE NUMBER**>>. If you have questions regarding Paid Sick Leave, please contact Labor Commissioner at ....., If you have questions concerning your employment as an H-2A worker, please contact Sandra Aguila, California Rural Legal Assistance, Inc. (805)922-4564. If you have any questions about the settlement concerning meal, rest, and recovery periods, please contact Meghan Higday, Melmed Law Group P.C., at (310) 824-3828. If you have any other questions, please contact WorkWorld Law Corp. at (805) 335-2476.