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Attorneys for Plaintiff
RANDY MORROW, individually and
on behalf of all other Aggrieved Employees

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

RANDY MORROW, individually and
on behalf of all other Aggrieved Employees,

Plaintiff,

v.

VACASA, LLC, an Oregon Limited Liability
Company, and
DOES 1 through 50, inclusive,
Defendants.

Case No. 56-2021-00549414-CU-OE-VTA

**DECLARATION OF JOSEPH W. ROSE IN
SUPPORT OF PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Complaint Filed: January 4, 2021
Department: 43
Judge: Hon. Benjamin F. Coats

[Filed concurrently with Proposed Order,
Memorandum of Points and Authorities in Support
of Motion and Declaration of Randy Morrow]

Motion Hearing Date: May 26, 2022
Motion Hearing Time: 8:30 a.m.
Reservation Number: 2640185

I. INTRODUCTION

I, Joseph Rose, declare:

1. I am a licensed attorney admitted to the State Bar of California. I am lead counsel of record for the plaintiff in these proceedings. I have personal knowledge of the facts set forth herein and, if called

1 as a witness, I could and would testify competently to them. Attorneys Michael Velarde and Mehran
2 Tahoori are my co-counsel.

3 2. I respectfully submit this declaration in support of Plaintiff's Motion for Approval of
4 PAGA Settlement. The purpose of this declaration is to provide the Court with information showing
5 Plaintiff's counsel dutifully litigated this case and evaluated the claims in good faith, and we reached a
6 fair compromise that is in the best interest of the interested parties represented by Plaintiff and his
7 counsel. Counsel further had sufficient factual and legal bases for reaching this settlement considering
8 the potential outcomes of continued litigation. A true and correct copy of the parties PAGA settlement
9 agreement is attached hereto as **Exhibit 1**.

10 3. This is a PAGA-only lawsuit seeking penalties stemming from Defendant Vacasa LLC's
11 alleged wage and hour violations for failing to compensate employees minimum and overtime wages for
12 on-call time, failing to provide unpaid meal periods and paid rest periods, failing to provide reporting
13 time wages, failing to pay split-shift premiums, failing to pay minimum and overtime wages for time
14 spent driving between work locations, and derivative violations for providing inaccurate wage
15 statements, keeping inaccurate records, and failing to pay wages upon termination of employment, under
16 the California Labor Code and applicable Industrial Welfare Commission (IWC) Wage Orders.
17 Defendant Vacasa LLC has consistently denied liability for all these claims and their associated PAGA-
18 penalties.

19 **II. THE PARTIES**

20 4. Defendant Vacasa, LLC ("Vacasa" or "Defendant") professionally manages short-term
21 vacation rental real estate throughout the United States. Management includes cleaning, maintenance,
22 repair, restocking of linens and household supplies at various residential real properties throughout
23 California, and continuously responding to guest's needs on short notice. Vacasa is a Portland, Oregon-
24 based limited liability company.

25 5. Plaintiff Randy Morrow ("Plaintiff") worked for Vacasa for eleven months (over 22 pay
26 periods) beginning August 22, 2019, until July 23, 2020. Through June 13, 2020, he worked as a property
27 caretaker earning an hourly wage of \$20.00. Beginning June 14, 2020, Mr. Morrow was demoted to
28 maintenance worker with a corresponding reduction in hourly wage to \$18.00, which continued until his

1 involuntary termination on July 23, 2020. Mr. Morrow was classified as a non-exempt employee. Mr.
2 Morrow's geographic work assignment was Oxnard, Ventura, and Malibu, California.

3 **III. THE PAGA CLAIM**

4 6. As alleged in the Complaint, Plaintiff, through his counsel, seeks PAGA penalties as set
5 forth in Labor Code Section 2699(f) for the following Labor Code violations:

6 a. Labor Code §§ 1194, 1197, 1197.1, and 1198 for Defendant's alleged failure to
7 fully compensate Plaintiff and other Aggrieved Employees for all minimum wages due;

8 b. Labor Code §§ 510, 1194 and 1198 for Defendant's alleged failure to fully
9 compensate Plaintiff and other Aggrieved Employees for all daily, weekly, and 7th consecutive
10 workday overtime premium pay;

11 c. Labor Code §§ 226.7 and 512 for Defendant's alleged failure to provide to Plaintiff
12 and other Aggrieved Employees legally required 30-minute unpaid meal periods or compensation
13 in lieu thereof;

14 d. Violation of Labor Code § 226.7 for Defendant's alleged failure to provide to
15 Plaintiff and other Aggrieved Employees legally required 10-minute paid rest periods or
16 compensation in lieu thereof;

17 e. Violation of Labor Code §§ 226 and 226.3 for Defendant's alleged failure to
18 provide to Plaintiff and other Aggrieved Employees accurate itemized wage statements;

19 f. Violation of Labor Code §§ 1174 and 1174.5 for Defendant's alleged failure to
20 maintain accurate records;

21 g. Violation of Labor Code §§ 201, 202, 203, 204, and 210 for Defendant's alleged
22 failure to timely pay all earned wages owed to Plaintiff and other Aggrieved Employees during
23 employment and upon separation of employment;

24 h. IWC Wage Order No. 2001-5 for Defendant's alleged failure to fully compensate
25 Plaintiff and other Aggrieved Employees for all reporting time pay; and

26 i. IWC Wage Order No. 2001-5 for Defendant's alleged failure to fully compensate
27 Plaintiff and other Aggrieved Employees for all split shift premium pay (hereinafter the
28 "Lawsuit").

IV. THE AGGRIEVED EMPLOYEES

7. Plaintiff is an “aggrieved employee” within the meaning of the PAGA because he was employed by Defendant Vacasa LLC, had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other Aggrieved Employees.

8. The Aggrieved Employees for the purposes of this settlement include Plaintiff and all 1,130 current and former non-exempt workers in California who were employed by Defendant at any time from October 8, 2019, though the date of approval of this settlement in the state of California) for settlement of PAGA claims only.

V. PAGA COMPLIANCE, LITIGATION HISTORY, AND MEDIATION

9. Plaintiff filed this PAGA-only action on January 4, 2021, on behalf of Defendant’s non-exempt employees who provide maintenance, repair, courier, property management, linens, cleaning, and housekeeping services at real properties managed by Defendant.

10. Before instituting this civil action, Plaintiff provided legally sufficient notice of these PAGA claims on October 8, 2020, to the California Labor and Workforce Development Agency (LWDA) through that agency’s Internet case submission system, receiving assigned case number LWDA-CM-809120-20. PAGA notice was immediately sent to Defendant by Certified Mail (Trk. No. 70192280000040471940) and was delivered on October 19, 2020. The LWDA did not exercise its discretion to investigate within 65 days of receiving Plaintiff’s notice, thereby authorizing Plaintiff to proceed with this action in superior court on behalf of himself and other aggrieved employees.

11. Plaintiff’s unverified complaint alleges, in summary:

[***] Defendants employed Plaintiff and other workers as Non-Exempt Employees in California. Defendants informed Plaintiff and other Aggrieved Employees their job duties include, among other duties, frequent “traveling between worksites” with “their own reliable transportation,” “[a]vailability to work Sunday through Saturday, early mornings and evenings as needed,” and required them to remain continuously “on-call” nearly every calendar day between 7:00 a.m. and 7:00 p.m. without compensation to “respond to a page or call within 20 minutes of receipt,” which barred Plaintiff and other Aggrieved Employees from traveling beyond strictly limited geographic distances from Defendants’ vacation homes to engage in personal activities during the “on-call” period. Defendants required Plaintiff and other Aggrieved Employees to continuously monitor “their pager, cell phone, and laptop” during on-call hours, without compensation, to receive dispatches and respond within 20 minutes.

(Complaint, p. 5, § 2.)

1 12. Plaintiff's unverified complaint alleges wage and hour violations for failing to compensate
2 employees for on-call time, failing to provide unpaid meal periods and paid rest periods, failing to provide
3 reporting time wages, failing to pay split shift premiums, failing to pay for time spent driving between
4 work locations, and derivative violations for providing inaccurate wage statements, keeping inaccurate
5 records, and failing to pay wages upon termination of employment, under the California Labor Code and
6 applicable Industrial Welfare Commission (IWC) Wage Orders.

7 13. Over the course of ten months, Plaintiff's counsel and Defense counsel discussed and
8 exchanged information needed to analyze the claims and defenses and successfully mediate the case.
9 Defense counsel provided detailed data of 1,130 employees covering 22,619 pay periods, which was used
10 to ascertain a fair and reasonable settlement amount. The Parties exchanged documentary evidence
11 including employee, wage, and payroll data samples, and other relevant employment information
12 allowing Plaintiff to analyze and estimate the magnitude of potential penalties under various theories of
13 liability.

14 14. Plaintiff's counsel was able to the review this data with the Plaintiff, Randy Morrow, and
15 discuss the range of penalties that applied to the different employment positions.

16 The parties agreed to participate in a day-long mediation with mediator David Phillips of
17 Signature Resolution, a well-respected mediator with extensive experience in resolving wage and hour
18 class action and PAGA representative action disputes. Mr. Phillips is an experienced employment law
19 mediator having more than 25 years of experience as an advocate for both plaintiff employees and
20 defendant employers.

21 15. The Parties each investigated the claims asserted, developed exposure models, and
22 prepared detailed mediation briefs, which Plaintiff exchanged with Defendant.

23 16. This full day mediation took place on January 20, 2022. Plaintiff attended this mediation
24 along with his counsel. The Parties reached an agreement in principle to settle the PAGA claims in the
25 evening, after a full day of mediation. At all times, the Parties' negotiations were adversarial and non-
26 collusive. Additionally, both VACASA and Plaintiff were represented by experienced counsel through
27 the negotiations.

28 17. The Parties have finalized a long form proposed settlement of this PAGA action.

1 18. The history of the case and terms of the proposed Settlement are explained in the PAGA
2 Settlement Agreement attached hereto as Exhibit 1. A proposed letter notifying the aggrieved employees
3 of the PAGA Settlement is attached to the PAGA Settlement Agreement.

4 19. Plaintiff sent the proposed settlement to the LWDA.

5 **VI. COURT APPROVAL REQUIREMENTS**

6 20. The court approval requirement was added to PAGA as part of the amendments to the Act
7 that were introduced as Senate Bill 1809 in February of 2004 and signed by the Governor and filed with
8 the Secretary of State on August 11, 2004 (*see* Legislative Counsel’s Digest to Senate Bill No. 1809,
9 attached hereto as **Exhibit 2**).

10 21. Senator Joseph L. Dunn, who authored both the original PAGA bill (SB 796) and the
11 amendments (SB 1809) sent a letter addressed to the President Pro Tem of the Senate on July 29, 2004,
12 during the consideration of the amendments in Senate Bill 1809, which was published in the Senate Daily
13 Journal, “to clarify the intent of subdivision (l)” of what would become Labor Code § 2699. Senator
14 Dunn’s letter provided, “The purpose of court review of the penalties in subdivision (l) is to ensure that
15 settlements involving penalties arising under Labor Code Section 2699 do not undercut the dual statutory
16 purposes of punishment and deterrence, or result in unjust, arbitrary, and oppressive, or confiscatory
17 settlements”. (*See* 7/29/04 Letter from Sen. Dunn to Sen. Burton, attached hereto as **Exhibit 3**).

18 **VII. REASONABLE ATTORNEYS’ FEES AND LITIGATION COSTS**

19 22. Plaintiff’s counsel took this matter on a pure contingency and therefore took substantial
20 risk. For their efforts and the substantial risk undertaken to obtain a large common fund settlement that
21 benefits the LWDA and Aggrieved Employees, the Parties allocated \$121,864.05 to Plaintiff’s counsel
22 for attorneys’ fees, and \$7,308 is allocated as out-of-pocket litigation costs. This amount equates to 33%
23 of the \$369,285 common fund in attorney’s fees plus \$7,308 in out-of-pocket litigation costs. These costs
24 and fees are warranted under the law and within the range of fees commonly awarded in similar cases.

25 23. A one-third common fund attorneys’ fee award is also consistent with what courts have
26 awarded in other representative action cases. The following list shows PAGA actions where attorneys’
27 fees were awarded on a common fund basis of 33.33%:

28 a. *Garcia v. Macy’s*, San Bernardino County Superior Court, Case No.

CIVDS1516007 (33.33% fee awarded on \$12,500,000 settlement of a PAGA only case);

b. *Garcia v. Pep Boys*, Orange County Superior Court, Case No. 30-2014-00720574-CU-OE-CJC (33.33% fee awarded on a \$1,030,000 settlement of a PAGA only case);

c. *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123-CU- OC-CXC (33.33% fee awarded on a PAGA only case);

d. *Perez v. Staffmark Investment, LLC*, Riverside County Superior Court, Case No. MCC1401137 (33.33% fee awarded on a \$650,000 settlement of a PAGA only case).

24. Based on the foregoing, awarding attorneys' fees based on a one-third percentage of the gross settlement amount is favored by California Courts when a fund established for the common benefit of others is involved, as is the case here. As such, attorneys' fees here in the amount of \$121,864.05 is proper based on 33% of the \$369,285 common fund.

25. Plaintiff's counsel has advanced more than \$7,308 in costs in prosecuting this action. These costs are reasonable, and are itemized as follows:

<u>Date</u>	<u>Vendor</u>	<u>Subject/Description</u>	<u>Amount</u>
04/25/2022	Ventura Co. Sup. Ct.	Electronic Filing Charges	\$ 6.75
04/25/2022	Ventura Co. Sup. Ct.	Motion Filing Fee	\$ 60.00
03/03/2022	Signature Resolution	Mediator's Professional Fee	\$ 6,450.00
02/15/2021	OneLegal	Process Service	\$ 70.00
12/28/2020	Ventura Co. Sup. Ct.	Complaint Filing Fee	\$ 435.00
12/28/2020	FedEx	Courier	\$ 23.48
12/28/2020	USPS	Postage	\$ 2.80
10/08/2020	California LWDA	PAGA Filing Fee	\$ 75.00
8/12/2020	Orange Co. Sup. Ct.	Vacasa Prior PAGA Case Records	\$ 17.59
8/12/2020	Orange Co. Sup. Ct.	Vacasa Prior PAGA Case Records	\$ 173.82
		TOTAL	\$7,314.44

VIII. QUALIFICATIONS OF PLAINTIFF'S COUNSEL

26. Plaintiff's counsel undertook representation of Plaintiff for benefit of the LWDA and the Aggrieved Employees on a contingency fee basis. Plaintiff is entitled to recover his attorney's fees and

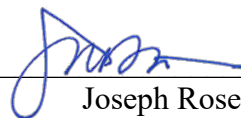
costs as a prevailing employee under Labor Code § 1198.5(l), 2802, and 248.5(e) as a predicate act under Business and Professions Code § 17200 et seq., and which I seek in this action.

27. I have been admitted to practice law by the State Bar of California since November 2004. During this time, I have continuously maintained a full-time private legal practice in California with a focus on individual and class action employment litigation. I have offices in Fair Oaks, Ventura, and Westlake Village, California. Over the last seventeen years in practice, I have litigated numerous individual and class action employment cases in federal and state courts for both plaintiff-employees and defendant-employers, both as lead counsel and co-counsel. I have tried many employment cases to jury trial and private arbitration. I have also been admitted pro hac vice in federal district court outside of California in civil litigation. Since 2005, I have been employed part-time as a professor at Lincoln Law of Sacramento, where I currently teach employment law. I am admitted to all federal district courts in California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court.

28. Attorney Michael Velarde has been admitted to practice law by the State Bar of California since December 2009. During this time, Mr. Velarde has continuously maintained a full-time private legal practice in California with a focus on individual and class action employment litigation. Mr. Velarde has offices in Irvine, California.

29. Attorney Mehran Tahoori has been admitted to practice law by the State Bar of California since 2012. Mr. Tahoori has been employed full-time as a labor and employment attorney in my law office, Rose Law, APC, since 2014.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 25, 2022, at Ventura County, California.



Joseph Rose

Exhibit 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is made and entered into by and between Randy Morrow (“Morrow” or “Plaintiff”) and Vacasa LLC (“Vacasa” or “Defendant”). Morrow and Vacasa shall sometimes be referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

A. Plaintiff was formerly employed by Defendant.

B. On or about October 8, 2020, Plaintiff transmitted a letter to the California Labor and Workforce Development Agency (“LWDA”) asserting that Defendant failed to comply with various provisions of the California *Labor Code* (the “PAGA Notice”). Plaintiff seeks penalties pursuant to the California Labor Code Private Attorneys General Act (“PAGA”) as set forth in California *Labor Code* §2698 *et. seq.*, on behalf of all current and former non-exempt employees of Vacasa in California who were employed by Defendant at any time from October 8, 2019, though the date of approval of this settlement (“PAGA Claim Employees”) for asserted violations of California *Labor Code* §§201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558(a), 558(c), 1174, 1174.5 1194, 1197, 1197.1, 1198, 2699(a), 2699(f), 2699.3, and 2699.5 and Industrial Welfare Commission Order No. 2001-5 (the “Representative PAGA Claims”). Plaintiff also seeks an award of reasonable attorneys’ fees and costs as permitted by the PAGA, Labor Code § 2699. On January 4, 2021, Plaintiff filed a Complaint for Civil Penalties (“Complaint”) in Ventura County Superior Court, titled, *RANDY MORROW, individually and on behalf of all other Aggrieved Employees, Plaintiff, v. VACASA, LLC, an Oregon Limited Liability Company, and DOES 1 through 50, inclusive, Defendants*, Case Number 56-2021-00549414-CU-OE-VTA. The PAGA Notice, and Complaint will hereinafter be referred to jointly as the “Action,” and are attached hereto as **Exhibit A**.

C. On January 20, 2022, the Parties attended a full day mediation session with experienced wage and hour mediator, David Phillips, Esq. of Signature Resolution. After extensive arms-length negotiations, the Parties reached a settlement of the Representative PAGA Claims and entered into a Memorandum of Understanding, attached hereto as **Exhibit B** and incorporated herein. The settlement is further detailed in this Agreement, which the Parties will seek approval of with the Ventura County Superior Court by means of a Motion for Approval of PAGA Settlement (the “Motion”).

D. The Parties acknowledge that there is a bona fide dispute as to the merits of Plaintiff’s claims. The Parties further desire to compromise, settle and release any and all PAGA claims predicated on the alleged Labor Code violations to Plaintiff individually and all allegedly aggrieved employees as set forth in the Action.

E. The Parties believe and agree that the PAGA Settlement herein provides for a fair, adequate, and reasonable resolution of the PAGA claims, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential.

F. By this Agreement, the Parties have settled, fully and finally, all PAGA claims that Morrow has or might have against Vacasa, up to and including the date of approval of this agreement, including but not limited to those claims which could be asserted in any PAGA lawsuit, or any PAGA administrative, civil, or governmental proceeding and any claims that could be asserted by the PAGA Claim Employees related to the Representative PAGA Claims.

NOW, THEREFORE, in consideration of the terms, conditions, and promises set forth herein, the Parties agree as follows:

TERMS AND SETTLEMENT

1. **No Admission of Liability.** This Agreement memorializes the compromise of disputed claims. The Parties acknowledge that the execution of this Agreement and the payment of consideration or any other obligation hereunder are not and shall not be construed in any way as an admission of wrongdoing or liability on the part of Vacasa, or any other person or business entity. Vacasa denies all allegations of wrongdoing arising out of the employment relationship between the Parties including the PAGA Claim Employees. The Parties intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of continued litigation.

2. **Consideration by Vacasa.** In exchange for a full and complete settlement and in release and discharge of the Released Claims with respect to Plaintiff's PAGA Claims and the PAGA Claim Employees, Vacasa will pay the gross amount of Three Hundred Sixty Nine Thousand Two Hundred Eighty Five Dollars and Zero Cents (\$369,285.00) (the "Gross Settlement Amount"). In no way will the amount Vacasa is to pay as part of this Agreement exceed the total sum of \$369,285.00. Defendant shall not be required to pay more than the Gross Settlement Amount to obtain the relief provided in this Agreement or to fully and finally settle and resolve the PAGA Claims; provided, however, after the Parties reached agreement on the above amount for Settlement of the PAGA Claims, the Parties separately negotiated, and Defendant has agreed, to pay additional amounts to Plaintiff for the settlement/release of his individual non-PAGA claims pursuant to the terms of a Confidential Settlement Agreement. Defendant shall provide the PAGA Gross Settlement Amount to the Settlement Administrator pursuant to the timing listed below in Section 3. Upon the Settlement Administrator's receipt of the funds, the Settlement Administrator will then disburse payment pursuant to the timing listed below in Section 3, and according to the terms of this Agreement as follows:

2.1 One check payable to Randy Morrow in the gross amount of Ten Thousand Dollars (\$10,000.00). The Parties intend this amount to represent compensation for Plaintiff as the PAGA representative on behalf of the PAGA Claim Employees and for any other PAGA claims Morrow has or may have against Defendant. The Settlement Administrator will issue an IRS form 1099 to Plaintiff regarding this payment. This is not a material term of this Agreement, and any denial or modification by a Court of this term will not invalidate the rest of this Agreement. Any reduced amounts will be added to the portion of the settlement to be paid to the LWDA and the PAGA Claim Employees under paragraph 2.4 of this Agreement.

2.2 Thirty Three Percent (33%) of the Gross Settlement Amount for attorneys' fees to Plaintiff's counsel, or One Hundred Twenty-One Thousand Eight Hundred Sixty-Four And Five Cents (\$121,864.05) and actual costs of Seven Thousand Three Hundred Eight

Dollars and No Cents (\$7,308.00) for Plaintiff's counsel's costs. The Settlement Administrator shall issue appropriate IRS form 1099s to Plaintiff's counsel. This is not a material term of this Agreement, and any denial or modification by a Court of this term will not invalidate the rest of this Agreement. Any reduced amounts will be added to the portion of the settlement to be paid to the LWDA and the PAGA Claim Employees under paragraph 2.4 of this Agreement.

2.3 Actual administration costs, currently estimated as Ten Thousand Dollars and No Cents (\$10,000.00) shall be paid to the Settlement Administrator, ILYM Group, Inc., from the Gross Settlement Amount, which will cover all costs of distribution, including: (a) reporting payment of the individual settlement payments to all required taxing and other authorities, take appropriate withholdings, and issue IRS Forms 1099; (b) translating, if necessary, any notices provided to the PAGA Claim Employees; (c) establishing a Qualified Settlement Fund ("QSF") for the purpose of administering the Settlement; and (d) all of the costs, fees, and expenses, incurred in performing the above listed functions and those contemplated in Section 3.

2.4 The remaining balance after deducting the amount being paid to Plaintiff, attorneys' fees and costs, and the Settlement Administrator's Fees is estimated to be no less than Two Hundred Twenty Thousand One Hundred and Twelve Dollars And Ninety Five Cents (\$220,112.95) (the "Net Settlement Amount"), which shall be distributed as follows:

a. Seventy Five Percent (75%) of the Net Settlement Amount, or no less than One Hundred Sixty Five Thousand and Eighty Four Dollars And Seventy One Cents (\$165,084.71) shall be paid to the California Labor and Workforce Development Agency ("LWDA") which represents civil penalties payable to the LWDA under the Labor Code Private Attorneys General Act ("PAGA"), Labor code section 2698, *et seq.*

b. Twenty Five Percent (25%) of the Net Settlement Amount, or no less than Fifty Five Thousand and Twenty Eight Dollars And Twenty Four Cents (\$55,028.24) (the "PAGA Claim Employee Amount") shall be paid to the PAGA Claim Employees which represents civil penalties payable to the PAGA Claim Employees as compensation for disputed civil penalties that are allegedly owed on the Representative PAGA Claims for the period from October 8, 2019 to the date of approval of this Agreement by the Court as to all alleged PAGA Claim Employees described in the Lawsuit, which amounts shall be distributed by a Settlement Administrator agreed upon by the Parties pursuant to the formula set out in paragraph 2.5 below.

2.5 The formula for distribution of the amount described in Section 2.4(b) is as follows: Each PAGA Claim Employee shall be allocated a proportionate share of the PAGA Claim Employee Amount based on the Defendant's data regarding the number of Qualifying Wage Statements he/she received while employed as an PAGA Claim Employee during the relevant time period set forth in Section 2.4(b). To perform this function, "Qualifying Wage Statements" are to be identified and tabulated by assigning a value of "1 wage statement" to each wage statement during which the individual was

employed by Defendant in a non-exempt position in California from October 8, 2019 to the date of approval of this Agreement (the "Settlement Period"). After calculating the Qualifying Wage Statements for each individual PAGA Claim Employee, the Settlement Administrator shall then compute the sum total of all Qualifying Wage Statements combined to arrive at an "aggregate total of all Qualifying Wage Statements worked by all PAGA Claim Employees." After calculating the "aggregate total of all Qualifying Wage Statements worked by all PAGA Claim Employees," the amount payable per-wage statement will then be calculated by dividing the amount specified in Section 2.4(b) by the "aggregate total of all Qualifying Wage Statements issued to all PAGA Claim Employees." The amount payable per-wage statement will then be multiplied by the number of Qualifying Wage Statements worked by the individual PAGA Claim Employee. This figure will be known as the "PAGA Claim Employee Settlement Award" (defined herein as "the amount of money allocated to each PAGA Claim Employee").

3. **PAGA Settlement Administration.** The Parties have agreed to selecting ILYM Group, Inc. as the Settlement Administrator to administer the Settlement. All the Settlement Administrator's costs and fees shall be paid from the Gross Settlement Amount.

3.2 Within fifteen (15) business days after the Effective Date (*i.e.*, at least 61 days from entry of judgment, Defendant shall provide to the Settlement Administrator a spreadsheet, in a searchable electronic format, which contains the following for each individual falling within the definition of PAGA Claim Employee for the entire Settlement Period: (i) each PAGA Claim Employee's name, (ii) last known address, (iii) last known telephone number (if available), (iv) social security number, and (v) the number of Wage Statements during the Settlement Period (the "PAGA Claim Employee List"). The PAGA Claim Employee List shall be held as private and confidential information and shall not be shared with Plaintiff's counsel or any third party by the Settlement Administrator without the express written consent of Defendant's counsel of record and/or court order. The Settlement Administrator shall conduct one National Change of Address ("NCOA") search for all PAGA Claim Employees identified on the PAGA Claim Employees List.

3.3 Within fifteen (15) business days after the Effective Date (*i.e.*, at least 61 days from entry of judgment) Defendant shall transfer the Gross Settlement Amount to the Settlement Administrator to affect disbursement of the Gross Settlement Amount.

3.4 Within fourteen (14) calendar days of transfer of the Gross Settlement Amount, the Settlement Administrator shall distribute such funds under the allocation plan set forth in Sections 2.1- 2.5 above. All Settlement checks sent to the PAGA Claim Employees shall be accompanied with a Notice, attached hereto as **Exhibit C**, which shall provide a brief description of the Complaint and this Settlement.

3.5 As the Representative PAGA Claims is not a class action, the Parties agree that California Code of Civil Procedure section 384 shall not be applicable. Any checks uncashed after 6 months will escheat to the LWDA. The Settlement Administrator shall be responsible for administration of all unclaimed funds, including any and all reporting requirements proscribed by California law.

3.6 Within Twenty (20) calendar days of distributing the Gross Settlement Amount and the Settlement Balance, the Settlement Administrator shall provide to the Parties, for filing with the Court by Plaintiff, a declaration verifying, under oath, that the Settlement Administrator has affected disbursement of the Gross Settlement Amount pursuant to the terms of this Agreement.

3.7 All notices, requests, demands and other communications required or permitted to be given pursuant to this Settlement shall be in writing and shall be delivered personally or mailed, postage prepaid, by first-class mail, to counsel of record at their respective addresses.

4. **Court Approval, Dismissal, and Judgment.** Plaintiff's Counsel shall file a motion with the Court to enter the Order Approving Settlement and entering Judgment thereon. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents reasonably necessary to be prepared or filed in order to obtain approval of this Agreement. The Court's approval of this Agreement shall be embodied in a written Order. The Parties shall also jointly request and reserve the Court's continuing jurisdiction over the construction, interpretation, implementation, and enforcement of this Settlement in accordance with its terms, and over the administration and distribution of the settlement proceeds pursuant to California Code of Civil Procedure section 664.6.

4.1 If the Court should for any reason fail to approve this Agreement, then (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.

4.2 Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Material terms of this Agreement include: the definition of PAGA Claim Employees (Recital B); the definition of Effective Date (Section 8); the definition of Settlement Period (Section 2.5); the definition of Released Claims (Section 6); the definition of Released Parties (Section 6); the definition of Gross Settlement Sum (Section 2); the requirement for entry of an order by the Court approving this Agreement and entering PAGA Judgment as contemplated in Section 4. The following terms are not material to this Agreement, meaning the Court can modify the amounts allocated in this Agreement: the allocation of fees and costs to Plaintiff's counsel under Section 2.2; the amount of the Settlement Administration fee (Section 2.3); the amount paid to Plaintiff for his service under section 2.1 .

5. **Taxes.** Morrow understands and acknowledges that Vacasa will not deduct any taxes or other withholdings from the Consideration described in Section 2.1 above and that he is fully responsible for all taxes, if any, to the Internal Revenue Service, California Franchise Tax Board, or other taxing authorities, pertaining to any payments that he received under this Agreement. Morrow will receive an IRS Form 1099 for said sums. Plaintiff and each PAGA Claim Employee bear full responsibility for the payment of any taxes or withholdings arising from the PAGA Claim Employee Settlement Awards or enhancement payments paid to them. Neither Plaintiff's Counsel nor counsel for Defendant intend anything contained herein to constitute advice regarding the taxability of any amount paid hereunder, nor shall it be relied upon as such. The

tax issues for each PAGA Claim Employee are unique, and each PAGA Claim Employee is advised to obtain tax advice from his or her own advisor with respect to any payments resulting from this Settlement.

6. **Release by Plaintiff on Behalf of the LWDA.** Upon the approval by the Court of this Agreement, Plaintiff, individually and as the representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, in this Action, agrees to release Defendant, its parent, subsidiary, and affiliated companies, owners, members, partners, officers, directors, predecessors, successors, assigns, agents, shareholders, investors, insurers and legal representatives (“Released Parties”) for penalties under the California Labor Code Private Attorneys’ General Act (“PAGA”) predicated on the violation of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558(a), 558(c), 1174, 1174.5 1194, 1197, 1197.1, 1198, 2699(a), 2699(f), 2699.3, and 2699.5 and Industrial Welfare Commission Order No. 2001-5 based on the facts as alleged in the Complaint that accrued at any time between October 8, 2019 through the date of approval of this Agreement (“Released Claims”). (The claims waived against unknown future successors and assigns of Defendants consist of the PAGA claims that are waived against Defendants). The express purpose of this Agreement and the Judgment to be entered by the Court following approval of this settlement is to forever bar Plaintiff, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA (including all PAGA Claim Employees) from asserting any of the Released Claims in any future litigation. It is the intent of the Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California or any PAGA Claim Employee to bring a PAGA claim on behalf of the LWDA based on the Released Claims is completely and forever foreclosed. Any Party to this Agreement may use the Agreement to assert that this settlement and the judgment to be entered by the Court following approval by this settlement bars any later-filed action asserting any of the Released Claims against any of the Released Parties at any time between October 8, 2019 to the date of approval of this Agreement.

The PAGA Claim Employees waive any rights provided by California Civil Code Section 1542 as to the PAGA Released Claims only, which states:

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.

7. **Morrow’s Individual Release of Unknown Claims.** For the purpose of implementing a full and complete release and discharge of PAGA claims, Morrow expressly acknowledges that the releases given in the Agreement are intended to include in their effect, without limitation, that with respect to the Released Claims, all PAGA claims that he did not know or suspect at the time of execution hereof, regardless of whether the knowledge of such claims, or the facts upon which they might be based, would materially have affected the settlement of this matter, and that the consideration given under this Agreement is also for the release of those PAGA claims and contemplates the extinguishment of any such claims. In furtherance of this Agreement, Morrow waives any rights provided by California Civil Code Section 1542, which states:

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.

8. **Effective Date.** The “Effective Date” of this Agreement is the date this Agreement is approved as provided herein and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Agreement, “becomes final and is no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Agreement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in a any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Agreement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Agreement is affirmed.

9. **LWDA Notice.** Pursuant to California Labor Code section 2699(l), Plaintiff will provide a copy of this Agreement to the LWDA concurrently with the filing of the motion for settlement approval. Plaintiff will also file a declaration in support of their Motion for Settlement Approval confirming that they have submitted the Agreement to the LWDA in compliance with Labor Code section 2699(l). In addition, Plaintiff shall submit to the LWDA a copy of the Court’s judgment and order approving the Agreement within ten (10) days after entry of the judgment or Order.

10. **Successors.** This Agreement shall be binding upon, and inure to the benefit of, the Parties, and their heirs, representatives, executors, administrators, successors, insurers, and assigns, and shall inure to the benefit of each and all of the Releasees, and to their heirs, representatives, executors, administrators, successors, and assignees.

11. **Breach by Parties.** In addition to any other rights the Parties have or may have under this Agreement, in the event of a breach by either party of any of the terms of this Agreement, the non-breaching Party shall be entitled, if it shall so elect, to institute legal proceedings to obtain damages for any such breach, or to enforce the specific performance of this Agreement by either party and to enjoin the other party from any further violation of this Agreement and to exercise such remedies cumulatively or in conjunction with all other rights and remedies provided by law. The Parties acknowledge, however, that the remedies at law for any breach by either party may be inadequate and that the non-breaching party shall be entitled to injunctive relief against the breaching party in the event of any breach. If the non-breaching party prevails in a proceeding for damages or injunctive relief, the breaching party agrees that the non-breaching party, in addition to other relief, shall be entitled to reasonable attorney fees, costs, and the expenses of litigation incurred by the non-breaching party in securing the relief granted by the Court.

12. **No Attorneys' Fees and Costs.** Except as otherwise set forth in this Agreement, the Parties agree that they shall bear their own respective costs and fees, including attorneys' fees, in connection with the negotiation and execution of this Agreement.

13. **Agreement is Voluntary.** Morrow understands and agrees that he: Has had a reasonable amount of time within which to consider the settlement terms memorialized in this Agreement before agreeing to them;

13.2 Has carefully read and fully understands all of the provisions of this Agreement;

13.3 Is, through this Agreement, releasing any and all PAGA claims he may have against any Releasees;

13.4 Knowingly and voluntarily agrees to all of the terms set forth in this Agreement;

13.5 Knowingly and voluntarily intends to be legally bound by the same; and

13.6 Was represented by and consulted an attorney prior to agreeing to the terms of this Agreement.

14. **No Representations.** The Parties acknowledge that, except as expressly set forth herein, no representation of any kind or character has been made to induce the execution of this Agreement.

15. **Ownership of Claims.** The Parties represent that they have not transferred or assigned, or purported to transfer or assign, to any person or entity, any claim described in this Agreement. The Parties further agree to indemnify and hold harmless one another, and all of their present partners, officers, directors, employees against any and all claims based upon, arising out of, or in any way connected with any such actual transfer or assignment.

16. **Severability.** Should any provision in this Agreement be declared or determined to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby, and the illegal or invalid part, term, or provision shall be deemed not to be part of this Agreement, and all remaining provisions shall remain valid and enforceable.

17. **Integration.** This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements and understandings between the Parties pertaining to the subject matter of this Agreement. Any modifications in this Agreement must be in writing and signed by the Parties.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Furthermore, signatures delivered via facsimile or electronic transmission shall have the same force, validity and effect as the originals thereof.

19. **Interpretation.** This Agreement, and any ambiguities or uncertainties herein, shall be equally and fairly interpreted, and construed, without reference to the identity of the Party drafting this document, upon the express understanding and agreement that the Parties participated equally in the negotiation and preparation of this Agreement, or have had equal

opportunity to do so. Accordingly, the Parties, and each of them, expressly waive the benefits of California Civil Code section 1654, and any successor or amended statute.

20. **Governing Law and Venue.** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California, regardless of the conflicts of laws rules of any individual state. In addition, any action brought to enforce the provisions of this Agreement shall be commenced, prosecuted, and defended exclusively in the Superior Court of the State of California, County of Ventura .

21. **Captions And Headings.** The section headings, captions, and titles used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES THE RELEASE OF ALL KNOWN AND UNKNOWN PAGA CLAIMS.

Dated: 3-25-2022



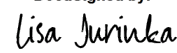
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Randy Morrow

Dated: 30-Mar-2022

Vacasa LLC

DocuSigned by:



8752B9F9B8A7402...

By: Lisa Jurinka

Its: Chief Legal Officer

4884-7800-2186.3 / 082185-1035

eSignature Details

Signer ID:	XoFwhwH1A5y7kKC6uuVkS94x
Signed by:	Randy Morrow
Sent to email:	randymorrow87@gmail.com
IP Address:	174.195.137.75
Signed at:	Mar 25 2022, 9:56 am PDT

Exhibit A

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Attorneys for Plaintiff

RANDY MORROW, individually and
on behalf of all other Aggrieved Employees

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

RANDY MORROW, individually and
on behalf of all other Aggrieved Employees,

Plaintiff,

v.

VACASA, LLC, an Oregon Limited Liability
Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No. 56-2021-00549414-CU-OE-VTA

COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004

[Cal. Lab. Code §§ 2698, et seq.]

Plaintiff RANDY MORROW ("Plaintiff"), individually and on behalf of all other Aggrieved Employees, complains and pleads facts having evidentiary support or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, against defendants VACASA, LLC, an Oregon Limited Liability Company ("Vacasa") and DOES 1 through 50, inclusive, collectively referred to as "Defendants," as follows:

INTRODUCTION

1. This is an action by Plaintiff, a former employee of Defendants, brought solely under the

VENTURA
SUPERIOR COURT
FILED

JAN 04 2021

MICHAEL D. PLANET
Executive Officer and Clerk
BY: _____, Deputy

MARIANA SUAZO

1 Labor Code Private Attorneys General Act ("PAGA," Lab. Code § 2698 et seq.) on behalf of the State of
2 California to enforce the California Labor Code and applicable Industrial Welfare Commission Wage
3 Order(s). Plaintiff brings this PAGA enforcement action individually and on behalf of all other Aggrieved
4 Employees in Defendants' employ throughout the State of California to recover civil penalties, attorney's
5 fees, and costs and expenses pursuant to the PAGA.

6 2. This action results from Defendants' failure to pay Plaintiff and other Aggrieved
7 Employees all minimum wages for all hours of work, failure to pay Plaintiff and other Aggrieved
8 Employees all daily overtime premiums for hours worked in excess of eight (8) in a single workday,
9 failure to pay Plaintiff and other Aggrieved Employees all weekly overtime premiums for hours worked
10 in excess of forty (40) in a single 7-day workweek, failure to pay Plaintiff and other Aggrieved Employees
11 overtime premium pay for hours worked on their seventh consecutive day of work, failure to provide
12 reporting time pay, failure to provide split-shift premium pay, failure to authorize and permit Plaintiff
13 and other Aggrieved Employees to take 10-minute paid rest breaks, failure to provide Plaintiff and other
14 Aggrieved Employees with uninterrupted unpaid 30-minute meal breaks, failure to provide Plaintiff and
15 other Aggrieved Employees with accurate itemized wage statements, failure to keep accurate information
16 with respect to each employee including time records showing when the employee begins and ends each
17 work period, meal periods, split shift intervals, and total daily hours worked, and failure to timely pay all
18 wages due upon separation of employment, all in violation of the California Labor Code and the
19 applicable Industrial Welfare Commission Wage Order(s).

20 3. Under controlling California Supreme Court precedent set forth in *Arias v. Superior Court*
21 (2009) 46 Cal.4th 969 and *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Ca.4th 348,
22 Plaintiff may seek PAGA civil penalties on behalf of the State of California and other Aggrieved
23 Employees without seeking class certification or meeting class certification requirements of California
24 Code of Civil Procedure section 382.

25 JURISDICTION AND VENUE

26 4. This Court has subject matter jurisdiction over this action pursuant to the California
27 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except
28 those given by statutes to other courts. The statutes under which this action is brought do not specify any

1 other basis for jurisdiction. The amount in controversy, exclusive of interest, exceeds \$25,000. (Cal.
2 Const. art. VI, § 10.) Civil penalties sought by Plaintiff exceed \$25,000, triggering the unlimited
3 jurisdiction of this Court.

4 5. This Court has personal jurisdiction over Defendants because, upon information and belief
5 Defendants are citizens of California, have sufficient minimum contacts in California or otherwise
6 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over
7 them by the California courts consistent with traditional notions of fair play and substantial justice.

8 6. Venue as to each defendant is proper in this judicial district under California Code of Civil
9 Procedure sections 395(a) and 395.5. All Defendants reside in, maintain an office, transact business, have
10 an agent, and/or are found in the County of Ventura, State of California. The subject matter of this
11 litigation and some or all of the alleged facts, conduct, and statutory violations alleged occurred or
12 otherwise transpired in Ventura County, California. Additionally, the trade, commerce, business
13 practices, and employment described herein are carried on, in part, within Ventura County, California.

14 **THE PARTIES**

15 **PLAINTIFF**

16 7. Plaintiff RANDY MORROW ("Plaintiff") is an adult who was employed in Ventura
17 County, California, by Defendants from August 22, 2019, until Defendants involuntarily terminated
18 Plaintiff's employment on July 23, 2020. Plaintiff is a resident of Ventura County. At the time of his
19 termination, Plaintiff was employed by Defendants in Ventura County as a housekeeper and/or property
20 caretaker. Plaintiff is an "employee" as defined by the California Labor Code, the California Industrial
21 Welfare Commission's ("IWC") orders regulating wages, hours, and working conditions.

22 **DEFENDANTS**

23 8. Defendant VACASA, LLC ("Vacasa") is an Oregon Limited Liability Company doing
24 business in California. At all times referenced herein, Vacasa is and was a "person" as defined by
25 California Labor Code section 18. At all times referenced herein, Vacasa is and was an "employer" as
26 defined by the California Labor Code, the California Industrial Welfare Commission's ("IWC") orders
27 regulating wages, hours, and working conditions.

28 **CO-CONSPIRATORS AND JOINT EMPLOYERS**

1 9. Various persons, individuals, partnerships, and associations, not named as defendants in
2 this Complaint, have participated as co-conspirators and/or joint employers in the violations alleged
3 herein and have performed acts and made statements in furtherance thereof.

4 **DOE DEFENDANTS**

5 10. In addition to Defendant VACASA, LLC, Plaintiff sues fictitiously Does 1 through 50,
6 inclusive, because their names, capacities, status, or facts showing them to be liable are not presently
7 known. Plaintiff will amend this Complaint to show their true names and capacities, with appropriate
8 charging language, when such information has been ascertained. Plaintiff is informed and believes and
9 thereon alleges that each of the Doe defendants is responsible in some manner for the occurrences
10 alleged and that Plaintiff's damages as alleged are proximately caused by such occurrences. Plaintiff is
11 informed and believes, and thereon alleges, that one or more of the fictitiously named Doe defendants
12 is natural person who is an owner, director, officer, or managing agent of Defendant VACASA, LLC
13 who at all times relevant was acting on behalf of Defendant VACASA, LLC, and who violated, or caused
14 to be violated, provisions regulating minimum wages or hours and days of work and orders of the
15 Industrial Welfare Commission, and violated, or caused to be violated, Labor Code §§ 203, 226, 226.7,
16 1193.6, 1194, or 2802, as alleged herein, and therefore personally liable as an employer under Labor
17 Code § 558.1.

18 **AGENCY, JOINT VENTURE, ALTER EGO**

19 11. At all pertinent times mentioned in the causes of action into which this paragraph is
20 incorporated by reference, on information and belief, each and every defendant was the principal, partner,
21 agent, servant, employee, joint employer, co-conspirator and/or alter ego of the remaining defendants. In
22 doing the things alleged in the causes of action into which this paragraph is incorporated by reference,
23 each and every defendant was acting within the course and scope of this agency, partnership, servant,
24 employment, joint employment, conspiracy and/or alter ego and was acting with the consent, permission,
25 knowledge and/or authorization of the remaining defendants. All actions of each and every defendant
26 alleged in the causes of action into which this paragraph is incorporated by reference were ratified and
27 approved by the officers or managing agents of the remaining defendants.

28 ///

DEFINITIONS

12. “Aggrieved Employees” means Plaintiff and all current and former Non-Exempt Employees employed by Defendant in California during the PAGA Claims Period.

13. “PAGA Claims Period” means from October 8, 2019 continuing through the conclusion of trial on all issues presented.

14. “Defendants” means singularly and collectively defendants VACASA, LLC, an Oregon Limited Liability Company (“Vacasa”) and DOES 1 through 50, inclusive.

15. “Non-Exempt Employees” means employees who are paid by Defendants on an hourly basis and not exempt from overtime premium pay, unpaid meal period, and paid rest period requirements under the applicable Industrial Welfare Commission Wage Order(s).

SUMMARY OF RELEVANT FACTS

16. Defendants are in the business of providing cleaning, repair, management, and other professional management services for California real property advertised and leased or rented as short-term vacation rentals.

22. At all relevant times mentioned herein, Defendants employed Plaintiff and other workers as Non-Exempt Employees in California. Defendants informed Plaintiff and other Aggrieved Employees their job duties include, among other duties, frequent “traveling between worksites” with “their own reliable transportation,” “[a]vailability to work Sunday through Saturday, early mornings and evenings as needed,” and required them to remain continuously “on-call” nearly every calendar day between 7:00 a.m. and 7:00 p.m. without compensation to “respond to a page or call within 20 minutes of receipt,” which barred Plaintiff and other Aggrieved Employees from traveling beyond strictly limited geographic distances from Defendants’ vacation homes to engage in personal activities during the “on-call” period. Defendants required Plaintiff and other Aggrieved Employees to continuously monitor “their pager, cell phone, and laptop” during on-call hours, without compensation, to receive dispatches and respond within 20 minutes. Defendants placed Plaintiff and other Aggrieved Employees on controlled standby because workers did not have a choice to be unavailable to respond to a request by Defendants to travel to and report to a work assignment.

23. Plaintiff was employed by Defendants as beginning August 22, 2019, earning an hourly

1 wage of \$20.00, until his involuntary termination on July 23, 2020. Plaintiff was classified as a Non-
2 Exempt Employee. Plaintiff's geographic work assignment was Oxnard, Ventura, and Malibu, California.
3 Plaintiff, like other Aggrieved Employees, was required to remain within 20 minutes' travel distance of
4 his geographic work assignment on nearly every calendar day from 8:00 a.m. to 8:00 p.m., while
5 continuously monitoring his "pager, cell phone, and laptop," frequently with no compensation. These
6 restrictions were primarily for the benefit of the employer and are primarily directed toward the
7 fulfillment of the employer's requirements and policies. At all relevant times, Defendants made it
8 unreasonably difficult and impossible for Plaintiff and Aggrieved Employees to trade on-call
9 responsibilities with other employees. Defendants designate "all-hands days" throughout the year where
10 all company employees must, without compensation continuously monitor their pagers, cell phones, and
11 laptops for emails, text messages, and other messages and remain nearly constantly available to travel to
12 and report to an assignment. Defendants have a policy and practice of disciplining and discharging
13 workers, like Plaintiff and other Aggrieved Employees, who do not continuously monitor their pagers,
14 cell phones, and laptops for emails, text messages, and other messages and remain nearly constantly
15 available to travel to and report to an assignment, all without compensation and without the ability to
16 reject assignments.

17 24. Plaintiff and Aggrieved Employees were paid every two weeks (i.e., 26 pay periods per
18 calendar year).

19 25. Defendants continue to employ Non-Exempt Employees within California.

20 26. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
21 Defendants were advised by skilled employment lawyers, employees and other professionals who were
22 knowledgeable about California's wage and hour laws, employment and personnel practices and the
23 requirements of California law.

24 27. **Failure to Pay Minimum Wages (Lab. Code § 510; IWC Wage Order MW).** Plaintiff
25 is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff
26 and other Aggrieved Employees were entitled to receive at least minimum wages and that they were not
27 receiving at least minimum wages for all hours worked. This failure to pay for all time worked included
28 failure to pay for time rounded to Defendants' advantage, failure to pay for mandatory "on-call" hours

1 nearly every from 8:00 a.m. to 8:00 p.m. under terms severely restricting Plaintiff's and other Aggrieved
2 Employees' travel beyond limited geographic distances beyond designated locales preventing these
3 workers from engaging in personal activities during the "on-call" period, time spent by Plaintiff and other
4 Aggrieved Employees continuously monitoring "their pager, cell phone, and laptop" during daily "on-
5 call" hours, and other uncompensated work hours and tasks performed for the benefit of Defendants.

6 28. **Failure to Pay Overtime Wages (Lab. Code §§ 510, 551-552, 1198).** Plaintiff is
7 informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff
8 and other Aggrieved Employees were entitled to receive wages at one and one-half times their regular
9 rate of pay for overtime hours worked. In violation of Labor Code §§ 510, 551, 552 and 1198 and the
10 applicable IWC Wage Order(s), Defendants caused Plaintiff and other Aggrieved Employees to work
11 shifts of more than eight (8) hours per day and/or more than 40 hours per week and/or more than six days
12 in seven, but failed to pay Plaintiff and other Aggrieved Employees proper overtime premium wages.
13 Accordingly, Plaintiff and other Aggrieved Employees are owed unpaid overtime compensation.

14 29. **Failure to Pay Reporting Time Wages (IWC Wage Orders 1-15, § 5).** Plaintiff is
15 informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff
16 and other Aggrieved Employees were entitled to receive reporting time pay, which is a form of wages
17 that compensate employees who are scheduled to report to work but who are not put to work or furnished
18 with less than half of their usual or scheduled day's work because of inadequate scheduling or lack of
19 proper notice by the employer. Under the applicable IWC Wage Order(s), each workday an employee is
20 required to report to work, but is not put to work or is furnished with less than half of his usual or
21 scheduled day's work, he must be paid for half the usual or scheduled day's work, but in no event for less
22 than two hours nor more than four hours, at his regular rate of pay. If an employee is required to report
23 to work a second time in any one workday and is furnished less than two hours of work on the second
24 reporting, he must be paid for two hours at his or her regular rate of pay. Reporting time pay applies to
25 telephone calls to confirm scheduled shifts. *Ward v. Tilly's Inc.* (2019) 31 Cal.App.5th 1167. In violation
26 of applicable IWC Wage Order(s), Defendants caused Plaintiff and other Aggrieved Employees to report
27 to work for less than half of their usual or scheduled day's work and/or report to work a second time in
28 any one workday and is furnished less than two hours of work on the second reporting, but failed to pay

1 Plaintiff and other Aggrieved Employees proper reporting time pay wages. Accordingly, Plaintiff and
2 other Aggrieved Employees are owed unpaid reporting time pay.

3 30. **Failure to Pay Split Shift Premiums (IWC Wage Orders 1-15, § 4).** Plaintiff is
4 informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff
5 and other Aggrieved Employees were entitled to receive split-shift premium pay. A split shift is a work
6 schedule that is interrupted by non-paid and non-working time periods established by the employer where
7 time period between shifts is longer than a bona fide meal period within the same workday and is for the
8 benefit of the employer. Defendants caused Plaintiff and other Aggrieved Employees to report to split
9 shifts but failed to pay Plaintiff and other Aggrieved Employees split shift premium pay of one hour at
10 the state minimum wage. Accordingly, Plaintiff and other Aggrieved Employees are owed split shift
11 premium pay.

12 31. **Failure to Provide Duty-Free 30-Minute Meal Periods (Lab. Code §§ 226.7, 512).**
13 Defendants had a policy and practice of failing to provide lawful duty-free thirty-minute meal periods
14 due to Plaintiff and other Aggrieved Employees during shifts in which these Non-Exempt Employees
15 work(ed) in periods in excess of five (5) hours and in excess of ten (10) hours, and Defendants failed to
16 provide compensation in lieu thereof. By failing to provide lawful meal periods on the days non-exempt
17 employees were entitled to them and failing to compensate said employees one hour's wages in lieu of
18 meal periods, Defendants violated the provisions of Labor Code §§ 226.7 and 512 and the applicable
19 IWC Wage Order(s).

20 32. **Failure to Authorize or Permit 10-Minute Rest Periods (Lab. Code § 226.7).**
21 Defendants did not permit or authorize Plaintiff and other Aggrieved Employees to take net 10-minute
22 paid rest periods for every four hours worked or major fraction thereof, and Defendants failed to provide
23 compensation in lieu thereof. By their failure to provide paid rest periods for every four (4) hours or
24 major fraction thereof worked per day by Non-Exempt Employees, and failing to provide compensation
25 for such unprovided rest periods, as alleged above, Defendants violated the provisions of Labor Code
26 section 226.7 and applicable IWC Wage Order(s).

27 33. **Failure to Provide Itemized Wage Statements (Lab. Code § 226).** Plaintiff is informed
28 and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other

1 Aggrieved Employees were entitled to receive itemized wage statements that accurately showed the legal
2 name of their employer and their employer's address, their gross and net wages earned, total hours worked
3 and all applicable hourly rates in effect and the number of hours worked at each hourly rate in accordance
4 with California law. In violation of Labor Code § 226, Defendants did not provide Plaintiff and other
5 Aggrieved Employees with accurate itemized wage statements. Defendants failed or refused to provide
6 adequate timekeeping, time, and payroll records to Plaintiff and other Aggrieved Employees allowing
7 them to readily identify any uncompensated or overtime hours of work earned but unpaid, reporting time
8 pay, split shift premium pay, unpaid 30-minute meal periods worked, denied 10-minute paid rest periods,
9 and payment of applicable meal and rest break penalties. As but one example, from January 3, 2020,
10 through the end of his employment and final paycheck dated July 27, 2020, Defendants failed to provide
11 Plaintiff with itemized wage statements accurately showing total hours worked and all applicable hourly
12 rates in effect and the number of hours worked at each hourly rate. Plaintiff is informed and believes, and
13 thereon alleges, that Defendants, at all relevant times, similarly fail(ed) to provide other Aggrieved
14 Employees with itemized wage statements accurately showing total hours worked and all applicable
15 hourly rates in effect and the number of hours worked at each hourly rate, and this is a continuing
16 violation.

17 34. **Failure to Timely Pay Terminal Pay (Lab. Code §§ 201-203).** Plaintiff is informed and
18 believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other
19 aggrieved former employees were entitled to timely payment of wages due upon separation of
20 employment. In violation of Labor Code §§ 201, 202 and 203, Plaintiff and other aggrieved former
21 employees did not receive payment of all wages including, but not limited to, unpaid overtime
22 compensation, either at the time of discharge or within seventy- two (72) hours of their leaving
23 Defendant's employ.

24 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
25 have known they had a duty to compensate Plaintiff and other Aggrieved Employees, and Defendants
26 had the financial ability to pay such compensation but willfully, knowingly, and intentionally failed to
27 do so all in order to increase Defendants' profits.

28 ///

CLAIM FOR RELIEF

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT

Labor Code §§ 2699 et seq.

(By Plaintiff on Behalf of the State of California Against All Defendants)

36. Plaintiff realleges and incorporates by this reference all of the preceding paragraphs set forth in this Complaint as though fully set forth in this claim for relief.

37. Under Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies or employees for violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3. *Baumann v. Chase Inv. Services Corp.* (2014) C.A.9 (Cal.) 2014, 747 F.3d 1117, certiorari denied.

38. For all provisions of the Labor Code except those for which a civil penalty is specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay period in which Defendants violated these provisions of the Labor Code.

39. As alleged herein, Defendant's employment actions, policies, practices violate numerous California Labor Code provisions and applicable IWC Wage Order(s) including, without limitation:

a. Labor Code §§ 1194, 1197, 1197.1, and 1198 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all minimum wages due;

b. Labor Code §§ 510, 1194 and 1198 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all daily, weekly, and 7th consecutive workday overtime premium pay;

c. Labor Code §§ 226.7 and 512 for Defendants' failure to provide to Plaintiff and other Aggrieved Employees legally required 30-minute unpaid meal periods or compensation in lieu thereof;

d. Violation of Labor Code § 226.7 for Defendants' failure to provide to Plaintiff and other Aggrieved Employees legally required 10-minute paid rest periods or compensation in lieu thereof;

e. Violation of Labor Code §§ 226 and 226.3 for failure to provide to Plaintiff and other Aggrieved Employees accurate itemized wage statements;

f. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate records;

g. Violation of Labor Code §§ 201, 202, 203, 204, and 210 for failure to timely pay all earned wages owed to Plaintiff and other Aggrieved Employees during employment and upon separation of employment;

h. IWC Wage Order No. 2001-5 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all reporting time pay;

i. IWC Wage Order No. 2001-5 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all split shift premium pay

40. Labor Code § 558(a) provides "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 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any 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; (3) Wages recovered pursuant to this section shall be paid to the affected employee." Labor Code § 558(c) provides "the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Plaintiff seeks to recover these penalties (including the unpaid wages) pursuant to and to the extent allowed by the PAGA.

41. Plaintiff is an "aggrieved employee" within the meaning of the PAGA because he was employed by the alleged violator(s) and had one or more of the alleged violations committed against him, and therefore is properly suited to represent the interests of all other Aggrieved Employees.

42. Plaintiff has exhausted the administrative and procedural requirements under Labor Code § 2699.3 and is therefore able to pursue a claim for penalties on behalf of himself and all other Aggrieved Employees under PAGA.

43. Pursuant to Labor Code §§ 2699(a) and (f), 2699.3 and 2699.5, Plaintiff and all other Aggrieved Employees are entitled to recover civil penalties against Defendants for violations of the above-cited sections of the Labor Code.

44. The California Supreme Court has held that a representative action does not need to meet the class certification requirements because it is strictly a state enforcement action. *Arias v. Superior Court* (2009) 46 Cal.4th 969, 970-75.

45. Defendant's conduct, as alleged herein, has been and continues to be unfair, unlawful and harmful to Plaintiff and the general public. Plaintiff therefore seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

46. Plaintiff has exhausted administrative remedies under Labor Code § 2699.3 by giving written notice on October 8, 2020, by online filing with the Labor and Workforce Development Agency (LWDA), accompanied by a \$75 filing fee, and by certified mail (# 7019 2280 0000 4047 1940) to Vacasa of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violation. To date, the LWDA has given no notice of any intention to investigate the alleged violations.

WHEREFORE, Plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

Plaintiff, on behalf of the State of California, to benefit the Aggrieved Employees and to enforce important statutory and regulatory rights affecting the public interest, prays for relief as follows:

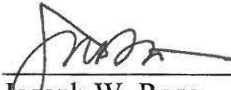
1. For civil penalties against Defendants to benefit Plaintiff and Aggrieved Employees pursuant to Labor Code § 2698, *et seq.*;
2. For reasonable attorney's fees and costs of suit to the extent permitted by law, including pursuant to Code of Civil Procedure § 1021.5, Labor Code §§ 2698, *et seq.*, and 2699(g)(1);
3. For prejudgment interest on liquidated sums and post-judgment interest accruing at a rate of 10 percent per annum on the principal amount; and

1 4. For such other relief as the Court deems just and proper.

2 Dated: December 28, 2020

ROSE LAW, APC

3
4 By:



Joseph W. Rose
Attorneys for Plaintiff,
RANDY MORROW, individually and
on behalf of all other Aggrieved Employees

ROSE LAW, APC
11335 GOLD EXPRESS DRIVE, SUITE 135
GOLD RIVER, CALIFORNIA 95670

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: [Joe Rose](#)
Subject: Thank you for submission of your PAGA Case.
Date: Thursday, October 8, 2020 5:47:16 PM

10/8/2020

LWDA Case No. LWDA-CM-809120-20
Law Firm : Rose Law APC
Plaintiff Name : Randy Morrow
Employer: Vacasa, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to 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



11335 Gold Express Drive, Suite 135
Gold River, California 95670
tel 916.273.1260
fax 916.290.0148
<https://joeroselaw.com>

Joseph W. Rose
Attorney at Law
joe@joeroselaw.com

Filed online with LWDA pursuant to Labor Code § 2699.5(1)(A)

October 08, 2020

PAGA Administrator
Labor and Workforce Development Agency
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: **LABOR CODE PRIVATE ATTORNEYS' GENERAL ACT CLAIM NOTICE**

Aggrieved Employee:	Randy Morrow
Employers:	Vacasa, LLC, an Oregon Limited Liability Company

Dear Labor Commissioner:

We represent Mr. Randy Morrow. We will be filing a representative action complaint on Mr. Morrow's behalf and on behalf of all other aggrieved employees. Attached is a draft complaint containing a recitation of the facts and theories we believe justify an action under the Labor Code Private Attorney General Act ("PAGA") for numerous Labor Code violations as described below. We are providing you and the following employer notice via electronic online filing and certified mail, respectively, pursuant to Labor Code section 2699.3.

Lisa Jurinka
Chief Legal Officer
Vacasa Real Estate Corp.
P.O. Box 10130
Portland, OR 97296
Lisa.Jurinka@vacasa.com

Via Certified Mail: 9590 9402 4621 8323 5123 26

Please notify us of your intent to investigate any or all of the claims alleged therein. Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Mr. Morrow, and all other similarly situated employees, pursuant to Labor Code section 2699.

October 9, 2020

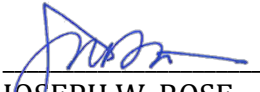
Page 2

Specifically, the aggrieved PAGA class of employees would include all individuals who are currently performing or have formerly performed any work in California for Vacasa, LLC as non-exempt workers, whether classified as employees or independent contractors at any point, who were paid on an hourly basis, within one year prior to the mailing of this notice, up to and including the conclusion of trial on all issues presented.

We look forward to hearing from you within 65 days. Thank you.

Sincerely,

ROSE LAW, APC

By: 
JOSEPH W. ROSE
Attorney at Law

Cc: Randy Morrow

PROOF OF SERVICE

I, Joseph W. Rose, declare as follows:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen and not a party to the within action; my business address is 11335 Gold Express Drive, Suite 135, Gold River, CA 95670, in said County and State. I am employed in the office of Joseph W. Rose, a member of the bar of this court, and that the foregoing document(s) was(were) printed on recycled paper. On October 8, 2020, I served the following documents:

Randy Morrow v. Vacasa, LLC

Labor Code Private Attorneys' General Act Claim Notice

on the parties state below, by the following means of service:

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

BY ELECTRONIC FILING

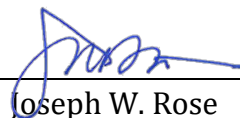
Lisa Jurinka
Chief Legal Officer
Vacasa Real Estate Corp.
P.O. Box 10130
Portland, OR 97296
Lisa.Jurinka@vacasa.com

BY CERTIFIED MAIL
9590 9402 4621 8323 5123 26

☒ **BY UNITED STATES MAIL [CERTIFIED]:** I placed a true copy in a sealed envelope or package addressed to the persons as indicated above, on the above-mentioned date, and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited with the U.S. Postal Service in the ordinary course of business in a sealed envelope with postage fully prepaid. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing set forth in this declaration. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Gold River, California.

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

Executed on October 8, 2020



Joseph W. Rose

Joseph W. Rose, Bar No. 232261
joe@joeroselaw.com
Mehran Tahoori, Bar No. 283313
mehran@joeroselaw.com
ROSE LAW, APC
11335 Gold Express Drive, Suite 135
Gold River, California 95670
Telephone: (916) 273-1260
Facsimile: (916) 290-0148

Michael E. Velarde, Bar No. 266272
mvelarde@michaelvelardelaw.com
VELARDE & VELARDE
19200 Von Karman Ave., Suite 400
Irvine, California 92612
Telephone: (949) 492-4241
Facsimile: (949) 606-7168

Attorneys for Plaintiff

RANDY MORROW, individually and
on behalf of all other Aggrieved Employees

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA**

RANDY MORROW, individually and
on behalf of all other Aggrieved Employees,

Plaintiff,

v.

VACASA, LLC, an Oregon Limited Liability
Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No.

COMPLAINT FOR VIOLATION OF
THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT OF 2004

[Cal. Lab. Code §§ 2698, et seq.]

Plaintiff RANDY MORROW ("Plaintiff"), individually and on behalf of all other Aggrieved Employees, complains and pleads facts having evidentiary support or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery, against defendants VACASA, LLC, an Oregon Limited Liability Company ("Vacasa") and DOES 1 through 50, inclusive, collectively referred to as "Defendants," as follows:

///

INTRODUCTION

1
2 1. This is an action by Plaintiff, a former employee of Defendants, brought solely under the
3 Labor Code Private Attorneys General Act ("PAGA," Lab. Code § 2698 et seq.) on behalf of the State of
4 California to enforce the California Labor Code and applicable Industrial Welfare Commission Wage
5 Order(s). Plaintiff brings this PAGA enforcement action individually and on behalf of all other Aggrieved
6 Employees in Defendants' employ throughout the State of California to recover civil penalties, attorney's
7 fees, and costs and expenses pursuant to the PAGA.

8 2. This action results from Defendants' failure to pay Plaintiff and other Aggrieved
9 Employees all minimum wages for all hours of work, failure to pay Plaintiff and other Aggrieved
10 Employees all daily overtime premiums for hours worked in excess of eight (8) in a single workday,
11 failure to pay Plaintiff and other Aggrieved Employees all weekly overtime premiums for hours worked
12 in excess of forty (40) in a single 7-day workweek, failure to pay Plaintiff and other Aggrieved Employees
13 overtime premium pay for hours worked on their seventh consecutive day of work, failure to provide
14 reporting time pay, failure to provide split-shift premium pay, failure to authorize and permit Plaintiff
15 and other Aggrieved Employees to take 10-minute paid rest breaks, failure to provide Plaintiff and other
16 Aggrieved Employees with uninterrupted unpaid 30-minute meal breaks, failure to provide Plaintiff and
17 other Aggrieved Employees with accurate itemized wage statements, failure to keep accurate information
18 with respect to each employee including time records showing when the employee begins and ends each
19 work period, meal periods, split shift intervals, and total daily hours worked, and failure to timely pay all
20 wages due upon separation of employment, all in violation of the California Labor Code and the
21 applicable Industrial Welfare Commission Wage Order(s).

22 3. Under controlling California Supreme Court precedent set forth in *Arias v. Superior Court*
23 (2009) 46 Cal.4th 969 and *Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Ca.4th 348,
24 Plaintiff may seek PAGA civil penalties on behalf of the State of California and other Aggrieved
25 Employees without seeking class certification or meeting class certification requirements of California
26 Code of Civil Procedure section 382.

27 ///

28 ///

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction. The amount in controversy, exclusive of interest, exceeds \$25,000. (Cal. Const. art. VI, § 10.) Civil penalties sought by Plaintiff exceed \$25,000, triggering the unlimited jurisdiction of this Court.

5. This Court has personal jurisdiction over Defendants because, upon information and belief Defendants are citizens of California, have sufficient minimum contacts in California or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

6. Venue as to each defendant is proper in this judicial district under California Code of Civil Procedure sections 395(a) and 395.5. All Defendants reside in, maintain an office, transact business, have an agent, and/or are found in the County of Ventura, State of California. The subject matter of this litigation and some or all of the alleged facts, conduct, and statutory violations alleged occurred or otherwise transpired in Ventura County, California. Additionally, the trade, commerce, business practices, and employment described herein are carried on, in part, within Ventura County, California.

THE PARTIES

PLAINTIFF

7. Plaintiff RANDY MORROW ("Plaintiff") is an adult who was employed in Ventura County, California, by Defendants from August 22, 2019, until Defendants involuntarily terminated Plaintiff's employment on July 23, 2020. Plaintiff is a resident of Ventura County. At the time of his termination, Plaintiff was employed by Defendants in Ventura County as a housekeeper and/or property caretaker. Plaintiff is an "employee" as defined by the California Labor Code, the California Industrial Welfare Commission's ("IWC") orders regulating wages, hours, and working conditions.

DEFENDANTS

8. Defendant VACASA, LLC ("Vacasa") is an Oregon Limited Liability Company doing business in California. At all times referenced herein, Vacasa is and was a "person" as defined by

California Labor Code section 18. At all times referenced herein, Vacasa is and was an “employer” as defined by the California Labor Code, the California Industrial Welfare Commission’s (“IWC”) orders regulating wages, hours, and working conditions.

///

CO-CONSPIRATORS AND JOINT EMPLOYERS

9. Various persons, individuals, partnerships, and associations, not named as defendants in this Complaint, have participated as co-conspirators and/or joint employers in the violations alleged herein and have performed acts and made statements in furtherance thereof.

DOE DEFENDANTS

10. In addition to Defendants VIP and Dr. Diaz, Plaintiff sues fictitiously Does 1 through 50, inclusive, because their names, capacities, status, or facts showing them to be liable are not presently known. Plaintiff will amend this Complaint to show their true names and capacities, with appropriate charging language, when such information has been ascertained. Plaintiff is informed and believes and thereupon alleges that each of the Doe defendants is responsible in some manner for the occurrences alleged and that Plaintiff’s damages as alleged are proximately caused by such occurrences.

AGENCY, JOINT VENTURE, ALTER EGO

11. At all pertinent times mentioned in the causes of action into which this paragraph is incorporated by reference, on information and belief, each and every defendant was the principal, partner, agent, servant, employee, joint employer, co-conspirator and/or alter ego of the remaining defendants. In doing the things alleged in the causes of action into which this paragraph is incorporated by reference, each and every defendant was acting within the course and scope of this agency, partnership, servant, employment, joint employment, conspiracy and/or alter ego and was acting with the consent, permission, knowledge and/or authorization of the remaining defendants. All actions of each and every defendant alleged in the causes of action into which this paragraph is incorporated by reference were ratified and approved by the officers or managing agents of the remaining defendants.

DEFINITIONS

12. “Aggrieved Employees” means Plaintiff and all current and former Non-Exempt Employees employed by Defendant in California during the PAGA Claims Period.

1 13. “PAGA Claims Period” means from October 8, 2019 continuing through the conclusion
2 of trial on all issues presented.

3 14. “Defendants” means singularly and collectively defendants VACASA, LLC, an Oregon
4 Limited Liability Company (“Vacasa”) and DOES 1 through 50, inclusive.

5 15. “Non-Exempt Employees” means employees who are paid by Defendants on an hourly
6 basis and not exempt from overtime premium pay, unpaid meal period, and paid rest period requirements
7 under the applicable Industrial Welfare Commission Wage Order(s).

8 **SUMMARY OF RELEVANT FACTS**

9 16. Defendants are in the business of providing cleaning, repair, management, and other
10 professional management services for California real property advertised and leased or rented as short-
11 term vacation rentals.

12 22. At all relevant times mentioned herein, Defendants employed Plaintiff and other workers
13 as Non-Exempt Employees in California. Defendants informed Plaintiff and other Aggrieved Employees
14 their job duties include, among other duties, frequent “traveling between worksites” with “their own
15 reliable transportation,” “[a]vailability to work Sunday through Saturday, early mornings and evenings
16 as needed,” and required them to remain continuously “on-call” nearly every calendar day between 7:00
17 a.m. and 7:00 p.m. without compensation to “respond to a page or call within 20 minutes of receipt,”
18 which barred Plaintiff and other Aggrieved Employees from traveling beyond strictly limited geographic
19 distances from Defendants’ vacation homes to engage in personal activities during the “on-call” period.
20 Defendants required Plaintiff and other Aggrieved Employees to continuously monitor “their pager, cell
21 phone, and laptop” during on-call hours, without compensation, to receive dispatches and respond within
22 20 minutes.

23 23. Plaintiff was employed by Defendants as beginning August 22, 2019, earning an hourly
24 wage of \$20.00, until his involuntary termination on July 23, 2020. Plaintiff was classified as a Non-
25 Exempt Employee. Plaintiff’s geographic work assignment was Oxnard, Ventura, and Malibu, California.
26 Plaintiff, like other Aggrieved Employees, was required to remain within 20 minutes’ travel distance of
27 his geographic work assignment on nearly every calendar day from 8:00 a.m. to 8:00 p.m., while
28 continuously monitoring his “pager, cell phone, and laptop,” frequently with no compensation.

1 24. Plaintiff and Aggrieved Employees were paid every two weeks (i.e., 26 pay periods per
2 calendar year).

3 25. Defendants continue to employ Non-Exempt Employees within California.

4 26. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned,
5 Defendants were advised by skilled employment lawyers, employees and other professionals who were
6 knowledgeable about California's wage and hour laws, employment and personnel practices and the
7 requirements of California law.

8 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
9 have known that Plaintiff and other Aggrieved Employees were entitled to receive at least minimum
10 wages and that they were not receiving at least minimum wages for all hours worked. This failure to pay
11 for all time worked included failure to pay for time rounded to Defendants' advantage, failure to pay for
12 mandatory "on-call" hours nearly every from 8:00 a.m. to 8:00 p.m. under terms severely restricting
13 Plaintiff's and other Aggrieved Employees' travel beyond limited geographic distances beyond
14 designated locales preventing these workers from engaging in personal activities during the "on-call"
15 period, time spent by Plaintiff and other Aggrieved Employees continuously monitoring "their pager, cell
16 phone, and laptop" during daily "on-call" hours, and other uncompensated work hours and tasks
17 performed for the benefit of Defendants.

18 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
19 have known that Plaintiff and other Aggrieved Employees were entitled to receive wages at one and one-
20 half times their regular rate of pay for overtime hours worked. In violation of Labor Code §§ 510, 551,
21 552 and 1198 and the applicable IWC Wage Order(s), Defendants caused Plaintiff and other Aggrieved
22 Employees to work shifts of more than eight (8) hours per day and/or more than 40 hours per week and/or
23 more than six days in seven, but failed to pay Plaintiff and other Aggrieved Employees proper overtime
24 premium wages. Accordingly, Plaintiff and other Aggrieved Employees are owed unpaid overtime
25 compensation.

26 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should
27 have known that Plaintiff and other Aggrieved Employees were entitled to receive reporting time pay,
28 which is a form of wages that compensate employees who are scheduled to report to work but who are

not put to work or furnished with less than half of their usual or scheduled day's work because of inadequate scheduling or lack of proper notice by the employer. Under the applicable IWC Wage Order(s), each workday an employee is required to report to work, but is not put to work or is furnished with less than half of his usual or scheduled day's work, he must be paid for half the usual or scheduled day's work, but in no event for less than two hours nor more than four hours, at his regular rate of pay. If an employee is required to report to work a second time in any one workday and is furnished less than two hours of work on the second reporting, he must be paid for two hours at his or her regular rate of pay. Reporting time pay applies to telephone calls to confirm scheduled shifts. *Ward v. Tilly's Inc.* (2019) 31 Cal.App.5th 1167. In violation of applicable IWC Wage Order(s), Defendants caused Plaintiff and other Aggrieved Employees to report to work for less than half of their usual or scheduled day's work and/or report to work a second time in any one workday and is furnished less than two hours of work on the second reporting, but failed to pay Plaintiff and other Aggrieved Employees proper reporting time pay wages. Accordingly, Plaintiff and other Aggrieved Employees are owed unpaid reporting time pay.

30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other Aggrieved Employees were entitled to receive split-shift premium pay. A split shift is a work schedule that is interrupted by non-paid and non-working time periods established by the employer where time period between shifts is longer than a bona fide meal period within the same workday and is for the benefit of the employer. Defendants caused Plaintiff and other Aggrieved Employees to report to split shifts but failed to pay Plaintiff and other Aggrieved Employees split shift premium pay of one hour at the state minimum wage. Accordingly, Plaintiff and other Aggrieved Employees are owed split shift premium pay.

31. Defendants had a policy and practice of failing to provide lawful duty-free thirty-minute meal periods due to Plaintiff and other Aggrieved Employees during shifts in which these Non-Exempt Employees work(ed) in periods in excess of five (5) hours and in excess of ten (10) hours, and Defendants failed to provide compensation in lieu thereof. By failing to provide lawful meal periods on the days non-exempt employees were entitled to them and failing to compensate said employees one hour's wages in lieu of meal periods, Defendants violated the provisions of Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order(s).

32. Defendants did not permit or authorize Plaintiff and other Aggrieved Employees to take net 10-minute paid rest periods for every four hours worked or major fraction thereof, and Defendants failed to provide compensation in lieu thereof. By their failure to provide paid rest periods for every four (4) hours or major fraction thereof worked per day by Non-Exempt Employees, and failing to provide compensation for such unprovided rest periods, as alleged above, Defendants violated the provisions of Labor Code section 226.7 and applicable IWC Wage Order(s).

33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other Aggrieved Employees were entitled to receive itemized wage statements that accurately showed the legal name of their employer and their employer's address, their gross and net wages earned, total hours worked and all applicable hourly rates in effect and the number of hours worked at each hourly rate in accordance with California law. In violation of Labor Code § 226, Defendants did not provide Plaintiff and other Aggrieved Employees with accurate itemized wage statements. As but one example, from January 3, 2020, through the end of his employment and final paycheck dated July 27, 2020, Defendants failed to provide Plaintiff with itemized wage statements accurately showing total hours worked and all applicable hourly rates in effect and the number of hours worked at each hourly rate. Plaintiff is informed and believes, and thereon alleges, that Defendants, at all relevant times, similarly fail(ed) to provide other Aggrieved Employees with itemized wage statements accurately showing total hours worked and all applicable hourly rates in effect and the number of hours worked at each hourly rate, and this is a continuing violation.

34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known that Plaintiff and other aggrieved former employees were entitled to timely payment of wages due upon separation of employment. In violation of Labor Code §§ 201, 202 and 203, Plaintiff and other aggrieved former employees did not receive payment of all wages including, but not limited to, unpaid overtime compensation, either at the time of discharge or within seventy- two (72) hours of their leaving Defendant's employ.

35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or should have known they had a duty to compensate Plaintiff and other Aggrieved Employees, and Defendants had the financial ability to pay such compensation but willfully, knowingly and intentionally failed to do

so all in order to increase Defendants' profits.

CLAIM FOR RELIEF

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT

Labor Code §§ 2699 et seq.

(By Plaintiff on Behalf of the State of California Against All Defendants)

36. Plaintiff realleges and incorporates by this reference all of the preceding paragraphs set forth in this Complaint as though fully set forth in this claim for relief.

37. Under Labor Code § 2699(a), any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency ("LWDA") or any of its departments, divisions, commissions, boards, agencies or employees for violation of the Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3. *Baumann v. Chase Inv. Services Corp.* (2014) C.A.9 (Cal.) 2014, 747 F.3d 1117, certiorari denied.

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39. As alleged herein, Defendant's employment actions, policies, practices violate numerous California Labor Code provisions and applicable IWC Wage Order(s) including, without limitation:

a. Labor Code §§ 1194, 1197, 1197.1, and 1198 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all minimum wages due;

b. Labor Code §§ 510, 1194 and 1198 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all daily, weekly, and 7th consecutive workday overtime premium pay;

c. Labor Code §§ 226.7 and 512 for Defendants' failure to provide to Plaintiff and other Aggrieved Employees legally required 30-minute unpaid meal periods or compensation in

lieu thereof;

d. Violation of Labor Code § 226.7 for Defendants' failure to provide to Plaintiff and other Aggrieved Employees legally required 10-minute paid rest periods or compensation in lieu thereof;

e. Violation of Labor Code §§ 226 and 226.3 for failure to provide to Plaintiff and other Aggrieved Employees accurate itemized wage statements;

f. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate records;

g. Violation of Labor Code §§ 201, 202, 203, 204, and 210 for failure to timely pay all earned wages owed to Plaintiff and other Aggrieved Employees during employment and upon separation of employment;

h. IWC Wage Order No. 2001-5 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all reporting time pay;

i. IWC Wage Order No. 2001-5 for Defendants' failure to fully compensate Plaintiff and other Aggrieved Employees for all split shift premium pay

40. Labor Code § 558(a) provides "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 provisions regulating hours and days of work in any order of the IWC shall be subject to a civil penalty as follows: (1) For any 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; (3) Wages recovered pursuant to this section shall be paid to the affected employee." Labor Code § 558(c) provides "the civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." Plaintiff seeks to recover these penalties (including the unpaid wages) pursuant to and to the extent allowed by the PAGA.

41. Plaintiff is an "aggrieved employee" within the meaning of the PAGA because he was employed by the alleged violator(s) and had one or more of the alleged violations committed against him,

1 and therefore is properly suited to represent the interests of all other Aggrieved Employees.

2 42. Plaintiff has exhausted the administrative and procedural requirements under Labor Code
3 § 2699.3 and is therefore able to pursue a claim for penalties on behalf of himself and all other Aggrieved
4 Employees under PAGA.

5 43. Pursuant to Labor Code §§ 2699(a) and (f), 2699.3 and 2699.5, Plaintiff and all other
6 Aggrieved Employees are entitled to recover civil penalties against Defendants for violations of the
7 above-cited sections of the Labor Code.

8 44. The California Supreme Court has held that a representative action does not need to meet
9 the class certification requirements because it is strictly a state enforcement action. *Arias v. Superior*
10 *Court* (2009) 46 Cal.4th 969, 970-75.

11 45. Defendant's conduct, as alleged herein, has been and continues to be unfair, unlawful and
12 harmful to Plaintiff and the general public. Plaintiff therefore seeks to enforce important rights affecting
13 the public interest within the meaning of Code of Civil Procedure § 1021.5.

14 WHEREFORE, Plaintiff prays for relief as set forth below.

15 **PRAYER FOR RELIEF**

16 Plaintiff, on behalf of the State of California, to benefit the Aggrieved Employees and to enforce
17 important statutory and regulatory rights affecting the public interest, prays for relief as follows:

- 18 1. For civil penalties (including the unpaid wages) against Defendants to benefit all Aggrieved
19 Employees pursuant to Labor Code § § 2698, *et seq.*;
- 20 2. For reasonable attorney's fees and costs of suit to the extent permitted by law, including
21 pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, *et seq.*; and
- 22 3. For such other relief as the Court deems just and proper.

23 Dated: October 8, 2020

ROSE LAW, APC

24
25 By: _____

26 Joseph W. Rose
27 Attorneys for Plaintiff,
28 RANDY MORROW, individually and
on behalf of all other Aggrieved Employees

Exhibit B

Memorandum of Understanding for PAGA Settlement

This shall serve as a summary of the anticipated material terms of the final written Settlement Agreement in the dispute, as initiated by Randy Morrow (“Plaintiff”) against his former employer, Vacasa LLC (“Employer” or “Defendant”), as identified in the action known as Randy Morrow v. Vacasa, LLC, Case No: 56-2021-00549414-CU-OE-VTA (“Complaint”).

1. Summary of the Settlement: The settlement memorialized in this agreement includes the following essential terms, which are defined more fully throughout this MOU. Note that these are preliminary estimates only and the more specific definitions will control in the event of a conflict:

- a. Definition of “Aggrieved Employees” ([2.a](#)): all non-exempt workers in California who were employed by Employer at any time from October 8, 2019 through the date of approval of this settlement
- b. Total Settlement Amount, including amounts allocated to fees, incentive awards, PAGA allocation, and costs ([3.a](#)):
 - i. TOTAL: \$369,285.00
 - ii. ATTORNEYS’ FEES & COSTS:
 - 1. Fees ([3.c.i](#)): up to 33%
 - 2. Costs ([3.c.ii](#)): up to \$10,000
 - iii. INCENTIVE AWARD(s) ([3.d](#)): up to \$10,000
- c. Inclusive Dates of Settlement Period ([2.b](#)): October 8, 2019, through the date of approval of this settlement.

2. Definition of Parties and Settlement Period:

a. Definition of Aggrieved Employees

- i. “Aggrieved Employees” is defined as all non-exempt workers in California who were employed by Employer at any time from October 8, 2019, through the date of approval of this settlement in the state of California.
- ii. The Settlement shall bind Plaintiff, who has timely provided notice to the Labor Workforce Development Agency in LWDA Case No. LWDA-CM-809120-20 related to the nature of his claims, and who thereby has standing to settle the matter on behalf of himself and all aggrieved or affected employees as proxy for the State of California. The Plaintiff, the State of California and all aggrieved employees shall be bound by the terms of the settlement and release. [Arias, supra, 46 Cal.4th at p. 986.](#)

b. Definition of Settlement Period: The settlement period (“Settlement Period”) shall run from October 8, 2019 to the date of approval of settlement.

Memorandum of Understanding for PAGA Settlement

3. Monetary Terms of Settlement

a. Maximum Settlement Amount: The Maximum Settlement Amount is \$369,285.00 subject to the terms and conditions herein. The Settlement Amount includes all: (1) a service payment to the named Plaintiff; (2) PAGA counsels' fees; (3) PAGA counsels' costs; (4) settlement expenses; (5) the PAGA payment to the LWDA; and (6) payments to the aggrieved employees. The Maximum Settlement Amount less (1) a service payment to the named Plaintiff; (2) PAGA counsels' fees; (3) PAGA counsels' costs; (4) settlement expenses, is the Net Settlement Fund. Of the Net Settlement Fund, 75% will be paid to the LWDA ("LWDA Fund"), and the remaining 25% will be distributed to Aggrieved Employees as described below ("Aggrieved Employee Fund"). Under no circumstances shall Defendant be obligated to pay more than the Maximum Settlement Amount. Each Aggrieved Employee shall be responsible for paying any taxes due on his settlement.

b. Division of Settlement Amounts:

- i. Calculation of Individual Settlement Amounts:** Each Aggrieved Employee's estimated payment to be paid out of the total Aggrieved Employee Fund, after any payments for attorneys' fees, costs, service enhancement, settlement administration, and/or the LWDA Fund, based on pay periods worked during the Settlement Period.
- ii. Timing of Payment:** Defendant shall deposit the settlement funds with the claims administrator after the judgment becomes non-appealable.
- iii. Tax Allocation:** Payments to Aggrieved Employees shall be characterized as non-wages penalties and shall be reported as Form 1099 payments.
- iv. Cashing of Checks:** Aggrieved Employees will have 180 days from the date of mailing of their settlement check to cash their settlement check. In the event that there are any funds attributable to any Aggrieved Employee (e.g., uncashed settlement checks) that are not deposited or cashed within the 180 day period, said funds shall be reverted to the State of California Controller – Unpaid Wages Fund. Any failure of an Aggrieved Employee to deposit a check shall not affect the enforceability of the release of claims, as the parties jointly agree that valid consideration for same is the offer of monetary consideration by means of the offer of settlement and mailing of settlement checks.
- v. Payment to LWDA:** 75% of the Net Settlement Fund shall be paid to the California Labor Workforce Development Agency ("LWDA"), and the remaining 25% shall be divided among the Aggrieved Employees.

c. Attorneys' Fees and Costs

Memorandum of Understanding for PAGA Settlement

- i. **Attorneys' Fees:** Counsel for Plaintiff and the Aggrieved Employees may seek up to 33% of the Maximum Settlement Amount as attorneys' fees.
 - ii. **Costs:** Counsel for the Aggrieved Employees may seek up to \$10,000 as reasonable out-of-pocket costs and expenses.
 - iii. The amount of Attorneys' Fees and Costs provided to Counsel for Plaintiff is not a material term of this MOU or settlement. Any denial or modification by a Court to the requested amount of Attorneys' Fees and/or Costs will not invalidate the rest of this MOU or the settlement, and is not grounds for appeal.
- d. Plaintiff's Service/Enhancement Award:** Plaintiff may seek an enhancement award of up to \$10,000. The incentive payments will be characterized as taxable income and reported on an IRS Form 1099. The amount of the Service/Enhancement Award is not a material term of this MOU or settlement. Any denial or modification by a Court to the requested amount of the Service/Enhancement Award will not invalidate the rest of this MOU or the settlement, and is not grounds for appeal.

4. Appointment, Duties and Costs of Administrator

- a. Settlement Administrator:** The parties will jointly select, subject to Court Approval, the Settlement Administrator in this matter. The costs of settlement administration shall be paid out of the Maximum Settlement Amount prior to distribution to the LWDA and Aggrieved Employees.
- b. Delivery of Aggrieved Employee List:** Within fifteen (15) business days of the business days after the judgment in the Civil Action has become non-appealable, an electronic file containing the following information for each Aggrieved Employee:
 - i. Full name, last known address, social security number; and
 - ii. The number of pay periods each Aggrieved Employee worked for Employer in California within the Settlement Period.

The information provided to the Settlement Administrator shall be considered confidential, shall not be disclosed to anyone other than Employer's counsel and the Settlement Administrator, and shall be returned to the Employer at the conclusion of the matter. Specifically, the Settlement Administrator shall not provide Plaintiff's counsel with any information concerning any individuals, absent express written approval from Employer's counsel.

- c. Notice Packet:** Following receipt of the Aggrieved Employee List, the Settlement Administrator shall prepare a Notice Packet for each Aggrieved Employee that will consist of a notice regarding the settlement to be agreed upon by the Parties, and settlement check.

Memorandum of Understanding for PAGA Settlement

- d. **Delivery of the Notice Packet:** The Settlement Administrator shall deliver the Notice Packet by First Class U.S. Mail with an enclosed, postage-paid return envelope to each Aggrieved Employee. Any Notices returned undeliverable shall be traced once to obtain a new address and be re-mailed by First Class Mail.
- e. **Defendant's Obligations:** Employer shall deposit all amounts due under the Settlement Agreement with the Settlement Administrator within fifteen (15) business days after the judgment in the Civil Action has become non-appealable. Attorneys' fees, costs, and service awards will be paid within five (5) business days after Employer deposits the amounts due under the Settlement Agreement with the Settlement Administrator.

5. Release:

- a. **Release on Behalf of the LWDA:** Upon the approval by the Court of this Agreement, Plaintiff, individually and as the representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, in this Action, agrees to release Employer, its affiliates, parents, subsidiaries, owners, members, partners, officers, directors, predecessors, successors, assigns, agents, shareholders, investors, insurers and legal representatives ("Released Parties") for penalties under the California Private Attorneys' General Act (Labor Code section 2698, *et seq.*) predicated on the violation of Labor Code §§ 201-204, 210, 226, 226.3, 226.7, 510, 512, 551-552, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, and the IWC Wage Orders, that accrued at any time between October 8, 2019 to the date of approval of this Agreement ("Released Claims").

The express purpose of this Agreement and the Judgment to be entered by the Court following approval of this settlement is to forever bar Plaintiff, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA (including all Aggrieved Employees) from asserting any of the Released Claims in any future litigation. It is the intent of the Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California or any Aggrieved Employee to bring a PAGA claim on behalf of the LWDA is completely and forever foreclosed. Any Party to this Agreement may use the Agreement to assert that this settlement and the judgment to be entered by the Court following approval by this settlement bars any later-filed action asserting any of the Released Claims against any of the Released Parties at any time between October 8, 2019 to the date of approval of this Agreement.

The Aggrieved Employees waive any rights provided by California Civil Code Section 1542 as to the Released Claims only, which states:

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

Memorandum of Understanding for PAGA Settlement

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

- b. Named Plaintiff Release:** The Parties will separately negotiate in good faith with regards to Plaintiff's individual claims related to alleged wage and hour claims and retaliation claims. Consistent herewith, the Parties negotiated and reached this Settlement at arm's length with the assistance of mediator David Phillips, an experienced mediator, independent of, and before any, negotiation of Plaintiff's individual claims.
- 6. Settlement Documentation and Approval:** The Settlement Agreement is contingent upon judicial approval and the Court has continuing jurisdiction over the claims alleged in the Complaint until approval is granted, judgment entered, and the claim is dismissed.

 - a. Settlement Agreement:** All terms and conditions of this MOU shall be set forth in a formal settlement agreement ("Settlement Agreement"), and the Settlement Agreement shall, when fully executed and approved by a court, replace this MOU, which shall then be of no further force and effect.
 - b. Settlement Approval Documentation:** Settlement is subject to agreement of the parties on the terms and drafting/form of acceptable joint motion papers, Settlement Agreement, and proposed order approving the settlement. The first draft of all such papers are to be prepared by Plaintiffs' counsel.
 - c. Failure of Approval:** If the court fails to approve this settlement, the settlement is null and void and is not admissible in any other proceeding or action.
- 7. No Admission/Denial of Liability:** Employer denies any liability or wrongdoing of any kind associated with the claims alleged in this matter. Nothing in this MOU or the final Settlement Agreement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Employer.
- 8. Publicity and Confidentiality**

 - a. Communication by Counsel:** Plaintiffs' counsel agrees that it will not initiate or contact or have any communications with the Aggrieved Employees during the settlement approval process. Nothing will prevent Plaintiffs' counsel from responding to inquiries from Aggrieved Employees. For its part, Defendant agrees that it shall refer any questions from Aggrieved Employees to the Claims Administrator.
 - b. No Media:** No public comment, communications to media, or any form of advertising or public announcement (including social media) regarding the case shall be made by Plaintiff or his counsel at any time.
 - c. Confidentiality:** Prior to filing of the motion(s) for approval, counsel for Plaintiff shall not discuss the terms of the settlement or the negotiations leading to settlement with any person other than the named Plaintiff.

Memorandum of Understanding for PAGA Settlement

- 9. Integration:** Each party warrants that no promise or inducement has been offered or made to that party except as set forth herein. It is understood and agreed by each party that this MOU specifically supersedes any and all prior agreements and understandings, written or oral, express or implied, between Employer, Counsel for Plaintiff and/or any Aggrieved Employees.
- 10. Governing Law:** This MOU is made under the laws of the State of California, without regard to otherwise applicable principles of conflicts of laws, whether of the State of California or any other jurisdiction.
- 11. Authority to Sign:** The signatories hereto represent and warrant that they have the authority to sign on behalf of their designated parties. This Agreement may be executed in counterparts and each counterpart, when executed, shall have the efficacy of a second original. Photographic or facsimile copies of any such signed counterparts may be used in lieu of the original for any said purpose.

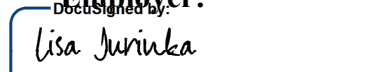
This 20th day of January 2022.

Plaintiff:


ID aBsbavEzgUL5emKTsk4VCUJg

Randy Morrow

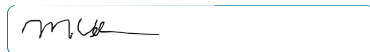
Employer:


8752B0F0B8A7402...

By: Lisa Jurinka, Chief Legal Officer
For: Vacasa LLC

COUNSEL FOR PLAINTIFF AND EMPLOYER

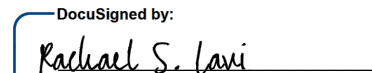
Counsel for Plaintiff:

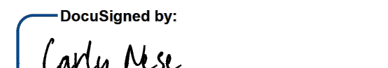

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Michael Velarde


Joseph W. Rose

Counsel for Employer:


DocuSigned by:
Rachael Lavi


DocuSigned by:
Carly Nese

4882-0170-2666.3 / 082185-1035

eSignature Details

Signer ID:	L6o95sCwq57YGWN8dnMXsetJ
Signed by:	Michael Velarde
Sent to email:	mvelarde@michaelvelardelaw.com
IP Address:	68.5.182.120
Signed at:	Jan 20 2022, 6:05 pm PST

eSignature Details

Signer ID:	aBsbaVezgUL5emKtsk4VCUJg
Signed by:	Randy Morrow
Sent to email:	randymorrow87@gmail.com
IP Address:	104.174.193.213
Signed at:	Jan 21 2022, 1:50 pm PST

Exhibit C

Notice of Settlement - Court-Approved Communication

Please Read Carefully

CHECK ENCLOSED

Dear _____:

This letter is notifying you about the settlement of a lawsuit that was filed against Vacasa LLC (“Vacasa”) by a former employee, Randy Morrow (“Plaintiff” or “Mr. Morrow”) in Ventura County Superior Court, entitled *RANDY MORROW, individually and on behalf of all other Aggrieved Employees, Plaintiff, v. VACASA, LLC, an Oregon Limited Liability Company, and DOES 1 through 50, inclusive, Defendants*, Case Number 56-2021-00549414-CU-OE-VTA.

IMPORTANT: A Check is enclosed for you with this letter. You must deposit no later than _____, 2022 or the check will become void.

Although you are not a party to this lawsuit, you are receiving this letter and check because you have been identified by Vacasa as a current or former non-exempt employee of Vacasa in California who was employed by Vacasa at any time from October 8, 2019, though the date of approval of this settlement (which was _____). **Please read this notice carefully.**

1. The Lawsuit

In the lawsuit, Plaintiff alleged that Vacasa violated the labor code regarding on-call time, travel time, reporting time, split shifts, meal and rest periods, and related violations. Vacasa denies these allegations, and contends that it complied with all labor laws.

Plaintiff Morrow asserted a *representative claim* against Vacasa in his complaint under the California Private Attorney General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et. seq.*, to recover *civil penalties* on behalf of the State of California and other non-exempt employees of Vacasa in California who were employed by Vacasa at any time from October 8, 2019 though the date of approval of this settlement. (Referred to here as the “PAGA Recipients.”)

The Court has not issued a ruling in this case in favor of Plaintiff or in favor of Vacasa. Mr. Morrow thinks that he would have won at trial, and Vacasa thinks Mr. Morrow would not have won anything. Both sides agreed that it would be best to agree to a settlement so that they could avoid the cost and risk of a trial.

The Court held a hearing on _____, 2022 to consider whether the settlement of the representative PAGA claim for civil penalties – that is described in Section 2 below – is fair and reasonable. At that hearing the Court approved the settlement terms and so you are receiving this notice and enclosed check.

2. The Terms of the PAGA Settlement

The settlement provides for a total amount of \$369,285.00, which consists of: (1) The creation of a \$220,112.95 common fund (referred to here as the “PAGA Settlement Fund”) for the benefit of the California Labor and Workforce Development Agency and PAGA Recipients. \$55,028.24 of the settlement fund will be paid to the PAGA Recipients to settle the claim for civil penalties, and \$165,084.71 will be paid to the State of California; (2) In addition, up to \$10,000 will be paid to a settlement administrator for services administering this settlement; (3) \$10,000 will be paid to Mr. Morrow as compensation for Plaintiff as the PAGA representative on behalf of the PAGA Claim Employees; (4) and \$121,864.05 will be paid to the lawyers who represented Mr. Morrow on a “contingency” basis as fees; (5) and \$7,308.00 will be paid to the lawyers who represented Mr. Morrow as compensation for litigation costs incurred.

In exchange for the settlement sums described above, Plaintiff has signed a *limited release of liability*. The release is described below in Section 6 and a full copy is available to you.

3. Who is Eligible to Receive Payments from the PAGA Settlement Fund?

To be eligible for a settlement payment, you must have been a current and former non-exempt employee of Vacasa in California who was employed by Vacasa at any time from October 8, 2019, through the date of approval of this settlement.

4. What is the Estimated Amount of Your Settlement Payment?

The \$55,028.24 portion of the PAGA Settlement Fund allocated for PAGA recipients has been divided in *pro-rata* shares among you and the other PAGA Recipients. The size of your share depends on the number of pay periods you worked from October 8, 2019, through the date of approval of this settlement.

According to Vacasa’s records, you worked _____ pay periods between October 8, 2019, through the date of approval of this settlement. Under the terms of the settlement, you are therefore entitled to \$_____. That amount is reflected in the enclosed check.

5. Tax Requirements

The payment to you is classified as non-wage income and reported on a form IRS 1099. That form is also included with this letter. You are responsible for paying any applicable taxes on all amounts received pursuant to this Settlement. You should contact your tax preparer if you have any questions, as neither Plaintiff’s lawyers nor Vacasa are in a position to provide you with tax-related advice.

6. The Scope of the Limited Release

The release in this case (i.e., what is given up in exchange for this payment) releases Vacasa and affiliated entities from liability for any and all claims for civil penalties under the California Labor Code Private Attorneys’ General Act (“PAGA”) predicated on the violation of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558(a), 558(c), 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2699(a), 2699(f), 2699.3, and 2699.5 and Industrial Welfare Commission Order No. 2001-

5 based on the facts as alleged in the Complaint that accrued at any time between October 8, 2019 through the date of approval of this Agreement (“Released Claims”). Those claims are settled and released to the fullest extent permitted under applicable law.

This is only a summary of the release. For a complete copy, you may contact the settlement administrator ILYM Group, Inc.. The settlement administrator’s contact information is listed in Section 7, below.

7. Getting More Information

This notice summarizes the terms of the settlement. The full details are set forth in the written Private Attorney General Act Settlement Agreement. You can get a copy of that Agreement by writing to the Settlement Administrator, ILYM Group, Inc., at _____.

Exhibit 2

Senate Bill No. 1809

CHAPTER 221

An act to amend Sections 98.6 and 2699 of, to add Sections 2699.3 and 2699.5 to, and to repeal Section 431 of, the Labor Code, relating to private employment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 11, 2004. Filed with
Secretary of State August 11, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1809, Dunn. Labor Code Private Attorneys General Act of 2004.

(1) Existing law allows aggrieved employees to bring civil actions to recover penalties for violations of the Labor Code if the Labor and Workforce Development Agency or its departments, divisions, commissions, boards, agencies, or employees do not do so. The penalties collected in these actions are distributed 50% to the General Fund, 25% to the agency for education, to be available for expenditure upon appropriation by the Legislature, and 25% to the aggrieved employee, except that if the person does not employ one or more persons, the penalties are distributed 50% to the General Fund and 50% to the agency. In addition, existing law provides that the aggrieved employee is authorized to recover attorney's fees and costs and, in some cases, penalties.

This bill would redistribute these penalties, so that 75% is distributed to the agency to be continuously appropriated for purposes of enforcement and education and 25% to the aggrieved employee, except that if the person does not employ one or more persons, 100% of the penalties are distributed to the agency by continuous appropriation.

This bill would provide that an aggrieved employee may recover these penalties only after complying with specified procedural and administrative requirements and providing specified written notice to the agency and to the employer.

This bill would authorize a court, in any action by an aggrieved employee seeking recovery of a civil penalty pursuant to the act, to award a lesser amount than the maximum civil penalty amount specified by the underlying applicable statute and would require a court to review and authorize any settlement. The bill would provide that a civil penalty for any violation of a posting or notice requirement of the Labor Code, other than a requirement relating to mandatory payroll or workplace injuries,

may be recovered only by the agency or its subdivisions. The bill would provide that these provisions are retroactive to January 1, 2004.

The bill would require the Joint Committee on Boards, Commissions, and Consumer Protection, in consultation with the standing committees of the Legislature with jurisdiction over employment matters, to review certain functions created by this bill.

The bill would appropriate \$150,000 from the General Fund to the agency for the purpose of implementing these provisions.

(2) Existing provisions prohibit an employer from discriminating against an employee because the employee has specified existing rights. This bill would include among those protected rights the bringing of an action to collect penalties for the violation of labor laws pursuant to the provisions described in (1) above.

(3) Existing law requires an employer to file in the office of the Director of Labor Standards Enforcement a copy of any application for employment that the employer requires an applicant to sign.

This bill would repeal that requirement.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 98.6 of the Labor Code is amended to read:

98.6. (a) No person shall discharge an employee or in any manner discriminate against any employee or applicant for employment because the employee or applicant engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96, and Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or because the employee or applicant for employment has filed a bona fide complaint or claim or instituted or caused to be instituted any proceeding under or relating to his or her rights, which are under the jurisdiction of the Labor Commissioner, or because the employee has initiated any action or notice pursuant to Section 2699, or has testified or is about to testify in any such proceeding or because of the exercise by the employee or applicant for employment on behalf of himself, herself, or others of any rights afforded him or her.

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of his or her employment because the employee engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96, and Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or because the employee has

made a bona fide complaint or claim to the division pursuant to this part, or because the employee has initiated any action or notice pursuant to Section 2699 shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer. Any employer who willfully refuses to hire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for such rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

(c) (1) Any applicant for employment who is refused employment, who is not selected for a training program leading to employment, or who in any other manner is discriminated against in the terms and conditions of any offer of employment because the applicant engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96, and Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or because the applicant has made a bona fide complaint or claim to the division pursuant to this part, or because the employee has initiated any action or notice pursuant to Section 2699 shall be entitled to employment and reimbursement for lost wages and work benefits caused by the acts of the prospective employer.

(2) This subdivision shall not be construed to invalidate any collective bargaining agreement that requires an applicant for a position that is subject to the collective bargaining agreement to sign a contract that protects either or both of the following as specified in paragraphs (A) and (B), nor shall this subdivision be construed to invalidate any employer requirement of an applicant for a position that is not subject to a collective bargaining agreement to sign an employment contract that protects either or both of the following:

(A) An employer against any conduct that is actually in direct conflict with the essential enterprise-related interests of the employer and where breach of that contract would actually constitute a material and substantial disruption of the employer's operation.

(B) A firefighter against any disease that is presumed to arise in the course and scope of employment, by limiting his or her consumption of tobacco products on and off the job.

(d) The provisions of this section creating new actions or remedies that are effective on January 1, 2002, to employees or applicants for employment do not apply to any state or local law enforcement agency, any religious association or corporation specified in subdivision (d) of Section 12926 of the Government Code, except as provided in Section 12926.2 of the Government Code, or any person described in Section 1070 of the Evidence Code.

SEC. 2. Section 431 of the Labor Code is repealed.

SEC. 3. Section 2699 of the Labor Code is amended to read:

2699. (a) Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.

(b) For purposes of this part, "person" has the same meaning as defined in Section 18.

(c) For purposes of this part, "aggrieved employee" means any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed.

(d) For purposes of this part, "cure" means that the employer abates each violation alleged by any aggrieved employee, the employer is in compliance with the underlying statutes as specified in the notice required by this part, and any aggrieved employee is made whole.

(e) (1) For purposes of this part, whenever the Labor and Workforce Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, has discretion to assess a civil penalty, a court is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

(2) In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.

(f) For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows:

(1) If, at the time of the alleged violation, the person does not employ one or more employees, the civil penalty is five hundred dollars (\$500).

(2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

(3) If the alleged violation is a failure to act by the Labor and Workplace Development Agency, or any of its departments, divisions, commissions, boards, agencies, or employees, there shall be no civil penalty.

(g) (1) Except as provided in paragraph (2), an aggrieved employee may recover the civil penalty described in subdivision (f) in a civil action pursuant to the procedures specified in Section 2699.3 filed on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. Any employee who prevails in any action shall be entitled to an award of reasonable attorney's fees and costs. Nothing in this part shall operate to limit an employee's right to pursue or recover other remedies available under state or federal law, either separately or concurrently with an action taken under this part.

(2) No action shall be brought under this part for any violation of a posting, notice, agency reporting, or filing requirement of this code, except where the filing or reporting requirement involves mandatory payroll or workplace injury reporting.

(h) No action may be brought under this section by an aggrieved employee if the agency or any of its departments, divisions, commissions, boards, agencies, or employees, on the same facts and theories, cites a person within the timeframes set forth in Section 2699.3 for a violation of the same section or sections of the Labor Code under which the aggrieved employee is attempting to recover a civil penalty on behalf of himself or herself or others or initiates a proceeding pursuant to Section 98.3.

(i) Except as provided in subdivision (j), civil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the Labor and Workforce Development Agency for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes; and 25 percent to the aggrieved employees.

(j) Civil penalties recovered under paragraph (1) of subdivision (f) shall be distributed to the Labor and Workforce Development Agency for enforcement of labor laws and education of employers and employees about their rights and responsibilities under this code, to be continuously appropriated to supplement and not supplant the funding to the agency for those purposes.

(k) Nothing contained in this part is intended to alter or otherwise affect the exclusive remedy provided by the workers' compensation provisions of this code for liability against an employer for the compensation for any injury to or death of an employee arising out of and in the course of employment.

(l) The superior court shall review and approve any penalties sought as part of a proposed settlement agreement pursuant to this part.

(m) This section shall not apply to the recovery of administrative and civil penalties in connection with the workers' compensation law as contained in Division 1 (commencing with Section 50) and Division 4 (commencing with Section 3200), including, but not limited to, Sections 129.5 and 132a.

(n) The agency or any of its departments, divisions, commissions, boards, or agencies may promulgate regulations to implement the provisions of this part.

SEC. 4. Section 2699.3 is added to the Labor Code, to read:

2699.3. (a) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision listed in Section 2699.5 shall commence only after the following requirements have been met:

(1) The aggrieved employee or representative shall give written notice by certified mail to the Labor and Workforce Development Agency and the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.

(2) (A) The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 30 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 33 calendar days of the postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699.

(B) If the agency intends to investigate the alleged violation, it shall notify the employer and the aggrieved employee or representative by certified mail of its decision within 33 calendar days of the postmark date of the notice received pursuant to paragraph (1). Within 120 calendar days of that decision, the agency may investigate the alleged violation and issue any appropriate citation. If the agency determines that no citation will be issued, it shall notify the employer and aggrieved employee of that decision within five business days thereof by certified mail. Upon receipt of that notice or if no citation is issued by the agency within the 158-day period prescribed by subparagraph (A) and this subparagraph or if the agency fails to provide timely or any notification, the aggrieved employee may commence a civil action pursuant to Section 2699.

(C) Notwithstanding any other provision of law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under this part at any time within 60 days of the time periods specified in this part.

(b) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision of Division 5 (commencing with Section 6300) other than those listed in Section 2699.5 shall commence only after the following requirements have been met:

(1) The aggrieved employee or representative shall give notice by certified mail to the Division of Occupational Safety and Health and the employer, with a copy to the Labor and Workforce Development Agency, of the specific provisions of Division 5 (commencing with Section 6300) alleged to have been violated, including the facts and theories to support the alleged violation.

(2) (A) The division shall inspect or investigate the alleged violation pursuant to the procedures specified in Division 5 (commencing with Section 6300).

(i) If the division issues a citation, the employee may not commence an action pursuant to Section 2699. The division shall notify the aggrieved employee and employer in writing within 14 calendar days of certifying that the employer has corrected the violation.

(ii) If by the end of the period for inspection or investigation provided for in Section 6317, the division fails to issue a citation and the aggrieved employee disputes that decision, the employee may challenge that decision in the superior court. In such an action, the superior court shall follow precedents of the Occupational Safety and Health Appeals Board. If the court finds that the division should have issued a citation and orders the division to issue a citation, then the aggrieved employee may not commence a civil action pursuant to Section 2699.

(iii) A complaint in superior court alleging a violation of Division 5 (commencing with Section 6300) other than those listed in Section 2699.5 shall include therewith a copy of the notice of violation provided to the division and employer pursuant to paragraph (1).

(iv) The superior court shall not dismiss the action for nonmaterial differences in facts or theories between those contained in the notice of violation provided to the division and employer pursuant to paragraph (1) and the complaint filed with the court.

(B) If the division fails to inspect or investigate the alleged violation as provided by Section 6309, the provisions of subdivision (c) shall apply to the determination of the alleged violation.

(3) (A) Nothing in this subdivision shall be construed to alter the authority of the division to permit long-term abatement periods or to enter into memoranda of understanding or joint agreements with employers in the case of long-term abatement issues.

(B) Nothing in this subdivision shall be construed to authorize an employee to file a notice or to commence a civil action pursuant to

Section 2699 during the period that an employer has voluntarily entered into consultation with the division to ameliorate a condition in that particular worksite.

(C) An employer who has been provided notice pursuant to this section may not then enter into consultation with the division in order to avoid an action under this section.

(4) The superior court shall review and approve any proposed settlement of alleged violations of the provisions of Division 5 (commencing with Section 6300) to ensure that the settlement provisions are at least as effective as the protections or remedies provided by state and federal law or regulation for the alleged violation. The provisions of the settlement relating to health and safety laws shall be submitted to the division at the same time that they are submitted to the court. This requirement shall be construed to authorize and permit the division to comment on those settlement provisions, and the court shall grant the division's commentary the appropriate weight.

(c) A civil action by an aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) shall commence only after the following requirements have been met:

(1) The aggrieved employee or representative shall give written notice by certified mail to the Labor and Workforce Development Agency and the employer of the specific provisions of this code alleged to have been violated, including the facts and theories to support the alleged violation.

(2) (A) The employer may cure the alleged violation within 33 calendar days of the postmark date of the notice. The employer shall give written notice by certified mail within that period of time to the aggrieved employee or representative and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employee may commence a civil action pursuant to Section 2699.

(B) No employer may avail himself or herself of the notice and cure provisions of this subdivision more than three times in a 12-month period for the same violation or violations contained in the notice, regardless of the location of the worksite.

(3) If the aggrieved employee disputes that the alleged violation has been cured, the aggrieved employee or representative shall provide written notice by certified mail, including specified grounds to support that dispute, to the employer and the agency. Within 17 calendar days of the postmark date of that notice, the agency shall review the actions

taken by the employer to cure the alleged violation, and provide written notice of its decision by certified mail to the aggrieved employee and the employer. The agency may grant the employer three additional business days to cure the alleged violation. If the agency determines that the alleged violation has not been cured or if the agency fails to provide timely or any notification, the employee may proceed with the civil action pursuant to Section 2699. If the agency determines that the alleged violation has been cured, but the employee still disagrees, the employee may appeal that determination to the superior court.

(d) The periods specified in this section are not counted as part of the time limited for the commencement of the civil action to recover penalties under this part.

SEC. 5. Section 2699.5 is added to the Labor Code, to read:

2699.5. The provisions of subdivision (a) of Section 2699.3 shall apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Section 98.6, 201, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, 212, subdivision (d) of Section 213, 221, 222, 222.5, 223, 224, subdivision (a) of Section 226, 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, 233, 234, 351, 353, 403, subdivision (b) of Section 404, 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, 1153, subdivision (c) or (d) of Section 1174, 1194, 1197, 1197.1, 1197.5, 1198, subdivision (b) of Section 1198.3, 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, 1695, subdivision (a) of Section 1695.5, 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, 1700.47, paragraph (1), (2), or (3) of subdivision (a) of or subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, 2673, subdivision (a) of Section 2673.1, 2695.2, 2800, 2801, 2802, 2806, 2810, subdivision (b) of Section 2929, 3095, 6310, 6311, or 6399.7.

SEC. 6. (a) The Legislature finds and declares that, as enunciated in long-standing judicial precedent, its inherent authority to create causes of action or remedies necessarily includes the authority to abolish them. Therefore, a plaintiff seeking recovery upon a legislatively created cause of action runs the risk that the Legislature may repeal or alter that cause during the pendency of the claim. Thus, the Legislature further finds and declares that the alteration of the right to recover civil penalties

for violations of the Labor Code made by this act may be applied retroactively to any applicable pending proceeding without depriving any person of a substantive right without due process of law.

(b) (1) The provisions of paragraph (2) of subdivision (g) of Section 2699 of the Labor Code shall apply retroactively to January 1, 2004, the effective date of Chapter 906 of the Statutes of 2003, and shall affect all applicable pending proceedings.

(2) The provisions of subdivision (l) of Section 2699 of the Labor Code shall apply retroactively to January 1, 2004, the effective date of Chapter 906 of the Statutes of 2003, and shall affect all applicable pending proceedings.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 8. Notwithstanding any other provision of law, the provisions of Section 5 of this act relating to the duties and functions of the Division of Occupational Safety and Health shall be subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection pursuant to Chapter 2 (commencing with Section 474) of Division 1.2 of the Business and Professions Code in consultation with the Senate Committee on Labor and Industrial Relations and the Assembly Committee on Labor and Employment. The first review shall be completed no later than three years from the effective date of this act.

SEC. 9. There is appropriated from the General Fund one hundred fifty thousand dollars (\$150,000) to the Labor and Workforce Development Agency for the purposes of implementing the purposes of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To provide relief to some employers who may be adversely affected by frivolous lawsuits brought pursuant to the Labor Code Private Attorneys General Act of 2004 and to provide meaningful remedies to employees suffering from egregious violations of the Labor Code at the earliest possible time, it is necessary for this act to take effect immediately.

Exhibit 3

V. Letter to the Journal re: SB 1809

[ON LETTERHEAD OF SEN. JOE DUNN]

July 29, 2004

Senator John Burton
President pro Tempore
California State Senate
State Capitol
Sacramento, CA

Dear President Burton:

I respectfully request permission to submit this letter to the Journal to clarify the intent of subdivision (l) contained in Senate Bill 1809. This is in response to an issue raised by the Judicial Council of California.

The purpose of the court review of penalties in subdivision (l) is to ensure that settlements involving penalties arising under Labor Code Section 2699 do not undercut the dual statutory purposes of punishment and deterrence, or result in unjust, arbitrary and oppressive, or confiscatory settlements.

Very truly yours,

JOSEPH L. DUNN
Senator, 34th District