

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
jennifer@counselonegroup.com
3 JUSTIN KACHADOORIAN (SBN 260356)
justin@counselonegroup.com
4 **COUNSELONE, PC**
9301 Wilshire Boulevard, Suite 650
5 Beverly Hills, California 90210
Telephone: (310) 277-9945
6 Facsimile: (424) 277-3727

7 Attorneys for Plaintiff Antonio Delgado, on behalf of
himself and others similarly situated
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 ANTONIO DELGADO, on behalf of himself
14 and others similarly situated,

15 Plaintiff,

16 v.

17 INTENSE LIGHTING, LLC; and DOES 1
18 through 100, inclusive,

19 Defendants.
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Case No.: 30-2021-01219686-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman, Dept. CX105

**SUPPLEMENTAL DECLARATION OF
ANTHONY J. ORSHANSKY IN SUPPORT
OF PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT [RELATED TO
ROA #53]**

Continued Preliminary Approval Hearing

Date: September 16, 2022

Time: 10:00 a.m.

Dept.: CX105

1 **SUPPLEMENTAL DECLARATION OF ANTHONY J. ORSHANSKY**

2 I, Anthony J. Orshansky, hereby declare:

3 1. I am an attorney at law duly licensed to practice before all courts of the State of
4 California and counsel of record for Plaintiff Antonio Delgado (“Plaintiff”) herein. I have personal
5 knowledge of the facts stated herein, and if called as a witness, I could and would competently
6 testify to them.

7 2. This supplemental declaration is made in support of Plaintiff’s Motion for
8 Preliminary Approval of Class and Representative Action Settlement to address the points raised in
9 the Court’s July 1, 2022 ruling.

10 3. Attached hereto as **Exhibit A** is a true and correct copy of the Amendment to
11 Stipulation of Class and Representative Action Settlement (“Amendment”) entered into by and
12 between the Parties after the Court’s July 1, 2022 order.

13 4. Attached hereto as **Exhibit B** is a redlined version of the Class Notice. The clean
14 version of the Class Notice (“Revised Class Notice”) is attached to the Amendment as internal
15 **Revised Exhibit 1.**

16 5. Attached hereto as **Exhibit C** is a redlined version of the Proposed Order Granting
17 Preliminary Approval of Class and Representative Action Settlement. A clean version of the
18 Proposed Order will be lodged concurrently with this filing.

19 **Pre-Filing PAGA Letter**

20 6. Attached hereto as **Exhibit D** is a true and correct copy of the pre-filing letter that I
21 submitted to the California Labor and Workforce Development Agency (“LWDA”) on behalf of
22 Plaintiff on January 11, 2021.

23 **Estimated Average, High, and Low Class and PAGA Payments**

24 7. The following tables reflect the average, high, and low payments to be paid to the
25 Class Members based on their workweeks, and the average, high, and low payments to be paid to
26 the PAGA Group Members based on their pay periods:

27 ///

28 ///

Class Average	\$1,640.17
Class High	\$3,215.35
Class Low	\$12.97

PAGA Average	\$83.68
PAGA High	\$202.69
PAGA Low	\$4.41

Portion of Settlement Payments Allocated to Wages

8. The Parties have amended Paragraph 48(a) of the Settlement Agreement and the notice to the class to provide that 33 1/3 % of each Individual Settlement Share will be considered taxable wages and will be reported as such to each Settlement Class Member on IRS Form W2. (*See* Exh. A [Amendment] at ¶ 48(a) and its internal Exhibit 1 [Revised Class Notice] ¶ III.B.) The remaining 66 2/3 % of each Individual Settlement Share will be considered interest and penalties and will be reported as such to each Settlement Class Member on an IRS Form 1099 (if required). (*Ibid.*)

Request for Exclusion Form

9. The Parties have amended Paragraph 53(b) of the Settlement Agreement to incorporate by reference a Request for Exclusion Form that must be completed and submitted by Class Members if they elect to opt out of the settlement, rather than Class Members having to prepare their own opt-outs. The Request for Exclusion Form is attached to the Amendment as internal **Exhibit 2**.

10. The Request for Exclusion Form is referenced in the Revised Class Notice (internal Exhibit 1 to the Amendment] in Section IV.B.

Injunction or Covenant Not to Sue by Class Members

11. The Parties have amended the Settlement Agreement to remove language from Paragraph 57(a) and (b) indicating that Class Members are enjoined from pursuing, or seeking to reopen, Settlement Class Members' Released Claims and PAGA Group Members' Released Claims against the Released Parties. (*See* Exh. A [Amendment] at ¶ 57.)

Objections at Final Approval Hearing

12. The Parties have revised Section IV(C) of the Class Notice to inform Class Members that they may appear at the Final Approval Hearing to object or otherwise offer comments orally,

1 whether or not they have objected in writing. As noted above, the redlined version of the Class
2 Notice is attached as **Exhibit B** hereto.

3 13. The Parties have also revised the Proposed Order to delete Paragraph 15. As noted
4 above, the redlined version of the Proposed Order is attached as **Exhibit C** hereto.

5 **Cy Pres Recipient for Uncashed Checks**

6 14. The Parties have amended Paragraph 56(d) of the Settlement Agreement to propose,
7 subject to Court approval, the State Bar's Justice Gap Fund as the *cy pres* recipient for any uncashed
8 checks. (See Exh. A [Amendment] at ¶ 56(d).) The State Bar's Justice Gap Fund is one of three
9 significant sources of funding for about a hundred legal aid organizations across the state.

10 **Updated Location of Final Approval Hearing and Date**

11 15. The Revised Class Notice identifies Department CX105 as the location of the Final
12 Approval Hearing. (See Exh. A [Amendment] and internal Exh. 1 [Revised Class Notice].)

13 16. The Parties propose that the Court set the Final Approval Hearing for **January 13,**
14 **2023 at 10:00 a.m.** Plaintiff proposes a deadline of **December 20, 2022** to file his moving papers.

15 **Notice to LWDA**

16 17. On March 8, 2022, I submitted the Settlement Agreement and Motion for Preliminary
17 Approval to the LWDA. A true and correct copy of the Department of Industrial Relations' record
18 reflecting this submission is attached hereto as **Exhibit E**.

19 18. On July 7, 2022, I submitted notice of the Court's July 1, 2022 ruling continuing the
20 Preliminary Approval Hearing to the LWDA. On July 7, 2022, the LWDA sent me an email
21 confirming this submission to the LWDA, a true and correct copy of which is attached as **Exhibit**
22 **F**.

23 19. Also on July 7, 2022, I filed a proof of service of the foregoing notice in this Court,
24 a true and correct copy of which is attached hereto as **Exhibit G**.

25 20. A conformed copy of the notice attaching the Court's July 1, 2022 ruling, along with
26 a proof of service on counsel for Defendant, is attached hereto as **Exhibit H**.

27 21. I will submit this supplemental Declaration, along with its exhibits, including but not
28 limited to the Amendment, to the LWDA after filing it with this Court and will then file a proof of

1 service showing such compliance. I also understand and agree to submit any new papers relating to
2 the approval of this settlement to the LWDA.

3
4 I declare under the penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Executed this 23rd day of August 2022, at Beverly Hills, California.

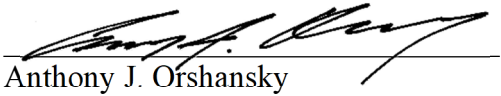
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9 Anthony J. Orshansky

EXHIBIT A

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
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3 JUSTIN KACHADOORIAN (SBN 260356)
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7 Attorneys for Plaintiff Antonio Delgado, on behalf
8 of himself and others similarly situated

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

11
12 ANTONIO DELGADO, on behalf of himself
and others similarly situated,

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14 Plaintiff,

15 v.

16 INTENSE LIGHTING, LLC; and DOES 1
through 100, inclusive,

17 Defendants.
18
19

Case No.: 30-2021-01219686-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman, Dept. CX105

**AMENDMENT TO STIPULATION OF
CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

Continued Preliminary Approval Hearing

Date: September 16, 2022

Time: 10:00 a.m.

Dept.: CX105

1 In furtherance of the Court's order dated July 1, 2022, Plaintiff Antonio Delgado
2 ("Plaintiff") and Defendant Intense Lighting, LLC ("Defendant"; collectively with Plaintiff, "the
3 Parties") hereby enter into this Amendment to modify the Stipulation of Class and Representative
4 Action Settlement ("Settlement Agreement").

5 The Parties amend Paragraph 48(a) of the as follows:

6 **48(a).** The Parties agree that one-third (33 1/3%) of each Individual Settlement
7 Share will be considered taxable wages and will be reported as such to
8 each Settlement Class Member on a W-2 Form. The Parties agree two-
9 thirds (66 2/3%) of each Individual Settlement Share will be considered
interest and penalties and will be reported as such to each Settlement Class
Member on an IRS Form 1099 (if required).

10 The Parties amend Paragraph 53(b) as follows:

11 **53(b).** Class Members electing to opt out must complete the Request for
12 Exclusion Form attached hereto as "**EXHIBIT 2**" no later than the
Response Deadline.

13 The Parties amend the Class Notice in the "**REVISED EXHIBIT 1**" attached hereto.

14 The Parties amend Paragraph 56(d) as follows:

15 **56(d).** Settlement checks will be valid for a period of one hundred and eighty
16 (180) calendar days from the date of issuance, and after this time period,
17 any uncashed check(s) will be cancelled and the funds associated with
18 such cancelled checks will be transmitted to *cy pres* in conformity with the
19 requirements of California Code of Civil Procedure section 384. Subject
to Court approval, the Parties propose the State Bar's Justice Gap Fund,
one of three significant sources of funding for about one hundred legal aid
organizations across the state, as the *cy pres* recipient.

20 The Parties amend Paragraph 57(a) and (b) as follows:

21 **57. Binding Effect.**

22 a. Subject to Final Approval, all Settlement Class Members shall be bound
23 by this Settlement Agreement, the contemplated Final Approval Order and
Judgment, and the release of Settlement Class Members' Released Claims.

24 b. Subject to Final Approval, all Class Members, whether or not they
25 submit a request for exclusion from the settlement, employed by
26 Defendant during the PAGA Period (the "PAGA Group Members"), shall
27 be bound by this Settlement Agreement, the contemplated Final Approval
Order and Judgment, and the release of PAGA Group Members' Released
Claims.

1 Any ambiguities, inconsistencies, or differences between this Amendment and the
2 Settlement Agreement and exhibits thereto shall be interpreted in favor of this Amendment.

3 Except as otherwise expressly set forth herein, all of the terms of the Settlement
4 Agreement are hereby incorporated into this Amendment by reference. This Amendment is not
5 intended and shall not be construed to alter any other provision of the Settlement Agreement in
6 any way, shape, or form.

7 This Amendment may be executed in any number of counterparts, each of which so
8 executed shall be deemed to be an original but which together shall be deemed to constitute one
9 and the same Amendment. Facsimile, electronic, and/or PDF signatures shall have the same force
10 and effect as original signatures.

11 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this
12 Amendment between Plaintiff and Defendant as of the date(s) set forth below:

13
14 PLAINTIFF ANTONIO DELGADO

15
16 DATED: _____

17 Antonio Delgado

18
19 INTENSE LIGHTING, LLC

20
21 DATED: 8/22/22

22 By: Vincent LoNigro
(Print Name)

23 Vincent LoNigro
(Signature)

24
25 Its: Associate General Counsel
(Title)

1 Any ambiguities, inconsistencies, or differences between this Amendment and the
2 Settlement Agreement and exhibits thereto shall be interpreted in favor of this Amendment.

3 Except as otherwise expressly set forth herein, all of the terms of the Settlement
4 Agreement are hereby incorporated into this Amendment by reference. This Amendment is not
5 intended and shall not be construed to alter any other provision of the Settlement Agreement in
6 any way, shape, or form.

7 This Amendment may be executed in any number of counterparts, each of which so
8 executed shall be deemed to be an original but which together shall be deemed to constitute one
9 and the same Amendment. Facsimile, electronic, and/or PDF signatures shall have the same force
10 and effect as original signatures.

11 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this
12 Amendment between Plaintiff and Defendant as of the date(s) set forth below:

13
14 PLAINTIFF ANTONIO DELGADO

15
16 DATED: 08 / 19 / 2022

17 
Antonio Delgado

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19 INTENSE LIGHTING, LLC

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21 DATED: _____

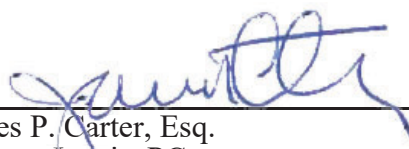
By: _____
(Print Name)

22
23 _____
(Signature)

24
25 Its: _____
(Title)

1 **APPROVED AS TO FORM:**

2
3 DATED: August 23, 2022

By: 

James P. Carter, Esq.
Jackson Lewis, PC

Attorneys for Defendant Intense Lighting, LLC

4
5
6 DATED: _____

Anthony J. Orshansky, Esq.
Jennifer L. Connor, Esq.
CounselOne, PC

Attorneys for Plaintiff Antonio Delgado

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APPROVED AS TO FORM:

DATED: _____

By: _____

James P. Carter, Esq.
Jackson Lewis, PC

Attorneys for Defendant Intense Lighting, LLC

DATED: August 19, 2022



Anthony J. Orshansky, Esq.
Jennifer L. Connor, Esq.
CounselOne, PC

Attorneys for Plaintiff Antonio Delgado

Revised Exhibit 1

NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT*Delgado, et al. v. Intense Lighting, LLC, et al.*

Orange County Superior Court, Case No. 30-2021-01219686-CU-OE-CXC

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class and representative action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California, you are notified that: preliminary approval of a class and representative action settlement of a lawsuit ("Lawsuit") filed by a former employee ("Plaintiff"), on behalf of himself and others similarly situated, and defendant Intense Lighting, LLC ("Defendant"), was granted on [REDACTED], 2022, which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment under the settlement, but you have the opportunity to request exclusion from the class settlement (in which case you will not receive payment under the class settlement), object to the class settlement, and/or dispute the number of workweeks credited to you, if you so choose, as explained more fully below.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for Defendant and/or its predecessors or merged entities, within the State of California during the Class Period.

"Defendant" means Intense Lighting, LLC.

"Class Member" means a member of the Class.

"Class Period" means the period beginning on January 11, 2017 and ending on October 18, 2021.

"PAGA Group Member" means all Class Members who worked for Defendant at any time during the PAGA Period.

"PAGA Period" means the period beginning on January 11, 2020 and ending October 18, 2021.

"Settlement Class Members" means Class Members who do not exercise their right to request exclusion from the class settlement. Class Members who request exclusion (explained below) retain their right to sue Defendant, if they choose, but will not receive payment under the proposed class settlement.

II. BACKGROUND OF THE LAWSUIT

The settlement involves claims against Defendant for alleged: (a) failure to pay all unpaid minimum and overtime wages; (b) failure to provide compliant duty-free meal periods and/or pay premiums owed thereon; (c) failure to provide compliant duty-free rest breaks and/or pay premiums owed thereon; (d) failure to furnish accurate itemized wage statements; (e) failure to pay all wages owed timely during employment and upon separation of employment; (f) failure to keep requisite payroll records; (g) engaging in unfair and unlawful business practices; and (h) violation of California Labor Code Private Attorneys General Act of 2004 ("PAGA").

Defendant denies all of the allegations in the Lawsuit or that it violated any law, and contends that at all times it has fully complied with all applicable federal, state, and local laws. The Court has not made a ruling on the merits of the case.

After extensive investigation and analysis of the legal and factual issues and risks, the parties participated in a full-day mediation before the Hon. Peter D. Lichtman (Ret.), and as a result, the parties reached a settlement. The parties have since entered into the Stipulation of Class and Representative Action Settlement ("Settlement Agreement"), as amended, which was preliminarily approved by the Court on [REDACTED], 2022. The Court has appointed CPT Group, Inc. as the

administrator of the settlement (“Settlement Administrator”), Plaintiff, as representative of the Class (“Class Representative”), and the following law firm as counsel for the Class (“Class Counsel”):

Anthony J. Orshansky
Jennifer L. Connor
CounselOne, PC
9301 Wilshire Blvd., Suite 650
Beverly Hills, California 90210
Telephone: (310) 277-9945
Facsimile: (424) 277-3727

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that the claims in the Lawsuit have merit or that Defendant has any liability to Plaintiff or to Class Members. Plaintiff, and Class Counsel, have concluded that, in light of the risks and uncertainties of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of the Class Members.

III. SUMMARY OF THE SETTLEMENT

A. Settlement Terms

The total settlement amount is eight hundred thousand dollars (\$800,000) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members who do not opt out of the class settlement (“Settlement Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount of up to 35 percent of the Gross Settlement Amount (i.e., up to \$280,000) and reimbursement of actual litigation costs and expenses in an amount of up to twenty thousand dollars (\$20,000) to Class Counsel (together, “Attorneys’ Fees and Costs”); (2) enhancement payment to the Class Representative in an amount not to exceed ten thousand dollars (\$10,000) for his services and responsibilities in prosecuting the Lawsuit (“Enhancement Payment”); (3) settlement administration costs in an amount not to exceed eighteen thousand dollars (\$18,000) to the Settlement Administrator (“Administration Costs”); and (4) the allocation of eighty thousand dollars (\$80,000) to settle claims under the California Private Attorneys General Act (the “PAGA Payment” or “PAGA Settlement”), of which 75%, or \$60,000, will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, or \$20,000, will be paid to all PAGA Group Members on a *pro rata* basis.

B. Distribution Formula

Each Settlement Class Member is eligible to receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of workweeks he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the Class Period. Specifically, the Net Settlement Amount will be divided by the total of all workweeks of Settlement Class Members during the Class Period in order to establish the value of each workweek. The Individual Settlement Share of each Settlement Class Member will be calculated by multiplying the value of a workweek by the number of workweeks worked by the Settlement Class Member during the Class Period.

Each PAGA Group Member will receive a *pro rata* share of the PAGA Payment allocated to PAGA Group Members based on the number of pay periods he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the PAGA Period irrespective of whether he or she is a Settlement Class Member. Specifically, 25% of the PAGA Payment (or \$20,000) will be divided by the total of all pay periods worked by PAGA Group Members during the PAGA Period in order to establish the value of each pay period worked. The individual PAGA payment of each PAGA Group Member will be calculated by multiplying the value of a pay period by the number of pay periods worked by the PAGA Group Member during the PAGA Period.

Each Individual Settlement Share will be allocated thirty three and one-third percent (33 1/3%) to wages (which will be reported on an IRS Form W2), and sixty six and two-thirds percent (66 2/3%) to interest, penalties, and other non-wage damages (which will be reported on an IRS Form 1099, if applicable). Individual PAGA payments will be allocated as one hundred percent (100%) penalties (which will be reported on an IRS Form 1099). The net payment of each Settlement Class Member’s Individual Settlement Share (after reduction for the employment taxes and withholdings on the wage portion of the Individual Settlement Share) and individual PAGA payment (if applicable) is referred to as their “Individual

Settlement Payment.”

If the Court grants final approval of the settlement, Individual Settlement Payments will be mailed to the Settlement Class Members at the address that is on file with the Settlement Administrator by way of one (1) check. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

C. Your Workweeks and Pay Periods Based on Defendant’s Records

According to Defendant’s records:

During the Class Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<Workweeks>> workweeks.

During the PAGA Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<PAGAPayPeriods>> pay periods.

If you wish to dispute the number of workweeks credited to you, you must submit a written letter to the Settlement Administrator. The written dispute must: (a) contain the case name and number; (b) be signed by you; (c) contain your full name, address, telephone number, and the last four digits of your Social Security number; (d) clearly state that you dispute the number of workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of workweeks that you contend should be credited to you is correct; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **on or before** [redacted], 2022 [45 Days After Mailing].

D. Your Estimated Settlement Award

As explained above, your estimated settlement award is based on the number of workweeks and pay periods credited to you during the applicable periods.

Under the terms of the settlement, your Individual Settlement Share is estimated to be \$<<IndAmt>> and your individual PAGA payment (if applicable) is estimated to be \$<<PAGAAmt>>. The Individual Settlement Share is subject to reduction for employment taxes and withholding with respect to the wage portion of the Individual Settlement Share.

Individual Settlement Payments will only be distributed if the Court grants final approval to the settlement.

E. Released Claims

Upon the date of entry of the final approval order and judgment becomes final, Plaintiff and all Class Members who did not submit valid requests for exclusion from the class settlement (Settlement Class Members), for the period from January 11, 2017 and ending on October 18, 2021 (Class Period), will release and forever discharge Defendant Intense Lighting, LLC, and its former and present parents, officers, directors, shareholders, employees, agents, attorneys, subsidiaries, divisions, assigns, predecessors, successors, insurers, and all of their respective successors, subsidiaries, assigns, or legal representatives (“Released Parties”), from the Settlement Class Members’ Released Claims during the Class Period. The Settlement Class Members’ Released Claims include all wage-and-hour claims contained in the operative complaint in the Lawsuit, or that could have been asserted in the Lawsuit based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint during the Class Period. The Settlement Class Members’ Released Claims include all claims based on allegations for: (1) failure to pay minimum wages; (2) failure to pay all overtime wages; (3) non-compliant meal periods and/or failure to make premium payments thereon; (4) non-compliant rest breaks and/or failure to make premium payments thereon; (5) failure to provide accurate itemized wage statements; (6) failure to pay all wages in a timely manner and upon separation of employment; (7) failure to keep accurate and complete payroll records; and (8) unfair business practices related to the Settlement Class Members’ Released Claims. This release excludes the release of claims not permitted by law.

Notwithstanding the foregoing, all Class Members, whether or not they submit a request for exclusion from the class settlement, employed by Defendant during the PAGA Period (PAGA Group Members) will receive a PAGA payment and will no longer be able to seek penalties pursuant to the PAGA, for the period from January 11, 2020 and ending on October 18, 2021 (PAGA Period), arising from any and all claims alleged in the operative complaint filed in the Lawsuit,

or that could have been asserted based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint filed in the Lawsuit (“PAGA Group Members’ Released Claims”).

IV. WHAT ARE YOUR RIGHTS AND OPTIONS?

A. Participate in the Settlement

If you want to receive money from the settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment unless you decide to exclude yourself from the settlement. Unless you elect to exclude yourself from the settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Parties for the Released Claims, pursuant to Section III.E above.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties for the PAGA Group Members’ Released Claims (defined above).

As a Settlement Class Member, you will not be separately responsible for the payment of attorneys’ fees or litigation costs and expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys’ fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the class settlement, you may seek exclusion from (or “opt out” of) the class settlement by submitting the enclosed Request for Exclusion Form to the Settlement Administrator at the following address:

Intense Lighting Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, California 92606

The Request for Exclusion Form must be postmarked or received **no later than** [REDACTED], 2022 [45 Days after Mailing].

If the Court grants final approval of the settlement, any Class Member who submits a timely and valid request for exclusion from the class settlement will not be entitled to receive any payment from the class settlement, will not be bound by the class settlement, and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid request for exclusion from the class settlement will be deemed Settlement Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.E above, as well as any judgment that may be entered by the Court based thereon.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties for the PAGA Group Members’ Released Claims (defined above).

C. Object to the Settlement

You can object to the terms of the class settlement as long as you have not submitted a request for exclusion from the class settlement. To object to the class settlement, you must provide to the Settlement Administrator a timely written statement of the objection. The written objection must: (a) contain your full name, mailing address, telephone number, and signature; (b) contain the case name and number of the Lawsuit; (c) contain a clear statement of the specific legal and factual basis for each objection argument; (d) contain a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel; and (e) be filed or postmarked **no later than** [REDACTED], 2022 [45 Days after Mailing]. You may not object to the PAGA Settlement.

Regardless of whether you submit a written objection, you have the right to appear at the Final Approval Hearing to object or otherwise offer comments. You may appear at the Final Approval Hearing either in person or through a lawyer retained at your own expense. Class Counsel will not represent you with respect to such objections.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department CX105 of the Orange County Superior Court, located at Civil Complex Center, 751 W. Santa Ana Blvd., Santa Ana, CA 92701 on _____, 2022, at _____ a.m./p.m., to determine whether the settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Enhancement Payment to Plaintiff, and Administration Costs to the Settlement Administrator should be awarded. The hearing may be continued without further notice. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to at your expense.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Lawsuit for a fee by visiting the civil clerk's office, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, during business hours.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: 1(xxx) xxx-xxxx OR VISIT www.xxxxxxxxxxxx.com, OR YOU MAY ALSO CONTACT CLASS COUNSEL. NOTICE OF THE FINAL APPROVAL ORDER AND JUDGMENT WILL BE POSTED ON SETTLEMENT ADMINISTRATOR'S WEBSITE AT www.xxxxxxxxxxxx.com.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

Exhibit 2

REQUEST FOR EXCLUSION FORM

Delgado, et al. v. Intense Lighting, LLC

Orange County Superior Court Case No. 30-2021-01219686-CU-OE-CXC

PLEASE COMPLETE THIS FORM **ONLY IF** YOU WISH TO EXCLUDE YOURSELF FROM THE CLASS ACTION SETTLEMENT. IF YOU EXCLUDE YOURSELF FROM THE CLASS, YOU **WILL NOT** RECEIVE COMPENSATION FROM THE CLASS ACTION SETTLEMENT. HOWEVER, YOU WILL STILL RECEIVE A PRO RATA PORTION OF THE SETTLEMENT FUND ALLOCATED TO THE PRIVATE ATTORNEYS GENERAL ACT ("PAGA") CLAIMS AND BE BOUND BY THE RELEASE OF ALL PAGA CLAIMS COVERED BY THE SETTLEMENT.

I, _____ request to be excluded from the Settlement Class in the lawsuit *Delgado, et al. v. Intense Lighting, LLC*, Orange County Superior Court Case No. 30-2021-01219686-CU-OE-CXC.

Dated: _____

Signed: _____

Print Name: _____

Mailing Address: _____

Telephone Number: _____

Email Address: _____

Last 4 Digits of Social Security Number: _____

To be timely, this Request for Exclusion form must be submitted to the Settlement Administrator, postmarked or received **on or before [Response Deadline / 45 days after mailing of Class Notice]** at the following address:

Intense Lighting Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, California 92606

Questions? Please call: **1(xxx) xxx-xxxx**

EXHIBIT B

NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT*Delgado, et al. v. Intense Lighting, LLC, et al.*

Orange County Superior Court, Case No. 30-2021-01219686-CU-OE-CXC

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class and representative action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California, you are notified that: preliminary approval of a class and representative action settlement of a lawsuit ("Lawsuit") filed by a former employee ("Plaintiff"), on behalf of himself and others similarly situated, and defendant Intense Lighting, LLC ("Defendant"), was granted on [REDACTED], 2022, which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment under the settlement, but you have the opportunity to request exclusion from the class settlement (in which case you will not receive payment under the class settlement), object to the class settlement, and/or dispute the number of workweeks credited to you, if you so choose, as explained more fully below.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees who worked for Defendant and/or its predecessors or merged entities, within the State of California during the Class Period.

"Defendant" means Intense Lighting, LLC.

"Class Member" means a member of the Class.

"Class Period" means the period beginning on January 11, 2017 and ending on October 18, 2021.

"PAGA Group Member" means all Class Members who worked for Defendant at any time during the PAGA Period.

"PAGA Period" means the period beginning on January 11, 2020 and ending October 18, 2021.

"Settlement Class Members" means Class Members who do not exercise their right to request exclusion from the class settlement. Class Members who request exclusion (explained below) retain their right to sue Defendant, if they choose, but will not receive payment under the proposed class settlement.

II. BACKGROUND OF THE LAWSUIT

The settlement involves claims against Defendant for alleged: (a) failure to pay all unpaid minimum and overtime wages; (b) failure to provide compliant duty-free meal periods and/or pay premiums owed thereon; (c) failure to provide compliant duty-free rest breaks and/or pay premiums owed thereon; (d) failure to furnish accurate itemized wage statements; (e) failure to pay all wages owed timely during employment and upon separation of employment; (f) failure to keep requisite payroll records; (g) engaging in unfair and unlawful business practices; and (h) violation of California Labor Code Private Attorneys General Act of 2004 ("PAGA").

Defendant denies all of the allegations in the Lawsuit or that it violated any law, and contends that at all times it has fully complied with all applicable federal, state, and local laws. The Court has not made a ruling on the merits of the case.

After extensive investigation and analysis of the legal and factual issues and risks, the parties participated in a full-day mediation before the Hon. Peter D. Lichtman (Ret.), and as a result, the parties reached a settlement. The parties have since entered into the Stipulation of Class and Representative Action Settlement ("Settlement Agreement"), as amended, which was preliminarily approved by the Court on [REDACTED], 2022. The Court has appointed CPT Group, Inc. as the

administrator of the settlement (“Settlement Administrator”), Plaintiff, as representative of the Class (“Class Representative”), and the following law firm as counsel for the Class (“Class Counsel”):

Anthony J. Orshansky
 Jennifer L. Connor
CounselOne, PC
 9301 Wilshire Blvd., Suite 650
 Beverly Hills, California 90210
 Telephone: (310) 277-9945
 Facsimile: (424) 277-3727

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that the claims in the Lawsuit have merit or that Defendant has any liability to Plaintiff or to Class Members. Plaintiff, and Class Counsel, have concluded that, in light of the risks and uncertainties of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of the Class Members.

III. SUMMARY OF THE SETTLEMENT

A. Settlement Terms

The total settlement amount is eight hundred thousand dollars (\$800,000) (the “Gross Settlement Amount”). The portion of the Gross Settlement Amount that is available for payment to Class Members who do not opt out of the class settlement (“Settlement Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount of up to 35 percent of the Gross Settlement Amount (i.e., up to \$280,000) and reimbursement of actual litigation costs and expenses in an amount of up to twenty thousand dollars (\$20,000) to Class Counsel (together, “Attorneys’ Fees and Costs”); (2) enhancement payment to the Class Representative in an amount not to exceed ten thousand dollars (\$10,000) for his services and responsibilities in prosecuting the Lawsuit (“Enhancement Payment”); (3) settlement administration costs in an amount not to exceed eighteen thousand dollars (\$18,000) to the Settlement Administrator (“Administration Costs”); and (4) the allocation of eighty thousand dollars (\$80,000) to settle claims under the California Private Attorneys General Act (the “PAGA Payment” or “PAGA Settlement”), of which 75%, or \$60,000, will be paid to the California Labor and Workforce Development Agency (“LWDA”) and the remaining 25%, or \$20,000, will be paid to all PAGA Group Members on a *pro rata* basis.

B. Distribution Formula

Each Settlement Class Member is eligible to receive a *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of workweeks he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the Class Period. Specifically, the Net Settlement Amount will be divided by the total of all workweeks of Settlement Class Members during the Class Period in order to establish the value of each workweek. The Individual Settlement Share of each Settlement Class Member will be calculated by multiplying the value of a workweek by the number of workweeks worked by the Settlement Class Member during the Class Period.

Each PAGA Group Member will receive a *pro rata* share of the PAGA Payment allocated to PAGA Group Members based on the number of pay periods he or she worked for Defendant in the State of California as an hourly-paid or non-exempt employee during the PAGA Period irrespective of whether he or she is a Settlement Class Member. Specifically, 25% of the PAGA Payment (or \$20,000) will be divided by the total of all pay periods worked by PAGA Group Members during the PAGA Period in order to establish the value of each pay period worked. The individual PAGA payment of each PAGA Group Member will be calculated by multiplying the value of a pay period by the number of pay periods worked by the PAGA Group Member during the PAGA Period.

Each Individual Settlement Share will be allocated ~~twenty-three~~ **twenty-three and one-third** percent (~~23~~ **23 1/3**%) to wages (which will be reported on an IRS Form W2), and ~~eighty-sixty six and two-thirds~~ **eighty-six and two-thirds** percent (~~86 2/3~~ **86 2/3**%) to interest, penalties, and other non-wage damages (which will be reported on an IRS Form 1099, if applicable). Individual PAGA payments will be allocated as one hundred percent (100%) penalties (which will be reported on an IRS Form 1099). The net payment of each Settlement Class Member’s Individual Settlement Share (after reduction for the employment taxes and withholdings on the wage portion of the Individual Settlement Share) and individual PAGA payment (if applicable) is referred to as

their “Individual Settlement Payment.”

If the Court grants final approval of the settlement, Individual Settlement Payments will be mailed to the Settlement Class Members at the address that is on file with the Settlement Administrator by way of one (1) check. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

C. Your Workweeks and Pay Periods Based on Defendant’s Records

According to Defendant’s records:

During the Class Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<Workweeks>> workweeks.

During the PAGA Period you worked for Defendant as an hourly-paid or non-exempt employee in California for <<PAGAPayPeriods>> pay periods.

If you wish to dispute the number of workweeks credited to you, you must submit a written letter to the Settlement Administrator. The written dispute must: (a) contain the case name and number; (b) be signed by you; (c) contain your full name, address, telephone number, and the last four digits of your Social Security number; (d) clearly state that you dispute the number of workweeks credited to you and what you contend is the correct number to be credited to you; (e) include information and/or attach documentation demonstrating that the number of workweeks that you contend should be credited to you is correct; and (f) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **on or before [redacted], 2022 [45 Days After Mailing].**

D. Your Estimated Settlement Award

As explained above, your estimated settlement award is based on the number of workweeks and pay periods credited to you during the applicable periods.

Under the terms of the settlement, your Individual Settlement Share is estimated to be \$<<IndAmt>> and your individual PAGA payment (if applicable) is estimated to be \$<<PAGAAmt>>. The Individual Settlement Share is subject to reduction for employment taxes and withholding with respect to the wage portion of the Individual Settlement Share.

Individual Settlement Payments will only be distributed if the Court grants final approval to the settlement.

E. Released Claims

Upon the date of entry of the final approval order and judgment becomes final, Plaintiff and all Class Members who did not submit valid requests for exclusion from the class settlement (Settlement Class Members), for the period from January 11, 2017 and ending on October 18, 2021 (Class Period), will release and forever discharge Defendant Intense Lighting, LLC, and its former and present parents, officers, directors, shareholders, employees, agents, attorneys, subsidiaries, divisions, assigns, predecessors, successors, insurers, and all of their respective successors, subsidiaries, assigns, or legal representatives (“Released Parties”), from the Settlement Class Members’ Released Claims during the Class Period. The Settlement Class Members’ Released Claims include all wage-and-hour claims contained in the operative complaint in the Lawsuit, or that could have been asserted in the Lawsuit based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint during the Class Period. The Settlement Class Members’ Released Claims include all claims based on allegations for: (1) failure to pay minimum wages; (2) failure to pay all overtime wages; (3) non-compliant meal periods and/or failure to make premium payments thereon; (4) non-compliant rest breaks and/or failure to make premium payments thereon; (5) failure to provide accurate itemized wage statements; (6) failure to pay all wages in a timely manner and upon separation of employment; (7) failure to keep accurate and complete payroll records; and (8) unfair business practices related to the Settlement Class Members’ Released Claims. This release excludes the release of claims not permitted by law.

Notwithstanding the foregoing, all Class Members, whether or not they submit a request for exclusion from the class settlement, employed by Defendant during the PAGA Period (PAGA Group Members) will receive a PAGA payment and will no longer be able to seek penalties pursuant to the PAGA, for the period from January 11, 2020 and ending on October 18, 2021 (PAGA Period), arising from any and all claims alleged in the operative complaint filed in the Lawsuit,

or that could have been asserted based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint filed in the Lawsuit (“PAGA Group Members’ Released Claims”).

IV. WHAT ARE YOUR RIGHTS AND OPTIONS?

A. Participate in the Settlement

If you want to receive money from the settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment unless you decide to exclude yourself from the settlement. Unless you elect to exclude yourself from the settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Parties for the Released Claims, pursuant to Section III.E above.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties for the PAGA Group Members’ Released Claims (defined above).

As a Settlement Class Member, you will not be separately responsible for the payment of attorneys’ fees or litigation costs and expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys’ fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the class settlement, you may seek exclusion from (or “opt out” of) the class settlement by submitting ~~a timely, written request for exclusion from the class settlement~~ the enclosed Request for Exclusion Form to the Settlement Administrator at the following address:

Intense Lighting Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, California 92606

The ~~R~~request for ~~E~~exclusion ~~F~~orm must ~~be~~ : ~~(a) include your full name, mailing address, and telephone number; (b) include the last four digits of your Social Security Number; (c) include the case name and number of the Lawsuit; (d) include a clear and unequivocal statement that you wish to be excluded from the class settlement; (e) include your signature; and (f) be mailed to the Settlement Administrator at the address listed above, postmarked or received no later than [REDACTED], 2022 [45 Days after Mailing].~~

If the Court grants final approval of the settlement, any Class Member who submits a timely and valid request for exclusion from the class settlement will not be entitled to receive any payment from the class settlement, will not be bound by the class settlement, and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid request for exclusion from the class settlement will be deemed Settlement Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.E above, as well as any judgment that may be entered by the Court based thereon.

You may not request exclusion from the PAGA Settlement. If you are a PAGA Group Member you will receive your individual PAGA payment, whether or not you choose to request exclusion from the class settlement, and you will be deemed to have released the Released Parties for the PAGA Group Members’ Released Claims (defined above).

C. Object to the Settlement

You can object to the terms of the class settlement as long as you have not submitted a request for exclusion from the class settlement. To object to the class settlement, you must provide to the Settlement Administrator a timely written statement of the objection. The written objection must: (a) contain your full name, mailing address, telephone number, and signature; (b) contain the case name and number of the Lawsuit; (c) contain a clear statement of the specific legal and factual basis for each objection argument; (d) contain a statement whether you intend to appear at the Final Approval Hearing, either in person or through counsel and, if through counsel, a statement identifying that counsel; and (e) be filed or postmarked **no later than [REDACTED], 2022 [45 Days after Mailing]**. You may not object to the PAGA Settlement.

Regardless of whether you submit a written objection, you have the right to appear at the Final Approval Hearing to object or otherwise offer comments. You may appear at the Final Approval Hearing either in person or through a lawyer retained at your own expense. Class Counsel will not represent you with respect to such objections.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department ~~C16~~-CX105 of the Orange County Superior Court, located at Civil Complex Center, 751 W. Santa Ana Blvd., Santa Ana, CA 92701 on [REDACTED], 2022, at [REDACTED] a.m./p.m., to determine whether the settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees and costs to Class Counsel, Enhancement Payment to Plaintiff, and Administration Costs to the Settlement Administrator should be awarded. The hearing may be continued without further notice. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to at your expense.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Lawsuit for a fee by visiting the civil clerk's office, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, during business hours.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: 1(xxx) xxx-xxxx OR VISIT www.xxxxxxxxxxxx.com, OR YOU MAY ALSO CONTACT CLASS COUNSEL. NOTICE OF THE FINAL APPROVAL ORDER AND JUDGMENT WILL BE POSTED ON SETTLEMENT ADMINISTRATOR'S WEBSITE AT www.xxxxxxxxxxxx.com.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

EXHIBIT C

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
jennifer@counselonegroup.com
3 JUSTIN KACHADOORIAN (SBN 260356)
justin@counselonegroup.com
4 **COUNSELONE, PC**
9301 Wilshire Boulevard, Suite 650
5 Beverly Hills, California 90210
Telephone: (310) 277-9945
6 Facsimile: (424) 277-3727

7 Attorneys for Plaintiff Antonio Delgado, on behalf
of himself and others similarly situated
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 ANTONIO DELGADO, on behalf of himself
and others similarly situated,

14 Plaintiff,

15 v.
16

17 INTENSE LIGHTING, LLC; and DOES 1
through 100, inclusive,

18 Defendants.
19

Case No.: 30-2021-01219686-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman, Dept. CX105 James
J. Di Cesare, Dept. C16

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT**

Preliminary Approval Hearing

Date: September 16, 2022 ~~May 27, 2022~~

Time: 109:030 a.m.

Dept. CX10546

~~Reservation No.: 73713579~~

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**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

1 This matter has come before the Honorable ~~James J. Di Cesare~~Randall J. Sherman in
2 Department CX1056 of the Superior Court of the State of California for the County of Orange, on
3 ~~May 27~~September 16, 2022 at ~~109:03~~0 a.m. for Plaintiff's Motion for Preliminary Approval of Class
4 and Representative Action Settlement. CounselOne, P.C. appeared as counsel for Plaintiff Antonio
5 Delgado ("Plaintiff"), individually and on behalf of all others similarly situated, and Jackson Lewis
6 P.C. appeared as counsel for Defendant Intense Lighting, LLC ("Defendant").

7 The Court, having carefully considered the papers, argument of counsel, and all matters
8 presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for
9 Preliminary Approval of Class and Representative Action Settlement.

10 **IT IS HEREBY ORDERED THAT:**

11 1. The Court preliminarily approves the Stipulation of Class and Representative Action
12 Settlement ("Settlement Agreement"), attached as **EXHIBIT 1** to the Declaration of Anthony J.
13 Orshansky in Support of Plaintiff's Motion for Preliminary Approval of Class and Representative
14 Action Settlement, as amended by the Parties' Amendment to Stipulation of Class and
15 Representative Action Settlement attached as **EXHIBIT A** to the Supplemental Declaration of
16 Anthony J. Orshansky filed in support of said Motion ("Supplemental Orshansky Declaration"). This
17 is based on the Court's determination that the settlement falls within the range of possible approval
18 as fair, adequate, and reasonable.

19 2. This Order incorporates by reference the definitions in the Settlement Agreement,
20 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in the
21 Settlement Agreement.

22 3. It appears to the Court on a preliminary basis that the settlement is fair, adequate and
23 reasonable. It appears to the Court that extensive investigation and research have been conducted
24 such that counsel for the Parties at this time are able to reasonably evaluate their respective positions.
25 Additionally, it appears to the Court that the settlement, at this time, will avoid substantial additional
26 costs by all Parties, as well as avoid the delay and risks that would be presented by the further
27 prosecution of the case. It further appears that the settlement has been reached as the result of
28 intensive, serious and non-collusive, arm's-length negotiations, and was entered into in good faith.

1 4. The Court preliminarily finds that the settlement, including the allocations for the
2 Attorneys' Fees and Costs, Enhancement Payment, PAGA Payment, Administration Costs, and
3 payments to the Settlement Class Members and PAGA Group Members provided thereby appear to
4 be within the range of reasonableness of a settlement that could ultimately be given final approval
5 by this Court. Indeed, the Court has reviewed the monetary recovery that is being granted as part of
6 the settlement and preliminarily finds that the monetary settlement awards made available to the
7 Class Members and PAGA Group Members are fair, adequate, and reasonable when balanced
8 against the probable outcome of further litigation relating to certification, liability, and damages
9 issues.

10 5. The Court concludes that, for settlement purposes only, the proposed Class meets the
11 requirements for certification under section 382 of the California Code of Civil Procedure in that:
12 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
13 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
14 community of interest amongst the members of the Class with respect to the subject matter of the
15 litigation; (c) Plaintiff's claims are typical of the claims of the members of the Class; (d) Plaintiff
16 will fairly and adequately protect the interests of the members of the Class; (e) a class action is
17 superior to other available methods for the efficient adjudication of the controversy; and (f) Class
18 Counsel are qualified to act as counsel for Plaintiff in his individual capacity and as the
19 representatives of the Class.

20 6. The Court conditionally certifies, for settlement purposes only, the Class, defined as
21 follows:

22 All current and former hourly paid or non-exempt employees who worked for
23 Defendant and/or its predecessors or merged entities, within the State of California,
24 from January 11, 2017 through October 18, 2021.

25 7. The Court provisionally appoints CounselOne, PC as counsel for the Class ("Class
26 Counsel").

27 8. The Court provisionally appoints Plaintiff Antonio Delgado as the representative of
28 the Class ("Class Representative").

1 9. The Court provisionally appoints CPT Group Inc. ("CPT") to handle the
2 administration of the settlement ("Settlement Administrator").

3 10. Within ten (10) calendar days of the date of this Order, Defendant shall provide the
4 Settlement Administrator with the following information about each Class Member: full name, last-
5 known mailing address, last-known telephone number, Social Security number, number of
6 workweeks during the Class Period, number of pay periods during the PAGA Period, and
7 employment dates as an hourly-paid or non-exempt employee during the Class Period ("Class List")
8 in conformity with the Settlement Agreement.

9 11. The Court approves, both as to form and content, the Notice of Pendency of Class
10 and Representative Action Settlement ("Class Notice"), as amended and attached to the Amendment
11 as "REVISED EXHIBIT 1." The Class Notice shall be provided to Class Members in the manner
12 set forth in the Settlement Agreement. The Court finds that the Class Notice appears to fully and
13 accurately inform the Class Members of all material elements of the Settlement Agreement, of Class
14 Members' right to be excluded from the class settlement by submitting an opt out request to the
15 Settlement Administrator, of Settlement Class Members' right to dispute the workweeks credited to
16 each of them, and of each Settlement Class Member's right and opportunity to object to the class
17 settlement. The Court further finds that distribution of the Class Notice substantially in the manner
18 and form set forth in the Settlement Agreement and this Order, and that all other dates set forth in
19 the Settlement Agreement and this Order, meet the requirements of due process and shall constitute
20 due and sufficient notice to all persons entitled thereto. The Court further orders the Settlement
21 Administrator to mail the Class Notice by first class U.S. Mail to all Class Members within twenty
22 (20) calendar days of this Order, pursuant to the terms set forth in the Settlement Agreement.

23 12. The Court hereby preliminarily approves the proposed procedure, set forth in the
24 Settlement Agreement, for seeking exclusion from the class settlement. Any Class Member may
25 choose to be excluded from the class settlement by submitting a timely written Rrequest for
26 Eexclusion in conformity with the requirements set forth in the Form to be included with the Class
27 Notice, to the Settlement Administrator, postmarked or received no later than the date which is forty-
28 five (45) calendar days from the initial mailing of the Class Notice to Class Members ("Response

Deadline”). Any such person who timely and validly chooses to opt out of, and be excluded from, the class settlement will not be entitled to recovery under the class settlement and will not have any right to object, appeal, or comment on the settlement. Class Members who have not submitted a timely and valid request to be excluded from the settlement (i.e., Settlement Class Members) shall be bound by the Settlement Agreement and any final judgment based thereon. All Class Members, whether or not they submit a request for exclusion, employed by Defendant during the PAGA Period (“PAGA Group Members”) will receive a PAGA payment and will no longer be able to seek penalties pursuant to the PAGA, arising from any and all claims, for the period from January 11, 2020 and ending on October 18, 2021, alleged in the operative complaint, or that could have been asserted based on the facts, circumstances, transactions, occurrences, acts, omissions, or failures to act alleged by Plaintiff in the operative complaint.

13. A Final Approval Hearing shall be held before this Court on January 13, 2023 at 10:00 a.m.-p.m. in Department CX1056 of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701, to determine all necessary matters concerning the settlement, including: whether the proposed settlement of the action on the terms and conditions provided for in the Settlement Agreement is fair, adequate, and reasonable and should be finally approved by the Court; whether a judgment, as provided in the Settlement Agreement, should be entered herein; whether the plan of allocation contained in the Settlement Agreement should be approved as fair, adequate, and reasonable to Settlement Class Members and PAGA Group Members; and determine whether to finally approve the requests for Attorneys’ Fees and Costs, Enhancement Payment, and Administration Costs.

14. Class Counsel shall file a motion for final approval of the settlement and for Attorneys’ Fees and Costs, Enhancement Payment, and Administration Costs, along with the appropriate declarations and supporting evidence, including the Settlement Administrator’s declaration, by December 20, 2022, to be heard at the Final Approval Hearing.

~~15. To object to the class settlement, a Settlement Class Member must send his or her objection to the Settlement Administrator, postmarked on or before the Response Deadline. The~~

1 ~~objection must be signed and must contain the information that is required, as set forth in the Class~~
2 ~~Notice, including and not limited to the grounds for the objection.~~

3 ~~16.15.~~ Except as required to implement the settlement, all proceedings and all litigation of
4 the action are stayed pending the Final Approval Hearing.

5 ~~17.16.~~ The settlement is not a concession or admission and shall not be used against
6 Defendant as an admission or indication with respect to any claim of any fault or omission by
7 Defendant. Whether or not the settlement is finally approved, neither the settlement, nor any
8 document, statement, proceeding or conduct related to the settlement, nor any reports or accounts
9 thereof, shall in any event be construed as, offered or admitted into evidence as, received as or
10 deemed to be in evidence for any purpose adverse to the Defendant, including, but not limited to,
11 evidence of a presumption, concession, indication or admission by Defendant of any liability, fault,
12 wrongdoing, omission, concession, or damage, except for legal proceedings concerning the
13 implementation, interpretation, or enforcement of the Settlement Agreement.

14 ~~18.17.~~ In the event the settlement does not become effective in accordance with the terms of
15 the Settlement Agreement, or the settlement is not finally approved, or is terminated, cancelled, or
16 fails to become effective for any reason, this Order shall be rendered null and void, shall be vacated,
17 and the Parties shall revert back to their respective positions as of before entering into the Settlement
18 Agreement.

19 ~~19.18.~~ The Court reserves the right to adjourn or continue the date of the Final Approval
20 Hearing and any dates provided for in the Settlement Agreement without further notice to the Class
21 Members and retains jurisdiction to consider all further applications arising out of or connected with
22 the settlement.

23
24 Dated: _____

Hon. ~~James J. Di Cesare~~ Randall J. Sherman
Judge of the Superior Court

EXHIBIT D



Anthony J. Orshansky
anthony@counselonengroup.com

310.277.9945 Tel
424.277.3727 Fax

January 11, 2021

FILED VIA LWDA'S PAGA CLAIM NOTICE ONLINE FORM
COPY SENT VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, California 94102

Intense Lighting, LLC
c/o CSC, Agent for Service of Process
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Attn: General Counsel
Intense Lighting, LLC
3340 E La Palma Avenue
Anaheim, California 92806

Attn: General Counsel
Intense Lighting, LLC
201 North Service Road
Melville, New York 11747

Re: Antonio Delgado v. Intense Lighting, LLC, et al.
California Labor Code § 2699 Notice of Intent to File

Dear Sir or Madam:

Please be advised that this firm has been retained to represent Antonio Delgado ("Mr. Delgado" or "Plaintiff"), individually and on behalf of other similarly situated employees working in California, in connection with wage-and-hour claims against Intense Lighting, LLC ("Intense Lighting" or "Defendant"). Plaintiff was a non-exempt, hourly paid employee of Defendant in California. Along with a four-year statutory class action, Plaintiff wishes to bring a Private Attorneys General Act of 2004 ("PAGA") representative action on behalf of himself and the State of California, as well as on behalf of the following group of aggrieved employees:

All current and former hourly paid or non-exempt employees who worked for Intense Lighting, LLC, and/or its predecessor or merged entities, within the State of California from one year prior to the date of this letter and ongoing ("Aggrieved Employees").

Nothing set forth herein is intended to waive any rights, claims, or causes of action on the part of Plaintiff and Aggrieved Employees. The purpose of this letter is to comply with the PAGA's pre-filing notice to the California Labor & Workforce Development Agency ("LWDA") and Defendant.

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I. INTRODUCTION

Plaintiff and Aggrieved Employees have the following causes of action against Defendant: (1) failure to pay all overtime wages owed under Labor Code sections 510, 1194, 1198, 1199, and applicable IWC Wage Order(s)¹; (2) meal break liability under Labor Code sections 226.7, 512, and applicable IWC Wage Order(s); (3) rest break liability under Labor Code section 226.7 and applicable IWC Wage Order(s); (4) failure to pay minimum wages for all hours worked under Labor Code sections 1194, 1194.2, 1197, and 1197.1; (5) waiting time penalties under Labor Code sections 201-203; (6) untimely paid wages under Labor Code section 204; (7) inaccurate wage statements under Labor Code section 226; (8) failure to keep requisite payroll records under section 1174; (9) unfair competition in violation of Business and Professions Code section 17200, *et seq.*; and (10) penalties pursuant to the PAGA under Labor Code section 2698, *et seq.*

II. FACTUAL BACKGROUND

Plaintiff and Aggrieved Employees were employed by Defendant. Defendant employs approximately 200 individuals in California. Plaintiff worked for Defendant as a non-exempt, hourly paid employee until his separation in or around July 2020.

During the relevant period, Defendant failed to provide timely, uninterrupted, and/or otherwise compliant meal periods and rest breaks. Plaintiff did not receive compliant meal periods while working for Defendant because they were often interrupted, late, short, or missed. Aggrieved Employees likewise suffered noncompliant, late, short, interrupted, and/or missed meal periods. Plaintiff and Aggrieved Employees also suffered missed rest breaks due to Defendant's practice of regularly denying employees rest breaks. Defendant knew or should have known that its employees were unable to take legally required meal periods and rest breaks, yet it did not compensate Plaintiff and Aggrieved Employees with the requisite premium for non-compliant meal and rest breaks in violation of Labor Code sections 226.7, 512, and applicable IWC Wage Order(s).

However, Defendant's unlawful practices are not limited to the aforementioned meal and rest break violations, but extend to other areas related to compensation as well. For instance, Defendant failed to compensate Plaintiff and Aggrieved Employees for all hours worked, including work performed by Plaintiff and Aggrieved Employees off the clock, resulting in unpaid minimum and overtime wages.

These underlying facts give rise to other Labor Code violations including, but not limited to, inaccurate wage statements, unpaid wages upon separation from employment, equitable remedies pursuant to the unfair competition laws, along with civil penalties accorded by the PAGA. Based on the above described misconduct, Plaintiff is confident that the fact-finder will determine that these practices were willful, repeated, and that it is likely that the higher PAGA penalty will be awarded based on a repeated pattern of the same violations taking place over time.

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¹ Upon information and belief, Plaintiff alleges that IWC Wage Order No. 16-2001 is applicable. However, Plaintiff reserves the right to amend and/or allege any other applicable IWC Wage Orders determined to be relevant after discovery.

III. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PROVIDED WITH TIMELY MEAL PERIODS THAT WERE UNINTERRUPTED AND DUTY-FREE

Defendant denied Plaintiff and Aggrieved Employees meal periods that comply with Labor Code sections 226.7, 512, and Wage Order No. 16-2001. Labor Code section 226.7 provides “an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”).” Similarly, Labor Code section 512 and IWC Wage Order No. 16-2001 require employers to provide employees with thirty (30) minute uninterrupted and duty-free meal periods within the first five (5) hours of work. *Brinker Rest. Corp. v. Superior Court* (2012) 53 Cal. 4th 1004, 1042 (“Accordingly, first meal periods must start after no more than five hours.”) Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free meal period.

Defendant regularly failed to provide Plaintiff and Aggrieved Employees with timely and duty-free thirty- (30-) minute first meal periods. Specifically, the demands of employee job duties were such that they were provided with late, short, interrupted, or otherwise deficient meal periods. Plaintiff and Aggrieved Employees did not receive second meal periods.

In addition to failing to authorize and permit compliant meal periods, Plaintiff and Aggrieved Employees were not compensated with one (1) hour’s worth of pay at their regular rate of compensation for each noncompliant meal period in accordance with Labor Code section 226.7(b). Section 10(F) of Wage Order No. 16-2001 obligates employers to “pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.” Accordingly, for each day that Plaintiff and Aggrieved Employees did not receive compliant meal periods, they are entitled to receive meal period premiums pursuant to Labor Code section 226.7 and Wage Order No. 16-2001. As a result of the foregoing meal period violations, Plaintiff and Aggrieved Employees seek civil penalties under the PAGA.

IV. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PAID FOR ALL MINIMUM AND OVERTIME WAGES OWED

A. Minimum Wages. Labor Code section 1197 requires that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code section 1194 entitles “any employee receiving less than the legal minimum wage...to recover in a civil action the unpaid balance of the full amount of this minimum wage.” Section 4 of Wage Order No. 16-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 324.

Labor Code section 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidated damages as follows: “(1) [f]or any initial violation that is intentionally committed, one

hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.” As set forth above, Defendant failed to compensate Plaintiff and Aggrieved Employees for all minimum wages owed. Accordingly, through the PAGA and to the extent permitted by law Plaintiff and Aggrieved Employees are entitled to recover liquidated damages for violations of Labor Code section 1197.1. Based upon these same factual allegations, Plaintiff and Aggrieved Employees are entitled to penalties under Labor Code section 1199.

B. Overtime Wages. Labor Code section 510 requires employers to compensate employees who work more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day no less than one and one-half times their regular rate of pay. Further, Labor Code section 510 obligates employers to compensate employees at no less than twice their regular rate of pay when employees work more than twelve (12) hours in a day or more than eight (8) hours on the seventh consecutive day of work.

During the relevant period, Defendant had a policy/practice of failing to pay for all overtime hours worked by Plaintiff and Aggrieved Employees. The work times of Plaintiff and Aggrieved Employees frequently have been, and continue to be, greater than eight (8) hours per day and/or forty (40) hours per week. Yet, because Defendant owes Plaintiff and Aggrieved Employees the legally required wages for, *inter alia*, unpaid hours that were worked off-the-clock, Plaintiff and Aggrieved Employees were deprived overtime premium amounts attributable to those overtime hours as well. By its common policy/practice of requiring Plaintiff and Aggrieved Employees to work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating them at the appropriate overtime rate of pay, Defendant willfully violated the provisions of Labor Code sections 510 and 1198, as well as Wage Order No. 16-2001.

V. PLAINTIFF AND AGGRIEVED EMPLOYEES WERE NOT PROVIDED WITH TIMELY REST BREAKS THAT WERE UNINTERRUPTED AND DUTY-FREE

Defendant failed to provide Plaintiff and Aggrieved Employees with duty-free rest breaks of not less than ten (10) minutes for every major fraction of four (4) hours worked as required by Labor Code section 226.7 and section 11 of Wage Order 16-2001.

Under IWC Wage Order 16-2001, an employer must authorize and permit all employees to take ten- (10-) minute duty-free rest periods for every major fraction of four hours worked. Labor Code section 226.7 provides “an employer shall not require any employee to work during a meal or rest recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission (“IWC”).” Thus, the Wage Orders set when and for how long the rest period must take place, and the Labor Code decrees that violations of the Wage Order violate California law, and sets forth the premium pay employers must pay their employees when employers fail to provide rest breaks.

Here, Plaintiff and Aggrieved Employees were subject to policies/practices that prevented them from taking legally compliant rest periods. Defendant regularly did not allow Plaintiff and Aggrieved Employees to take rest breaks during their shifts while on the clock. As a result, Defendant retained

control over Plaintiff and Aggrieved Employees during their rest periods. *See, Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that “during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”). In *Augustus*, the court expressly rejected the employer’s assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained “that employers [must] relinquish any control over how employees spend their break time, and relieve their employees of all duties.” *Id.* at 273.

Following *Brinker Rest. Corp. v. Sup. Ct.* (2012) 53 Cal. 4th 1004, the Courts of Appeal have confirmed that liability for on-duty breaks arises when an employer adopts a uniform policy that fails to provide off-duty breaks. For example, in *Faulkinbury vs. Boyd & Associates, Inc.*, the California Court of Appeal applied *Brinker*: “In *Faulkinbury I*, we concluded that even if [defendant]’s on-duty meal break policy was unlawful, [defendant] would be liable only when it actually failed to provide a required off-duty meal break. *Brinker* leads us now to conclude [defendant] would be liable upon a determination that [defendant]’s uniform on-duty meal break policy was unlawful.” *Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal. App. 4th 220. The Court further explained: “the employer’s liability arises by adopting a uniform policy that violates the wage and hour laws. Whether or not the employee was able to take the required break goes to damages...” (Ibid. [citations omitted]; *see also Benton v. Telecom Network Specialists, Inc.* (2013) 220 Cal. App. 4th 701, 728.)

In addition to failing to authorize and permit compliant rest breaks, Plaintiff and Aggrieved Employees were not compensated with one (1) hour’s worth of pay at their regular rate of compensation when they were not provided with a compliant rest break in accordance with Labor Code section 226.7(b). Thus, Defendant has violated Labor Code section 226.7 and IWC Wage Order No. 16-2001, and as a result, Plaintiff and Aggrieved Employees seek penalties under the PAGA.

VI. ISSUANCE OF INACCURATE WAGE STATEMENTS RESULTS IN LIABILITY

Defendant has also failed to provide accurate itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code section 226(a)(1, 2, 5, and 9). Labor Code section 226 obligates employers, semi-monthly or at the time of each payment, to furnish an itemized wage statement in writing showing:

- (1) gross wages earned;
- (2) total hours worked by the employee;
- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer...;
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Due to Defendant's failure to provide Plaintiff and Aggrieved Employees with lawful meal periods and rest breaks (and pay missed meal and rest break premiums thereon), along with the failure to pay the associated minimum and overtime wages, as well as unpaid minimum and overtime wages due for off-the-clock work, the wage statements issued by Defendant, at a minimum, do not indicate the correct amount of gross wages earned, the correct total hours worked, the correct net wages earned, or the applicable and/or correct hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate in violation of Labor Code section 226(a)(1), (2), (5), and (9).

As a result of Defendant's violation of Labor Code section 226(a), Plaintiff and Aggrieved Employees suffered injury because, among other things: (a) the violations kept them from determining the amounts of wages owed; (b) the violations caused them to have to perform mathematical computations to determine the amounts of wages owed to them; and (c) the wage statements inaccurately understated the wages, hours, and wage rates to which they were entitled. As a result of failing to provide accurate itemized wage statements setting forth the information required by Labor Code section 226(a), Defendant has incurred liability that entitles Plaintiff and Aggrieved Employees to damages under Labor Code section 226(e) and/or penalties including those pursuant to Labor Code section 226.3 and the PAGA.

Further, pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and wages paid to employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, and in any case shall be kept on file for not less than two years. Defendant has intentionally and willfully failed to keep accurate and complete records showing the hours worked daily and wages paid to Plaintiff and Aggrieved Employees. Thus, Plaintiff and Aggrieved Employees have been denied their legal right and protected interest in having available at a central location at the plant or establishment where they are employed, accurate and complete payroll records showing the hours worked daily by, and the wages paid to, employees at those respective locations pursuant to Labor Code section 1174. Plaintiff and Aggrieved Employees are thus also entitled to recover penalties pursuant to Labor Code section 1174.5.

VII. UNTIMELY PAID WAGES AND WAITING TIME PENALTIES

Labor Code section 203 states that if an employer fails to provide wages at the time of an employee's termination, then the employee's wages must continue as a penalty for up to thirty days. "A proper reading of § 203 mandates a penalty equivalent to the employee's daily wages for each day he or she remained unpaid up to a total of 30 days... Thus, the critical computation required by Section 203 is the calculation of a daily wage rate, which can then be multiplied by the number of days of nonpayment, up to 30 days." DLSE Opinion Letter of January 28, 2003, citing *Mamika v. Barca* (1998) 68 Cal. App. 4th 487, 492.

Defendant did not provide all wages due to Plaintiff and Aggrieved Employees at the time of separation because it did not pay them amounts as alleged above, due and owing at the time of any Aggrieved Employees' termination or within seventy-two (72) hours of his or her resignation and has failed to pay those sums for thirty (30) days thereafter. Thus, waiting-time penalties were triggered and

Plaintiff and Aggrieved Employees are entitled to continuing wages as provided by Labor Code section 203.

Further, Labor Code section 204 expressly requires that “[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Pursuant to Labor Code section 204(d), these requirements are “deemed satisfied by the payment of wages for weekly, biweekly or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.” Due to its failure to pay Plaintiff and Aggrieved Employees in compliance with the Labor Code as described above, Defendant failed to timely pay Aggrieved Employees within seven (7) days of the close of the payroll period in accordance with Labor Code section 204 on a regular and consistent basis. As a result, Plaintiff and Aggrieved Employees are entitled to penalties pursuant to Labor Code section 210.

VIII. UNFAIR COMPETITION LAW

By violating numerous wage-and-hour laws, Defendant also engaged in unlawful business acts that have deprived Plaintiff and Aggrieved Employees and all interested persons of the rights, benefits, and privileges guaranteed to all employees under law. *See*, Business and Professions Code section 17200, *et seq.* By committing the wage-and-hour violations enumerated above, Defendant has cut its costs of doing business and thus gained an unfair advantage over competitors who followed the law.

IX. CONCLUSION

Pursuant to Labor Code section 2699.3(a), please advise within sixty (60) calendar days of this notice whether the LWDA intends to investigate and/or bring an action itself for the violations alleged above. We understand that if we do not receive a response within sixty-five (65) calendar days of this notice, Plaintiff - individually and on behalf of other similarly situated Aggrieved Employees - and the State of California may recover penalties pursuant to Labor Code section 2699.

Sincerely,
CounselOne, PC



Anthony J. Orshansky

EXHIBIT E

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-818424-21
Plaintiff for PAGA Case: Antonio Delgado
Filer/Attorney for PAGA Case: Anthony Orshansky
Law Firm for PAGA Plaintiff: CounselOne, P.C.
Employer: Intense Lighting, LLC
Date Case Received:
Filer for Employer:
Employer Filer Firm:
Court Type: California Superior Courts
Court Name: Orange County Superior Court
PAGA Court Case Number: 30-2021-01219686-CU-OE-CXC
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Additional Document Submitted with Proposed Settlement on 03/08/2022 08:49:10 PM by Anthony Orshansky	NOM and Mtn for Preliminary Approval.pdf	3/9/2022 4:49 AM	Proposed Settlement
Court Complaint Submitted on 01/06/2022 04:55:06 PM by Anthony Orshansky	Delgado_Intense Lighting Summons, Cover Sheet, Complaint.pdf	1/7/2022 12:55 AM	Court Complaint
Proposed Settlement Submitted on 03/08/2022 08:49:10 PM by Anthony Orshansky	Settlement Agreement (final).pdf	3/9/2022 4:49 AM	Proposed Settlement

EXHIBIT F

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, July 7, 2022 10:29 PM
To: Anthony J. Orshansky
Subject: Thank you for your Other Response or Document Submission

07/07/2022 10:28:10 PM

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT G

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
jennifer@counselonegroup.com
3 JUSTIN KACHADOORIAN (SBN 260356)
justin@counselonegroup.com
4 **COUNSELONE, PC**
9301 Wilshire Boulevard, Suite 650
5 Beverly Hills, California 90210
Telephone: (310) 277-9945
6 Facsimile: (424) 277-3727

7 Attorneys for Plaintiff Antonio Delgado, on behalf
of himself and others similarly situated
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 ANTONIO DELGADO, on behalf of himself
and others similarly situated,

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15 Plaintiff,

16 v.

17 INTENSE LIGHTING, LLC; and DOES 1
through 100, inclusive,

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19 Defendants.
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Case No.: 30-2021-01219686-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman, Dept. CX105

**PROOF OF SERVICE OF NOTICE OF
RULING CONTINUING HEARING ON
PLAINTIFF’S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT ON THE LWDA**

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 9301 Wilshire Boulevard, Suite 650,
Beverly Hills, CA 90210.

5 On July 7, 2022, I caused to be served the following document(s) to the address(es) and
6 by the method of service described below:

7 **NOTICE OF RULING CONTINUING HEARING ON PLAINTIFF'S MOTION FOR**
8 **PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION**
9 **SETTLEMENT**

10 California Labor and Workforce
11 Development Agency
12 1515 Clay Street, Ste. 801
13 Oakland, CA 94612

14 [X] (BY ELECTRONIC TRANSMISSION) I caused a true and correct copy of the
15 document(s) described above to be electronically transmitted to the Labor and
16 Workforce Development Agency ("LWDA") by uploading them to the LWDA's
17 online system (located at <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>) under LWDA Case No. LWDA-CM-
18 818424-21.

19 I declare under penalty of perjury that the above is true and correct.

20 Executed on July 7, 2022 at Beverly Hills, California.

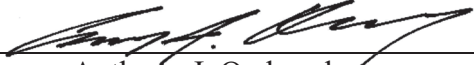
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Anthony J. Orshansky

EXHIBIT H

1 ANTHONY J. ORSHANSKY (SBN 199364)
anthony@counselonegroup.com
2 JENNIFER L. CONNOR (SBN 241480)
jennifer@counselonegroup.com
3 JUSTIN KACHADOORIAN (SBN 260356)
justin@counselonegroup.com
4 **COUNSELONE, PC**
9301 Wilshire Boulevard, Suite 650
5 Beverly Hills, California 90210
Telephone: (310) 277-9945
6 Facsimile: (424) 277-3727

7 Attorneys for Plaintiff Antonio Delgado, on behalf
of himself and others similarly situated
8
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ORANGE**
12

13 ANTONIO DELGADO, on behalf of himself
and others similarly situated,

14
15 Plaintiff,

16 v.

17 INTENSE LIGHTING, LLC; and DOES 1
through 100, inclusive,

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19 Defendants.
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Case No.: 30-2021-01219686-CU-OE-CXC

Assigned for all purposes to:
Hon. Randall J. Sherman, Dept. CX105

**NOTICE OF RULING CONTINUING
HEARING ON PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

Continued Preliminary Approval Hearing

Date: September 16, 2022

Time: 10:00 a.m.

Dept. CX105

1 **TO THE LWDA AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD**
2 **HEREIN:**

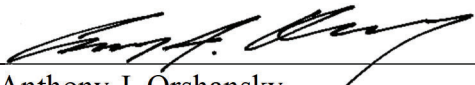
3 PLEASE TAKE NOTICE that the Court issued a tentative ruling in advance of the hearing
4 on Plaintiff Antonio Delgado's ("Plaintiff") Motion for Preliminary Approval of Class and
5 Representative Action Settlement (the "Motion"), scheduled for July 1, 2022 at 10:00 a.m. The
6 parties met and conferred thereon, and notified the Court that they would submit on the tentative.
7 Accordingly, the Court issued a Minute Order confirming the tentative ruling, a copy of which is
8 attached hereto, continuing the hearing on the Motion to September 16, 2022 at 10:00 a.m. in
9 Department CX105, and setting a deadline of 16 court days before the continued hearing for counsel
10 to file supplemental papers addressing the issues identified by the Court.

11 Plaintiff was instructed to give notice.

12
13 Dated: July 7, 2022

Respectfully submitted,

14 COUNSELONE, PC

15 By: 

16 Anthony J. Orshansky
17 Jennifer L. Connor
18 Justin Kachadoorian
19 Attorneys for Plaintiff
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**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CIVIL COMPLEX CENTER**

MINUTE ORDER

DATE: 07/01/2022 TIME: 10:00:00 AM DEPT: CX105

JUDICIAL OFFICER PRESIDING: Randall J. Sherman

CLERK: J. Phu

REPORTER/ERM:

BAILIFF/COURT ATTENDANT: J. Boc

CASE NO: **30-2021-01219686-CU-OE-CXC** CASE INIT.DATE: 09/01/2021

CASE TITLE: **Delgado vs. Intense Lighting, LLC**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73742797

EVENT TYPE: Motion for Approval of Class Settlement

MOVING PARTY: Antonio Delgado

CAUSAL DOCUMENT/DATE FILED: Motion - Other, 03/07/2022

APPEARANCES

No Appearance by all parties

Tentative Ruling posted on the Internet .

There are no appearances by any party.

Prior to calendar call, all parties submit on the Court's tentative ruling.

The Court confirms the tentative ruling as follows:

The Court continues the hearing on plaintiff's Motion for Preliminary Approval of Class and Representative Action Settlement to September 16, 2022 at 10:00 a.m. Counsel must file supplemental papers addressing the court's concerns (not fully revised papers that would have to be re-read) at least 16 days before the next hearing date. Counsel should submit an amendment to the settlement agreement rather than any amended settlement agreement. Counsel also should provide a red-lined version of any revised papers, including the class notice. Counsel also should provide the court with an explanation of how the pending issues were resolved, with references to any corrections to the settlement agreement and the class notice, rather than with just a supplemental declaration or brief that simply asserts the issues have been resolved.

The moving points and authorities are 28 pages long, far exceeding the 15-page limit of CRC Rule 3.1113(d) and even the 20-page limit of CRC Rule 3.764(c)(2) for motions to certify a class, which usually are contested. The court expressly orders that plaintiff's points and authorities in support of the Motion for Final Approval be limited to no more than 15 pages, and orders plaintiff's counsel to comply with all CRC page limits in the future.

The moving papers do not include a copy of the pre-filing PAGA letter that was sent to the LWDA on January 11, 2021. The court needs a copy of the letter to verify that the settlement terms are consistent with the notice provided to the LWDA.

The motion fails to provide the court with the estimated high and low payments to be paid to the class members based on their workweeks, or high, low and average payments to be paid to the PAGA Group members based on their workweeks, information that would enable the court to better evaluate the reasonableness of the settlement.

The allocation of only 20% of the settlement payments for wages appears to be low. Either an increase to 33 1/3% or an explanation of why the figure is not at least 33 1/3% is required.

Rather than having class members prepare their own opt-out requests, the class notice must include a request for exclusion form that class members can complete and submit. The form should be referenced in the class notice.

This court will not approve injunctions against or covenants not to sue by class members. Res judicata and collateral estoppel arguments should provide defendants with sufficient protection against facing these same claims again. Accordingly, the parties must amend ¶¶57(a) and (b) of the settlement agreement.

Even though the Settlement Agreement properly provides in ¶¶55(c) that class members may appear at the Final Approval Hearing to object to the settlement whether or not they have objected in writing, the class notice does not inform class members of that option. Section IV(C) of the class notice must be amended to inform class members that they may object either in writing or orally, or otherwise offer comments at the Final Approval Hearing. Similarly, ¶15 of the Proposed Order Granting Preliminary Approval of Class and Representative Action Settlement must be amended or deleted.

There is no cy pres entity identified for the uncashed checks. The parties must agree on one or more such beneficiaries.

Section V of the class notice must be corrected to identify Department CX105 as the location for the Final Approval Hearing.

Counsel should propose a realistic Final Approval Hearing date, bearing in mind that all papers in support of the Final Approval Hearing, including detailed hourly breakdowns of plaintiff's attorneys to support a lodestar cross-check, detailed plaintiff attorney cost breakdowns, an Administrator declaration and invoice, and plaintiff's declaration to support the enhancement request, must be filed at least 16 calendar days before the Final Approval Hearing date, to provide enough time for court review, and must be served in compliance with CCP notice of motion requirements.

Plaintiff has not shown that he served the LWDA with his moving papers. Plaintiff is ordered to give notice of the ruling to the LWDA, and to defendant, to serve the LWDA with his original moving papers as well as any new papers filed for future hearings, and to file a proof of service showing such compliance.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 18 and not a party to the within action; my business address is 9301 Wilshire Boulevard, Suite
650, Beverly Hills, CA 90210.

5 On July 7, 2022, I caused to be served the following document(s) to the address(es) and
by the method of service described below:

6 **NOTICE OF RULING CONTINUING HEARING ON PLAINTIFF'S MOTION FOR**
7 **PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION**
8 **SETTLEMENT**

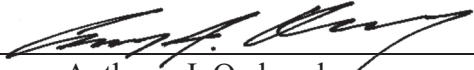
9 J, Andrew Schaffer
10 **JACKSON LEWIS P.C.**
200 Spectrum Center Drive, Suite 500
Irvine, CA 92618
Email: john.schaffer@jacksonlewis.com

11 *Attorneys for Defendant Intense Lighting, LLC*

12
13 [X] (BY E-SERVICE) I delivered to ONELEGAL, LLC, an e-filing and e-service
14 provider with the Superior Court of California for the County of Orange the
above-described document(s) to be filed and electronically served through the
Superior Court's e-filing system on the above registered participants on this date.

15 I declare under penalty of perjury that the above is true and correct.

16 Executed on July 7, 2022 at Beverly Hills, California.

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19 Anthony J. Orshansky

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 9301 Wilshire Boulevard, Suite 650, Beverly Hills, CA 90210.

**SUPPLEMENTAL DECLARATION OF ANTHONY J. ORSHANSKY IN SUPPORT OF
PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

Attorneys for Defendant Intense Lighting, LLC

I declare under penalty of perjury that the above is true and correct.

Executed on August 23, 2022 at Beverly Hills, California.

Anthony J. Orshansky