

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 3/7/2023 1:25 PM
Reviewed By: R. Walker
Case #21CV376175
Envelope: 11369106

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

TERRAL BROWN, individually, and on
behalf of other aggrieved employees
pursuant to the California Private Attorneys
General Act;

Plaintiff,

vs.

BALFOUR BEATTY
INFRASTRUCTURE, INC., an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 21CV376175

Honorable Theodore C. Zayner
Department 19

**DECLARATION OF EDWIN AIWAZIAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
APPROVAL OF PRIVATE ATTORNEYS
GENERAL ACT (CAL. LABOR CODE §
2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF
ATTORNEYS' FEES AND COSTS,
GENERAL RELEASE FEE, AND
SETTLEMENT ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor Code
§ 2698, *Et Seq.*) Settlement Agreement and
Award of Attorneys' Fees and Costs, General
Release Fee, and Settlement Administration
Costs; Declaration of Plaintiff (Terral Brown);
and [Proposed] Order and Judgment filed
concurrently herewith]

Date: March 29, 2023
Time: 1:30 p.m.
Department: 19

Complaint Filed: February 17, 2021
Trial Date: None Set

**DECLARATION OF EDWIN AIWAZIAN IN SUPPORT OF PLAINTIFF'S MOTION FOR APPROVAL
OF PRIVATE ATTORNEYS GENERAL ACT (CAL. LABOR CODE § 2698, ET SEQ.) SETTLEMENT
AGREEMENT AND AWARD OF ATTORNEYS' FEES AND COSTS, GENERAL RELEASE FEE,
AND SETTLEMENT ADMINISTRATION COSTS**

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Terral Brown (“Plaintiff”). The facts set forth in this declaration are within my personal knowledge or based on information and belief and, if called as a witness, I could and would competently testify thereto.

ADEQUACY OF LAWYERS for JUSTICE, PC

EDUCATION

2. In May of 2004, I graduated from *Pepperdine University School of Law* with a Juris Doctor degree. I have extensive formal education and training in dispute resolution and negotiation from the *Straus Institute for Dispute Resolution* as part of its Masters in Dispute Resolution degree program. In addition, I have previously served as a *pro bono* mediator for the *Los Angeles County Superior Court*. In October of 2000, I obtained a Litigation Paralegal Certificate from *UCLA Extension Program*. During the summer of 2000, I studied Legal Writing at *Harvard University*. In April of 1999, I obtained a Bachelor of Arts degree in Communication with a concentration in Natural Sciences from *Pepperdine University*.

JUDICIAL EXTERNSHIPS

3. From approximately September 2002 to approximately December 2002, I served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the *United States Court of Appeals for the Ninth Circuit*. From approximately June 2002 to approximately August 2002, I served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the *California Court of Appeal for the Second Appellate District*.

LITIGATION AND REPRESENTATIVE AND CLASS ACTION EXPERIENCE

4. In December of 2004, I obtained a license to practice law from the California State Bar. From approximately December 2004 to approximately August 2008, I was employed by *Girardi & Keese*.

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5. At *Girardi & Keese*, my practice focused on massive class actions and other complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases involving insurance bad faith, premises liability, and medical negligence. While employed by *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150 depositions, and prepared dozens of expert witnesses for deposition and/or trial.

6. Since its inception in or around October of 2008, *Lawyers for Justice, PC* has almost exclusively focused on the prosecution of consumer and employment representative and class actions, involving wage-and-hour claims, race discrimination, unfair business practices or consumer fraud. Currently, *Lawyers for Justice, PC* is the attorney of record in well over a dozen employment-related putative class actions and representative actions in both state and federal courts in the State of California. *Lawyers for Justice, PC* has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During this relatively short time, in association with other law firms, *Lawyers for Justice, PC* has recovered millions of dollars on behalf of thousands of individuals in California.

EXAMPLES OF RESULTS IN REPRESENTATIVE AND CLASS ACTION CASES

7. What follows are just a few examples of the type of results *Lawyers for Justice, PC* (“LJ”) has achieved on behalf of its clients:

a) LJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a major property management company involving allegations of misclassification of various “manager” positions. On September 20, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC400414.

b) LJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of household items involving allegations of misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court

Case Number is BC413498.

c) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national property management company involving allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC430918.

d) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a bank, involving allegations of misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court granted final approval of the class and PAGA representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class action against a multinational corporation that provides global workplace solutions, involving allegations of misclassification of the “Operations Manager” position. On September 16, 2014, the court granted plaintiff’s motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

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h) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and PAGA representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

i) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA action involving allegations of misclassification of the salaried residential “Property Manager” position. On September 17, 2015, the court granted plaintiff’s motion for class certification. On October 20, 2017, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Number is BC474784.

j) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of upscale hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the class and PAGA representative action settlement. The Los Angeles County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council Coordination Proceeding Number is 4794.

k) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC488069.

l) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel, accessories, and home products, involving allegations of misclassification of the “Department Manager” position. On August 12, 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. On August 6, 2019, the court granted final approval of the class action settlement. The Alameda County Superior Court Case Number is RG13680477.

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1 m) LFJ represented the plaintiff in a PAGA representative action against a
2 real estate and property management company, on behalf of non-exempt employees. On
3 November 4, 2016, the court granted approval of the PAGA representative action settlement.
4 The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

5 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
6 wage-and-hour class and PAGA representative action against a full-service bank, on behalf of
7 non-exempt employees. On November 18, 2016, the court granted final approval of the class
8 and PAGA representative action settlement. The San Francisco County Superior Court Case
9 Number is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

10 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
11 representative action against a foodservice distributor, on behalf of non-exempt employees. On
12 January 26, 2017, the court granted final approval of the class and PAGA representative action
13 settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

14 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
15 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to
16 the employer's motion to compel arbitration, which resulted in a published opinion by the
17 California Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall*
18 *Supply* (Cal. App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S.
19 Supreme Court Docket No. 17-254). The Riverside County Superior Court Case Numbers are
20 RIC1503952 and RICJCCP5046, and the Judicial Council Coordination Proceeding Number is
21 5046.

22 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class and PAGA representative action against a consumer packaging company,
24 on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the
25 class and PAGA representative action settlement. The Los Angeles County Superior Court Case
26 Number is BC590429.

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1 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a manufacturer of food service
3 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
4 approval of the class and PAGA representative action settlement. The Orange County Superior
5 Court Case Number is 30-2015-00810013-CU-OE-CXC.

6 s) LFJ in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a lumber and hardware company
8 on behalf of non-exempt employees. On April 26, 2017, the court granted final approval of the
9 class and PAGA representative action settlement. The Orange County Superior Court Case
10 Number is 30-2014-00747750-CU-OE-CXC.

11 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
12 representative action against a property management company, on behalf of non-exempt
13 employees. On June 14, 2017, the court granted final approval of the class and PAGA
14 representative action settlement. The Los Angeles County Superior Court Case Number is
15 BC586234.

16 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
17 representative action against a food company on behalf of non-exempt employees. On June 30,
18 2017, the court granted final approval of the class and PAGA representative action settlement.
19 The Sacramento County Superior Court Case Number is 34-2015-00175871.

20 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
21 representative action against a chocolate company on behalf of non-exempt employees. On July
22 19, 2017, the court granted final approval of the class and PAGA representative action
23 settlement. The Alameda County Superior Court Case Number is RG15764300.

24 w) LFJ represented the plaintiff in a PAGA representative action, against the
25 parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
26 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
27 Los Angeles County Superior Court Case Number is BC569664.

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1 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
2 representative action against a manufacturer of plastic containers on behalf of non-exempt
3 employees. On October 31, 2017, the court granted final approval of the class and PAGA
4 representative action settlement. The Los Angeles County Superior Court Case Number is
5 BC577233.

6 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
8 employees. On December 11, 2017, the court granted final approval of the class and PAGA
9 representative action settlement. The Los Angeles County Superior Court Case Number is
10 BC569646.

11 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a property management company
13 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final
14 approval of the class and PAGA representative action settlement. The Los Angeles County
15 Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding
16 Number is 4819.

17 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class and PAGA representative action against a global provider of flexible office
19 space solutions. On February 15, 2018, the court granted final approval of the class and PAGA
20 representative action settlement. The Los Angeles County Superior Court Case Number is
21 BC498401.

22 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
23 wage-and-hour class action against a container manufacturer, on behalf of non-exempt
24 employees. On October 15, 2018, the court granted the plaintiff's motion for class certification.
25 The Tulare County Superior Court Case Number is VCU264528.

26 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
27 representative action against a behavioral health service provider on behalf of non-exempt
28 employees. On November 13, 2018, the court granted final approval of the class and PAGA

1 representative action settlement. The Alameda County Superior Court Case Number is
2 RG16811450.

3 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
4 PAGA representative action against a global provider of products and services to the energy
5 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the
6 court granted approval of the PAGA representative action settlement. The Kern County
7 Superior Court Case Number is S-1500-CV-280215-SDC.

8 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a
9 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
10 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
11 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
12 Council Coordination Proceeding Number is 4886.

13 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
14 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
15 employees. On September 27, 2019, the court granted the plaintiffs' motion for class
16 certification in part and certified a class. The Alameda County Superior Court Case Number is
17 RG15757606 and the Judicial Council Coordination Proceeding Number is 4921.

18 gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class and PAGA representative action against a national retailer of apparel and
20 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
21 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
22 court granted final approval of the class and PAGA representative action settlement. The
23 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

24 hh) LFJ, in association with co-counsel therein, represents the plaintiff in a
25 wage-and-hour class and PAGA representative action against a medical equipment supplier on
26 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
27 for class certification and certified a class. The San Bernardino County Superior Court Case
28 Number is CIVDS1505744.

ii) LFJ, in association with co-counsel therein, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a notable decision from the California Supreme Court clarifying the law regarding PAGA claims, *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted approval of the PAGA representative action settlement. The San Diego County Superior Court Case Number is 34-2015-00175330.

jj) LFJ, in association with co-counsel therein, represented the plaintiff in a wage-and-hour class and PAGA representative action against a large national drug testing laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the plaintiff's motion for class certification and certified a class. On October 28, 2022, the court granted final approval of the class and PAGA representative action settlement. The San Diego County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a wage-and-hour class and PAGA representative action against a national retailer of sportswear, footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the court granted in part the plaintiff's motion for class certification and certified a class. The Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the Judicial Council Coordination Proceeding Number is 4930.

ll) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against manufacturer and supplier of power products and services on behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion for class certification and certified a class. On August 27, 2021, the court granted final approval of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-00025968-CU-OE-CTL.

mm) LFJ represents the plaintiff in a wage-and-hour class action against a nutritional products manufacturer on behalf of non-exempt production line employees. On December 13, 2021, the court granted the plaintiff's motion for class certification in part and

certified a class. The Solano County Superior Court Case Number is FCS051001.

THE SETTLEMENT REACHED IN THE ACTION

8. Marked and attached hereto as “**EXHIBIT 1**” is the Private Attorneys General Act Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), entered into between Plaintiff Terral Brown, for himself and on behalf of the State of California and other aggrieved employees pursuant to the Private Attorneys General Act, and Defendant Balfour Beatty Infrastructure, Inc. (“Defendant”). The parties have also drafted and agreed to the form and content of the proposed informational cover letter (“Cover Letter”) for mailing to Aggrieved Employees when Individual Settlement Shares are distributed to them, in substantially the form attached as “EXHIBIT 1” to the [Proposed] Order and Judgment Granting Approval of Private Attorneys General Act (Cal. Labor Code § 2698, *Et Seq.*) Settlement Agreement and Award of Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs. The Court is respectfully requested to approve the proposed Cover Letter.

9. The Aggrieved Employees covered by the Settlement consist of the following individuals: all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California on the Caltrain project during the PAGA Period (“Aggrieved Employees”). The “PAGA Period” means the period between November 12, 2019 through May 31, 2022. Defendant has represented that there are approximately six hundred thirty-three (633) Aggrieved Employees.

10. Plaintiff has satisfied the prerequisites under California Labor Code section 2699.3(a), including, and not limited to, providing the California Labor and Workforce Development Agency (“LWDA”) and the employer with written notice of the specific provisions of the California Labor Code that are alleged to have been violated, including the facts and theories to support the alleged violations, by way of written correspondence on December 14, 2020 (“PAGA Notice”). The PAGA Notice was sent by U.S. Certified Mail to the employer and submitted to the LWDA by way of online submission on the LWDA’s website. The LWDA did not respond to the PAGA Notice that was sent on behalf of Plaintiff. A true and correct copy of the December 14, 2020 PAGA Notice is attached hereto as “**EXHIBIT 2.**”

11. The Settlement is for the gross amount of Four Hundred and Seventy Five Thousand Dollars (\$475,000.00) (“Total Settlement Amount”), which Defendant will pay under the Settlement. The Settlement Agreement provides that the “Net Settlement Amount” will be the Total Settlement Amount less the following amounts: (1) Attorneys’ Fees and Costs in the amount of up to \$190,000.00 for attorneys’ fees and up to \$19,000.00 for reimbursement of litigation costs and expenses to Lawyers *for* Justice, PC (“Plaintiff’s Counsel”); (2) General Release Fee of \$7,500.00 to Plaintiff; and (3) Settlement Administration Costs of up to \$6,000.00 to the PAGA Settlement Administrator. Plaintiff’s Counsel only seeks an award of reimbursement of litigation costs and expenses in the amount of \$10,911.03, and assuming that the requested Attorneys’ Fees and Costs, General Release Fee, and Settlement Administration Costs, are approved by the Court, the Net Settlement Amount is estimated to be approximately \$260,588.97. The Net Settlement Amount will be distributed to the LWDA and the Aggrieved Employees pursuant to California Labor Code section 2699(i). Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA, which is estimated to be \$195,441.73 (“LWDA Payment”), and twenty-five percent (25%) of the Net Settlement Amount, which is estimated to be \$65,147.24 (“Employees’ Portion”), will be distributed to the Aggrieved Employees on a *pro rata* basis, based on the number of pay periods they each worked during the PAGA Period (“Compensable Pay Periods”). The parties have agreed to retain Simpluris, Inc. (“Simpluris” or “PAGA Settlement Administrator”) to handle the administration of the Settlement, and the Court is respectfully requested to appoint Simpluris to serve as the PAGA Settlement Administrator. The Settlement Administration Costs are estimated not to exceed \$6,000.00 and will be paid out of the Total Settlement Amount, subject to approval by the Court.

THE LITIGATION AND WORK PERFORMED BY PLAINTIFF’S COUNSEL

12. The effectiveness of Plaintiff’s Counsel, Lawyers *for* Justice PC, in prosecuting this case has translated into tangible monetary benefits for Plaintiff, Aggrieved Employees, and the State of California in the following respects: (1) their recoveries over a reasonably short period of time as opposed to waiting additional years for the same, or possibly, a worse, result;

(2) a guaranteed result that compares favorably with other similar representative action settlements; and (3) significant savings in fees and costs which would have only increased significantly had the case progressed through trial and/or appeals.

13. After engaging in extensive investigations, informal discovery, and exchange of information, the parties participated in settlement negotiations to try to resolve the above-captioned lawsuit. These efforts included participating in a full-day mediation on April 20, 2022, conducted by Steven J. Serratore, Esq., a well-respected mediator experienced in mediating complex labor and employment matters. With the aid of the mediator, the parties reached the Settlement described herein. In the course of mediation and settlement negotiations, the parties discussed all aspects of the case, including the risks and delays of further litigation and proceeding with trial, as well as the law relating to representative PAGA actions, off-the-clock theory, wage-and-hour enforcement, arbitration agreements, collective bargaining agreements, pre-emption, and exemption, the evidence produced and analyzed, and the possibility of bifurcation of discovery and/or trial and appeals, among other things. During all settlement discussions, the parties conducted their negotiations at arm's length in an adversarial position.

14. Prior to reaching the Settlement, the parties investigated the veracity, strength, and scope of the PAGA claim and allegations, and were preparing for trial. Plaintiff conducted significant investigation and informal discovery and exchange of information, documents, and data regarding the facts of the case, including and not limited to, the review, consideration, and analysis of a large volume of pages of information, documents, and data obtained from Plaintiff, Defendant, and other sources. The information, documents, and data that were reviewed and analyzed by Plaintiff's Counsel included, and were not limited to, employment records of Plaintiff, a detailed sampling of aggrieved employees' time data and records, aggrieved employees' pay data and records, Defendant's Collective Bargaining Agreements, orientation checklist, and various forms and agreements (including, but not limited to, Defendant's New Hire/Rehire Form, Termination Form, and Confidentiality Agreement), among other documents. Counsel for the parties undertook significant investigation and evaluation of

Plaintiff's claim and allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. Other work performed by Plaintiff's Counsel included but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, case management, the mediation, and settlement, among other issues; case strategy and analysis; drafting, reviewing, and revising the pleadings, court filings, the mediation brief, settlement agreement, and settlement approval motion papers; preparing for the mediation and settlement negotiations; and preparing for and appearing for court proceedings and mediation and settlement negotiations. Counsel for the parties have further invested time to research the applicable law, which is evolving as it relates to representative PAGA actions, off-the-clock theory, wage-and-hour enforcement, arbitration agreements, collective bargaining agreements, pre-emption, exemption, and alternative workweek schedules, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.

15. Based on investigation and information discovered, Plaintiff's Counsel believes that there is sufficient evidence to support the allegations that Defendant violated the California Labor Code. While Plaintiff's Counsel believes that the PAGA claim has merit and that Plaintiff will ultimately succeed in this litigation and prevail at trial, Plaintiff and Plaintiff's Counsel also recognize Defendant's defenses, the costs of further litigation, and multiple risks to recovery. For example, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff, including, and not limited to, the issues of non-compliant meal periods, non-compliant rest periods, and unreimbursed business expenses, raise individualized issues and/or are unmanageable and thus not suitable for adjudication as to a group of employees. Thus, Plaintiff faced the risk that the Court may determine that the PAGA claim requires individualized inquiries that would render adjudication of the PAGA claim unmanageable or at odds with Defendant's right to due process. *See, e.g., Wesson v. Staples the Office Superstore, LLC* (2021) 68 Cal.App.5th 746, 756 ("[C]ourts have inherent authority to ensure that PAGA claims can be fairly and efficiently tried and, if necessary, may strike claims that cannot be rendered manageable"); *but cf. Estrada v. Royalty Carpet Mills, Inc.* (2022) 76 Cal.App.5th 685,

1 712, *review granted* (June 22, 2022) (“Imposing a manageability requirement would create an
2 extra hurdle in PAGA cases that does not apply to LWDA enforcement actions.”)

3 16. Plaintiff and his counsel have also considered the uncertainty and risk of the
4 outcome of further litigation, including the difficulties and delays inherent in such litigation. In
5 order to prevail on the PAGA claim, Plaintiff would have to prove that Defendant engaged in
6 the alleged California Labor Code violations and demonstrate that Defendant’s conduct warrants
7 the imposition of penalties. Plaintiff’s core allegation is that Defendant has violated the
8 California Labor Code by failing to pay overtime and minimum wages, failing to provide
9 compliant meal and rest periods and associated premiums, failing to timely pay wages during
10 employment and upon termination of employment, failing to provide complete and accurate
11 wage statements, failing to keep complete and accurate payroll records, and failing to reimburse
12 necessary business-related expenses and costs.

13 17. From the inception of this litigation, Defendant indicated that it would
14 aggressively litigate this case and contended that it would ultimately succeed in the action.
15 Defendant maintained several defenses to Plaintiff’s allegations, which, if successfully argued
16 and proven, had the potential to eliminate or substantially reduce recovery. Throughout this
17 litigation, Defendant maintained, and continues to maintain, that it did not engage in a uniform
18 policy and systematic scheme of wage abuse against its hourly-paid or non-exempt employees,
19 and that it had, and continues to have, legally compliant employment policies and practices
20 throughout the time period at issue. Defendant denies that it ever violated any provision of the
21 California Labor Code. Defendant further denied, and continues to deny, that the lawsuit is
22 appropriate for representative adjudication for any purpose other than the Settlement.

23 18. Importantly, Defendant also contended that the claims of Aggrieved Employees
24 are subject to collective bargaining agreements (“CBA(s)”) which trigger California Labor Code
25 exemptions (e.g., with respect to overtime) and govern disputes arising from their employment
26 and require arbitration thereof. Defendant contended that, taken together, these CBAs would
27 have claim preclusive impact, or otherwise, could effectively be used to require Aggrieved
28 Employees, who are subject to CBAs with arbitration provisions, to engage in the applicable

grievance procedures and/or individual arbitration of their individual claims on which the PAGA claim is predicated. Although the parties disagree on whether or not the requirements for CBA-based California Labor Code exemptions were satisfied and whether or not arbitration provisions of the CBAs are enforceable and their impact, there is some uncertainty regarding the viability of PAGA claims in the judicial forum in the face of arbitration provisions, arising from the U.S. Supreme Court's decision in *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct. 1906, 2022 U.S. LEXIS 2940.

19. Even if Defendant failed on its defenses, Plaintiff would inevitably face other challenges in court. For example, Defendant challenged Plaintiff's standing as an aggrieved employee and denied that any of Defendant's other employees whom Plaintiff seeks to represent are aggrieved. Aside from challenges relating to standing, Defendant would have likely sought bifurcation of discovery and/or trial of the PAGA claim — multiple courts have taken such an approach, for example, limiting discovery or trial of the issues to Plaintiff. Defendant also contended that an important feature of the PAGA statute is that a court has discretion to reduce the penalties to be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). As discussed above, Defendant denied and continues to deny that it ever violated any provision of the California Labor Code. However, assuming, *arguendo*, that any violations occurred, Defendant argued the violations would not be viewed as subsequent violations giving rise to heightened penalties. Defendant also argued that the Court was unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory—especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem.

20. The parties had the opportunity to review extensive information, documents, and data regarding Plaintiff's and Aggrieved Employees' employment with Defendant, in an effort to determine the potential value and strength of the PAGA claim. Counsel for the parties invested time reviewing and analyzing the relevant information, documents, and data, and this information made it possible to calculate the potential value of the PAGA claim. Accordingly,

the parties have conducted sufficient investigation and review of information to be sufficiently apprised of the nature and extent of the PAGA claim asserted in this lawsuit, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and reasonableness. The parties have also considered the settlement negotiations and the recommendations of the mediator, Steven J. Serratore, Esq., who is highly experienced in mediating complex labor and employment matters. The parties have agreed that this case is well-suited for settlement given the legal issues relating to the PAGA claim, as well as the costs and risks to both sides that would attend further litigation. The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal.

21. As set forth more fully in the accompanying Motion, Plaintiff's Counsel seeks attorneys' fees in the amount of \$190,000.00, which represents approximately forty percent (40%) of the Total Settlement Amount, as provided by the Settlement Agreement. Pursuant to the contingency-fee agreement entered into by and between Plaintiff and Plaintiff's Counsel, Plaintiff has agreed to a contingency fee of at least forty percent (40%) of the recovery. The attorneys' fees sought are commensurate with: (1) the risk that Plaintiff's Counsel took in commencing the case; (2) the time, effort, and expense that Plaintiff's Counsel dedicated to the case; (3) the skill and determination that Plaintiff's Counsel has shown; (4) the results that Plaintiff's Counsel has achieved throughout the litigation; (5) value of the settlement that Plaintiff's Counsel has achieved in the case; and (6) the other cases that Plaintiff's Counsel has turned down in order to devote its time and efforts to this matter.

22. I am aware that common and acceptable rate for contingency representation in wage and hour class and representative action litigation are normally in the range from 33.3% up to 50%.

23. While not necessarily required to be demonstrated because a percentage of the fund is proper for this settlement, it should be noted that Plaintiff's Counsel has performed many hours of work in connection with prosecuting this matter such that the requested attorneys' fees award is also justified under a simple lodestar analysis. Attorneys at Lawyers for Justice, PC

1 have spent a total of **291.80 hours** performing tasks to obtain a recovery on behalf of Plaintiff,
2 the State of California, and the Aggrieved Employees. Attached hereto as “**EXHIBIT 3**” is an
3 Attorney Task and Time Chart that sets forth in detail the nature of the legal services provided
4 by attorneys at Lawyers *for* Justice, PC and the time incurred in performing those services.
5 These hours include work I have performed myself, as well as work by several other attorneys
6 at the firm. Also, separate from the hours referenced herein, Lawyers *for* Justice, PC had
7 litigation support personnel actively engaged in assisting with the prosecution of the case.

8 24. The work performed in this particular case, the background of our firm, as well as
9 the individual backgrounds, training, and experience of the attorneys who worked on this matter,
10 in litigating complex wage-and-hour class and PAGA representative actions, support a
11 reasonable blended hourly rate of compensation of at least \$700 for work performed by
12 Plaintiff’s Counsel. Lawyers *for* Justice, PC has been awarded attorneys’ fees, compensating
13 the firm at the rate of at least \$700 per hour for legal services performed, by courts granting
14 approval of wage and hour class action and/or representative action settlements in other cases:
15 final approval of the class and representative action settlement in *David Dugan v. TEC*
16 *Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on
17 July 8, 2021, and the award of attorneys’ fees involved an hourly rate of \$936.47; final approval
18 of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan*
19 (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award
20 of attorneys’ fees involved an hourly rate of \$919.57; final approval of the class action
21 settlement in *Thereasa Carrozzella v. Basalite Concrete Products, LLC* (Sacramento County
22 Superior Court Case No. 34-2017-00220214-CU-OE-GDS) was granted on February 21, 2020,
23 and the award of attorneys’ fees involved an hourly rate of \$766.05; final approval of the class
24 and representative action settlement in *Alice Rutledge, et al. v. Healthport Technologies, LLC*
25 (Alameda County Superior Court Case No. RG16835813) was granted on June 11, 2019, and
26 the award of attorneys’ fees involved an hourly rate of \$764.82; final approval of the class and
27 representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior
28 Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys’ fees

involved an hourly rate of \$855.96; final approval of the class and representative action settlement in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No. RG16811450) was granted on November 21, 2018, and the award of attorneys' fees involved an hourly rate of \$831.38; final approval of the class and representative action settlement in *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No. 2020582) was granted on May 15, 2018, and the award of attorney's fees involved an hourly rate of \$780.77; and final approval of the class and representative action settlement in *Demetrius Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-00175871) was granted on June 30, 2017, and the award of attorneys' fees involved an hourly rate of \$845.64.

LITIGATION COSTS AND EXPENSES INCURRED BY PLAINTIFF'S COUNSEL

25. Plaintiff's Counsel seeks reimbursement of \$10,911.03 for litigation costs and expenses incurred in this case, as reflected in the Case Cost Detail attached hereto as "EXHIBIT 4." It should be noted that Plaintiff's Counsel has borne all of the risks and costs of litigation to date and will not receive any compensation until a recovery is obtained in this matter. These costs and expenses were reasonable and necessary in the prosecution of this matter and to obtain the Settlement and the amount sought for reimbursement is less than the maximum amount (\$19,000.00) allocated under the Settlement Agreement for reimbursement of litigation costs and expenses.

GENERAL RELEASE FEE TO PLAINTIFF

26. In recognition of his efforts and work in spearheading the litigation of this matter, as well as for his broader individual waiver and release of claims with a California Civil Code Section 1542 waiver (set forth in Section 8(b) of the Settlement Agreement), the Settlement provides a General Release Fee to Plaintiff in the amount of \$7,500.00 to be paid out of the Total Settlement Amount. The requested General Release Fee is fair and appropriate. By initiating and pursuing this matter, Plaintiff stepped into the shoes of the State of California and undertook the responsibilities of serving in a representative capacity. Plaintiff has spent a substantial amount of time and effort discussing his employment with his counsel, gathering and

1 producing relevant documents and information, and providing the facts and evidence necessary
2 to attempt to prove the allegations. Plaintiff was available whenever his counsel needed him
3 and actively tried to obtain and provide information that would facilitate the pursuit of the PAGA
4 claim. Accordingly, it is appropriate and just for Plaintiff to receive a General Release Fee, in
5 addition to the Individual Settlement Share he will receive as an Aggrieved Employee.

6 27. Plaintiff's Counsel submits that the Settlement fulfills the purpose of the PAGA
7 statute, is within the accepted range of recoveries for this type of litigation, is fair, reasonable,
8 and adequate, and in the best interests of Plaintiff, the State of California and other Aggrieved
9 Employees given the substantial monetary benefits provided for by the Settlement, the strengths
10 and weaknesses of this case, and the inherent delay, costs, risks, and uncertainty associated with
11 continued litigation.

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

14 Executed this 7th day of March 2023, at Glendale, California.

15 

16 Edwin Aiwanian

EXHIBIT 1

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is entered into by and between Terral Brown (“Plaintiff”), for himself and as a representative of the State of California and the Aggrieved Employees (as defined in Section 3(a)(5) below) and Balfour Beatty Infrastructure, Inc. (“Defendant”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant at various periods between approximately September 2018 through approximately November 2019;

(b) On December 14, 2020, Lawyers *for* Justice, PC (“Plaintiff’s Counsel”), submitted a letter to the California Labor and Workforce Development Agency (“LWDA”) on behalf of Plaintiff, to notify the LWDA and Defendant pursuant to the Private Attorneys General Act of 2004, Labor Code section 2698, *et seq.* (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 16-2001, thereby initiating LWDA Case Number LWDA-CM-815353-20 (the “PAGA Notice”);

(c) On February 17, 2021, Plaintiff filed his Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”), commencing a representative action under PAGA against Defendant, entitled *Terral Brown v. Balfour Beatty Infrastructure, Inc.*, Santa Clara Superior Court Case No. 21CV376175 (the “Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA, for violations of the California Labor Code and applicable Industrial Welfare Commission Wage Orders;

(d) On April 20, 2022, the Parties mediated the Action with Steven J. Serratore, Esq. and, with the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety;

(e) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Released Claims (as defined in Section 8(a) below).

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of Four Hundred Seventy-Five Thousand Dollars and No Cents (\$475,000.00) (the “Total Settlement Amount”) to resolve the Action and Released Claims (as defined herein), which will be paid as follows:

(1) Attorneys’ fees in the amount of forty percent (40%) of the Total Settlement Amount, which is One Hundred Ninety Thousand Dollars and No Cents (\$190,000.00), and reimbursement of litigation costs and expenses in the amount of up to Nineteen Thousand Dollars and No Cents (\$19,000.00) (collectively, “Attorneys’ Fees and Costs”) to Plaintiff’s Counsel, subject to Court approval, and which Defendant will not contest.

(2) A general release fee of up to the amount of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) (“General Release Fee”) to Plaintiff, subject to Court approval, and which Defendant will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Six Thousand Dollars and No Cents (\$6,000.00) (“Settlement Administration Costs”) to Simpluris, Inc. (the “PAGA Settlement Administrator”).

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the Total Settlement Amount. The balance remaining after these deductions is referred to as the “Net Settlement Amount.”

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA (“LWDA Payment”); and the remaining twenty-five percent (25%) will be distributed to the Aggrieved Employees, defined solely for purposes of this Settlement as all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California on the Caltrain project during the PAGA Period (the “Aggrieved Employees”). The period November 12, 2019 through May 31, 2022 is the “PAGA Period”. The 25% portion of the Net Settlement Amount payable to Aggrieved Employees is referred to as the “Employees’ Portion.”

(b) During the period between December 14, 2019 to April 18, 2022, Aggrieved Employees are estimated to have worked approximately 20,931 Compensable Pay Periods. If the actual number of Compensable Pay Periods during the period December 14, 2019 to April 18, 2022 is more than ten percent (10%) above 20,931 Compensable Pay Periods (i.e., more than 23,024 Compensable Pay Periods), then either the Total Settlement Amount will be increased by the same proportion above one hundred ten percent (110%) or Defendant, at its sole discretion, may elect to cut off the PAGA Period as of the date the total Compensable Pay Periods worked by the Aggrieved Employees exceeds ten percent (10%) of the 20,931 estimate. For example, if the total Compensable Pay Periods worked by the Aggrieved Employees is twenty percent (20%) more than 20,931, Defendant may choose either that: (i) the Total Settlement Amount to be paid will increase by ten percent (10%); or (ii) the PAGA Period will end on the date in which the Aggrieved Employees collectively worked 23,024 Compensable Pay Periods.

(c) The total number of Aggrieved Employees are estimated to consist of approximately 633 individuals who worked approximately 23,679 Compensable Pay Periods during the PAGA Period.

(d) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One Hundred Percent (100%) of the payments for Attorneys' Fees and Costs, General Release Fee, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section 3(a) above will be treated and reported for tax purposes as non-wage payments and the PAGA Settlement Administrator will be responsible for issuing IRS Forms 1099 as required.

4. **Court Approval is Required.** Plaintiff understands and agrees that the State of California and Aggrieved Employees, including Plaintiff, would not receive the consideration specified in Section 3(a) above, except for Plaintiff's execution of this Settlement Agreement, and the fulfillment of the promises contained herein, as well as Court approval of the Settlement. If this Settlement Agreement is not approved by the Court, it shall be null and void. Plaintiff shall timely provide notice of this Settlement Agreement and the Court's approval of this Settlement Agreement to the LWDA in accordance with Labor Code §§ 2698 *et seq.*

5. **Disbursal of Settlement Funds.**

(a) Subject to Section 4 above, Defendant shall remit to the PAGA Settlement Administrator the sums described more fully in Section 3(a) above, by transmitting the required sums to a qualified settlement account established by the PAGA Settlement Administrator for administration of this Settlement within thirty (30) calendar days after all of the following has occurred: (i) the Settlement Agreement is fully executed by all Parties and their counsel; (ii) Plaintiff has provided notice of the Settlement Agreement to the LWDA; (iii) the Court has entered an order approving the Settlement Agreement; and (iv) Plaintiff has provided notice of the Court's approval to the LWDA; and (v) only if any objection has been made to Settlement approval, any time for which an appeal could be made to the Court's approval of the Settlement has passed (the "Effective Date"). If the date by which payment by Defendant is due falls on a Saturday, Sunday or legal holiday in the State of California, then the due date shall be extended the next following day which is not a Saturday, Sunday or legal holiday in the State of California.

(b) Upon complete distribution of the Total Settlement Amount by the PAGA Settlement Administrator in accordance with this Settlement Agreement, the PAGA Settlement Administrator will notify the Parties of distribution of the entire Total Settlement Amount.

6. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to the settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion to approve this Settlement Agreement to Michael D. Thomas and Eric J. Gitig of Jackson Lewis P.C. ("Defendant's Counsel") for review and approval prior to filing.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

7. **Payment of PAGA Settlement Sum / Notice to Recipients.**

(a) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Amount (i.e., the Employees' Portion) based upon the number of pay periods they each worked during the PAGA Period ("Compensable Pay Periods"), based on Defendant's payroll records. Specifically, to calculate each Aggrieved Employee's share of the Employees' Portion ("Individual Settlement Share"), the PAGA Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Compensable Pay Periods he or she individually worked by the total aggregate number of Compensable Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees' Portion to arrive at each Aggrieved Employee's Individual Settlement Share.

(1) One Hundred Percent (100%) of all Individual Settlement Shares are to be considered penalties and the PAGA Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees' Individual Settlement Shares will be reported on an IRS Form 1099 as required by the IRS.

(b) The PAGA Settlement Administrator shall distribute each Individual Settlement Share by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties and approved by the Court, in substantially the form attached hereto as "Exhibit A", in the following manner:

(1) No later than thirty (30) calendar days after the Effective Date, Defendant shall provide the PAGA Settlement Administrator with a list of all Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) Social Security number; and (iv) the number of Compensable Pay Periods .

(2) The PAGA Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List.

(3) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the agreed-upon Cover Letter and Individual Settlement Share checks (together, the "PAGA Settlement Package") to all Aggrieved Employees by first-class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty

(30) calendar days of the initial mailing, the PAGA Settlement Administrator shall promptly attempt to locate an alternate, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid for ninety (90) calendar days, and thereafter, shall be canceled. Funds associated with canceled checks shall be transmitted to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of his or her respective Individual Settlement Share(s) .

(c) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(d) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Attorneys' Fees and Costs to Plaintiff's Counsel, unless instructed otherwise by Plaintiff's Counsel.

(e) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the General Release Fee to Plaintiff.

(f) No later than fourteen (14) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Settlement Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved Employees.

8. Release of Claims

(a) **Release of Claims by Plaintiff, Aggrieved Employees, and the State of California.** Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff and Aggrieved Employees, individually and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns, and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs (collectively, the "Released Parties"), to the full extent permitted by law, of and from the Action and from any and all claims arising during the PAGA Period for civil penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint and PAGA Notice, including but not limited to, for failure to pay minimum, regular, and overtime, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records,

failure to reimburse necessary business-related expenses and costs, and for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia* Wage Orders 4-2001 and 16-2001 (collectively, the “Released Claims”).

(b) **General Release of Claims by Plaintiff and Waiver of Rights under California Civil Code Section 1542.** In addition to releasing the Released Claims, as described in Section 8(a) above, and in exchange for the General Release Payment described in Section 3(a)(2) above, upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of his heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the full extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, which Plaintiff has or may have as of the date the Court has entered an order approving the Settlement Agreement. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiff’s employment with Defendant and the termination of that employment, including without limitation claims arising under federal, state, or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by his to exist may hereafter be discovered. It is Plaintiff’s intention to, upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, settle fully and release all claims he now has against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for workers’ compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

9. **Confidentiality Preceding Approval.** Prior to Plaintiff filing the motion seeking approval of this Settlement, the Parties and their attorneys will not issue any press or other media releases or have any communication with the press or media or anyone other than family members, financial advisors, retained experts, and vendors related to settlement administration, regarding the Settlement Agreement. Information regarding the Settlement Agreement may be

disclosed to the Court, the LWDA or in response to information disclosed by Defendant. Until the Settlement Agreement is approved by the Court, Plaintiff and his attorneys will not issue any press, media releases, or advertising related to this Settlement Agreement or Action, unless approved in advance by Defendant. Nothing herein will restrict Plaintiff's Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Plaintiff's Counsel's qualifications and experience.

10. **No Transfer/Assignment of Claims.** Plaintiff warrants and represents that Plaintiff has not assigned or transferred or purported to assign or transfer to any person or entity all or any part of or any interest in any claim released under this Settlement Agreement. Plaintiff is solely responsible for the satisfaction of any assignment or lien to any lien holder and will indemnify and hold the Released Parties harmless against any liens, damages, penalties, fines, fees, assessments, taxes or attorneys' fees that may be imposed against or incurred by any of the Released Parties as a result of the Action of any lien holder or any lien claimant or any court in relation to any interest which any third party may have in any claim which Plaintiff is releasing under this Settlement Agreement or any interest in any of the proceeds paid to Plaintiff or Plaintiff's Counsel under this Settlement Agreement.

11. **Liens and Attorneys' Fees/Indemnification.** Plaintiff is solely responsible for any liens made in connection with any services performed on Plaintiff's behalf by any attorney, consultants, or expert witnesses. Each Party solely is responsible for any fees and costs they or it has incurred including, but not limited to, fees for attorneys, consultants, and expert witnesses. Plaintiff acknowledges that none of the Released Parties are responsible for the payment of any fees incurred on behalf of Plaintiff in connection with the prosecution of the Action, except to the extent the Settlement Agreement provides for payment of attorneys' fees and costs.

12. **Governing Law and Interpretation.**

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California provided, however, that parol evidence shall not be admissible to alter, vary or supplement the term of this Settlement Agreement. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

13. **Waiver of Right to Appeal.** Provided that the Court's approval of this Settlement is consistent with the material terms of this Settlement Agreement, Plaintiff, Defendant, and their respective counsel hereby waive any and all rights to appeal the approval of the Settlement Agreement, and the order therefore will become non-appealable at the time it is entered. If, for any reason an appeal is taken, the time for consummating the Settlement Agreement (including making payments required under the Settlement Agreement) will be suspended until such time as the appeal is finally resolved and the Effective Date is reached.

14. **Amendment.** This Settlement Agreement may not be modified, altered or changed except in writing and signed by both Parties' counsel, wherein specific reference is made to this Settlement Agreement, subject to approval by the Court.

15. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement 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.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Steven J. Serratore, Esq. In the event of vagueness, ambiguity or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(e) If Plaintiff or Defendant fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

(f) To the fullest extent permissible under applicable law, and solely for the purposes of this Settlement Agreement and not for any other purpose, Plaintiff's Counsel represents and warrants on behalf of themselves and all others acting on their behalf, that they are not currently retained by any other individuals with claims against Defendant. Nothing in the foregoing is intended to limit or restrict Plaintiff's Counsel's ability to practice law, or to otherwise violate California Rules of Professional Conduct, Rule 1-500. To the extent any portion of this paragraph is found to violate Rule 1-500, or any other Rule of Professional Conduct, such offending language will be deemed stricken and will be treated as if it is of no force and effect.

(g) The Parties believe there is no basis for objections to this Settlement Agreement or its approval by the Aggrieved Employees. The Parties further agree that there is no statutory right for any Aggrieved Employee to object, opt out, or otherwise exclude himself or herself from this Settlement.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: 25th October, 2022



Terral Brown
Individually and On Behalf of
the State of California and Aggrieved Employees

BALFOUR BEATTY INFRASTRUCTURE, INC.

Date: _____, 2022

Name:
Title:

Approved as to form and content

LAWYERS FOR JUSTICE, PC

Date: October 27, 2022, 2022



Edwin Aiwanian
Joanna Ghosh
Attorneys for Plaintiff Terral Brown

Approved as to form and content.

JACKSON LEWIS P.C.

Date: _____, 2022

Michael D. Thomas
Eric J. Gitig
Attorneys for Defendant Balfour Beatty
Infrastructure, Inc.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: _____, 2022

Terral Brown
Individually and On Behalf of
the State of California and Aggrieved Employees

BALFOUR BEATTY INFRASTRUCTURE, INC.

Date: Oct 17, 2022, 2022



Name:
Title:

Approved as to form and content

LAWYERS *FOR* JUSTICE, PC

Date: _____, 2022

Edwin Aiwazian
Joanna Ghosh
Attorneys for Plaintiff Terral Brown

Approved as to form and content.

JACKSON LEWIS P.C.

Date: October 17, 2022



Michael D. Thomas
Eric J. Gitig
Attorneys for Defendant Balfour Beatty
Infrastructure, Inc.

Exhibit A

<<Mailing Date>>

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

Re: Settlement Payment from *Terral Brown v. Balfour Beatty Infrastructure, Inc.*, Santa Clara Superior Court Case No. 21CV376175

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Share”). This check is your payment from the settlement in the lawsuit entitled *Terral Brown v. Balfour Beatty Infrastructure, Inc.*, Santa Clara Superior Court Case No. 21CV376175 (“Action”).

The lawsuit was filed on February 17, 2021 by Terral Brown (“Plaintiff”) against his former employer, Balfour Beatty Infrastructure, Inc. (“Defendant”), on behalf of the State of California, with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”), for alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, amongst other alleged violations. Prior to filing the lawsuit, on December 14, 2020, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of his intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 16-2001, thereby initiating LWDA Case Number LWDA-CM-815353-20 (the “PAGA Notice”).

Defendant denies all of Plaintiff’s allegations and denies any wrongdoing of any kind associated with Plaintiff’s allegations. Defendant also denies that this action could proceed on a representative basis.

A settlement was reached between Plaintiff and Defendant.

On << Date>>, the settlement was approved by the Court, with a portion to be paid to the State of California Labor and Workforce Development Agency and a portion to be paid to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California on the Caltrain project during the PAGA Period (“Aggrieved Employees”). The period November 12, 2019 through May 31, 2022 is the “PAGA Period”.

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods that you worked for Defendant in California as an hourly-paid or non-exempt employee on the Caltrain project during the PAGA Period. The Individual Settlement Share is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of entry of order by the Court approving the Settlement>>, the Released Parties were fully released and forever discharged from any and all Released Claims.

“Released Parties” means Defendant, including Defendant’s parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

“Released Claims” means any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* (“PAGA”) as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint and PAGA Notice, including but not limited to, for failure to pay minimum, regular, and overtime, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, and for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 16-2001.

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be cancelled, and the funds associated with the cancelled check will be transmitted to the State Controller’s Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

EXHIBIT A – COVER LETTER

There is no statutory right for any Aggrieved Employee to object, opt out, or otherwise exclude himself or herself from the settlement.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact **PAGA Settlement Administrator** at **toll-free phone number**.

EXHIBIT 2

December 14, 2020

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: BALFOUR BEATTY INFRASTRUCTURE, INC.

Dear Representative:

We have been retained to represent Terral Brown against Balfour Beatty Infrastructure, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as “Balfour Beatty”) for violations of California wage-and-hour laws. Mr. Brown seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”) and all other remedies available under PAGA.

Mr. Brown seeks these remedies on behalf of the State of California and “aggrieved employees,” as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Balfour Beatty employed Mr. Brown as an hourly-paid, non-exempt employee from approximately September 2019 to approximately February 2020, in the State of California.

The “aggrieved employees” that Mr. Brown may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California, including, but not limited to all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California who earned shift differentials/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of pay used to calculate the overtime rate.

Based on the following facts and theories, Balfour Beatty has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, and 16-2001.

Balfour Beatty required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Brown and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Brown and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, Balfour Beatty required Mr. Brown and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. Balfour Beatty also required aggrieved employees to stay on work premises during rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. During the relevant time period, Balfour Beatty failed to pay Mr. Brown and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Balfour Beatty failed to pay Mr. Brown and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Balfour Beatty did not provide Mr. Brown and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Balfour Beatty were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Brown and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Brown and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Brown and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Brown and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Brown and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Balfour Beatty failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Brown and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Balfour Beatty did not provide Mr. Brown and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, and 16-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Balfour Beatty failed to pay Mr. Brown and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Brown and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Balfour Beatty failed to pay Mr. Brown and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Brown and the other aggrieved employees were required to report for work

a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Brown and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Balfour Beatty.

Therefore, on behalf of all aggrieved employees, Mr. Brown seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

A handwritten signature in blue ink, appearing to read "Edwin Aiwazian".

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Balfour Beatty Infrastructure, Inc.
c/o CT Corporation Systems
Agent for Service of Process
818 West 7th Street, Suite # 930
Los Angeles, CA 90017

EXHIBIT 3

TERRAL BROWN V. BALFOUR BEATTY INFRASTRUCTURE, INC.
(SANTA CLARA COURT CASE NO. 21CV376175)

ATTORNEY TASK AND TIME CHART

TASK	LAWYERS <i>for</i> JUSTICE, PC
Investigation and Research / Due Diligence	
Pre-Lawsuit Investigation of the Key Facts with a Focus on the Merits of Plaintiff Terral Brown’s (“Plaintiff”) Private Attorneys General Act (“PAGA”) Claims on Behalf of the State of California with Respect to Plaintiff and the Aggrieved Employees	8.50
Pre-Lawsuit Investigation of Potential Civil Penalties Exposure of Defendant Balfour Beatty Infrastructure, Inc. (“Defendant”) with Respect to Plaintiff and the Aggrieved Employees	7.40
Legal Research and Analysis of Latest Off-the-Clock, Meal and Rest Break, and Representative PAGA Decisions in California, Including all New and Relevant DLSE Materials	7.50
Investigation of Defendant, Defendant’s Business Relationships, Clients, and Contracts, and the Industry in which Defendant Operates	3.50
Investigation of Defendant’s Organizational and Corporate Structure, and Executive Reporting Structure, as They Relate to the Employment and Management of Aggrieved Employees	3.10
Investigation of Defendant’s Executives, Officers, and Leadership with a Focus on Involvement in Wage-and-Hour Issues and Establishing Willfulness and Uniformity,	3.30

Research and Analysis of Defendant's Litigation History Involving Wage-and-Hour Issues and Other Related Employment Issues	
Analysis of Competitors in Various Relevant Geographic Areas within which Defendant Operates, and Comparing and Contrasting Defendant's Policies, Practices, and Procedures with the Policies, Practices, and Procedures of Defendant's Competitors	3.50
Research and Investigation Re: Job Site(s), Location(s), Department(s), and/or Division(s) Owned, Managed, Serviced, and/or Operated by Defendant in California, Including Differences Between Them to Determine Whether Those Differences Will Cause Individual Issues to Predominate Over Common Issues	4.10
Research and Investigation Re: Workforce, Staffing Models, and Staffing Levels at Location(s) at Which Aggrieved Employees Worked Throughout California	4.40
Research and Investigation Re: Defendant's Written and Unwritten Policies, Practices, and Procedures Relating to Timekeeping, Schedules, On Premises Meal/Rest Breaks, Meal and Rest Premiums, On-Premises Breaks, Non-Discretionary Bonus/Commission/Incentive/Shift Differential Pay, Overtime Compensation, Reporting Time Pay, Work Truck, Work Attire & Footwear, PPE, Use of Personal Cell Phone, Use of Personal Vehicle, Tools/Equipment/Supplies, Reimbursement of Business-Related Expenses, Collective Bargaining Agreements, and Grievance Procedures	12.50
Research and Investigation Re: Various Software Programs and Other Technology Defendant Uses to Conduct Everyday Business, Including Timekeeping, Client Management, Resource Management, Logistics, Controlled Access, and Security/Surveillance Systems, with a Focus on What Documents (Both Paper and Electronic) Are Created in the Normal Course of Business Relating to Overtime Worked, Off-the-Clock Time Worked Pre/Post-Shift, and During Meal Breaks	5.20
Research and Analysis of Potential Defenses Defendant May Raise, Including <i>De Minimis</i> Work, Non-Compensable Off-the-Clock Work, Waiver, Exemptions, Collective Bargaining	8.50

Agreements, Arbitration Agreements, Alternative Workweek Schedule, and Compliant Policies	
Research and Investigation Regarding Trial Manageability Issues, including Research Regarding Which Experts to Retain and For What Purpose	5.40
Prepare a Discovery Strategy and Plan of Action, including Topics of Inquiry Important to Liability and Civil Penalties	4.10
Meet and Communicate with Plaintiff Terrel Brown Throughout the Pendency of the Case	42.50
Investigate, Meet and Communicate with, and/or Interview Aggrieved Employees and Percipient Witnesses	12.50
Pleadings and Court Filings	
Draft Plaintiff's Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. and Legal Research and Analysis of All Allegations Involved (filed on February 17, 2021)	7.30
Review Court's Civil Lawsuit Notice (filed on February 18, 2021)	0.10
Review Court's Order Deeming Case Complex and Staying Discovery and Responsive Pleading Deadline (filed on February 23, 2021)	0.10
Review Defendant's Notice of Appearance (served on March 23, 2021)	0.10
Draft Plaintiff's Notice of Posting Jury Fees (filed on June 3, 2021)	0.10
Meet and Confer with Defendant's Counsel, and Draft Joint Case Management Statement (filed on June 8, 2021)	1.20

Review Court's Notice of Further Case Management Conference and Minute Order (filed on June 17, 2021)	0.10
Meet and Confer with Defendant's Counsel, and Review Joint Stipulation to Continue Further Case Management Conference; [Proposed] Order (filed on October 20, 2021)	0.80
Review Court's Notice of Rescheduled Case Management Conference (filed on October 21, 2021)	0.10
Meet and Confer with Defendant's Counsel, and Draft Joint Case Management Statement and Notice of Settlement (filed on April 29, 2022)	0.90
Review Court's Notice of Rescheduled Case Management Conference (filed on May 24, 2022)	0.10
Meet and Confer with Defendant's Counsel, and Draft Joint Case Management Statement (filed on September 29, 2022)	0.90
Review Court's Notice of Rescheduled Case Management Conference (filed on October 3, 2022)	0.10
Review Court's Notice of Rescheduled Case Management Conference (filed on December 6, 2022)	0.10
Appearances	
Prepare for and Telephonically Attend Case Management Conference (June 16, 2021)	0.40
Prepare for and Telephonically Attend Hearing on Plaintiff's Motion for Approval of Private Attorneys General Act (Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs (March 29, 2023) (Anticipated)	1.50

Discovery and Deposition	
Draft Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Terral Brown (served on September 25, 2020)	1.90
Draft Follow-Up Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Terral Brown (served on November 25, 2020)	2.10
Review and Analyze Documents Produced by Defendant in Response to Request for Personnel Files, Pay Stubs, and Time Records for Plaintiff Terral Brown (served on December 1, 2020)	3.30
Draft Additional Follow-Up Letter to Defendant Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Terral Brown (served on January 27, 2021)	2.10
Letters and Correspondence	
Research and Draft Notice to California Labor and Workforce Development Agency re: Claims of Plaintiff Terral Brown for Penalties Under California Labor Code section 2698, <i>et seq.</i> (served on December 14, 2020)	4.50
Meet and Confer with, Draft Correspondence to, and Respond to Correspondence from, Defendant's Counsel	17.50
Mediation/Settlement	
Review and Analyze Information, Documents, and Data Obtained from Plaintiff, Defendant (served on March 25, 2022, April 5, 2022, and April 19, 2022), and Other Sources and Prepare Valuation Models, Including, <i>Inter Alia</i> , Calculating PAGA Penalties for Violation Rates for Non-Compliant Meal and Rest Breaks, Unpaid Wages, Failure to Pay Premium Pay, and Incomplete or Inaccurate Wage Statements, Prior to Mediation	37.50

Prepare for Mediation Session, Including Researching Merits of PAGA Claims, Drafting the Mediation Brief, and Compiling the Mediation Exhibits in Support of Plaintiff's Mediation Brief (submitted on April 13, 2022)	23.50
Attend Mediation Session (April 20, 2022; Zoom Video Conference)	12.50
Draft, Review, Revise, Negotiate, and Finalize Private Attorneys General Act Settlement Agreement and Release and Cover Letter (fully executed on October 27, 2022)	16.50
Law and Motion	
Research and Draft Plaintiff's Motion for Approval of Private Attorneys General Act (Labor Code § 2698, <i>Et Seq.</i>) Settlement Agreement and Award of Attorneys' Fees and Costs, General Release Fee, and Settlement Administration Costs, Declaration of Edwin Aiwazian in Support Thereof, Declaration of Terral Brown in Support Thereof, and [Proposed] Order and Judgment (filed on March 7, 2023)	20.50
Total Hours:	291.80

EXHIBIT 4

LAWYERS for JUSTICE PC CASE COST DETAIL
Brown v. Balfour Beatty Infrastructure, Inc.

<u>Date</u>	<u>Payee</u>	<u>Expense Description</u>	<u>Amount</u>
2/18/2021	Legal Document Server, Inc.	Attorney Service	32.03
2/18/2021	Santa Clara Superior Court	Filing Fee	435.00
3/18/2021	Legal Document Server, Inc.	Attorney Service	110.00
5/18/2021	Legal Document Server, Inc.	Attorney Service	16.80
6/8/2021	Legal Document Server, Inc.	Attorney Service	16.80
6/11/2021	CourtCall, LLC	Attorney Service	94.00
7/2/2021	Legal Document Server, Inc.	Attorney Service	22.05
7/2/2021	Santa Clara Superior Court	Jury Fee	150.00
4/6/2022	Serratore Law	Mediation Fee	10,000.00
4/29/2022	Legal Document Server, Inc.	Attorney Service	16.80
9/29/2022	Legal Document Server, Inc.	Attorney Service	17.55
Total:			10,911.03