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8 Attorneys for Plaintiff Oscar Magana

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN JOAQUIN

11 OSCAR MAGANA, as an aggrieved employee
pursuant to the Private Attorneys General Act
12 (“PAGA”), on behalf of the State of California
and other aggrieved employees,

13 Plaintiff,

14 vs.

15 A & A READY MIXED CONCRETE, INC., a
California corporation; ASSOCIATED READY
16 MIXED CONCRETE, INC., a California
corporation; and DOES 1 through 10, inclusive,

17 Defendants.
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Case No. STK-CV-UOE-2021-0003911

Assigned to the Hon. Robert T. Waters

**JOINT STIPULATION RE PAGA PENALTY
SETTLEMENT; [PROPOSED] ORDER
APPROVING THE PARTIES’
SETTLEMENT OF CLAIMS BROUGHT
PURSUANT TO THE LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT OF
2004 (“PAGA”)**

1 **JOINT STIPULATION RE PAGA PENALTY SETTLEMENT**

2 Plaintiff Oscar Magana (“Plaintiff”) and Defendants A&A Ready Mixed Concrete, Inc., which
3 does business as as A&A Concrete Supply, Inc. (“A&A”), and Associated Ready Mix Concrete, Inc.
4 (“Associated,” with A&A collectively referred to as “Defendants”) (collectively with Plaintiff, the
5 “Parties”), by and through their respective counsel of record, hereby stipulate as follows:

6 **WHEREAS**, Plaintiff submitted notice of his claims against Defendants for civil penalties under
7 the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) to the California Labor and
8 Workforce Development Agency (“LWDA”) on February 23, 2021. Having received no response from
9 the LWDA after 65 days, Plaintiff filed his Complaint on April 30, 2021.

10 **WHEREAS**, on June 21, 2021, Defendants filed their Answer to Plaintiff’s Complaint denying
11 all material allegations and raising numerous defenses.

12 **WHEREAS**, following the exchange of information and evidence, the Parties participated in a
13 mediation with Louis Marlin, Esq., an experienced mediator of wage and hour actions, on November 14,
14 2022. Marlin helped to manage the Parties’ expectations and provided a useful, neutral analysis of the
15 issues and risks to both sides. Although the Parties did not settle at mediation, Mr. Marlin helped to
16 narrow the gap between the Parties’ respective positions. After months of continuing negotiations, the
17 Parties were eventually able to negotiate a complete settlement of Plaintiff’s claims. The terms of the
18 settlement are now set forth in complete and final form in the PAGA Settlement Agreement, attached as
19 Exhibit A.

20 **WHEREAS**, in negotiating this settlement, Plaintiff has considered the expense and length of
21 continued proceedings necessary to litigate the case through trial and through any possible appeals, and
22 the burdens of proof necessary to establish liability for the claims asserted in the action, both generally
23 and in response to Defendants’ defenses thereto. (*See* Declaration of Raul Perez ¶¶ 10-15.) Plaintiff has
24 also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties
25 and delays inherent in such litigation. (*Id.*) Based on the foregoing, Plaintiff has determined that the
26 settlement is fair and promotes PAGA’s objectives. (*Id.*)

27 **WHEREAS**, Defendants maintain that all of their employees have been compensated in
28 compliance with the law, and Defendants have denied each of the claims and contentions alleged by

1 Plaintiff in the Action. Defendants deny any wrongdoing or liability arising out of any of the facts or
2 conduct alleged in the Action, and believe that they have valid defenses to Plaintiff's claims. Neither this
3 Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken to
4 carry out this Settlement Agreement, may be construed as, or may be used as an admission, concession
5 or indication by or against Defendants of any fault, wrongdoing or liability whatsoever, or that the case
6 can and should proceed on a representative basis.

7 **WHEREAS**, the Parties and their counsel recognize the expense and length of continued
8 proceedings necessary to litigate the disputes through trial and through any possible appeals, and have
9 also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties
10 and delays inherent in such litigation. The Parties and their counsel are also aware of the burdens of proof
11 necessary to establish liability for the claims alleged, and the affirmative and other defenses asserted.
12 Thus, reaching this Settlement now has the potential for having a higher value today than it might have
13 later if this litigation was to continue.

14 **WHEREAS**, Plaintiff is concurrently serving a copy of this Stipulation and all supporting
15 documents on the LWDA, including a copy of the Settlement Agreement.

16 **WHEREAS**, PAGA requires the Court to approve a proposed settlement of any PAGA action.
17 *See* Labor Code Section 2699(l)(2) ("The superior court shall review and approve any settlement of any
18 civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the
19 same time that it is submitted to the court.").

20 **NOW THEREFORE**, the Parties respectfully request that the Court enter the proposed Order
21 submitted concurrently herewith, approving the Settlement Agreement pursuant to Labor Code §
22 2699(l)(2), and dismissing the action in its entirety with prejudice.

23 **IT IS SO STIPULATED.**

24
25 Dated: 8/1/2023
26 _____

CAPSTONE LAWYERS APC



Raul Perez
Attorneys for Plaintiff Oscar Magana

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PAUL HASTINGS LLP



Dated: 8/02/2023

By: _____

Stephen L. Berry

Attorneys for Defendants A&A Ready Mixed
Concrete, Inc. and Associated Ready Mix Concrete,
Inc.

Exhibit A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

OSCAR MAGANA, as an aggrieved employee
pursuant to the Private Attorneys General Act
("PAGA"), on behalf of the State of California
and other aggrieved employees,

Plaintiff,

vs.

A & A READY MIXED CONCRETE, INC., a
California corporation; ASSOCIATED READY
MIXED CONCRETE, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. STK-CV-UOE-2021-0003911

PAGA SETTLEMENT AGREEMENT

PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the Superior Court of the State of California for the County of San Joaquin, Plaintiff Oscar Magana ("Plaintiff"), for himself and on behalf of the State of California and the Aggrieved Employees (as defined below), and Defendants A&A Ready Mixed Concrete, Inc., which does business as as A&A Concrete Supply, Inc. ("A&A"), and Associated Ready Mix Concrete, Inc. ("Associated," with A&A collectively referred to as "Defendants") hereby agree to the following terms and conditions in this Private Attorneys General Act, California Labor Code sections 2698, *et seq.* ("PAGA"), settlement agreement (the "Settlement," "Settlement Agreement," or "Agreement"). Plaintiff and Defendants are sometimes collectively referred to as the "Parties" and individually as a "Party."

DEFINITIONS

The following definitions are applicable to this Agreement. Definitions contained elsewhere in this Agreement will also be effective:

1. "Action" means the court complaint filed by Plaintiff on April 30, 2021 in the action entitled, *Magana v. A & A Ready Mixed Concrete, Inc.*, et al., No. STK-CV-UOE-2021-0003911 (San Joaquin County Superior Court). The Action also is referred to as the "Complaint" and/or the "Litigation."
2. "Aggrieved Employees" means all persons who were employed by A&A in non-exempt positions in the State of California at any time during the Settlement Period.
3. "Court" means the Superior Court for the State of California, County of San Joaquin.
4. "Defense Counsel" or "Counsel for Defendant" are:

Stephen L. Berry
Blake R. Bertagna
Paul Hastings LLP
695 Town Center Drive, 17th Floor
Costa Mesa, CA 92626
5. "Effective Date" means the date the Court enters the order and judgment approving the settlement described in this Agreement.
6. "Gross Settlement Amount" means the settlement amount of Four Hundred Sixty

Thousand Dollars (\$460,000) to be paid by Defendants in full satisfaction of all Settled Claims arising from the Action.

7. "LWDA" means the California Labor and Workforce Development Agency.

8. "PAGA Penalties Fund" means the Gross Settlement Amount less the Attorneys' Fees and Costs, Service Award, and Settlement Administrator Costs.

9. "Plaintiff's Counsel" or "Counsel for Plaintiff" means:

Raul Perez
Robert Drexler
Molly DeSario
Jonathan Lee
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067

10. "Released Parties" means Defendants and all of their former and present parents, subsidiaries, and affiliates, and their current and former officers, directors, employees, partners, shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals.

11. "Released Claims" means all claims for civil penalties under the PAGA that were alleged, or reasonably could have been alleged, based on the facts alleged in the Action, including PAGA civil penalty claims for: (a) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for meal and/or rest periods; (iii) unreimbursed business expenses; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) failure to provide accurate itemized wage statements; (vi) failure to maintain payroll records; and (vii) failure to provide safety devices and safeguards, such as personal protective equipment arising during the Settlement Period. The Released Claims specifically include claims meeting the above definitions under the following statutes: California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403. The approval of this Settlement by the Court bars all

Aggrieved Employees from bringing any of the Released Claims in any future proceeding and from participating in any other proceeding seeking penalties under PAGA for the Released Claims.

12. "Service Award" means the amount to be paid to Plaintiff as payment for his service on behalf of the LWDA and Aggrieved Employees.

13. "Settlement Period" means the period from February 23, 2020 to the Effective Date.

TERMS

14. Gross Settlement Amount. In consideration for Plaintiff's promises and representations described in this Agreement, and subject to all of the conditions of the Settlement being met, Defendants will pay Four Hundred Sixty Thousand Dollars (\$460,000) ("Gross Settlement Amount") to settle the Action. The Gross Settlement Amount includes Plaintiff's attorneys' fees, litigation costs, consideration for Plaintiff's Service Award, settlement administration costs, and payments to Aggrieved Employees and the LWDA for their respective shares of the PAGA Penalties Fund. No portion of the Gross Settlement Amount will be retained by, or revert to, Defendants.

15. PAGA Penalties Fund. The total sum available for payment of PAGA penalties, the PAGA Penalties Fund, will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, wage orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Aggrieved Employees. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to all Aggrieved Employees according to the following formula:

15(a) Defendants will calculate: (i) the total number of pay periods worked by each Aggrieved Employee during the Settlement Period, and (ii) the total number of pay periods worked by all Aggrieved Employees during the Settlement Period.

15(b) To determine each Aggrieved Employee's payment from the PAGA Penalties Fund, Defendants will use the following formula: Settlement Payment = 25%

of PAGA Penalties Fund $\times$ [Pay Periods Worked by Individual Aggrieved Employee During the Settlement Period $\div$ Total Pay Periods Worked by All Aggrieved Employees during the Settlement Period].

15(c) Defendants estimate that Aggrieved Employees worked a total of 13,425 Pay Periods during the Settlement Period.

16. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or motion by Plaintiff's Counsel for attorneys' fees and costs of not more than One Hundred Thirty-Eight Thousand Three Hundred Thirty Three Dollars (\$153,333), plus the reimbursement of all out-of-pocket costs associated with Plaintiff's Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Twenty-Five Thousand Dollars (\$25,000) both of which will be paid from the Gross Settlement Amount. Any portion of the attorneys' fees and costs not awarded to Plaintiff's Counsel will be added to the PAGA Penalties Fund.

17. Service Award. For his service on behalf of the LWDA and Aggrieved Employees, Defendants agree not to oppose or impede any application or motion by Plaintiff for a service award of up to Ten Thousand Dollars (\$10,000) ("Service Award"). The Settlement Administrator will pay the Service Award approved by the Court of up to \$10,000 total out of the Gross Settlement Amount. If the Court approves a Service Award of less than \$10,000 total, the remainder will be part of the PAGA Settlement Fund. Tax deductions and withholdings will not be taken from the Service Award, and a Form 1099 will be issued to Plaintiff with respect to this payment.

18. Settlement Administrator. The Parties will retain CPT, Inc. as the third-party settlement administrator ("Settlement Administrator"). The Settlement Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The settlement administration costs will be paid from the Gross Settlement Amount. Based on the estimate that there are approximately Four Hundred Fifteen (415) Aggrieved Employees, settlement administration costs are estimated at Six Thousand

Dollars (\$6,000).

19. Court Approval of the Settlement. The Parties will seek to obtain the Court's approval of the payment of PAGA penalties as described in this Agreement by way of an unopposed motion or stipulation to be filed by Plaintiff's Counsel. This Agreement will be provided to the Court for its approval. The Court's approval of the payment of PAGA penalties as described in this Agreement shall be embodied in a written order and judgment (the "Order and Judgment").

20. List of Aggrieved Employees and Funding of the Settlement. Within twenty-one (21) calendar days after the Effective Date, Defendants will provide the Settlement Administrator a complete list of all Aggrieved Employees ("Aggrieved Employee List"), and deposit the Gross Settlement Amount into a QSF established by the Settlement Administrator. The Aggrieved Employee List will be formatted in Microsoft Office Excel and will include each Aggrieved Employee's full name; most recent mailing address and telephone number; Social Security number; the respective number of pay periods during which each Aggrieved Employee worked during the Settlement Period; and any other relevant information needed to calculate settlement payments.

21. Settlement Payments to Aggrieved Employees. Within fourteen (14) calendar days after receiving the Aggrieved Employee List and the Gross Settlement Amount, the Settlement Administrator will issue each Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with the Notice of PAGA Settlement, attached as Exhibit A, via regular First Class U.S. Mail. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee. Any Notice returned as non-deliverable on or before the Response Deadline shall be re-mailed to the forwarding address affixed

thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved, and shall then perform a re-mailing, if another mailing address is identified by the Settlement Administrator. Aggrieved Employees who received a re-mailed Notice Packet shall have their Response Deadline extended ten (10) calendar days from the original Response Deadline. The settlement checks issued to Aggrieved Employees shall remain valid for 180 days. Amounts represented by uncashed checks more than 180 days after mailing by the Settlement Administrator will be paid to Inclusion Matters by Shane's Inspiration, a non-profit child advocacy organization, which would be a qualified *cy pres* recipient under California Civil Procedure Code section 384 if this was a class action settlement. One hundred percent of the PAGA payments are considered penalties and will not be subject to local, state or federal tax withholdings. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099-MISC for their portion of the settlement, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

22. LWDA Payment, Attorneys' Fees and Costs, Service Award, and Settlement Administrator Payment. In addition to the payments to the Aggrieved Employees, within fourteen (14) calendar days of receipt of the Gross Settlement Amount by the Settlement Administrator from Defendants, the Settlement Administrator shall issue payments to: (a) the LWDA; (b) the amount allocated to attorneys' fees and costs to Plaintiff's Counsel; (c) Plaintiff's Service Award; and (d) the Settlement Administrator's administration fees. The Settlement Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under this Settlement.

23. PAGA Release by Aggrieved Employees. Upon entry of the Order and Judgment, Plaintiff, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the Settlement Period, and

1 accordingly, will be forever barred from pursuing against Defendants any and all
2 Released Claims. Aggrieved Employees, other than Plaintiff, will not be deemed to have
3 released any individual Labor Code wage and hour claims, other than for PAGA
4 penalties, by virtue of this Settlement.

5 24. No Right to Exclusion or Objections by Aggrieved Employees. Because this Settlement
6 resolves claims brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
7 Attorney General of, and for, the State of California and the LWDA, the Parties agree
8 that no Aggrieved Employee has the right to object, opt out, or exclude himself or
9 herself from the Settlement. Aggrieved Employees will be bound by the terms of the
10 Settlement Agreement, upon its approval by the Court, regardless of whether he or she
11 cashes any payment received as a result of this Settlement.

12 25. No Credit Toward Benefit Plans. Payments to Aggrieved Employees as referenced
13 herein will not be utilized to calculate any additional benefits under any benefit plans to
14 which any Aggrieved Employee may be eligible, including, but not limited to profit-
15 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave
16 plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this
17 Agreement will not affect any rights, contributions, or amounts to which any Aggrieved
18 Employee may be entitled under any benefit plans.

19 26. Assignments. None of the rights, commitments, or obligations recognized under this
20 Agreement may be assigned by any of the Parties, Aggrieved Employee, Plaintiff's
21 Counsel, or Defense Counsel without the express written consent of each of the other
22 Parties and their respective counsel. The representations, warranties, covenants, and
23 agreements contained in this Agreement are for the sole benefit of the Parties under this
24 Agreement, and shall not be construed to confer any right or to avail any remedy to any
25 other person. The Parties and their counsel represent, covenant, and warrant that they
26 have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
27 transfer, or encumber to any person or entity any portion of any liability, claim, demand,
28 action, cause of action or right released or discharged by this Agreement.

1 27. Nullification of Settlement Agreement. If the Court should for any reason fail to approve
2 this Agreement and Settlement, or if Plaintiff's Counsel files a notice of appeal as to any
3 aspect of the Court's order on the motion for approval of this Agreement and Settlement
4 except as allowed in Section 36 ("Waiver of Appeals"), below, then (a) this Agreement
5 shall be considered null and void, (b) neither this Agreement nor any of the related
6 negotiations or proceedings shall be of any force or effect, and (c) all Parties to this
7 Agreement shall stand in the same position, without prejudice, as if the Agreement had
8 been neither entered into nor filed with the Court. Further, invalidation of any material
9 portion of this Agreement shall invalidate this Agreement in its entirety unless the
10 Parties shall subsequently agree in writing that the remaining provisions shall remain in
11 full force and effect.

12 28. Judgment and Continued Jurisdiction. The Parties agree that upon entry of the Order and
13 Judgment, this Agreement shall be enforceable by the Court pursuant to California Civil
14 Procedure Code section 664.6, and the Court shall retain exclusive and continuing equity
15 jurisdiction over the Action and the Parties and Aggrieved Employees solely for
16 purposes of addressing: (i) the interpretation and enforcement of the terms of the
17 Agreement, (ii) settlement administration matters, and (iii) to interpret and enforce the
18 terms, conditions, and obligations of the Agreement.

19 29. Entire Agreement. This Agreement contains the entire understanding of the Parties
20 hereto in respect of the subject matter contained herein. This Agreement supersedes all
21 prior agreements and understandings among the Parties hereto with respect to the
22 settlement of the Action.

23 30. Amendments. This Agreement may be amended only by a written instrument that is
24 both (1) signed by the Plaintiff, Plaintiff's Counsel, Defendants, and Defense Counsel
25 who executed this Agreement, and (2) approved by the Court.

26 31. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
27 represent they are expressly authorized by the Parties whom they represent to negotiate
28 this Settlement and to take all appropriate action required or permitted to be taken by

1 such Parties pursuant to this Agreement to effectuate its terms and to execute any other
2 documents required to effectuate the terms of this Agreement.

3 32. Governing Law. All terms and conditions of this Agreement and its exhibits will be
4 governed by and interpreted according to the laws of the State of California.

5 33. Execution in Counterparts. This Agreement is subject only to the execution of all Parties.
6 However, the Agreement, and any amendments thereto, may be executed in one or more
7 counterparts. All executed counterparts and each of them, including by electronic
8 signatures (e.g., DocuSign), facsimiles, and scanned copies of the signature pages, will
9 be deemed to be the original and all of which counterparts taken together will constitute
10 one and the same instrument.

11 34. Fair and Reasonable Settlement. The Parties believe this Settlement Agreement is a fair,
12 adequate, and reasonable settlement of the Action and have arrived at this Settlement
13 after arm's-length negotiations by experienced counsel, taking into account all relevant
14 factors.

15 35. Waiver of Appeals. The Parties waive all appeals from an order granting approval of
16 this Agreement and the Settlement, unless the Court materially modifies the Settlement,
17 or unless the Court awards less than the requested one-third of the Gross Settlement
18 Amount in attorneys' fees. A modification of amounts payable in attorneys' fees below
19 one-third of the Gross Settlement Amount shall not be a basis to rescind the Agreement,
20 but Plaintiff and Plaintiff's Counsel reserve the right to appeal such a modification.
21 Defendants' payment obligations under this Agreement will be suspended pending an
22 appeal of an order of the Court approving but materially modifying, or denying, the
23 motion or stipulation for approval of the Settlement.

24 36. Captions. The captions and section numbers in this Agreement are inserted for the
25 reader's convenience, and in no way define, limit, construe or describe the scope or
26 intent of the provisions of this Agreement.

27 37. Waiver. No waiver of any provision of this Settlement Agreement, or failure to exercise
28 a right or remedy by any of the Parties hereto, shall constitute a waiver of any other

provision, right, or remedy of this Agreement, unless expressly so stated otherwise.

38. Dispute Resolution. Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute to the Court for resolution. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

39. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been reviewed and executed with the consent and advice of their respective counsel.

40. Cooperation and Execution of Necessary Documents. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement, including the execution of all documents reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties will seek the assistance of the Court to resolve such disagreement, and in all cases all such documents, supplemental provisions, and assistance of the Court will be consistent with this Agreement. Plaintiff's Counsel shall provide a copy of the proposed order and judgment granting approval of this Agreement and the Settlement to Defendant's Counsel for review and approval before submitting it to the Court, and shall submit the Court's order and judgment in compliance with section 2699(1)(3) of the California Labor Code. If Plaintiff fails to satisfy this condition in strict compliance with section 2699(1)(3) of the California Labor Code, this Agreement and the settlement shall be voidable at Defendants' option.

1 41. Binding Agreement. The Parties warrant that they understand and have full authority to
2 enter into this Settlement, and further intend that this Agreement will be fully
3 enforceable and binding on, and inure to the benefit of, each of the Parties and their
4 respective successors, assigns, legatees, heirs, and personal representatives.

5 42. No Publicity. Plaintiff and Plaintiff's Counsel agree that they will not issue any press
6 releases, initiate any contact with the press, respond to any press inquiry or have any
7 communication with the press about this case and/or the fact, amount or terms of the
8 Settlement. In addition, Plaintiff's Counsel agree that they will not engage in any
9 advertising or distribute any marketing materials that identify Defendants any
10 information that suggests or reasonably would lead to the conclusion that the settlement
11 involved Defendants, or the case number associated with the Action. Any
12 communication about the Settlement to Aggrieved Employees prior to the Court-
13 approved mailing will be limited to a statement that a settlement has been reached and
14 the details will be communicated in a forthcoming Court-approved notice. Defendants
15 shall have the right to rescind this Agreement and the Settlement, rendering it null and
16 void, if Plaintiff or Plaintiff's Counsel violate the obligations in this section. Nothing
17 herein shall limit Plaintiff's Counsel's right and obligation to communicate with
18 Aggrieved Employees, the Court, and the LWDA about the Settlement, and nothing in
19 this paragraph will prevent Plaintiff's Counsel from discussing the Action or this
20 Agreement in court filings for purposes of establishing adequacy of counsel or court
21 approval of comparable wage and hour settlements, provided that Plaintiff's Counsel
22 limits such disclosures to information available in the public record.

23 43. Denial of Liability. The Parties expressly recognize that the making of this Agreement,
24 and compliance therewith, does not in any way constitute an admission or concession of
25 wrongdoing on the part of Defendants, including as to any violations of Plaintiff's rights
26 or the rights of any of the Aggrieved Employees, violation of any statute, regulation,
27 wage order, common law, duty or contract whatsoever. Nothing in this Settlement, nor
28 any action taken in implementation thereof, nor any statements, discussions or

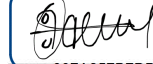
communications, nor any materials prepared, exchanged, issued or used during the pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used, or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 11/9/2023

DocuSigned by:



807A257B7DB44E0...
Oscar Magana

DEFENDANTS

Dated: 9/21/23

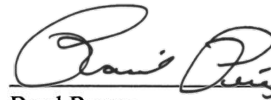
[Name of Authorized Signatory]

A&A Ready Mixed Concrete, Inc. and Associated
Ready Mix Concrete, Inc.

APPROVED AS TO FORM ONLY

CAPSTONE LAW APC

Dated: 11/9/2023



Raul Perez

PAUL HASTINGS LLP

Dated: 9/21/2023



Stephen L. Berry

Exhibit A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Notice of PAGA Settlement: *Magana v. A & A Ready Mixed Concrete, Inc.*, No. STK-CV-UOE-2021-0003911 (San Joaquin County Superior Court)

Dear <<FIRST_NAME>> <<LAST_NAME>>:

PLEASE TAKE NOTICE that you have been identified as a person who was employed by Associated Ready Mixed Concrete, Inc., which does business as A&A Concrete Supply, Inc. (“A&A”), in a non-exempt position in the State of California during all or some portion of the period from February 23, 2020 through [date of court approval].

On April 30, 2021, plaintiff Oscar Magana (the “Plaintiff”) commenced a lawsuit against A&A and one of its affiliates (collectively with A&A, “Defendants”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”) based upon the primary claims that Defendants failed to pay all wages owed and to provide legally compliant meal and rest periods to the Aggrieved Employees, and failed to reimburse them for all necessary work-related expenses (the “Action”).

Defendants deny that they violated the Labor Code or California Wage Orders and maintain that at all material times they have complied with all applicable laws.

The Court has not ruled on the merits of the Action but it has approved the settlement of PAGA civil penalties, of which 75% will be paid to the California Labor and Workforce Development Agency, and the remaining 25% will be paid to Aggrieved Employees. Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon entry of the Order and Judgment, Plaintiff, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims that arose during the Settlement Period, and accordingly, will be forever barred from pursuing against Defendant any and all Released Claims. Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims, other than for PAGA penalties, by virtue of this Settlement.

“Released Parties” means Defendants and all of their former and present parents, subsidiaries, and affiliates, and their current and former officers, directors, employees, partners, shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals.

“Settlement Period” means the period from February 23, 2020, through [date of court approval].

“Released Claims” means all claims for civil penalties under the PAGA that were alleged, or reasonably could have been alleged, based on the facts alleged in the Action, including PAGA civil penalty claims for: (a) failure to pay wages, including unpaid minimum wages and overtime premium pay; (ii) failure to provide meal and/or rest periods in accordance with applicable law, including payments for meal and/or rest periods; (iii) unreimbursed business expenses; (iv) failure to timely pay wages, both during employment and upon termination of employment; (v) failure to provide accurate itemized wage statements; (vi) failure to maintain payroll records; and (vii) failure to provide safety devices and safeguards, such as personal protective equipment arising during the Settlement Period. The Released Claims specifically include claims meeting the above definitions under the following statutes: California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, 6401, and 6403. The approval of this Settlement by the Court bars all Aggrieved Employees from bringing any of the Released Claims in any future proceeding and from participating in any other proceeding seeking penalties under PAGA for the Released Claims.

You are not a party to this lawsuit, but you and the government will be bound by the settlement in this matter as to civil penalties. If you have any questions, you can contact the settlement administrator (whose contact information is at the top of this letter).

PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE

Very Truly Yours,

[Administrator]

1 Raul Perez (SBN 174687)
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2 Robert J. Drexler, Jr. (SBN 119119)
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8 Attorneys for Plaintiff Oscar Magana

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN JOAQUIN

11 OSCAR MAGANA, as an aggrieved employee
pursuant to the Private Attorneys General Act
12 (“PAGA”), on behalf of the State of California
and other aggrieved employees,

13 Plaintiff,

14 vs.

15 A & A READY MIXED CONCRETE, INC., a
16 California corporation; ASSOCIATED READY
MIXED CONCRETE, INC., a California
17 corporation; and DOES 1 through 10, inclusive,

18 Defendants.

Case No. STK-CV-UOE-2021-0003911

Assigned to the Hon. Robert T. Waters

**DECLARATION OF RAUL PEREZ IN
SUPPORT OF JOINT STIPULATION RE
PAGA PENALTY SETTLEMENT**

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1. I am an attorney licensed to practice before all courts of the State of California. I am a Partner at Capstone Law APC (“Capstone” or “Plaintiff’s Counsel”), counsel for Plaintiff Oscar Magana (“Plaintiff”) in the above-captioned action. Unless indicated otherwise, I have personal knowledge of the following facts and if called as a witness, I could and would testify competently to them. I make this declaration in support of the Joint Stipulation Re PAGA Penalty Settlement.

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2. Plaintiff submitted notice of his claims against Defendants A&A Ready Mixed Concrete, Inc. and Associated Ready Mix Concrete, Inc. (“Defendants”) (collectively with Plaintiff, the “Parties”) for civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) to the California Labor and Workforce Development Agency (“LWDA”) on February 23, 2021. Having received no response from the LWDA after 65 days, Plaintiff filed his Complaint on April 30, 2021.

3. Following the exchange of information and evidence, the Parties participated in a mediation with Louis Marlin, Esq., an experienced mediator of wage and hour actions, on November 14, 2022. Marlin helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. Although the Parties did not settle at mediation, Mr. Marlin helped to narrow the gap between the Parties' respective positions. After months of continuing negotiations, the Parties were eventually able to negotiate a complete settlement of Plaintiff's claims. The terms of the settlement are now set forth in complete and final form in the PAGA Settlement Agreement.¹

4. In negotiating this settlement, Plaintiff's Counsel have considered the expense and length of continued proceedings necessary to litigate the case through trial and through any possible appeals, and the burdens of proof necessary to establish liability for the claims asserted in the action, both generally and in response to Defendants' defenses thereto. Plaintiff's Counsel have also taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties and delays

¹ Plaintiff has also entered into a separate general release agreement with Defendants.

1 inherent in such litigation. Based on the foregoing, Plaintiff's Counsel have determined that the
2 settlement is fair and promotes PAGA's objectives.

3 5. Plaintiff's Counsel's evaluation of the settlement's reasonableness was informed by our
4 independent investigation into Plaintiff's claims and Defendants' defenses, and our review of the
5 considerable discovery produced by Defendants during the matter's pendency.

6 6. Prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual
7 bases for pursuing an action against Defendants for Labor Code violations. Plaintiff was intimately
8 familiar with Defendants' labor policies and practices, and over the course of multiple interviews,
9 knowledgeably summarized those policies and practices to Plaintiff's Counsel. During those
10 conversations, he explained how the policies and practices were instituted and provided valuable insight
11 into how they gave rise to the alleged Labor Code violations. Based on these interviews with Plaintiff,
12 Plaintiff's Counsel determined that there were legally sufficient grounds for pursuing an action against
13 Defendants.

14 7. Plaintiff's Counsel prepared a detailed letter (15 pages) to notify the LWDA of
15 Plaintiff's intent to seek civil penalties and other available relief recoverable under PAGA for Labor
16 Code violations. Significant research and effort were expended to prepare a PAGA notice that was
17 consistent with the developing legal requirements so as to withstand any challenge from Defendant
18 regarding the notice's sufficiency. And in preparation for drafting the complaint, Plaintiff's Counsel
19 conducted their own preliminary investigation into the factual bases for Plaintiff's claims, which entailed,
20 *inter alia*, a careful examination of Plaintiff's employment records.

21 8. Following the filing of the Complaint, in response to Plaintiff's formal and informal
22 discovery requests, Plaintiff's Counsel received a considerable amount of documents and data, including
23 employee demographic data and Defendants' California labor policies and procedures handbooks. The
24 document and data exchanges allowed Plaintiff's Counsel to fully assess the nature and magnitude of the
25 claims being settled, as well as the impediments to recovery, and ultimately enabled Plaintiff's Counsel
26 so as to make an independent assessment of the reasonableness of the settlement's terms.

27 9. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
28 Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the

1 PAGA Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of the LWDA
2 and Aggrieved Employees in light of all known facts and circumstances, including the risk of significant
3 delay and uncertainty associated with litigation, and various defenses asserted by Defendants.

4 **THE SETTLEMENT IS REASONABLE GIVEN THE RISKS OF FURTHER LITIGATION**

5 10. In assessing whether the amount of civil penalties is genuine and meaningful, the Court
6 may balance the amount in penalties against the risks of further litigation. Here, Plaintiff obtained a
7 meaningful amount of civil penalties in view of the risks of continued litigation. Based on information
8 and evidence produced by Defendants during discovery, Plaintiff's Counsel determined that Aggrieved
9 Employees worked during a total of approximately 13,425 pay periods during the Settlement Period.
10 Statutory penalties would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged
11 violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for
12 each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
13 aggrieved employee per pay period for each subsequent violation.

14 11. However, a number of courts have found that the "subsequent" penalty under PAGA
15 applies only after a court or the Labor Commissioner determines that the employer has violated the
16 Labor Code. *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) ("the increased \$200
17 civil penalty for 'subsequent violation[s]' does not apply unless [Plaintiff] presents evidence that the
18 Labor Commission or a court notified [Defendant] that it was in violation of the Labor Code.");
19 *Bernstein v. Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened
20 civil penalties" because the defendant was not given notice by the Labor Commissioner when the
21 "subsequent" violations occurred).² Under this line of cases, Defendants' exposure would be

22
23 ² See also *Vieyra-Flores v. Sika Corp.*, No. EDCV19606JVSCKX, 2019 WL 2436998, at *5
24 (C.D. Cal. June 10, 2019) ("employers are not subject to heightened penalties . . . until a court or
25 commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered
26 evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA's
27 heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in
28 controversy"); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014
WL 4961182 (C.D. Cal., October 2, 2014) ("Under the Labor Code, if an employer does not have notice
that they are committing a violation, they are not subject to the heightened penalties."); *Trang v. Turbine
Engine Components Technologies Corp.*, No. CV 12-07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal.
Dec. 19, 2012) ("courts have held that employers are not subject to heightened penalties for subsequent
violations unless and until a court or commissioner notifies the employer that it is in violation of the
Labor Code"), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

1 approximately \$1,342,500 = 13,425 violative pay periods × \$100.

2 12. It should be noted that PAGA gives the Court wide latitude to reduce the amount of civil
3 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result
4 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(h). In
5 reducing PAGA penalties, courts have considered issues including whether the employees suffered
6 actual injury from the violations, whether the defendant was aware of the violations, and the employer’s
7 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)
8 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d
9 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL
10 7563047, at *4 (C.D. Cal. Aug. 12, 2011).

11 13. For example, during the penalty phase of trial in *Carrington*, the plaintiff requested
12 PAGA penalties in the amount of approximately \$70 million. The trial court instead awarded only
13 \$150,000—**or 0.21% of the maximum**—and stated that this reduction was warranted because
14 imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on Starbucks’s “good
15 faith attempts” to comply with meal period obligations and because the court found the violations were
16 minimal. *Carrington*, 30 Cal. App. 5th at 517. The Court of Appeal affirmed the lower court’s reduced
17 award of a \$150,000 penalty under PAGA. *Id.* at 529. If a similar reduction had been applied here,
18 Plaintiff would have recovered only approximately \$2,820 (\$1,342,500 × 0.0021 reduction).

19 14. Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding
20 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at *4; *see also*
21 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction
22 under specified PAGA claim where the employer produced evidence that it took its obligations
23 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at *5-*7 (Cal. Ct. App. May
24 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,
25 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*
26 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at *17 (N.D. Cal. June 15,
27 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with
28 recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis*

1 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at *2-*3 (C.D. Cal. Dec. 30, 2013)
2 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous
3 other PAGA claims).

4 15. Considering the issues, defenses, and the risks, a \$460,000 settlement for a limited
5 release of PAGA penalties—no individual wage and hour claims will be extinguished by the
6 Settlement—is a fair and just result and furthers PAGA’s objectives, and is not “unjust, arbitrary, and
7 oppressive.”

8 **THE NEGOTIATED ATTORNEYS’ FEES IN THE AMOUNT OF**
9 **ONE-THIRD OF THE MAXIMUM SETTLEMENT AMOUNT ARE FAIR AND REASONABLE**

10 16. The PAGA provides that a plaintiff is entitled to recover reasonable attorneys’ fees,
11 expenses, and costs. Section 2699(g)(1) of the California Labor Code provides that “[a]ny employee who
12 prevails in any action shall be entitled to an award of reasonable attorney’s fees and costs.” In a *qui tam*
13 action, reasonable attorneys’ fees and costs are typically awarded under the common fund doctrine
14 where, as here, the litigation creates a common fund of money in a specific amount for the benefit of
15 others. PAGA “is a type of *qui tam* action.” *See Iskanian*, 59 Cal. 4th at 382. “A *qui tam* action ‘is a type
16 of private attorney general lawsuit’ [citation], in which ‘the *qui tam* plaintiff stands in the shoes of the
17 state or political subdivision [citation].’” *People ex rei. Stratham v. Acacia Research Corp.*, 210 Cal.
18 App. 4th 487, 501 (2012).

19 A PAGA action is a *qui tam* action because the statute allows the employee plaintiff, acting as
20 the proxy of the State’s labor law enforcement agency, to sue his or her employer for Labor Code
21 violations and recover civil penalties that otherwise would have been assessed and collected by the
22 LWDA. *See Iskanian*, 59 Cal. 4th at 382. Indeed, the majority of the civil penalties recovered in a PAGA
23 action are paid to the State, with a smaller portion paid to the aggrieved employees (e.g., 75% paid to the
24 state; 25% paid to the aggrieved employees). *See* Cal. Lab. Code § 2699(i). Where, as here, a common
25 fund is created in a *qui tam* action by the successful litigation of a plaintiff and her attorneys, the
26 plaintiff’s attorneys are entitled to recover their fees from the common fund:

27 Those benefiting from the recovery of the fund, in this case some depositors and eventually
28 the People of the State of California, must bear their share of the cost of litigation. Fees for
taxpayers’ attorneys will be deducted from the judgment, and each claimant’s share

1 reduced proportionately. To the extent the judgment relies upon section 1021.5 for recovery
2 of attorney fees, it must be modified to confine the award of fees to the common fund
theory.

3 *Bank of America v. Cory*, 164 Cal. App. 3d 66, 91 (1985) (authorizing common fund fees in a *qui tam*
4 taxpayer suit against certain banks).

5 Likewise, through the successful efforts of Plaintiff and his attorneys, a common fund was
6 created in the amount of \$460,000 for the benefit of the employees and the State of California. Thus,
7 these beneficiaries must bear their share of the costs and attorneys' fees, to be deducted from the gross
8 settlement fund under the common fund theory. *Id.* Such fees are deducted as a percentage of the
9 settlement amount. *See, e.g., Boeing Co. v. Van Gernert*, 444 U.S. 472, 478-482 (1980); *Six (6) Mexican*
10 *Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Williams v. MGM-Pathe*
11 *Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Staton v. Boeing Co.*, 327 F.3d 938, 967 (9th
12 Cir. 2003).

13 The California Supreme Court recently upheld the use of the common fund theory of recovery
14 for attorneys' fees in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 506 (2016). In *Laffitte*, the
15 settlement created a common fund of \$19 million. The Court approved the award of attorneys' fees in
16 the amount of one third of the gross \$19 million settlement (e.g., an award of \$6.33 million) under the
17 common fund theory. *Id.* By awarding counsel a percentage of the total recovery, rather than fees based
18 on hours worked, the common fund method encourages attorneys to efficiently litigate to achieve the
19 best results possible. *See Laffitte*, 1 Cal. 5th at 492-494. Indeed, "the percentage method is generally
20 favored in common fund cases because it allows courts to award fees from the fund in a manner that
21 rewards counsel for success and penalizes it for failure. *Id.* at 493 (quoting *In re Rite Aid Corp. Securities*
22 *Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (internal quotations omitted).

23 As a California appellate court very recently confirmed, "fee awards in class actions average
24 around one-third of the recovery' regardless of 'whether the percentage method or the lodestar method is
25 used." *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (quoting *Chavez v.*
26 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)).

27 Consistent with that observation, California state and federal courts routinely award attorneys'
28 fees equaling one-third of the common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App.

1 4th 860, 871 (2016) (“33 1/3 percent of the common fund is consistent with, and in the range of, awards
2 in other class action lawsuits”); *Chavez*, 162 Cal. App. 4th at 66 n.11 (“Empirical studies show that,
3 regardless whether the percentage method or the lodestar method is used, fee awards in class actions
4 average around one-third of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action*
5 *Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35
6 (independent studies of class action litigation nationwide conclude that fees representing one-third of the
7 total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte v.*
8 *Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte*, 231 Cal. App.
9 4th at 506.

10 A fee award in the amount of one-third of the common fund is also reasonable because it best
11 reflects the market rate for contingency fees. *See Lealao v. Beneficial Cal. Inc.*, 82 Cal. App. 4th 19, 47
12 (2000) (“attorneys providing the essential enforcement services must be provided incentives roughly
13 comparable to those negotiated in the private bargaining that takes place in the legal marketplace. . . .”).
14 Fees representing one-third of the recovery reflect the rate negotiated in “typical contingency fee
15 agreements [which] provide that class counsel will recover 33% if the case is resolved before trial and
16 40% if the case is tried.” *Fernandez v. Victoria Secret Stores, LLC*, No. CV 06-04149 MMM SHX,
17 2008 WL 8150856, at *16 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency
18 fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis).
19 Because the negotiated fee structure mimics the marketplace, it is reasonable and should be approved.

20 A one-third common fund³ attorneys’ fee award is also consistent with what courts have
21 awarded in other representative action cases. The following list shows PAGA actions where attorneys’
22

23 ³ Court have also approved fees in amounts greater than one-third of the common fund. *See*
24 *Charles v. JPMorgan Chase Bank*, No. CGC-14-538933 (San Francisco County Superior Court June 18,
25 2019) (awarding plaintiffs \$2.88 million in attorneys’ fees on PAGA penalties totaling \$2.7 million);
26 *Boseman v. VXi Global Solutions, LLC*, No. BC602442 (Los Angeles County Superior Court Jan. 3,
27 2019) (awarding plaintiff \$750,000 in attorneys’ fees and costs on general PAGA penalties totaling
28 \$585,000); *Salas v. Hallmark Aviation Services LP*, No. BC586585 (Los Angeles County Superior
Court February 17, 2017) (awarding plaintiff \$600,000 in attorneys’ fees on PAGA penalties totaling
\$605,000); *Monroe v. Continental Design Co., Inc.*, No. RG16817667 (Alameda County Superior Court
June 21, 2017) (awarding plaintiff \$110,000 in fees on PAGA penalties totaling \$90,000); *Ramirez v.*
Benito Valley Farms, LLC, No. 16-CV-04708-LHK, 2017 WL 3670794, at *6 (N.D. Cal. Aug. 25,
2017) (awarding attorneys’ fees under the lodestar method with no regard to the proportion of the fees to
civil penalties).

1 fees were awarded on a common fund basis:

- 2 • *Cruz v. Wal-Mart Associates, Inc.*, Los Angeles Superior Court, No. 18STCV03128 (May 28, 2021) (approving fee award from PAGA-only settlement of \$5 million against a common fund of \$15 million);
- 3 • *Jones v. J.C. Penney Corporation*, Los Angeles Superior Court, Case No. BC451823 (April 20, 2017) (approving fee award from PAGA-only settlement of \$1.375 million against a common fund of \$3.2 million (42%));
- 4 • *Garcia v. Macy's*, San Bernardino County Superior Court, Case No. CIVDS1516007 (Sept. 13, 2017) (33.33% fee awarded on \$12,500,000 settlement of a PAGA only case);
- 5 • *Garcia v. Pep Boys*, Orange County Superior Court, Case No. 30-2014-00720574-CU-OE-CJC (July 14, 2016) (33.33% fee awarded on a \$1,030,000 settlement of a PAGA only case);
- 6 • *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123-CU-OC-CXC (June 15, 2017) (33.33% fee awarded on a PAGA only case);
- 7 • *Perez v. Staffmark Investment, LLC*, Riverside County Superior Court, Case No. MCC1401137 (May 23, 2016) (33.33% fee awarded on a \$650,000 settlement of a PAGA only case).

8 An award of fees from the gross settlement amount under the common fund doctrine prevents
9 unjust enrichment of those who benefit from the common fund created through the successful efforts of
10 plaintiff's counsel and furthers the important goal of attracting competent counsel to handle
11 representative actions enforcing minimum labor standards. *Laffitte*, 1 Cal. 5th at 503. In affirming the use
12 of the common fund doctrine in California, the California Supreme Court summarized the benefits of the
13 percentage method of recovery stating: "The recognized advantages of the percentage method—
14 including relative ease of calculation, alignment of incentives between counsel and the class, a better
15 approximation of market conditions in a contingency case, and the encouragement it provides counsel to
16 seek an early settlement and avoid unnecessarily prolonging the litigation [citations]—convince us the
17 percentage method is a valuable tool that should not be denied our trial courts." *Id.*

18 17. For all of these reasons, a common fund fee award in the amount of \$153,333 is fair and
19 reasonable.

20 CAPSTONE LAW APC FIRM PROFILE

21 18. Since its founding in 2012, Capstone has emerged as a major force in aggregate
22 litigation, making law on cutting-edge issues.

23 19. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer*
24 Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case
25 *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of
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1 California workers to bring representative actions under the Labor Code Private Attorneys General Act
2 (“PAGA”) notwithstanding a representative action waiver in an arbitration agreement.

3 20. Recognized as a leading firm in the prosecution of PAGA enforcement actions,
4 Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior*
5 *Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision
6 before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v.*
7 *Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully
8 argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

9 21. Capstone has made important contributions to consumer protection law. In *McGill v.*
10 *Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the
11 right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and
12 that consumers need not satisfy class certification requirements to enjoin unfair business practices on
13 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed
14 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages
15 models in consumer class actions.

16 22. Capstone served as class counsel in a number of significant wage and hour settlements,
17 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case
18 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*
19 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of
20 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*
21 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an
22 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

23 23. Capstone has an established practice in automotive defect class actions and is currently
24 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.
25 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*
26 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

27 24. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s
28 settlements have directly compensated hundreds of thousands of California workers and consumers.

1 Capstone's actions have also forced employers to modify their policies for the benefit of employees,
2 including changing the compensation structure for commissioned employees and changing practices to
3 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA
4 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of
5 California.

6 25. The following is a representative sample of Capstone's settlements:

- 7 a. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-
8 PLA (N.D. Cal.): gross settlement of \$12 million on behalf of
9 approximately 150,000 personal bankers, tellers, sales associates, and
10 assistant branch manager trainees for wage and hour violations;
- 11 b. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash
12 payments and unique buyback program for nearly 2 million consumers;
- 13 c. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross
14 settlement of \$10 million on behalf of over 19,000 non-exempt
15 PetSmart employees for wage and hour violations;
- 16 d. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross
17 settlement of \$9 million on behalf of approximately 1,200 pharmacists
18 for wage and hour violations;
- 19 e. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura
20 Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig
21 workers for sleep time and other wage violations;
- 22 f. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super.
23 Ct.): gross settlement of \$5.7 million on behalf of approximately 650
24 sales representatives;
- 25 g. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino
26 Super. Ct.): gross settlement of \$5.5 million for approximately 5,500
27 non-exempt employees.
- 28 h. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of

\$5.4 million in a case alleging FCRA violations;

- i. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- j. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt employees;
- k. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- l. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- m. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- n. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

26. Attached as Exhibit 1 is a true and correct copy of Capstone's firm resume.

ATTORNEYS' FEES AND COSTS

27. I have reviewed a summary of the billing records for this action, which are maintained during the regular course of business and billed contemporaneously. The bill for attorneys' fees is summarized in the chart below:

Attorney	Title	CA Bar Yr.	Rate	Hours	Fees
Robert Drexler	Partner	1985	\$950	29.9	\$28,405.00

Attorney	Title	CA Bar Yr.	Rate	Hours	Fees
Liana Carter	Senior Counsel	1999	\$800	74	\$59,200.00
Molly DeSario	Senior Counsel	2004	\$700	117.1	\$81,970.00
John Stobart	Senior Counsel	2007	\$650	117	\$76,050.00
Alexander Lima	Associate	2019	\$475	52.6	\$24,985.00
Total				390.6	\$270,610.00

28. While adjusting our rates to track market increases, Capstone's rates have steadily remained reasonable and competitive, and have been consistently approved by many federal and state courts over the past several years. *See, e.g., Garcia v. Barney's College, Inc.*, No. RG21113350 (Alameda County Superior Court June 12, 2023) (approving Capstone's rates for Associates (\$450-\$475) and Senior Counsel/Partners (\$650 to \$950)); *Gonzaga v. Molina Healthcare, Inc.*, No. 21STCV03598 (Los Angeles County Superior Court Feb. 2, 2023) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)); *Amaral v. Unify Financial Credit Union*, No. 20STCV36466 (Los Angeles County Superior Court Jan. 31, 2023) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)); *Johnson v. Equity Residential Services, LLC*, No. MSC19-02145 (Contra Costa County Superior Court Nov. 1, 2022) (approving Capstone's rates for Associates (\$500) and Senior Counsel/Partners (\$625 to \$950)); *Lopez v. Big Creek Lumber Company*, No. 21CV-00613 (Merced County Superior Court Oct. 31, 2022) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)); *Villagomez v. Agemark Corp.*, No. CV-19-004058 (Stanislaus County Superior Court Oct. 19, 2022) (approving Capstone's rates for Senior Counsel and Partners (\$625 to \$950)); *Ceja v. El Toro Loco Market, LLC*, No. BCV-21-101202 (Kern County Superior Court Oct. 12, 2022) approving Capstone's rates for Associates (\$475-\$525) and Senior Counsel/Partners (\$625 to \$950)); *Espinosa v. Alliance Healthcare Services, Inc.*, No. 37-2020-00011228-CU-OE-CTL (San Diego County Superior Court Oct. 10, 2022) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$600 to \$950)); *Piana v. LoanDepot.com, LLC*, No. 30-2017-00913164-CU-OE-CXC (Orange County Superior Court Apr. 1, 2022) (approving Capstone's rates for Associates (\$295 to \$345) and Senior Counsel/Partners (\$485 to \$775)); *Tomlinson v. U.S. Bancorp*, No. 19STCV09493 (Los Angeles County Superior Court March 17, 2022) (approving Capstone's rates for Associates (\$265 to \$295) and Senior Counsel/Partners (\$485 to

1 \$775)); *Parks v. Davidson Hotel Company, LLC*, No. 37-2018-00036699-CU-OE-CTL (San Diego
2 Superior Court Feb. 17, 2022) (approving Capstone’s rates for Associates (\$295 to \$485) and Senior
3 Counsel/Partners (\$485 to \$775).

4 29. Other courts have approved hourly rates in this range for plaintiff’s side law firms. *See*
5 *Marshall v. Northrup Grumman Corp.*, No. 16-cv-06794, 2020 WL 5668935, at *7 (C.D. Cal. Sept. 18,
6 2020) (approving attorney rates between \$490 and \$1,060 per hour); *Edwards v. First Am. Corp.*, No.
7 07-cv-03796, 2016 WL 8999934, at *5 (C.D. Cal. Oct. 4, 2016) (rates of up to \$990 found reasonable);
8 *Urakhchin v. Allianz Asset Mgmt. of Am., L.P.*, No. 15-cv-01614, 2018 WL 8334858, at *6 (C.D. Cal.
9 July 30, 2018) (approving billing rates between \$600 and \$825 per hour for attorneys with more than ten
10 years of experience, \$325 to \$575 per hour for attorneys with 10 or fewer years of experience, and \$250
11 per hours for paralegals and clerks); *Gutierrez v. Wells Fargo Bank, N.A.*, No. 07-cv-05923, 2015 WL
12 2438274, at *5 (N.D. Cal. May 21, 2015) (rates ranging \$475-\$975 for partners, \$300-\$490 for
13 associates); *In re Toyota Motor Corp. Unint. Accel. Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 10-
14 ml-02151, 2013 WL 12327929, at *33 n.13 (C.D. Cal. July 24, 2013) (rates ranging from \$150-\$950);
15 *Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL 18278431, at *10 (C.D. Cal. Nov. 21,
16 2022) (finding that, in Los Angeles, partners litigating class action matters have hourly rates ranging
17 from \$304 to \$965, and associates have hourly rates ranging from \$287 to \$719); *Alvarez v. Sirius XM*
18 *Radio Inc.*, No. CV 18-8605 JVS(SSX), 2021 WL 1234878, at *11 (C.D. Cal. Feb. 8, 2021) (finding
19 hourly rates ranging from \$450 for an associate to \$950 for a partner “are reasonable given prevailing
20 rates in the Los Angeles region”); *In re MacBook Keyboard Litig.*, No. 5:18-CV-02813-EJD, 2023 WL
21 3688452, at *15 (N.D. Cal. May 25, 2023) (approving rates in a class action of \$875–\$1,195 per hour for
22 partners; \$385–\$850 per hour for associates).

23 30. Finally, Capstone’s rates are in line with the adjusted Laffey Matrix, which is a fee scale
24 that courts often consult in determining the reasonableness of hourly rates. *See* Exhibit 2.

25 31. As summarized in the table below, counsel has incurred a total of \$20,576.15 in costs
26 and expenses to date.

Cost & Expense Categories	Amount
Copying, Printing & Scanning and Facsimiles	\$221.75

Cost & Expense Categories	Amount
Court Fees, Courier Fees, Filings & Service of Process	\$2,982.00
Court Reporters, Transcripts & Depositions	\$3,872.08
Delivery & Messenger (UPS, FedEx, messenger, etc.)	\$41.90
Desmond, Marcello & Amster	\$4,341.25
Mediation Fees	\$7,000.00
Postage & Mailings	\$15.86
Research Services (PACER, Westlaw, etc.)	\$1,030.53
Travel-Related Costs & Expenses	\$1,070.78
Total	\$20,576.15

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 17th day of November, 2023, at Los Angeles, California.

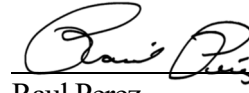

 Raul Perez

Exhibit 1

FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

PROFESSIONAL BIOGRAPHIES

Partners

Rebecca Labat. Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

Raul Perez. Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4th 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

Melissa Grant. Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class

certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

Ryan H. Wu. Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

Robert Drexler. Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million

dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored Defective Prosthetic Devices: Strict Tort Liability for the Hospital? 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

Jamie Greene. Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

Bevin Allen Pike. Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

Senior Counsel

Theresa Carroll. Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

Liana Carter. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

Anthony Castillo. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

Molly DeSario. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

Helga Hakimi. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of

employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

Daniel Jonathan. Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

Jonathan Lee. A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

Cody Padgett. A senior counsel at Capstone Law, Cody Padgett's practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. He handles consumer cases at all stages of litigation, and has contributed to major settlements of automobile defect actions valued in the tens of millions. Prior to joining Capstone Law, Mr. Padgett was a certified legal intern with the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*.

Eduardo Santos. Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

Mao Shiokura. Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

John Stobart. John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

Roxanna Tabatabaeeepour. Roxanna Tabatabaeeepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaeeepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both

California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

Ryan Tish. Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act (“PAGA”) representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor’s degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

Orlando Villalba. Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor’s degree in International Business from the University of Southern California.

Tarek Zohdy. A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

Associates

Tyler Anderson. Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

Sairah Budhwani. Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

Laura Goolsby. Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

Ninel Kocharyan. Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

Alexander Lima. Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real

estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

Trisha Monesi. Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

Joey Parsons. Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

Jezzette Ron. Jezzette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

Alexander Wallin. Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

OUTREACH AND EDUCATION

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal (www.impactlitigation.com). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

Exhibit 2

LAFFEY MATRIX

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

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

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

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

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

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8 Attorneys for Plaintiff Oscar Magana

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN JOAQUIN

11 OSCAR MAGANA, as an aggrieved employee
pursuant to the Private Attorneys General Act
12 (“PAGA”), on behalf of the State of California
and other aggrieved employees,

13 Plaintiff,

14 vs.

15 A & A READY MIXED CONCRETE, INC., a
California corporation; ASSOCIATED READY
16 MIXED CONCRETE, INC., a California
corporation; and DOES 1 through 10, inclusive,

17 Defendants.
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Case No. STK-CV-UOE-2021-0003911

Assigned to the Hon. Robert T. Waters

**[PROPOSED] ORDER APPROVING THE
PARTIES’ SETTLEMENT OF CLAIMS
BROUGHT PURSUANT TO THE LABOR
CODE PRIVATE ATTORNEYS GENERAL
ACT OF 2004 (“PAGA”) AND JUDGMENT**

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1 approved settlement when the Settlement Administrator sends the Aggrieved Employees their share of
2 the settlement. The Court approves the notice attached as Exhibit A to the Settlement Agreement.

3 8. The Court hereby awards \$153,333 in attorneys' fees and \$20,576.15 costs to Plaintiff's
4 Counsel, Capstone Law APC.

5 9. The Court approves a Service Award of \$10,000 to Oscar Magana.

6 10. The Court appoints CPT Group, Inc. to serve as the Settlement Administrator and
7 approves costs of administration not to exceed \$6,000.

8 11. This Judgment shall be binding on all Aggrieved Employees, including Plaintiff, and the
9 State of California, who are hereby barred by the doctrine of res judicata from re-litigating the Settled
10 Claims during the Settlement Period:

11 All claims for civil penalties under the PAGA that were alleged, or reasonably
12 could have been alleged, based on the facts alleged in the Action, including PAGA
13 civil penalty claims for: (a) failure to pay wages, including unpaid minimum
14 wages and overtime premium pay; (ii) failure to provide meal and/or rest periods
15 in accordance with applicable law, including payments for meal and/or rest
16 periods; (iii) unreimbursed business expenses; (iv) failure to timely pay wages,
17 both during employment and upon termination of employment; (v) failure to
18 provide accurate itemized wage statements; (vi) failure to maintain payroll
19 records; and (vii) failure to provide safety devices and safeguards, such as personal
protective equipment arising during the Settlement Period. The Released Claims
specifically include claims meeting the above definitions under the following
statutes: California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256,
510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1198, 2802, 6401, and
6403. The approval of this Settlement by the Court bars all Aggrieved Employees
from bringing any of the Released Claims in any future proceeding and from
participating in any other proceeding seeking penalties under PAGA for the
Released Claims.

20 *See Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009) (holding that a judgment in a representative
21 action brought by an aggrieved employee under PAGA is binding not only on the named employee
22 plaintiff but also on state labor law enforcement agencies and any aggrieved employee not a party to the
23 proceeding).

24 12. The Court approves the deadlines set forth in the Settlement Agreement for
25 administration of the Settlement.

26 13. In light of the approval of this Settlement, which resolves this litigation in its entirety,
27 this matter is hereby dismissed with prejudice. Without affecting the finality of the Order and Judgment,
28 the Court shall retain exclusive and continuing jurisdiction under California Code of Civil Procedure §

1 664.6, over the above-captioned action and the parties for purposes of enforcing the terms of the
2 Judgment and the Settlement.

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4 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

5 Date _____

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Hon. Robert T. Waters
San Joaquin County Superior Court Judge

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