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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JOE GUZMAN, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

DECKERS OUTDOOR CORPORATION, a
Delaware Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CVRI2100707
*[Assigned to Hon. Judge Craig Riemer, Dept
1, for all purposes]*

**DECLARATION OF BRIAN J. MANKIN
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing

Date: May 9, 2022
Time: 8:30 a.m.
Dept. 1

Reservation #: 352010848829

Complaint Filed: February 10, 2021

I, Brian J. Mankin, state and declare:

1. I am an attorney licensed to practice before all of the courts of the State of California. Within our firm, I am a partner and manage the employment practice. I represent Plaintiff in this action and I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of this Class Action Settlement. If called as a witness, I could and would competently testify thereto.

1 **COUNSEL'S EXPERIENCE**

2 2. I have been a member, in good standing, of the State Bar of California since 2001.
3 I am admitted to practice in the United States District Courts for the Central and Southern
4 District of California and the Ninth Circuit Court of Appeal and have tried cases in various
5 courts in California.

6 3. I have handled approximately 500 employee vs. employer litigation matters
7 during my 21 years in practice. Over the last 15 years, my practice has almost entirely consisted
8 of representing employees, the majority of which has included class action and representative
9 action wage and hour matters. In total, I have handled over 250 class action and representative
10 action wage/hour cases, and have been appointed by the court as class counsel and have received
11 final court approval and judgment in approximately 125 actions to date, and anticipate receiving
12 final approval in many more of those in the future. I estimate that in cases that I've been
13 involved in as lead counsel or co-counsel that my team and I have certified approximately one
14 dozen cases in contested class certification processes.

15 4. As part of these settlements and judgments, I have recovered in excess of \$250
16 million in damages for my clients and the class members (who often work as nurses, ambulance
17 drivers, technicians, warehouse workers, truck drivers, sales, professional occupations and
18 countless other trades). My team and I once held the record for the largest known PAGA-only
19 case in California's history as of the end of 2018 - a \$12.5 million-dollar court approved
20 settlement, which followed extensive litigation, summary adjudication and writs to the CA
21 Supreme Court against a Fortune 50 company (*Garcia v. Macy's*, San Bernardino Superior
22 Court).

23 5. I have tried two major class and PAGA cases against Fortune 100 companies. In
24 2018, I was lead counsel in a PAGA case that my firm tried to the bench in the Orange County
25 Superior Court and received a \$425,000 judgment. In 2019, I was co-counsel in a class action
26 case against Walmart that we tried to the jury in District Court, wherein the jury awarded
27 Plaintiff over \$6 million. Both cases were appealed.

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6. Over each of the last 3 to 4 years, I have been selected by my peers as a “Super Lawyer” in Employment Litigation.

BRIEF SUMMARY OF THE SETTLEMENT

7. Through a contested but productive mediation, Plaintiff and Defendant Deckers Outdoor Corporation (collectively, the “Parties”) entered into a Class Action Settlement Agreement resolving the wage and hour claims of the putative class (the “Settlement Agreement”). The Settlement Agreement seeks to fully release and discharge Defendant from the claims brought against it in this matter in exchange for Defendant’s agreement to pay \$950,000 on a non-reversionary, non-claims made basis (each Class Member will receive his/her share of the Net Settlement Amount without having to submit a claim form or taking action, except for those who opt-out). Plaintiff seeks to represent two classes of similarly situated individuals who are employed or have been employed by Defendant in the State of California: The Wage Statement Class and Vacation Pay Class (the “Class” or “Class Members”).

8. Under the terms of the Settlement Agreement, Defendant will not oppose Plaintiff’s Counsel’s application for a reasonable award of attorney’s fees not to exceed \$316,666.66 (1/3 of the Settlement Amount), Plaintiff’s Counsel’s litigation expenses not to exceed \$15,000, Settlement Administrator costs not to exceed \$8,500, and PAGA penalties of \$100,000 (of which \$75,000 or 75% will be paid to the LWDA and the remaining \$25,000 or 25% will be paid to the Class Members). (S.A. ¶ 53(a-h)). After all these deductions from the Settlement Amount, it is estimated that \$509,833.34 will be available to pay the Individual Settlement Amounts of the Class Members who do not opt-out of the settlement, as follows:

	Total Amount
<i>Gross Settlement Amount</i>	\$950,000.00
Attorneys’ Fees (1/3)	\$316,666.66
Litigation Costs	\$15,000
Administrator Costs	\$8,500
PAGA payment to LWDA (75% of \$100k award)	\$75,000
PAGA payment to Aggrieved Employees (25%)	\$25,000
Class Representative’s Service Award	\$0
<i>Net Settlement Amount</i>	\$509,833.34

As discussed in Section III(C) of the Motion, The Net Settlement Amount of approximately \$509,833.34 will be paid to approximately 530 Settlement Class Members based on the following formula. First, each Vacation Pay Class Member will receive a minimum payment of \$100.00 (totaling approximately \$14,400 based on 144 members of this class). Next, after deducting the Vacation Class Payments, the Settlement Administrator will calculate the total number of Weeks Worked by all Wage Statement Class Member and divide that by the remaining Net Settlement Amount, resulting in a Workweek Value. The Administrator will then multiple the Workweek Value by the number of Weeks Worked by each Wage Statement Class Member during the Wage Statement Class Period during ascertain each person's Individual Settlement Amount. (S.A. ¶¶ 53(c)). The average payment to the Class will be approximately \$961.95 per person. Vacation Pay Class Members will receive a flat \$100 each, and Wage Statement Class Members will receive a pro rata share of their weeks worked. The value per week worked is estimated to be approximately \$53/week ($\$509,833.34 - \$14,400 = \$495,433.34$ allocated to the Wage Statement Class). So a Wage Statement Class Member that only worked one week during the period will receive the minimum payment of \$53 ($\$495,433 / 3,200$ estimated work weeks) and for an employee who worked 60 weeks (i.e., the majority of the applicable period) will receive approximately \$3,200. These numbers could vary somewhat if the actual workweeks is higher or lower than projected, but needless to say, a payment in the range of \$50/week is an excellent result for the Wage Statement Class Members.

9. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 1**, and is incorporated herein by reference. The Class Notice, Request for Exclusion Form, Objection Form and Dispute Form are attached hereto as **Exhibits 2-5**.

PROCEDURAL BACKGROUND

10. By way of background, after being retained by Mr. Guzman, my firm filed a putative class action complaint against Defendant, alleging claims for: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to timely pay wages, (6) failure to provide accurate itemized wage statements, and (7) unfair and unlawful competition. Then, on February 11, 2021,

1 and to pursue claims under the Private Attorneys General Act of 2004, Labor Code § 2698, *et*
2 *seq.* (“PAGA”), Plaintiff gave written notice by online filing to the Labor and Workforce
3 Development Agency (“LWDA”) and by certified mail to Defendant of the specific provisions of
4 the Labor Code alleged to have been violated, including the facts and theories to support the
5 alleged violations. After further investigation, Plaintiff also sent an Amended and Second
6 Amended written notice to the LWDA and Defendant to pursue additional claims under PAGA
7 (on April 23, 2021, and April 29, 2021, respectively). The Amended and Second Amended
8 Notices added claims for failure to pay vested vacation under Labor Code § 227.3 and failure to
9 pay sick time at the proper rate of pay under Labor Code § 246. A true and correct copy of the
10 LWDA letters are attached hereto as **Exhibit 6**.

11 11. On May 21, 2021, Plaintiff filed a First Amended Complaint (“FAC”) adding
12 causes of action under PAGA for the same claims in the original complaint. However, because
13 the requisite 65 days had not elapsed since sending the Amended and Second Amended Notices,
14 Plaintiff’s FAC did not add claims for failure to pay vested vacation under Labor Code § 227.3
15 and failure to pay sick time at the proper rate of pay under Labor Code § 246.

16 12. Defendant retained counsel and fully denied the allegations. Soon thereafter,
17 Defendant advised that the *Foster* case was related to this case. Plaintiff’s counsel herein
18 engaged in several conversations with Foster’s counsel, and ultimately, they agreed to keep the
19 cases separate. The *Foster* Action settled at mediation and received preliminary approval on
20 November 23, 2021, but pursuant to an agreement with Plaintiff herein, the *Foster* Settlement
21 does not release any claims for Defendant’s employees based on alleged violations of Labor
22 Code § 226 (wage statement claims), Labor Code § 227.3 (vested vacation claims), and Labor
23 Code § 246 (sick pay claims). Plaintiff opted out of the *Foster* Settlement.

24 13. Meanwhile, in this case, Plaintiff conducted written discovery into Defendant’s
25 written policies and practices. Thereafter, the Parties continued to debate the merits of the
26 claims and defenses before ultimately agreeing to attend an early mediation in order to avoid
27 significant costs and fees associated with a class certification hearing.

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14. In preparation for mediation, the Parties agreed to an informal discovery process where information was exchanged relating to the applicable policies and procedures, payroll and time keeping records, size of the class, and potential value of the case. During this process, Plaintiff and his counsel analyzed, researched, and investigated the potential claims of all similarly situated employees.

15. The mediation took place on January 26, 2022 with Todd Smith, a full-time mediator with extensive experience in employment matters. At the conclusion of the mediation, Mr. Smith issued a mediator's proposal calling for a class-wide settlement for \$950,000 on behalf of both classes, and further calling for Plaintiff to file a second amended complaint that included the reduced scope of the case in light of the *Foster* settlement. The Parties accepted the mediator's proposal, and memorialized the terms of the settlement in a long-form Settlement Agreement. Pursuant to a stipulation and order, Plaintiff also filed a second amended complaint.

INFORMATION REGARDING CLASS SIZE AND VALUATION

$$[\text{CMO} \parallel \text{H}(3)]$$

16. Based upon information learned through informal discovery prior to mediation, and information learned post-mediation, we were able to compile a comprehensive set of documents and data points to verify the claims, determine the extent of liability and potential damages, and construct the damage models below, which provide my estimates of the information requested in CMO ¶ H(3) and applicable subparagraphs.

17. **CMO ¶ H(3)(a)(i)**: Defendant estimates that there are approximately 530 total Class Members.

18. Pursuant to CMO ¶ H(3)(a)(ii-iii), we calculate the maximum potential damages and penalties, as well as the reasonable risk-adjusted amount of damages and penalties for each claim as follows:

Wage Statement Class Claims

19. The Wage Statement Class Claims were based on the allegation that Defendant provided the Wage Statement Class with wage statements that failed to accurately state (1) the applicable rate and hours for shift differential pay, and (2) the overtime rate during weeks where

1 shift differentials were earned. Based on data and information exchanged prior to mediation,
2 Plaintiff estimated there were 9,284 wage statements issued the Wage Statement Class during the
3 alleged violation period. As such, Plaintiff calculated the maximum potential statutory penalties
4 under Labor Code § 226(e) at \$944,900. However, this theoretical maximum fails to account for
5 a variety of risks and Plaintiff placed a 10% risk at the class certification stage and a 25% risk on
6 the merits of the Wage Statement Class Claims, resulting in a risk-adjusted estimate of \$614,185.

7 20. Plaintiff also pursued PAGA claims based on the same theory of liability. Given
8 the 9,284 wage statements at issue, the maximum potential PAGA penalties for this claim equals
9 \$2,321,000 (assuming \$250/violation under Labor Code § 226.3. But this figure again fails to
10 account for the many risks and defenses of the claim. Additionally, given the uncertainty
11 regarding these wage statements requirements, Plaintiff assumed that the Court would exercise
12 its discretion to reduce the penalty amount because the maximum assessment would be “unjust,
13 arbitrary and oppressive, or confiscatory” in light of “the facts and circumstances of [this]
14 particular case.” Labor Code § 2699(h). Moreover, if the Court awarded statutory penalties
15 under Labor Code § 226(e), Plaintiff believed that the Court would again use its discretionary
16 power to reduce the award. The amount of the reduction is of course unknown, leaving Plaintiff
17 to apply a reasonable discounted valuation of \$500,000.

18 **Vacation Pay Class Claims**

19 21. Plaintiff pursued two claims on behalf of the Vacation Pay Class (1) failure to
20 pay accrued vacation at the time of termination at the final rate of pay (i.e., not including shift
21 differentials into the final rate), and (2) not paying sick pay at the regular rate of pay (again by
22 not including shift differentials into the regular rate). These claims would generally trigger
23 waiting time penalties under Labor Code § 203 for failure to timely pay all wages due and owing
24 upon separation of employment, and result in PAGA penalties.

25 22. As for the underpaid vacation and sick pay claims, Plaintiff believed and argued
26 that the failure to include shift differentials in the calculation was arguably clear on its face but,
27 as to damages, the valuation of the underpaid wages was minimal and less than \$10,000 total
28 given that these violations occurred infrequently. However, at the time the case was filed,

1 Plaintiff believed that the real value in these claims involved waiting time penalties, but after
2 discovering that the Foster settlement clipped the waiting time penalty claim, the actual valuation
3 was determined to be rather insignificant with a maximum value in the lower 5 figures. Plaintiff
4 believe that the maximum potential value on a classwide basis was approximately \$20,000 and
5 that the likely trial value ranged between \$0 (depending on the result of the appeal in the Ninth
6 Circuit) and \$20,000

7 23. Defendant raised numerous defenses to these claims, including that the
8 requirement to pay vested vacation wages at the final rate was a new theory that was currently on
9 appeal in the Ninth Circuit. To the extent that any violations existed, Defendant argued that they
10 were not “willful” and would be heavily discounted in the PAGA context.

11 24. As for the PAGA penalties, there is only one potential violation per former
12 employee for the vacation claim, and assuming 100 former employees at \$100 per employee, the
13 PAGA claim could be worth a maximum of \$10,000. As for the sick pay claim, assuming all
14 144 Aggrieved Employees had five instances of unpaid sick pay at the correct rate, the maximum
15 potential PAGA penalty would be \$72,000 (144 x 5 violations x \$100 penalty). As such, the
16 maximum potential PAGA penalties for these employees were \$82,000. However, Plaintiff
17 applied the same risk on the merits (above) and discounted that by 50%. To arrive at a risk-
18 adjusted value of the PAGA penalties for those who had alleged underpayments of vacation and
19 sick pay as \$41,000 in civil penalties.

20 **SUPPORT FOR ASSESSMENT OF PAGA PENALTIES**

21 25. The proposed Settlement allocates \$100,000 to the PAGA claims, of which 75%
22 (or \$75,000) will be paid to the California LWDA and 25% (or \$25,000) will be allocated to the
23 Aggrieved Employees. This allocation amounts to almost 10% of the Gross Settlement Amount
24 and is inherently reasonable given similar settlements. And even though Plaintiff faced serious
25 risk moving forward with the litigation, the \$100,000 allocation is approximately 20% of the
26 reasonable estimate of total PAGA penalties at trial (\$541,000, which includes \$500,000 for
27 wage statement claims and \$41,000 for vacation/sick pay claims).

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1 26. However, as this amount is less than the maximum, the Compliance Chart
2 attached as **Exhibit 7** provides the Court with references to where it may find the detailed
3 information required by the CMO.

4 27. There are also other facts that tend to suggest that the Court would likely reduce
5 any potential PAGA penalties awarded at trial [**CMO ¶¶ H(9)(c)(v and viii)**]. During
6 negotiations, Defendant raised arguments that the assessment of significant PAGA penalties
7 would be “unjust, arbitrary and oppressive, or confiscatory” in light of “the facts and
8 circumstances of [this] case.” *See* Labor Code § 2699(h). Under a potentially-similar “mistake
9 of law” fact pattern, the *Cotter* court approved a 97.5% reduction in PAGA penalties as
10 “appropriate” based on the “unjust, arbitrary and oppressive, or confiscatory” factors because (i)
11 the employer did not “deliberately evad[e] a clear obligation to provide legally required pay and
12 benefits to employees,” (ii) the employer did not “negligently fail to learn about its obligations
13 under the wage and hour laws,” and (iii) the employer’s obligations were “genuinely unclear”
14 because “there is no straight answer to the question.” *Cotter v. Lyft, Inc.* (N.D. Cal. 2016) 193
15 F.Supp.3d 1030, 1037.

16 28. Under this same theory, Defendant argued that significant PAGA penalties would
17 be unjust, arbitrary, oppressive, and confiscatory because they believed their practices to be in
18 compliance with all applicable requirements, and also believed that their settlement in Foster
19 would cause double dipping (or stacking) of penalties.

20 29. Also, while a PAGA claim for violation of Labor Code § 226 does not require a
21 showing of knowledge or willfulness (*Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th
22 773), Defendant argued that its good faith belief in the legality of its practice shows that it did
23 not evade or fail to learn of its obligations under Labor Code § 226. Additionally, Defendant
24 contended that it would be “unjust” to impose significant penalties for the alleged wage
25 statement violations because the class members did not suffer any injury in relation to these
26 claims.

27 30. Finally, the parties only reached settlement and the agreed-upon PAGA penalties
28 after extensive exchanges, and arms-length negotiation between the parties and through an

1 experienced mediator. Notably, Defendant raised many defenses which, if accepted by the
2 Court, could result in a significant reduction of penalties, or the elimination of penalties
3 altogether through dispositive motions. As such, an assessment of penalties greater than those
4 agreed-upon would be unjust because this settlement reflects an informed, fundamentally fair,
5 and reasonable settlement of the PAGA claims herein based on the unique facts, defenses, and
6 risks in this case.

7 **THE SETTLEMENT IS FAIR, JUST, AND REASONABLE**

8 31. Plaintiff and his counsel have diligently investigated the claims and defenses on
9 behalf of the class members and worked to achieve an early resolution of the claims to maximize
10 the recovery by avoiding further expenditure of attorneys' fees and costs. After evaluating the
11 significant risks attendant with further litigation described above, and weighing them against the
12 benefits of a known compromise and settlement as set forth in the Settlement Agreement,
13 settlement on the terms agreed to is believed to be in the best interest of Plaintiff and the Class,
14 and is a fair and reasonable resolution of the claims alleged. As set forth in the Settlement
15 Agreement, all Settlement Class Members will be afforded notice of the settlement and an
16 opportunity to object or request exclusion. Settlement Class Members will also be provided
17 information about the settlement and they will not have to submit anything or take any action at
18 all if they want to participate in the settlement.

19 32. Plaintiff's counsel brought to bear a great deal of experience in negotiating the
20 settlement of this case. As detailed herein, Plaintiff's counsel engaged in the necessary
21 investigation, making it possible to exercise informed judgment throughout the settlement
22 process. Plaintiff's counsel conducted extensive investigation of the claims prior to instituting
23 litigation, during litigation, and prior to mediation which included significant document review
24 (e.g. documents pertaining to Defendant's policies and procedures, time and pay records, and
25 personnel documents), and conducted an extensive analysis of the detailed class-wide data
26 provided by Defendant.

27 33. Based on my experience in other cases, including wage and hour matters, I
28 believe am qualified to evaluate the class claims and viability of defenses in this class action. In

1 this case, the recovery for each class member is reasonable, fair, and adequate, and a settlement
2 at this time is in the best interests of the class. The settlement provides each class member with
3 compensation for the alleged violations when viewed in relation to the costs and risks inherent in
4 obtaining class certification and proceeding to trial.

5 34. My firm, as well as Defendant's counsel, fully endorse the terms and conditions
6 of the settlement as set forth in the abovementioned Settlement Agreement.

7 35. Of course, the settlement amount represents a compromise figure, taking into
8 account the various risks surrounding class certification and the merits of Defendant's asserted
9 defense. Nevertheless, the settlement provides for fair and adequate payments to the class
10 members without any obligation on the part of the Class Members to submit a claim form to
11 participate in the Settlement and receive payment. Thus, each Class Member will receive a share
12 of the Settlement upon the Court granting Final Approval, except for those who opt-out.

13 **PLAINTIFF DOES NOT REQUEST AN ENHANCEMENT PAYMENT**

14 36. Plaintiff is not seeking a Service Award. Instead, the Settlement Agreement notes
15 that Plaintiff has entered into a separate individual settlement agreement for Plaintiff's separate
16 individual claims that were not included in this Action (*i.e.*, the *Foster* Settled Claims, as
17 Plaintiff opted out of the *Foster* settlement), and in recognition for Plaintiff waiving a service
18 award as part of this Settlement while giving up a full release of any known and unknown claims
19 in the separate individual settlement agreement. Thus, Plaintiff is not seeking a service award,
20 but has entered into a separate settlement agreement since he opted-out of the Foster settlement
21 and will not receive any money for giving up those claims. (S.A. ¶ 63).

22 **ADEQUACY OF COUNSEL AND THE PROVISIONAL REASONABLENESS OF THE**
23 **REQUESTED FEES AND COSTS**

24 37. As set forth above, I have handled over 250 class and representative actions, have
25 been appointed as class counsel and have successfully resolved about half of those actions to
26 date, and many others remain pending and will successfully resolve in the future.

27 38. When this case was taken on a contingency fee basis, with my firm agreeing to
28 assume responsibility for all litigation costs, the ultimate result was far from certain. In the

1 course of this litigation, my firm paid all costs including filing fees, court costs, research fees,
2 and mediation costs. There was never a guarantee that my firm would recoup those expenditures.

3 39. It is my experience that attorney fee awards of 1/3 of a common fund settlement
4 is the standard in California. In this case, Plaintiff's counsel is requesting \$316,666.66 in
5 attorney's fees, which is one-third of the Settlement Amount. Defendant does not oppose this fee
6 request. The fee is further warranted because it is within the range of reasonableness typically
7 awarded in class actions and Plaintiff's counsel was able to obtain an early resolution of the
8 claims, which is beneficial to the settlement class. Of course, we will submit a full summary and
9 lodestar cross-check at the time of Final Approval. Plaintiff's counsel's costs are reasonably
10 capped at \$15,000 and will be based on the actual costs at time of final approval.

11 **SETTLEMENT ADMINISTRATOR**

12 40. The parties propose that the Court appoint Phoenix Class Action Administration
13 to serve as the Settlement Administrator. In accordance with **CMO H(3)(d)(i)**, I obtained bids
14 from 5 different settlement administrators, after which time the Parties mutually agreed to retain
15 Phoenix as the Settlement Administrator based on its lowest bid of \$7,000. Thereafter, the
16 Parties added Spanish translation/mailing and increased the estimated class size from 500 to 530
17 to which Phoenix provided an all-in bid of \$8,500 to administer the settlement (which includes
18 Spanish translation and sending the Notice in English and Spanish) as required by the Court and
19 the Settlement Agreement. (See Exhibit B to the Declaration of Mike Moore of Phoenix filed
20 concurrently).

21 **LWDA SUBMISSION AND OTHER CMO REQUIREMENTS**

22 41. My office has concurrently submitted the Settlement Agreement to the LWDA in
23 accordance with Labor Code § 2699(1)(2). A true and correct copy of the LWDA's confirmation
24 of receipt is attached hereto as **Exhibit 8**.

25 42. In accordance with **CMO ¶ H(3)(a)(vi)**, I have made a reasonable search for any
26 other class, representative, or collective action in any other court that asserts claims similar to
27 those asserted in this action, but have found no such actions other than the *Foster* case discussed
28 herein. Pursuant to **CMO ¶ H(3)(b)**, see the Declaration of Defendant's counsel regarding the

1 same.

2 43. In accordance with CMO ¶ H(3)(c)(iii), the Parties are proposing sending
3 uncashed checks to the State Controller.

4 44. Pursuant to CMO ¶ H(4)(c), I have carefully reviewed both the terms and
5 terminology of the order and accompanying forms to ensure that the various documents are
6 internally consistent, consistent with each other, and consistent with the Settlement Agreement.

7 **SUMMARY OF THE EXHIBITS**

8 45. The Chart below summaries the Exhibits that are attached hereto.

9

Exhibit	Description
1	Settlement Agreement
2	Class Notice
3	Request for Exclusion Form
4	Objection Form
5	Dispute Form
6	LWDA Letter
7	Compliance Chart
8	Submission to the LWDA

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17 **CONCLUSION**

18 46. For the foregoing reasons, it is respectfully requested that the Court grant
19 preliminary approval of the settlement as being fair, reasonable, and in the best interests of the
20 class, as well as preliminarily approve the requested attorneys' fees, costs, and enhancement
21 payment to the Class Representative.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on April 15, 2022, at Riverside, California.

24 By: 
25 Brian J. Mankin, Esq.
26
27
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EXHIBIT “1”

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Attorney for Defendant, Deckers Outdoor Corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JOE GUZMAN, individually, on a
representative basis, and on behalf of all
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Plaintiff,

vs.

DECKERS OUTDOOR CORPORATION, a
Delaware Corporation; and DOES 1 through
20, inclusive;

Defendants.

Case No.: CVRI2100707
*[Assigned to Hon. Judge Riemer for all
Purposes]*

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

1 This Class Action Settlement Agreement and Release of Claims is entered into by and
2 between Plaintiff Joe Guzman, individually and on behalf of all others similarly situated, and
3 Defendant Deckers Outdoor Corporation, and is approved by their respective counsel of record,
4 subject to the terms and conditions hereof and the Court's approval.

5 **A. Definitions**

6 1. "Action" or "Lawsuit" means and refers to the case entitled *Joe Guzman v.*
7 *Deckers Outdoor Corporation, et al.*, Riverside County Superior Court Case No. CVRI2100707.

8 2. "Aggrieved Employees" means Plaintiff, along with all Wage Statement Class
9 Members and Vacation Pay Class Members who were employed by Defendant in the State of
10 California at any time during the PAGA Period.

11 3. "Agreement" or "Settlement Agreement" shall mean this Class Action Settlement
12 Agreement and Release of Claims and the Notice Packet.

13 4. "Class Counsel" refers to Brian J. Mankin and Peter J. Carlson of Lauby Mankin
14 Lauby LLP.

15 5. "Class Data" means a complete list of all Settlement Class Members that
16 Defendant will diligently and in good faith compile from its records and provide to the
17 Settlement Administrator. The Class List shall be on one spreadsheet and shall include the
18 Settlement Class Members' full names; last known addresses; telephone numbers; Social
19 Security Numbers; the total number Weeks Worked in the Wage Statement Class, state "Yes" or
20 "No" as to whether the Class Member is a member of the Vacation Pay Class, and state total
21 weeks worked during the PAGA Period as an Aggrieved Employees.

22 6. "Class Representative" or "Plaintiff" means and refers to Joe Guzman.

23 7. "Complaint" refers to the class action complaint filed in the Riverside County
24 Superior Court on February 10, 2021, which was first amended to include representative PAGA
25 claims, and then further amended in a Second Amended Complaint that will dismiss, without
26 prejudice, the *Foster* Settled Claims. Thus, Plaintiff's Second Amended Complaint shall allege
27 only the following causes of action: (1) Class and PAGA claims for wage statements violations,
28 (2) Class and PAGA claims for failure to pay vested vacation wages, (3) PAGA claims for

1 failure to pay sick pay at the proper rate under Labor Code § 246, and (4) claims for unfair and
2 unlawful competition under Bus. and Prof. Code § 17200, *et seq*, related to the claims above.

3 8. “Court” (or “Judge”) means the California Superior Court, County of Riverside.

4 9. “Defendant” means and refers to Deckers Outdoor Corporation.

5 10. “Defendant’s Counsel” or “Defense Counsel” means and refers to Stradling
6 Yocca Carlson & Rauth, P.C.

7 11. “Effective Date” means the latest of the following dates: (i) if no Class Member
8 timely and properly intervenes or files a motion to vacate the Judgment under Code of Civil
9 Procedure § 663, then the date the Court enters an order granting Final Approval of the
10 Settlement; (ii) if a Class Member intervenes or files a motion to vacate the Judgment, then
11 sixty-one (61) calendar days following the date the Court enters an order granting final approval,
12 assuming no appeal is filed; or (iii) if a Class Member timely and properly intervenes or files a
13 motion to vacate the Judgment under Code of Civil Procedure § 663, and if a timely appeal is
14 filed, then the date of final resolution of that appeal (including any requests for rehearing and/or
15 petitions for *certiorari*), resulting in final judicial approval of the Settlement.

16 12. “Final Approval” refers to the order of the Court granting final approval of this
17 Settlement Agreement and entering a judgment approving this Agreement on substantially the
18 terms provided herein or as the same may be modified by subsequent agreement of the Parties.

19 13. “Final Settlement Class” means, collectively, all Settlement Class Members who
20 have not opted out of the Settlement Class by submitting timely Requests for Exclusion.

21 14. “*Foster Action*” refers to the related case entitled *Foster, et al. v. Deckers*
22 *Outdoor Corporation, et al.*, Santa Barbara County Superior Court, Case No. 20CV03699, which
23 received preliminary approval of a proposed class and representative PAGA settlement on
24 November 23, 2021. The *Foster* settlement includes the *Foster* Settled Claims, but specifically
25 excludes the following claims from the settlement: (1) all claims for wage statement violations
26 for direct hires of Defendant, (2) claims for failure to pay vested vacation at the proper rate under
27 Labor Code § 227.3, and (3) claims for failure to pay mandated sick pay at the proper rate under
28 Labor Code § 246.

1 15. “*Foster* Settled Claims” refers to the claims that were resolved in the *Foster*
2 Action, including the class and PAGA claims for minimum and overtime wages, meal and rest
3 breaks, and failure to timely pay wages each pay period and upon separation of employment.

4 16. “Individual Settlement Amount” shall have the meaning ascribed to it in
5 Paragraph 53(c) below.

6 17. “Net Settlement Amount” shall have the meaning ascribed to it in Paragraph 53(b)
7 below.

8 18. “Notice” means the notice of proposed class settlement that will be sent to the
9 Settlement Class Members and which will advise each Settlement Class Member of the
10 settlement and his or her estimated Individual Settlement Amount and will further advise of the
11 setting of a Final Approval Hearing.

12 19. “Notice Packet” means the Notice, Request for Exclusion Form, the Objection
13 Form, and the Dispute Form to be sent to all Settlement Class Members, substantially in the form
14 attached hereto as Exhibits A, B, C and D (respectively), as may be modified by the Court.

15 20. “Notice Response Deadline” is 45 calendar days from the date the Notice Packet
16 is mailed to the Settlement Class Members.

17 21. “Objecting Settlement Class Member” means a Settlement Class Member, other
18 than Plaintiff, who submits a valid and timely objection to the terms of this Agreement, pursuant
19 to Paragraph 74(c) below.

20 22. “PAGA Penalties” means the amount that the Parties have agreed to pay to the
21 Labor and Workforce Development Agency (“LWDA”) in connection with the California Labor
22 Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”), as well
23 as the individual PAGA payment allocated to each Aggrieved Employee.

24 23. “PAGA Period” is deemed to be any time during the period of February 10, 2020,
25 through November 23, 2021.

26 24. “PAGA Released Claims” means any PAGA claims that Plaintiff alleged against
27 the Released Parties, on behalf of Aggrieved Employees and State of California, based on the
28 facts stated in Plaintiff’s Second Amended Complaint and in Plaintiff’s LWDA notice letter,

1 including: (A) as alleged on behalf of the State of California and Aggrieved Employees who are
2 in the Vacation Pay Class, Plaintiff shall release all PAGA claims for (1) failure to pay vested
3 vacation pursuant to Labor Code § 227.3, and (2) unfair and unlawful competition claims
4 relating to the vested vacation claim; and (B) as alleged on behalf of the State of California and
5 Aggrieved Employees in the Wage Statement Class, Plaintiff shall release all PAGA claims for
6 failure to provide accurate itemized wage statements in violation of Labor Code § 226 and §
7 226.3. The time period governing the PAGA Released Claims shall be any time during the
8 PAGA Period. The PAGA Released Claims do not release any Aggrieved Employee's claim for
9 wages or statutory penalties.

10 25. "Participating Class Members" means all Settlement Class Members who are
11 deemed to participate in the settlement and receive an Individual Settlement Amount, and do not
12 opt-out by submitting timely valid Request for Exclusion.

13 26. "Parties" or "Settling Parties" mean Plaintiff, the Settlement Class, and
14 Defendant, collectively.

15 27. "Preliminary Approval Date" means the date the Court approves the Settlement
16 Agreement, and the exhibits thereto, and enters the Preliminary Approval Order.

17 28. "Preliminary Approval Order" means the judicial Order to be entered by the
18 Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement
19 and providing for the issuance of the Notice Packet to the Settlement Class, an opportunity to opt
20 out of the Settlement, an opportunity to submit timely objections to the Settlement, and setting a
21 hearing on the fairness of the terms of Settlement, including approval of attorneys' fees and
22 costs. Defendant will not object to Plaintiff's motion for preliminary approval but will be
23 provided with an opportunity to review and comment upon the motion before it is filed.

24 29. "Released Parties" means Defendant, together with its officers, directors,
25 employees, and agents.

26 30. "Request for Exclusion" shall have the meaning ascribed to it in Paragraph 74(a)
27 below. A Request for Exclusion will not exclude a Class Member from the release of their rights
28 to any and all PAGA claims based on the Labor Code sections alleged to have been violated in

1 the Complaint or any amended complaints.

2 31. "Settlement Administrator" means and refers to Phoenix Class Action
3 Administration, the third-party class action settlement administrator agreed to by the Parties, who
4 will provide the Notice Packet to the Class Members and distribute the settlement amounts as
5 described in this Agreement.

6 32. "Settlement Administration Costs" means the costs payable from the Settlement
7 Amount to the Settlement Administrator for administering this Settlement, including, but not
8 limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,
9 distributing the Settlement Amount, and providing necessary reports and declarations, as
10 requested by the Parties. The Settlement Administration Costs shall be paid from the Settlement
11 Amount, including, if necessary, any such costs in excess of the amount represented by the
12 Settlement Administrator as being the maximum costs necessary to administer the Settlement.

13 33. "Settlement Amount" shall have the meaning ascribed to it in Paragraph 53(a)
14 below.

15 34. "Settlement Class" shall be comprised of two classes: the Vacation Pay Class and
16 the Wage Statement Class.

17 35. "Settlement Class Member" or "Class Members" refers to individual members of
18 the Settlement Class.

19 36. "Vacation Pay Class Members" includes all nonexempt (i.e., eligible for overtime
20 pay) employees (excluding retail employees) who separated from employment with Defendant in
21 California at any time during the Vacation Pay Class Period and who had accrued but unused
22 vacation upon their separation of employment.

23 37. "Vacation Pay Class Period" is deemed to be any time during the period of
24 February 10, 2017, through November 23, 2021.

25 38. "Vacation Pay Released Claims" by the Participating Vacation Pay Class
26 Members includes all claims for damages and statutory penalties alleged in the Second Amended
27 Complaint and those based upon the facts alleged therein, including claims premised upon the
28 for (1) failure to pay vested vacation pursuant to Labor Code § 227.3, and (2) unfair and

1 unlawful competition claims relating to the vested vacation claim. The time period governing
2 the Vacation Pay Released Claims shall be the Vacation Pay Class Period.

3 39. “Wage Statement Class” includes all current and former nonexempt (i.e., eligible
4 for overtime pay) employees (excluding retail employees) employed by Defendant in California
5 at any time during the Wage Statement Class Period.

6 40. “Wage Statement Class Period” is deemed to be any time during the period of
7 February 10, 2020, through November 23, 2021.

8 41. “Wage Statement Released Claims” by the Participating Wage Statement Class
9 Members includes claims for failure to provide accurate itemized wage statements in violation of
10 Labor Code § 226 and § 226.3 as alleged in the Second Amended Complaint, and all recoverable
11 statutory penalties related thereto. The time period governing the Wage Statement Released
12 Claims shall be the Wage Statement Class Period.

13 42. “Weeks Worked” means all weeks in which a Wage Statement Class Member
14 worked at least one shift during the week for Defendant in California during the Wage Statement
15 Class Period.

16 **B. General Terms**

17 43. On February 10, 2021, Plaintiff filed a putative class action complaint against
18 Defendant, alleging claims for: (1) failure to pay minimum wages, (2) failure to pay overtime
19 wages, (3) failure to provide meal periods, (4) failure to provide rest breaks, (5) failure to timely
20 pay wages, (6) failure to provide accurate itemized wage statements, and (7) unfair and unlawful
21 competition. Then, on February 11, 2021, and to pursue claims under the Private Attorneys
22 General Act of 2004, Labor Code § 2698, *et seq.* (“PAGA”), Plaintiff gave written notice by
23 online filing to the Labor and Workforce Development Agency (“LWDA”) and by certified mail
24 to Defendant of the specific provisions of the Labor Code alleged to have been violated,
25 including the facts and theories to support the alleged violations. After further investigation,
26 Plaintiff also sent an Amended and Second Amended written notice to the LWDA and Defendant
27 to pursue additional claims under PAGA (on April 23, 2021, and April 29, 2021,
28 respectively). The Amended and Second Amended Notices added claims for failure to pay vested

1 vacation under Labor Code § 227.3 and failure to pay sick time at the proper rate of pay under
2 Labor Code § 246.

3 44. On May 21, 2021, Plaintiff filed a First Amended Complaint (“FAC”) adding
4 causes of action under PAGA for the same claims in the original complaint. However, because
5 the requisite 65 days had not elapsed since sending the Amended and Second Amended Notices,
6 Plaintiff’s FAC did not add claims for failure to pay vested vacation under Labor Code § 227.3
7 and failure to pay sick time at the proper rate of pay under Labor Code § 246.

8 45. The *Foster* Action received preliminary approval on November 23, 2021, but
9 pursuant to an agreement with Plaintiff herein, the *Foster* Settlement does not release any claims
10 for Defendant’s employees based on alleged violations of Labor Code § 226 (wage statement
11 claims), Labor Code § 227.3 (vested vacation claims), and Labor Code § 246 (sick pay claims).
12 Plaintiff opted out of the *Foster* Settlement.

13 46. Defendant denies Plaintiff’s claims and allegations and contends that the Action is
14 not suitable for class certification.

15 47. The Class Representative believes he can proceed with his representative and
16 class claims, that the Action is meritorious, and that class certification is appropriate.

17 48. The Parties have conducted a thorough investigation into the facts of the Action.
18 This includes conducting written discovery into Defendant’s written policies and practices and
19 an informal exchange of information prior to mediation. Class Counsel is both knowledgeable
20 about and has done extensive research with respect to the applicable law and potential defenses
21 to the claims of the Settlement Class. Class Counsel has diligently pursued an investigation of
22 the Class Members’ claims against Defendant. Based on the foregoing data and on their own
23 independent investigation and evaluation, Class Counsel is of the opinion that the settlement with
24 Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair,
25 reasonable, and adequate and is in the best interest of the Class Members in light of all known
26 facts and circumstances, including the risk of significant delay and uncertainty associated with
27 litigation, various defenses asserted by Defendant, and numerous potential appellate issues.

28 49. On January 26, 2022, the Parties attended mediation with Todd Smith, and

1 reached the class and PAGA settlement set forth herein, limited solely to Plaintiff's claims under
2 Labor Code §§ 226, 227.3, 246 and related claims under § 2699.

3 50. To effectuate this Settlement, which is more limited in scope than the First
4 Amended Complaint on file, the Parties agree that Plaintiff shall file a Second Amended
5 Complaint that will dismiss the *Foster* Settled Claims, without prejudice. Thus, Plaintiff's SAC
6 shall allege only the following causes of action: (1) class claim for failure to pay vested vacation,
7 (2) class claim for failure to provide accurate itemized wage statements, (3) class claim for unfair
8 and unlawful competition under Bus. and Prof. Code § 17200, *et seq.*, related to the vacation pay
9 claim, (4) PAGA claim for failure to pay vested vacation, (5) PAGA claim for failure to pay sick
10 pay at the proper rate, and (6) PAGA claim for failure to provide accurate itemized wage
11 statements. Defendant agrees to stipulate to the filing of the SAC for this purpose, and Plaintiff
12 and his counsel shall file all necessary documents, as required by the CMO ¶ F and Cal. Rules of
13 Court, Rule 3.770, to dismiss the *Foster* Settled Claims.

14 51. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts
15 to be performed or judgments to be entered pursuant to the terms of the Settlement and
16 Agreement, shall be construed as an admission by Defendant of any wrongdoing or violation of
17 any statute or law or liability on the claims or allegations in the Action.

18 52. Stipulation for Class Certification. For settlement purposes only, Defendant will
19 stipulate that the Settlement Class Members described herein who do not Request Exclusion
20 from the Settlement Class may be conditionally certified as a settlement class. This stipulation to
21 certification is in no way an admission that class action certification is proper and shall not be
22 admissible in this or in any other action except for the sole purposes of enforcing this
23 Agreement. Should, for whatever reason, the Court fail to issue Final Approval, the Parties'
24 stipulation to class certification as part of the Settlement shall become null and void ab initio and
25 shall have no bearing on, and shall not be admissible in connection with the issue of whether or
26 not certification would be appropriate in a non-settlement context. Defendant expressly reserves
27 its rights and declare that it would continue to oppose class certification and the substantive
28 merits of the case should the Court fail to issue Final Approval. Plaintiff expressly reserves his

rights and declares that he will continue to pursue class certification and a trial should the Court fail to issue Final Approval.

C. Terms of Settlement

53. The financial terms of the Settlement are as follows:

(a) Gross Settlement Amount: The Parties agree to settle this Action for nine hundred fifty thousand dollars and zero cents (\$950,000.00) (“the Settlement Amount”). The Settlement Amount is the maximum amount that will be paid, and includes Individual Settlement Amounts, attorneys’ fees of Class Counsel, costs and expenses of Class Counsel, all Settlement Administration Costs, and PAGA Penalties. Defendant will separately pay its share of payroll taxes on the portion of the Individual Settlement Amounts allocated to wages.

(b) Net Settlement Amount: The “Net Settlement Amount” is defined as the Settlement Amount less attorneys’ fees and litigation costs as approved and awarded by the Court, the Settlement Administration Costs, and PAGA Penalties. In the event that the Court reduces the attorneys’ fees, costs, expenses or Service Award, the difference shall be placed in the Net Settlement Amount and allocated to the Settlement Class.

(c) Individual Settlement Amounts for the Settlement Class: Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount as follows:

i. Each Vacation Pay Class Member will receive an Individual Settlement Payment of \$100.00 from the Net Settlement Amount (the “Vacation Class Payments”).

ii. The Settlement Administration will then calculate the total number of Weeks Worked by each Wage Statement Class Member during the Wage Statement Class Period and the aggregate total number of Weeks Worked by all Wage Statement Class Members during the Wage Statement Class Period.

iii. To determine each Wage Statement Class Member’s estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: The Net Settlement Amount will first be deducted by the Vacation Class Payments, and that figure

1 will be divided by the aggregate total number of Weeks Worked, resulting in the “Workweek
2 Value.” Each Wage Statement Class Member’s Individual Settlement Payment will be calculated
3 by multiplying his or her total number of Weeks Worked during the Wage Statement Class
4 Period by the Workweek Value.

5 iv. Individual Settlement Payments will be reduced by any required
6 deductions for each Participating Class Member as specifically set forth herein, including
7 employee-side tax withholdings and deductions.

8 v. The entire Net Settlement Amount will be disbursed to all
9 Participating Class Members. If there are any valid and timely Requests for Exclusion, the
10 Settlement Administrator shall proportionally increase the Individual Settlement Payment for all
11 other Participating Class Member according to the formula above, so that the amount actually
12 distributed to the Settlement Class equals 100% of the Net Settlement Amount.

13 (d) Allocation of Individual Settlement Amounts: The Individual Settlement
14 Amounts paid to the Wage Statement Class will be treated 100% as penalties and interest
15 reportable on IRS form 1099 for the Wage Statement Class Members. The Individual Settlement
16 Amounts paid to the Vacation Pay Class will be treated as one-third (33.333%) paid as wages
17 subject to withholding of all applicable local, state and federal taxes; and two-thirds (66.667%)
18 paid as interest and as penalties from which no taxes will be withheld (IRS 1099 reporting). The
19 Class Members are responsible for taxes and accounting on their payments received. The
20 Settlement Administrator will issue to each Settlement Class Member an Internal Revenue
21 Service Form W-2 and/or 1099 as required.

22 (e) Attorneys’ Fees and Costs: Defendant agrees to not oppose a request by
23 Class Counsel to the Court for an award of attorneys’ fees of one-third (33.33%) of the
24 Settlement Amount, plus reasonable litigation costs not to exceed \$15,000. Defendant agrees not
25 to oppose any contention by Class Counsel that attorneys’ fees should be based on the common
26 fund theory. Should the Court approve a lesser amount than what is sought by Class Counsel,
27 the difference shall be added to the Net Settlement Amount to be distributed to the Participating
28 Class Members. Any Court order awarding less than the amount sought by Class Counsel shall

not be grounds to rescind the Settlement Agreement or otherwise void the Settlement. The Settlement Administrator shall issue to Class Counsel an IRS Form 1099 reflecting the amount of attorneys' fees and costs awarded by the Court.

(f) Settlement Administration Costs: The fees and other charges of the Settlement Administrator will be paid from the Settlement Amount not to exceed \$8,500.

(g) PAGA Penalties: The Parties agree that \$100,000 is allocated to PAGA Penalties, and is to be paid from the Settlement Amount, subject to Court approval. Pursuant to PAGA, \$75,000 (75%) of this amount shall be paid to the LWDA in satisfaction of Plaintiff's claims for penalties under the PAGA and \$25,000 (25%) will be paid to the Aggrieved Employees based on the number of weeks worked during the PAGA Period, which will be treated entirely as civil penalties and shall be reported as required on an IRS form 1099.

(h) Tax Liability: Class Counsel and Defendant make no representation as to the tax treatment or legal effect of payments called for hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or representation by Class Counsel or Defendant in this regard. Plaintiff and Participating Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099, as applicable, will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendant into compliance with any such changes.

54. No Credit Toward Benefit Plans. The Settlement Payments made to Settlement Class Members under this Agreement shall not be utilized to calculate any additional benefits under any benefit plans to which any Settlement Class Members or Class Members may be

1 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock
2 purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather,
3 it is the Parties' intention that this Agreement will not affect any rights, contributions, or
4 amounts to which any Settlement Class Members or Class Members may be entitled under any
5 benefit plans.

6 55. "Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under
7 no circumstances will any portion of the Settlement Amount revert to Defendant. Participating
8 Class Members will not have to make a claim in order to receive an Individual Settlement
9 Amount. Distributions, in the form of Individual Settlement Amounts, will be made directly to
10 each Participating Class Member.

11 56. Class Counsel and Plaintiff believe that the Settlement is fair and reasonable and
12 will so represent same to the Court.

13 **D. Release by the Settlement Class**

14 57. Vacation Pay Class. Upon entry of the Final Approval Order, and except as to
15 such rights or claims as may be created by this Settlement Agreement, the Vacation Pay Class
16 Members (except for those who submit a timely and valid Request for Exclusion) and each of
17 them will forever completely release and discharge the Released Parties from the Vacation Pay
18 Released Claims for the Vacation Pay Class Period.

19 58. Wage Statement Class. Upon entry of the Final Approval Order, and except as to
20 such rights or claims as may be created by this Settlement Agreement, the Wage Statement Class
21 Members (except for those who submit a timely and valid Request for Exclusion) and each of
22 them will forever completely release and discharge the Released Parties from the Wage
23 Statement Released Claims for the Wage Statement Class Period.

24 59. Each Settlement Class Member will be deemed to have made the foregoing
25 Release as if by manually signing it.

26 60. Class Representative, on behalf of himself and the Settlement Class,
27 acknowledges and agrees that the claims for unpaid wages in the Action, and untimely payment
28 of wages in the Action, are disputed, and that the payments set forth herein constitute payment of

1 all sums allegedly due to them. Class Representative, on behalf of himself and the Settlement
2 Class, acknowledges and agrees that California Labor Code Section 206.5 is not applicable to the
3 Parties hereto. That section provides in pertinent part as follows:

4 An employer shall not require the execution of any release of any
5 claim or right on account of wages due, or to become due, or made
6 as an advance on wages to be earned, unless payment of those
 wages has been made.

7 **E. PAGA Release by Plaintiff, In His Individual Capacity and on Behalf of the State of**
8 **California, and General Release by Class Representative**

9 61. On the date that the Court issues a Final Approval Order, Plaintiff, in his
10 individual capacity suing and on behalf of the State of California and the Labor and Workforce
11 Development Agency will forever completely release and discharge the Released Parties from
12 the PAGA Released Claims.

13 62. It is the intent of the Parties that the Final Approval Order entered by the Court
14 shall have full equitable and collateral estoppel and res judicata effect to the fullest extent
15 permitted by law.

16 63. Separate and apart from Plaintiff's Release of PAGA Claims, Plaintiff has entered
17 into a separate individual settlement agreement for Plaintiff's separate individual claims not
18 included in this Action (*i.e.*, the *Foster* Settled Claims, as Plaintiff opted out of the *Foster*
19 settlement), and in recognition for Plaintiff waiving a service award as part of this Settlement
20 while giving up a full release of any known and unknown claims in the separate individual
21 settlement agreement. As part of the separate individual settlement agreement, Plaintiff will
22 completely release and discharge the Released Parties from any and all charges, complaints,
23 claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of
24 action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory
25 penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and
26 costs) of any nature whatsoever, from the beginning of time through the execution of this
27 Agreement, whether known or unknown, suspected or unsuspected, including but not limited to
28 all claims arising out of, based upon, or relating to Class Representative's employment with

1 Defendant or the remuneration for or termination of such employment (collectively, the
2 “Plaintiff’s Individual Claims”).

3 64. Plaintiff shall also expressly waive and relinquish all rights and benefits afforded
4 by Section 1542 of the Civil Code of the State of California and does so understanding and
5 acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code
6 of the State of California states:

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

12 **F. Interim Stay of Proceedings**

13 65. Pending completion of all of the prerequisites necessary to effectuate this
14 Settlement, the Parties agree, subject to Court approval, to a stay of all proceedings in the Action
15 except such as are necessary to effectuate the Settlement.

16 **G. Notice Process**

17 66. Appointment of Settlement Administrator. The Parties have agreed to the
18 appointment of the Settlement Administrator to perform the duties of a settlement administrator,
19 including mailing the Notice Packet, using standard devices to obtain forwarding addresses,
20 independently reviewing and verifying documentation associated with any claims or requests for
21 exclusion, resolving any disputes regarding the calculation or application of the formula for
22 determining the Individual Settlement Amounts, drafting and mailing the settlement checks to
23 Participating Class Members, issuing all necessary tax forms, and performing such other tasks as
24 set forth herein or as the Parties mutually agree or that the Court orders.

25 67. Disputes Regarding Settlement Administration. Any and all disputes relating to
26 administration of the Settlement by the Settlement Administrator (except for disputes regarding
27 Class Data) shall be referred to the Court, if necessary, which will have continuing jurisdiction
28 over the terms and conditions of this Settlement Agreement, until Plaintiff and Defendant notify

1 the Court that all payments and obligations contemplated by this Agreement have been fully
2 carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good
3 faith to resolve the dispute without the necessity of Court intervention. The Settlement
4 Administrator shall also be responsible for issuing to Plaintiff, Settlement Class Members, and
5 Class Counsel any Tax Forms as may be required by law for all amounts paid pursuant to this
6 Agreement.

7 68. Class Data. Within ten (10) days after entry of the Preliminary Approval Order,
8 Defendant shall provide to the Settlement Administrator with the Class Data. The Settlement
9 Administrator will run a check of the Class Members' addresses against those on file with the
10 U.S. Postal Service's National Change of Address List. The Class Data provided to the
11 Settlement Administrator will remain confidential and will not be used or disclosed to anyone,
12 except as required by applicable tax authorities, pursuant to Defendant's express written consent,
13 or by order of the Court.

14 69. Notice Packet. The Notice Packet, as approved by the Court, shall be sent by the
15 Settlement Administrator to the Settlement Class Members, by first class mail, in English and
16 Spanish, within ten (10) calendar days following the Settlement Administrator's receipt of the
17 Class Data. For all Settlement Class Members, the Notice Packet will include the Notice, a
18 Request for Exclusion Form, an Objection Form, and a Dispute Form, substantially in the forms
19 attached hereto as Exhibits A, B, C and D (respectively), as may be modified by the Court. The
20 Settlement Administrator shall use standard devices, including a skip trace, to obtain forwarding
21 addresses of Settlement Class Members if any envelopes are returned.

22 70. Returned Notice Packets. The Settlement Administrator will take steps to ensure
23 that the Notice Packet is received by all Settlement Class Members, including utilization of the
24 National Change of Address Database maintained by the United States Postal Service to review
25 the accuracy of and, if possible, update a mailing address. Notices will be re-mailed to any Class
26 Member for whom an updated address is located within ten (10) calendar days following both
27 the Settlement Administrator learning of the failed mailing and its receipt of the updated address.
28 The Notice Packet shall be identical to the original Notice Packet, except that it shall notify the

1 Class Member that the exclusion (opt-out) request or objection must be returned by the later of
2 the Notice Response Deadline or fifteen (15) days after the remailing of the Notice Packet.

3 71. Presumption Regarding Receipt of Notice Packet. It will be conclusively
4 presumed that if an envelope has not been returned by the Notice Response Deadline that the
5 Settlement Class Member received the Notice Packet.

6 72. Disputes Regarding Class Data. Class Members are deemed to participate in the
7 Settlement, unless they submit a Request for Exclusion. The Notice will inform Class Members
8 of his/her estimated Individual Settlement Amount and the Workweeks credited in the Wage
9 Statement Class. Members that are excluded from the Vacation Pay Class may dispute their
10 exclusion by timely submitting evidence to the Settlement Administrator showing that they had
11 accrued but unused vacation upon their separation of employment during the Vacation Pay Class
12 Period. Wage Statement Class Members may dispute their credited Workweeks if they feel they
13 worked more Workweeks than Defendant's records show by timely submitting the Dispute Form
14 with any evidence to the Settlement Administrator. Defendant's records will be presumed
15 determinative absent reliable evidence to rebut Defendant's records, but the Settlement
16 Administrator will evaluate the evidence submitted by the Class Member and provide the
17 evidence submitted to Class Counsel and Defense Counsel who agree to meet and confer in good
18 faith about the evidence to determine the Class Member's credits and estimated Individual
19 Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to
20 submit the dispute to the Court to render a final decision. Class Members will have until the
21 Notice Response Deadline to dispute, object or opt out, unless extended by the Court.

22 73. Declaration by Settlement Administrator. The Settlement Administrator shall
23 provide counsel for the Parties in preparation for the Preliminary Approval hearing, as required
24 by the Court's Case Management Order. After the Preliminary Approval Date, the Settlement
25 Administrator will provide an additional declaration of due diligence at least twenty-five (25)
26 days prior to the final approval hearing, as required by the Case Management Order and any
27 other order issued by the Court. The Settlement Administrator shall also provide a final
28 declaration of accounting and disbursements as may be requested by the Court and/or Parties.

1 74. Settlement Class Members' Rights. Each Settlement Class Member will be fully
2 advised of the Settlement, the ability to object to the settlement, and the ability to request
3 exclusion from the Settlement. The Notice Packet will inform the Settlement Class Members of
4 the Court-established deadlines for filing objections or requesting exclusion from the Settlement
5 in accordance with the following guidelines:

6 (a) Requests for Exclusion from Settlement Class. Any Settlement Class
7 Member, other than Plaintiff, may request to be excluded from the Settlement Class by
8 completing the Request for Exclusion Form provided within the Notice Packet. The Request for
9 Exclusion Form must be mailed to the Settlement Administrator and postmarked on or before the
10 Notice Response Deadline in order to be timely, unless the Parties otherwise agree in writing.
11 Any such Request must be made in accordance with the terms set forth in the Notice Packet.
12 The Settlement Administrator shall attach each Request for Exclusion to its declaration of due
13 diligence and file with the Court prior to the Final Approval Hearing. Any Settlement Class
14 Member who timely requests exclusion in compliance with these requirements: (i) will not have
15 any rights under this Agreement, including the right to object, appeal or comment on the
16 Settlement; (ii) will not be entitled to receive any payments under this Agreement; and (iii) will
17 not be bound by this Agreement, or the Judgment. Any Settlement Class Member who requests
18 timely exclusion will still receive a share of PAGA Penalties. Further, upon the Court's final
19 approval, the State of California will be deemed to have waived its rights to any and all PAGA
20 claims based on the Labor Code sections alleged to have been violated in the Complaint or any
21 amended complaints.

22 (b) Binding Effect on Final Settlement Class Members. Except for those
23 Settlement Class Members who exclude themselves in compliance with the procedures set forth
24 above, all Settlement Class Members will: (i) be deemed to be Participating Class Members for
25 all purposes under this Agreement; (ii) will be bound by the terms and conditions of this
26 Agreement, the Judgment, and the releases set forth herein; and (iii) except as otherwise
27 provided herein, will be deemed to have waived all objections and oppositions to the fairness,
28 reasonableness, and adequacy of the Settlement.

1 (c) Objections to Settlement. Any Settlement Class Member, other than
2 Plaintiff, who does not submit a valid and timely Request for Exclusion may object to the terms
3 of this Agreement by completing the Objection Form provided within the Notice Packet. Any
4 Settlement Class Member that intends to object must mail the Objection Form to the Settlement
5 Administrator and be postmarked on or before the Notice Response Deadline in order to be
6 timely, unless the Parties otherwise agree in writing. Additionally, any objection must be made
7 in accordance with the terms set forth in the Notice Packet. The Settlement Administrator shall
8 provide any objections to Class Counsel and Defense Counsel within three (3) days of receipt,
9 and the Settlement Administrator shall attach the same to its declaration of due diligence and file
10 with the Court prior to the Final Approval Hearing. Any Participating Class Member who files
11 an objection remains eligible to receive monetary compensation from the Settlement. Plaintiff
12 and Defendant shall not be responsible for any fees, costs, or expenses incurred by any Class
13 Member and/or his or her counsel related to any objections to the Settlement. Submitting an
14 objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is
15 preserved by becoming a party of record by timely and properly intervening or filing a motion to
16 vacate the judgment under Code of Civil Procedure § 663.

17 (d) Failure to Intervene. Any Settlement Class Member who does not timely
18 and properly become a party of record by intervening or filing a motion to vacate the judgment
19 waives any and all rights to appeal from the Judgment, including all rights to any post-judgment
20 proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial,
21 a motion under California Code of Civil Procedure section 473, and extraordinary writs.

22 (e) Responses to Objections. Counsel for the Parties may file a response to
23 any objections submitted by Objecting Settlement Class Members at least five (5) court days
24 before the date of the Final Approval Hearing.

25 75. Settlement Class Members will have until the Notice Response Deadline to object
26 or submit a Request for Exclusion to the Settlement Administrator by U.S. Mail. The Settlement
27 Administrator shall disclose jointly to Class Counsel and Defense Counsel what objections or
28 Requests for Exclusion were timely submitted on a weekly basis, and upon the request of Class

Counsel or Defense Counsel.

76. Funding of the Settlement Amount. Defendant shall wire the Settlement Amount to the Settlement Administrator within thirty (30) days of the Effective Date. Defendant shall also fund its share of payroll taxes, as directed by the Settlement Administrator.

77. Distribution of Funds. No later than ten (10) calendar days after the wiring of the Settlement Amount, the Settlement Administrator will mail the payments to the Participating Class Members and Aggrieved Employees, the payment for the attorneys' fees and costs to Class Counsel, the payment to the LWDA for PAGA penalties, and will pay itself the Settlement Administration Costs.

78. Deadline for Cashing Settlement Checks. Participating Class Members and Aggrieved Employees shall have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks. If any Participating Class Member's or Aggrieved Employee's check is not cashed within 180 days of the payment, the check will be void and a stop-payment will be issued, and the Settlement Administrator shall issue the unclaimed funds to the California State Controller in the name of the Class Member and/or Aggrieved Employee. The release will be binding upon all Participating Class Members who do not cash their checks within the 180-day period. In the event that any settlement check is returned to the Settlement Administrator within 180 days of mailing the final payment to the Participating Class Member or Aggrieved Employee, the Settlement Administrator will, within five (5) business days of receipt of the returned settlement check, perform a skip trace to locate the individual, and notify Defense Counsel and Class Counsel of the results. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check. Neither Defendant, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Participating Class Member or Aggrieved Employee notifies the Settlement Administrator that he or she believes that a settlement check has been lost or stolen, the Settlement Administrator shall immediately stop payment on such check. If the check in question has not been negotiated

1 prior to the stop payment order, the Settlement Administrator will issue a replacement check.

2 **H. Duties of the Parties Prior to the Court's Approval**

3 79. Promptly after execution of this Agreement, Plaintiff will move to have the
4 Second Amended Complaint filed and move the Court for Preliminary Approval of this
5 Settlement and entry of the Preliminary Approval Order accomplishing the following:

6 (a) Scheduling the Final Approval Hearing on the issue of whether this
7 Settlement should be finally approved as fair, reasonable and adequate as to the Class Members
8 and a hearing on fees, costs and the Service Payment;

9 (b) Approving as to form and content the proposed Notice Packet;

10 (c) Directing the mailing of the Notice Packet by first class mail to the
11 Settlement Class Members;

12 (d) Preliminarily approving this Settlement; and

13 (e) Preliminarily certifying the class for purposes of this Settlement.

14 **I. Duties of the Parties Following Court's Final Approval**

15 80. In connection with the Final Approval Hearing provided for in this Settlement
16 Agreement, Class Counsel shall submit a proposed Final Approval Order:

17 (a) Approving the Settlement, adjudging the terms thereof to be fair,
18 reasonable and adequate, and directing consummation of its terms and provisions;

19 (b) Approving Class Counsel's application for an award of attorneys' fees and
20 reimbursement of litigation costs and expenses, and the payment to the Settlement Administrator
21 for costs of administering the settlement; and

22 (c) Entering judgment approving settlement.

23 **J. Voiding the Agreement**

24 81. If the Court fails or refuses to issue the Final Approval Order or fails to approve
25 any material condition of this Agreement which effects a fundamental change of the Settlement,
26 the entire Agreement shall be rendered voidable and unenforceable as to all Parties herein at the
27 option of either Party.

28 82. If 5% or more of the Settlement Class Members Request Exclusion from the

1 Settlement, Defendant may, at its election, rescind the Settlement and all actions taken in its
2 furtherance of it will be thereby null and void. Defendants must exercise this right of rescission,
3 in writing, to Class Counsel, within 10 calendar days after the Settlement Administrator notifies
4 the Parties of the total number of Settlement Class Members who have Requested Exclusion. If
5 the option to rescind is exercised, then Defendant shall be solely responsible for all costs of the
6 claims administration accrued to that point.

7 83. If the Settlement is voided or fails for any reason, Plaintiff and Defendant will
8 have no further obligations under the Settlement, including any obligation by Defendant to pay
9 the Settlement Amount, or any amounts that otherwise would have been owed under this
10 Settlement.

11 84. If the Settlement is voided or fails for any reason, any costs incurred by the
12 Settlement Administrator shall be borne equally by Defendant and Plaintiff, unless otherwise
13 specified in this Agreement.

14 **K. Other Terms**

15 85. Waiver. The waiver by one Party of any breach of this Agreement by another
16 Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

17 86. Parties' Authority. The signatories hereto represent that they are fully authorized
18 to enter into this Agreement and bind the Parties hereto to the terms and conditions hereof.

19 87. Mutual Full Cooperation. The Parties agree to fully cooperate with each other to
20 accomplish the terms of this Agreement, including but not limited to, execution of such
21 documents and to take such other action as may reasonably be necessary to implement the terms
22 of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts
23 contemplated by this Agreement and any other efforts that may become necessary by order of the
24 Court, or otherwise, to effectuate this Agreement and the terms set forth herein. As soon as
25 practicable after execution of this Agreement, Class Counsel shall, with the assistance and
26 cooperation of Defendant and Defense Counsel, take all necessary steps to secure the Court's
27 preliminary and final approval of the settlement, and the final entry of judgment.
28

1 88. No Prior Assignments. The Parties hereto represent, covenant, and warrant that
2 they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign,
3 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action,
4 cause of action or rights released and discharged by this Agreement.

5 89. No Admission. Defendant denies any and all liability to Plaintiff and/or any
6 Settlement Class Member in this Action, as to any and all causes of action that were asserted or
7 that might have been asserted in this Action. Nonetheless, Defendant wishes to settle and
8 compromise the matters at issue in the Complaint to avoid further substantial expense and the
9 inconvenience and distraction of protracted and burdensome litigation. Defendant also have
10 taken into account the uncertainty and risks inherent in litigation, and without conceding any
11 infirmity in the defenses that it has asserted or could assert against Plaintiff, have determined that
12 it is desirable and beneficial that Plaintiff's claims be settled in the manner and upon the terms
13 and conditions set forth in this Agreement.

14 90. Inadmissibility of Agreement. Whether or not the Court issues the Final Approval
15 Order, nothing contained herein, nor the consummation of this Agreement, is to be construed or
16 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
17 Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
18 Agreement with the intention of avoiding further disputes and litigation with the attendant
19 inconvenience and expenses. This Agreement is a settlement document, and it, along with all
20 related documents such as the notices, and motions for preliminary and final approval, shall,
21 pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408, be
22 inadmissible in evidence in any proceeding, except an action or proceeding to approve the
23 settlement, and/or interpret or enforce this Agreement, including the releases obtained herein.
24 The stipulation for class certification as part of this Agreement is for settlement purposes only
25 and if, for any reason the settlement is not approved, the stipulation will be of no force or effect.

26 91. Notices. Unless otherwise specifically provided herein, all notices, demands or
27 other communications given hereunder shall be in writing and shall be deemed to have been duly
28

1 given as of the third business day after mailing by United States registered or certified mail,
2 return receipt requested, addressed:

3 *To the Settlement Class:*

4 Brian Mankin
5 Lauby Mankin Lauby LLP
6 4590 Allstate Drive
7 Riverside, CA 92501
8 Tel: (951) 320-1444 | Fax: (951) 320-1445
9 brian@lmlfirm.com

10 *To Defendant:*

11 Jeffrey A. Dinkin
12 jdinkin@stradlinglaw.com
13 Jared W. Speier
14 jspeier@stradlinglaw.com
15 STRADLING YOCCA CARLSON & RAUTH, P.C.
16 800 Anacapa Street, Suite A
17 Santa Barbara, CA 93101
18 Tel: (805) 730-6800 | Fax: (805) 730-6801

19 92. Construction. The Parties hereto agree that the terms and conditions of this
20 Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and
21 that this Agreement shall not be construed in favor of or against any Party by reason of the extent
22 to which any Party or her or its counsel participated in the drafting of this Settlement Agreement.
23 Plaintiff and Defendant expressly waive the common-law and statutory rule of construction that
24 ambiguities should be construed against the drafter of an agreement and further agree, covenant,
25 and represent that the language in all parts of this Agreement shall be in all cases construed as a
26 whole, according to its fair meaning.

27 93. Captions and Interpretations. Paragraph titles or captions contained herein are
28 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or
describe the scope of this Agreement or any provision hereof. Each term of this Agreement is
contractual and not merely a recital.

1 94. Modification. This Agreement may not be changed, altered, or modified, except
2 in writing and signed by the Parties hereto, and approved by the Court. This Settlement
3 Agreement may not be discharged except by performance in accordance with its terms or by a
4 writing signed by all of the Parties hereto.

5 95. Dispute Resolution. Prior to instituting legal action to enforce the provisions of
6 this Agreement or to declare rights and/or obligations under this Agreement, a Party shall
7 provide written notice to the other Party and allow an opportunity to cure the alleged
8 deficiencies, and Plaintiff and Defendant may agree to seek the help of the mediator to resolve
9 any dispute they are unable to resolve informally. During this period, the Parties shall bear their
10 own attorneys' fees and costs. This provision shall not apply to any legal action or other
11 proceeding instituted by any person or entity other than Plaintiff or Defendant.

12 96. Choice of Law. This Settlement Agreement shall be governed by and construed,
13 enforced and administered in accordance with the laws of the State of California, without regard
14 to its conflicts-of-law rules.

15 97. Integration Clause. This Settlement Agreement contains the entire agreement
16 between the Parties relating to the settlement and transaction contemplated hereby, and all prior
17 or contemporaneous agreements, understandings, representations, and statements, whether oral
18 or written and whether by a Party or such Party's legal counsel, are merged herein. No rights
19 hereunder may be waived except in writing.

20 98. Binding On Assigns. This Agreement shall be binding upon and inure to the
21 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
22 successors and assigns.

23 99. Signatures of All Class Members Unnecessary to be Binding. It is agreed that,
24 because the members of the Settlement Class are numerous, it is impossible or impractical to
25 have each Class Member execute this Agreement. The Notice Packet will advise all Settlement
26 Class Members of the binding nature of the release provided herein and such shall have the same
27 force and effect as if this Agreement were executed by each Settlement Class Member.
28

100. Counterparts. This Agreement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one fully-signed Agreement, which shall be binding upon and effective as to all Parties. Electronic signatures shall have the same force and effect as an original.

Dated: April 9, 2022

CLASS REPRESENTATIVE:



Joe Albert Guzman (Apr 9, 2022 13:43 PDT)

Joe Guzman

Dated: April 11, 2022

CLASS COUNSEL:

LAUBY MANKIN LAUBY LLP



Brian J. Mankin

Attorneys for Plaintiff

Dated: April __, 2022

DEFENDANT:

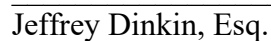
Deckers Outdoor Corporation

By: _____

Dated: April __, 2022

DEFENSE COUNSEL:

STRADLING YOCCA CARLSON & RAUTH, P.C.


Jeffrey Dinkin, Esq.

Attorneys for Defendant

END OF DOCUMENT

1 100. Counterparts. This Agreement may be executed in counterparts, and when each
2 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
3 original, and, when taken together with other signed counterparts, shall constitute one fully-
4 signed Agreement, which shall be binding upon and effective as to all Parties. Electronic
5 signatures shall have the same force and effect as an original.

6
7 Dated: April __, 2022

CLASS REPRESENTATIVE:

8
9
10 _____
Joe Guzman

11 Dated: April __, 2022

CLASS COUNSEL:
LAUBY MANKIN LAUBY LLP

12
13
14 _____
Brian J. Mankin
Attorneys for Plaintiff

15 Dated: April 11, 2022

DEFENDANT:

17 Thomas Garcia
18 Thomas Garcia (Apr 11, 2022 14:05 PDT)
19 _____
Deckers Outdoor Corporation
By: Thomas Garcia
20 _____
CAO

21 Dated: April 11, 2022

DEFENSE COUNSEL:
STRADLING YOCCA CARLSON & RAUTH, P.C.

22 Jeffrey Dinkin
23 _____
Jeffrey Dinkin, Esq.
24 Attorneys for Defendant

25
26
27
28
END OF DOCUMENT

EXHIBIT “2”

NOTICE OF SETTLEMENT OF CLASS ACTION

Joe Guzman v. Deckers Outdoor Corporation

Superior Court of the State of California, County of Riverside
Case No. CVRI2100707

To: All persons employed by Deckers Outdoor Corporation in the State of California, and who are members of the Wage Statement Class and/or the Vacation Pay Class (the “Class,” as further defined in Section I):

THIS NOTICE is of a proposed settlement of a class action lawsuit, and an announcement of a court hearing that you may choose to attend. Your rights may be affected by the legal proceedings in this action. The Court will conduct a hearing on **DATE**, 2022, to address whether the proposed settlement should be approved (“Final Approval Hearing”). You may be entitled to receive a payment under the terms of this class action settlement contained in the Settlement Agreement.

[IDENTIFYING INFORMATION]

You have been identified as a Class Member in the above lawsuit. Under the terms of the proposed settlement you are estimated to receive approximately **\$INSERT AMOUNT** as your share of the Net Settlement Amount should the Court grant the settlement in full. Please note that this is only an estimate. Your actual share of the Net Settlement Amount may be more or less than this estimate. Your estimate is based in part on the number of Weeks you were employed by Deckers Outdoor Corporation (“Deckers” or “Defendant”) in California in the Wage Statement Class and/or whether you are included in the Vacation Pay Class, as discussed in more detail in Section V. Your eligibility requirements for receiving payments are described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE SECTION VII FOR MORE DETAILS)	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you want to receive your settlement payment, then no further action is required on your part. You will automatically receive your settlement payment if the Settlement receives final approval by the Court. You will be bound by the terms of the Settlement Agreement and will give up your right to sue on the claims described below.
EXCLUDE YOURSELF	You may “opt-out” of this case including any right to a settlement payment. If you choose to opt-out, you must complete and return the enclosed Request for Exclusion Form by INSERT DEADLINE (see Section VII). All persons who validly and timely opt-out of the Settlement will <u>not</u> receive any settlement payment and will not release the class claims described in Section V. You still will receive a payment as part of the civil penalties paid pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) to the extent you are an Aggrieved Employee.
OBJECT	Write to the Settlement Administrator about why you do not like the Settlement by completing and submitting the enclosed Objection Form by INSERT DEADLINE (see Section VII). This form should not be used to dispute the number of Share Points.
DISPUTE THE NUMBER OF WEEKS WORKED	If you believe the number of workweeks that you were credited with working in the Wage Statement Class is incorrect, you may submit the enclosed Dispute Form with any supporting evidence to the Settlement Administrator. Also, if you were not included in the Vacation Pay Class and feel that you should have been included, you may submit the enclosed Dispute Form with supporting evidence. Please see Section V for more details on how to submit a Dispute Form.

I. Who is in the Class and covered by the proposed Settlement?

The “Class” includes all persons employed by Deckers in the State of California, and who are members of the Wage Statement Class and/or the Vacation Pay Class.

- Wage Statement Class:** includes all current and former nonexempt (meaning you were eligible for overtime pay) employees (excluding retail employees) employed by Deckers in California at any time between February 10, 2020, and November 23, 2021 (the “Wage Statement Class Period”).
- Vacation Pay Class:** includes all nonexempt (meaning you were eligible for overtime pay) employees (excluding retail employees) who separated from employment with Deckers in California at any time from February 10, 2017, through November 23, 2021 (the “Vacation Pay Class Period”) and who had *accrued but unused* vacation upon their separation of employment.

If you are a member of the Wage Statement Class and/or Vacation Pay Class and worked for Defendant during the periods noted above, you are a Settlement Class Member unless you exclude (“opt out”) yourself from the Class by following the procedures that are set forth in this Notice. Settlement Class Members are eligible to receive a settlement payment and will be bound by the Settlement if it is approved by the Court. Persons who exclude themselves from the Class will not be bound by the Settlement and will not receive a settlement payment.

II. Why should I read this Notice?

You are a member of the Class. If the Court approves the proposed Settlement, your legal rights may be affected. This Notice, which has been approved by the Court, is only a summary. A more detailed Settlement Agreement contains the complete terms of the Settlement and is on file with the Court, where it is available for your review (see Section XI).

III. What is this lawsuit about?

On February 10, 2021, Plaintiff and Class Representative Joe Guzman, through his attorneys (“Class Counsel”), filed a class action and representative action under the Private Attorneys General Act of 2004 (the “PAGA”) against Defendant for wage and hour violations on behalf of all members of the Wage Statement Class and Vacation Pay Class (the “Lawsuit”). As to the Wage Statement Class, the Lawsuit alleges that Defendant failed to properly display necessary information on employee wage statements. As for the Vacation Pay Class, the Lawsuit alleges that Defendant failed to properly calculate and pay vacation wages at the time of termination.

Defendant contends that it has complied with all laws and denies the allegations Plaintiff is asserting in this Lawsuit. Defendant further denies that it owes Class Members any wages, expenses, penalties, or other damages. Accordingly, this Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, by whom all liability is expressly denied.

The Court has not ruled on the merits of Plaintiff’s claims. And, by approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. However, to avoid additional expense, inconvenience, and risks of continued litigation, Plaintiff and Defendant have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Lawsuit on the terms summarized in this Notice. After extensive data and documents were provided by Defendant and investigation by Class Counsel, the Settlement was reached following mediation. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the Proposed Settlement was a reasonable resolution of the disputed claims.

The Class Representative and Class Counsel support this Settlement. Among the reasons for their support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Defendant, this Settlement will not affect your status. California law strictly prohibits unlawful retaliation. Further, Defendant will not take any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member’s participation or decision not to participate in this Settlement. If a Class Member does not participate, his/her share will be paid to those who do participate.

IV. Who represents the Class and who are the attorneys representing the Parties?

The Court has designated Plaintiff to serve as the Class Representatives in this lawsuit. The attorneys that represent Plaintiff and the Class are as follows:

Attorneys for the Class Members:

Brian Mankin, Esq.
brian@lmfirm.com
Peter Carlson, Esq.
peter@lmfirm.com
Lauby Mankin Lauby LLP
4590 Allstate Drive
Riverside, CA 92501
Tel: (951) 320-1444

V. What are the terms of the Settlement?

On [PA DATE], the Court granted preliminary approval of the Settlement. Class Members who do not opt out of the Settlement (the “Settlement Class”), pursuant to the procedures set forth in this Notice, will be mailed a settlement check, and in exchange, will be bound by the terms of the Settlement and release of certain wage and penalty claims against Defendant.

Without admitting any wrongdoing, Defendant has agreed to pay \$950,000 (the “Settlement Amount”) in U.S. dollars to fully resolve all claims in the Lawsuit, attorneys’ fees and costs, payments to the California Labor Workforce Development Agency (“LWDA”), and Settlement Administration Costs.

The Parties agreed to the following payments from the Settlement Amount:

Settlement Administration Costs. The Court has approved Phoenix Class Action Administrators to act as the “Settlement Administrator,” who is sending this Notice Packet to you and will perform many other duties relating to the Settlement. Under the Settlement, \$8,500 will be paid from the Settlement Amount to pay the Settlement Administration Costs.

Penalties to the California Labor Workforce and Development Agency. The Labor Code Private Attorneys General Act (PAGA) authorizes employees to file lawsuits to attempt to recover civil penalties on behalf of other Aggrieved Employees and the State of California for alleged Labor Code violations. Under the Settlement, \$100,000 of the Settlement Amount will be allocated to PAGA Penalties. Of this amount, \$75,000 (75%) will be paid to the California Labor Workforce Development Agency (“LWDA”) in satisfaction of the claims for penalties under PAGA, and the remaining \$25,000 (25%) will be paid to Aggrieved Employees based on the number of weeks worked during the period of February 10, 2020, and November 23, 2021 (“PAGA Period”), even those who opt-out (i.e., Request Exclusion) or object. Aggrieved Employees includes all Wage Statement Class Members and those Vacation Pay Class Members who were employed by Defendant in the State of California at any time during the PAGA Period.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Settlement Amount. Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of one-third (\$316,666.67) of the Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000 for the costs Class Counsel incurred in connection with the lawsuit.

Calculation of Individual Settlement Amounts to Class Members. After deducting the amounts above, the balance will form the Net Settlement Amount for distribution to the Participating Class Members (who are Class Members who do not opt-out). The Net Settlement Amount will total approximately \$_____. A Settlement Class Member’s Individual Settlement Amount will be calculated as follows: (a) Vacation Pay Class Member will receive \$100.00 each from the Net Settlement Amount (the “Vacation Class Payments”); and (b) Wage Statement Class Member’s estimated Individual Settlement Payment will be calculated using the following formula: The Net Settlement Amount will first be deducted by the Vacation Class Payments, and that figure will be divided by the total number of Weeks Worked by all Wage Statement Class Members, resulting in the “Workweek Value.” Each Wage Statement Class Member’s Individual Settlement Payment will be calculated by multiplying his or her total number of Weeks Worked during the Wage Statement Class Period by the Workweek Value.

Based on Defendant’s records, your Individual Settlement Payment is estimated to be \$_____. This amount is calculated based on the following:

Your Weeks Worked in the Wage Statement Class: Defendant’s records indicate that you are credited with _____ Weeks Worked in this class. As a result, you will receive a payment of \$_____ for this category.

Your Participation in the Vacation Pay Class: Do you fall within the definition of a Vacation Pay Class Member? ☐ Yes ☐ No. As a result, you will receive a payment of \$_____ for this category.

Your Participation in the PAGA Settlement: Do you fall within the definition of an Aggrieved Employee? ☐ Yes ☐ No. As a result, you will receive a payment of \$_____ for this category.

Challenges to Weeks Worked and/or Participation in the Vacation Pay Class. Defendant’s records will be presumed to be determinative if there is a difference of opinion with respect to your Weeks Worked and Participation in the Vacation Pay Class. However, a Settlement Class Member may complete the attached “Dispute Form” and submit evidence to the Settlement Administrator on or before **INSERT DATE** with documentation to establish your position regarding Weeks Worked and/or Participation in the Vacation Pay Class. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and Administrator will promptly evaluate the evidence submitted by the Settlement Class Member and discuss in good faith whether the information above should be modified. The Administrator or Court will make the final decision, and report the outcome to the employee.

Timing of Payments to Class Members. After the Court grants Final Approval of the Settlement and Judgment is entered, settlement checks will be mailed to all Participating Class Members who did not timely request to be excluded. Participating Class Members will have 180 days from the issuance of the last check to cash all of the checks.

Allocation and Taxes. Because the claims on behalf of the Wage Statement Class Members are for penalties only, the Individual Settlement Amounts paid to the Wage Statement Class will be treated 100% as penalties and interest (IRS 1099 reporting). The Individual Settlement Amounts paid to the Vacation Pay Class will be treated as one-third (33.333%) wages subject to withholding of all applicable local, state and federal taxes (IRS W2 reporting); and two-thirds (66.667%) as interest and as penalties from which no taxes will be withheld (IRS 1099 reporting). However, payments reported on IRS Form 1099 will be treated as income and Class Members will be solely responsible for the payment of any taxes associated with their Individual Settlement Amounts. Likewise, payments for PAGA Penalties to Aggrieved Employees will be treated entirely as civil penalties and reported as required on an IRS form 1099. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice and make no representations as to the tax treatment or legal effect of the Individual Settlement Amounts. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release by the Wage Statement Class. If the Court approves the Settlement, the Court will enter Judgment, and the Settlement Agreement will bind all of the participating Wage Statement Class Members. Specifically, after Final Approval by the Court, all participating Wage Statement Class Members hereby release and discharge Defendant, together with its officers, directors, employees, and agents (collectively, the “Released Parties”) from the Wage Statement Released Claims. “Wage Statement Released Claims” by the Participating Wage Statement Class Members includes claims

for failure to provide accurate itemized wage statements in violation of Labor Code § 226 and §226.3 as alleged in the Second Amended Complaint, and all recoverable statutory penalties related thereto.

Release by the Vacation Pay Class. If the Court approves the Settlement, the Court will enter Judgment, and the Settlement Agreement will bind all of the participating Vacation Pay Class Members. Specifically, after Final Approval by the Court, all participating Vacation Pay Class Members hereby release and discharge, Defendant, together with its officers, directors, employees, and agents (collectively, the “Released Parties”) from the Vacation Pay Released Claims. “Vacation Pay Released Claims” by the Participating Vacation Pay Class Members includes all claims for damages and statutory penalties alleged in the Second Amended Complaint and those based upon the facts alleged therein, including claims premised upon the for (1) failure to pay vested vacation pursuant to Labor Code § 227.3, and (2) unfair and unlawful competition claims relating to the vested vacation claim.

Waiver of Labor Code Section 206.5(e). Class Members who do not opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Individual Settlement Amounts constitute payment of all sums allegedly due to them. Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Settlement Amounts. That section provides in pertinent part as follows:

“No employer shall require the execution of any release of any claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of such wages has been made.”

PAGA Release. If the Court approves the Settlement, Plaintiff, in his individual capacity and on behalf of the State of California and the Labor and Workforce Development Agency, will forever completely release and discharge the Released Parties from any PAGA claims that Plaintiff alleged against the Released Parties, on behalf of Aggrieved Employees and State of California, based on the facts stated in Plaintiff’s operative Second Amended Complaint and in Plaintiff’s LWDA notice letters, including: including: (A) as alleged on behalf of the State of California and Aggrieved Employees who are in the Vacation Pay Class, Plaintiff shall release all PAGA claims for (1) failure to pay vested vacation pursuant to Labor Code § 227.3, and (2) unfair and unlawful competition claims relating to the vested vacation claim; and (B) as alleged on behalf of the State of California and Aggrieved Employees in the Wage Statement Class, Plaintiff shall release all PAGA claims for failure to provide accurate itemized wage statements in violation of Labor Code § 226 and § 226.3. The time period governing the PAGA Released Claims shall be any time during the period of February 10, 2020, through November 23, 2021. The PAGA Released Claims do not release any Aggrieved Employee’s claim for wage or damages.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment.

VI. How do I receive a payment?

You are automatically included as a Settlement Class Member to receive an Individual Settlement Amount, provided that you do not exercise your right to opt-out as explained below. You do not need to take any further action to receive a payment. It is the responsibility of all Class Members to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or an Individual Settlement Amount.

VII. What are my rights and options?

- A. **Do Nothing and Participate in the Settlement.** Under the Settlement, you will automatically receive a Settlement Payment unless you exclude yourself from the settlement by following the exclusion procedure set forth below.
- B. **Exclude Yourself from the Settlement.** If you **do not** wish to take part in the Settlement, you may exclude yourself by completing, signing and mailing the accompanying Request for Exclusion Form to the Settlement Administrator, postmarked on or before **INSERT DATE**. Any person who files a timely Request for Exclusion from the Class Claims in the Class Action Settlement, upon receipt: (1) will not have any rights under this Settlement, including the right to object, appeal or comment on the Settlement; (2) will not be entitled to receive any payments from the Net Settlement Amount; (3) will preserve the right to pursue the Released Claims subject to applicable statutes of limitations, and (4) will not be bound by this Settlement, or the Judgment. However, all Aggrieved Employees will receive their respective share of PAGA Penalties regardless of whether they file a Request for Exclusion as a Class Member.
- C. **Object to Settlement.** You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the proposed Settlement, you or your own attorney must submit a written objection, on the enclosed Objection Form and include any and all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations), to the Settlement Administrator. The Objection Form and any accompanying evidence and papers must be sent to the Settlement Administrator at the address listed on the Objection Form, **postmarked** on or before **INSERT DATE**. If you do not comply with these procedures and the deadline for objections, the Court may not consider your objection at the Final Approval Hearing, and you may lose the right to contest the approval of the Settlement. You are still eligible to receive a settlement payment should the settlement become Final even if you object to the settlement. Submitting an objection does not preserve the right to appeal a final judgment. Rather, the right to appeal is preserved by becoming a party of record by timely and properly intervening or filing a motion to vacate the judgment before entry of judgment.

VIII. What is the effect of the settlement?

Released Rights and Claims. The Settlement is intended to settle all claims against the Released Parties that were asserted or that could have been asserted in the Lawsuit regarding the alleged violations of wage and hour laws. If you were employed by Defendant in California at any time during the periods discussed above and do not elect to exclude yourself from the Settlement Class, you will be deemed to have entered into this Release and

to have released the above-described Released Claims. If the Settlement is not approved by the Court or does not become final for some other reason, the Lawsuit may continue and the releases will not take effect.

IX. When is the court hearing and what is it for?

On **INSERT FINAL APPROVAL HEARING DATE**, the Court will hold a public hearing in Department 1 of the Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501, for the purposes of determining whether the proposed Settlement is fair, adequate and reasonable and should be approved, whether to approve Class Counsel's applications for attorneys' fees and costs, whether to approve the payments to the LWDA, and whether to approve Plaintiff's request for the service awards. This hearing may be continued or rescheduled by the Court without further notice to the Class. Objectors to the proposed settlement will be provided notice in the event that the Final Approval Hearing is continued to a later date. Class Members who support the proposed Settlement do not need to appear at the hearing and do not need to take any other action to indicate their approval. Class Members who object to the proposed Settlement are not required to attend the Final Approval Hearing.

X. Are there any other class action cases pending against Defendants in California with similar claims?

There are no other pending class action cases involving the claims in this action. However, there is another pending class action case against Defendant entitled *Foster v. Deckers Outdoor Corporation*, which is pending in Santa Barbara County Superior Court, Case No. 20CV03699 (the "*Foster Case*"). The *Foster Case* includes claims for minimum and overtime wages, meal and rest breaks, and failure to timely pay wages each pay period and upon separation of employment. And the *Foster Case* received preliminary approval of a proposed class and representative PAGA settlement on November 23, 2021. You may or may not be a member of the proposed settlement in the *Foster Case*. You may want to consult with an attorney as to whether receiving a settlement in this action may impact your ability to receive a settlement or recovery in those actions.

XI. Where can I get more information?

If you have questions about this Notice, the enclosed Request for Exclusion Form, Objection Form, or Dispute Form, or the Settlement itself, or if you did not receive this Notice in the mail and you believe that you are or may be a member of the Class, you should contact the Settlement Administrator for more information or to request that a copy of this Notice, the Request for Exclusion Form, Objection Form, and Dispute Form be sent to you in the mail. If you wish to communicate directly with Class Counsel, you may contact them – see Section III. You may also seek advice and guidance from your own private attorney at your own expense if you so desire.

This Notice is only a summary. For more detailed information, you may review the Settlement Agreement, containing the complete terms of the proposed Settlement, which is on file with the Court and attached to the Declaration of Brian J. Mankin in Support of Motion for Preliminary Approval of Class Action Settlement filed on **DATE, 2022** and available to be inspected at any time during regular business hours at the Clerk's Office, Superior Court for the State of California, County of Riverside, 4050 Main St, Riverside, CA 92501. You may also review the pleadings, records, and other papers on file in this lawsuit at the Clerk's Office or online at <https://epublic-access.riverside.courts.ca.gov/public-portal/>. To access the case file, click on "Case Number Search," then create a free online account, then type in the case number (CVRI2100707) where requested, and click "Search."

PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR DEFENDANT FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.

EXHIBIT “3”

REQUEST FOR EXCLUSION FORM

Joe Guzman v. Deckers Outdoor Corporation

Superior Court of the State of California, County of Riverside
Case No. CVRI2100707

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU WANT TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE A SETTLEMENT CHECK? (check the box that applies)

☐

YES: STOP HERE -- DO NOT RETURN THIS FORM. KEEP THIS FORM FOR YOUR RECORDS. NO FURTHER ACTION IS NEEDED TO PARTICIPATE IN THE SETTLEMENT.

☐

NO: SIGN, DATE AND RETURN THIS FORM TO EXCLUDE YOURSELF FROM THE SETTLEMENT.

By signing and completing the below, I agree to the following:

I do not want to participate in the settlement in *Guzman v. Deckers Outdoor Corporation* (Riverside Superior Court Case No. CVRI2100707). I understand by excluding myself from the settlement that I will not receive any money from the settlement.

Signed on _____, 2022

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT DEADLINE]:

INSERT SETTLEMENT ADMINISTRATOR ADDRESS

EXHIBIT “4”

OBJECTION FORM

Joe Guzman v. Deckers Outdoor Corporation

Superior Court of the State of California, County of Riverside
Case No. CVRI2100707

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU OBJECT TO THE SETTLEMENT? (check the box that applies)

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM.

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM STATING THE REASONS WHY YOU OBJECT TO THE SETTLEMENT.

NOTE: If you disagree with the number of Work Weeks credited or your participation (or lack thereof) in the Vacation Pay Class, DO NOT OBJECT. Instead, submit the Dispute Form to the Settlement Administrator supporting your position.

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection. Any objection should describe the nature of and basis for the objection, and any other information that you would like the Court to consider.

I OBJECT to the *Guzman v. Deckers Outdoor Corporation* Settlement on the following grounds (if additional space is necessary, please include additional sheets of paper):

Signed on _____, 2022

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO LATER THAN [INSERT OBJECTION DEADLINE]:

[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]

EXHIBIT “5”

DISPUTE FORM

Joe Guzman v. Deckers Outdoor Corporation

Superior Court of the State of California, County of Riverside

Case No. CVRI2100707

Please verify and/or complete any missing identifying information:

[NAME]

[ADDRESS LINE 1]

[ADDRESS LINE 2]

DO YOU DISAGREE WITH THE NUMBER OF WORK WEEKS YOU WERE CREDITED OR BELIEVE YOU WERE INCORRECTLY EXCLUDED FROM THE VACATION PAY CLASS, AND WANT THE PARTIES AND ADMINISTRATOR TO INVESTIGATE FURTHER?

☐

NO: STOP HERE -- DO NOT RETURN THIS FORM.

☐

YES: COMPLETE THE REVERSE SIDE AND RETURN THIS FORM STATING THE REASONS WHY YOU BELIEVE (1) THAT YOU SHOULD BE CREDITED WITH ADDITIONAL WEEKS WORKED AND/OR (2) THAT YOU SHOULD BE INCLUDED AS PART OF THE VACATION PAY CLASS. PLEASE MAKE SURE TO INCLUDE COPIES (NOT ORIGINALS) OF SUPPORTING DOCUMENTATION.

Please state why you believe that you should be credited with more Weeks Worked or included in the Vacation Pay Class and attach copies (not originals) of supporting documentation. The Parties and Settlement Administrator will consider your challenge and make a determination if you are entitled to additional credits:

Signed on _____, 2022

[NAME]

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NO
LATER THAN [INSERT DEADLINE]:

[INSERT SETTLEMENT ADMINISTRATOR ADDRESS]

EXHIBIT “6”



February 11, 2021

Sent Via Online Filing to the LWDA

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

Deckers Outdoor Corporation
250 Coromar Dr.
Goleta, CA 93117

**Re: PAGA Civil Penalty Claim
*Joe Guzman v. Deckers Outdoor Corporation***

To the Labor and Workforce Development Agency and Deckers Outdoor Corporation:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as notification of the PAGA civil penalty claim of aggrieved employee Joe Guzman (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against his former employer(s), Deckers Outdoor Corporation and/or any affiliated entities (the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 256, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable Industrial Welfare Commission Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately 2008 through January 2021. Claimant alleges that, at all relevant times, he and all other non-exempt employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. Also, at all relevant times, Claimant was compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions when Claimant worked in excess of 8 and/or 12 hours per day and/or 40 hours per week and received additional earned compensation during the pay period, the Company failed to properly include these amounts in the calculations for Claimant’s regular rate of pay. Therefore, the Company failed to pay proper overtime for the hours worked in excess of 8 and/or 12 per day and/or 40 per week.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company’s policies and practices, Claimant was subjected to meal period violations when he was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal

period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201 – 203 regarding payment of final wages upon separation of employment. Finally, during his employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a). Specifically, Claimant alleges that he often received shift differentials for every hour worked at a set rate of pay. These shift differentials were indisputably an "applicable hourly rate" during the periods when they were earned, yet the Company's wage statements failed to provide any information regarding the rate of pay or number of hours worked at the shift differential hourly rate – in direct violation of Labor Code § 226(a)(9).

As a result of these violations, and others described below, Claimant alleges that he and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

**PAGA ASSESSMENT FOR FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked as well as the failure properly calculate the regular rate of pay for Claimant and other Aggrieved Employees. This resulted in earned, but unpaid, overtime wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees worked in excess of 8 and/or 12 hours per day, and/or forty hours per week without receiving proper payment of the requisite overtime and/or doubletime wages for all hours worked pursuant to Labor Code §§ 204 and 510 and/or the applicable IWC Wage Order. Claimants and the Aggrieved Employees were also not paid all earned wages to which they were entitled at the rates agreed upon by the Company, including, but not limited to shift differential pay.

Accordingly, Labor Code §§ 210, 558, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

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**PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS,
REST BREAKS, AND WAGE PREMIUMS**

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

Section 12 of applicable IWC Wage Order states in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company’s policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee’s regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states “[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.”

As a result of the Company’s failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202(a) states in



pertinent part “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours’ previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Labor Code § 203(a) states “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements to Claimants and all Aggrieved Employees due to violations including: failure to accurately state gross wages earned; failure to accurately state total hours worked; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state all applicable hourly rates (including the accurate overtime rate of pay); and failure to accurately state the corresponding number of hours worked at each hourly rate. Accordingly, Claimants are entitled to damages under Labor Code § 226(e), including reasonable attorneys’ fees. Labor Code §§ 226.3 and 2699 also impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company’s violations described herein, the Company is subject to the civil penalties in accordance with Labor Code § 2699.

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ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

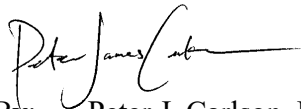
Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com

www.California-EmploymentLawyers.com





April 23, 2021

Sent Via Online Filing to the LWDA

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

Deckers Outdoor Corporation
250 Coromar Dr.
Goleta, CA 93117

Re: PAGA Civil Penalty Claim
Joe Guzman v. Deckers Outdoor Corporation
LWDA Case No. LWDA-CM-821554-21

To the Labor and Workforce Development Agency and Deckers Outdoor Corporation:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as the amended notification of the PAGA civil penalty claim of aggrieved employee Joe Guzman (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against his former employer(s), Deckers Outdoor Corporation and/or any affiliated entities (the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable Industrial Welfare Commission Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately 2008 through January 2021. Claimant alleges that, at all relevant times, he and all other non-exempt employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. Also, at all relevant times, Claimant was compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions when Claimant worked in excess of 8 and/or 12 hours per day and/or 40 hours per week and received additional earned compensation during the pay period, the Company failed to properly include these amounts in the calculations for Claimant’s regular rate of pay. Additionally, the Company paid Claimant and the Aggrieved Employees performance-based bonuses yet failed to properly calculate and pay overtime owed on such bonuses. Therefore, the Company failed to pay proper overtime for the hours worked in excess of 8 and/or 12 per day and/or 40 per week.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company’s policies and practices, Claimant was

subjected to meal period violations when he was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at the "final rate" as required by Labor Code § 227.3. To illustrate, at the time of (and leading up to) Claimant's termination, he was paid a base hourly rate plus additional hourly compensation in the form of shift differential pay. However, despite that Claimant's "final rate" at the time of termination was comprised of his base hourly rate *plus* the shift differential, the Company paid Claimant's accrued and unused vacation at only the base hourly rate. As a result, Claimant did not receive compensation for all accrued but unused vacation hours at the "final rate" – in violation of Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201 – 203 regarding payment of final wages upon separation of employment and further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay."

Finally, during his employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a). Specifically, Claimant alleges that he often received shift differentials for every hour worked at a set rate of pay. These shift differentials were indisputably an "applicable hourly rate" during the periods when they were earned, yet the Company's wage statements failed to provide any information regarding the rate of pay or number of hours worked at the shift differential hourly rate – in direct violation of Labor Code § 226(a)(9). Claimant also alleges that the Company's wage statements failed to accurately state the overtime rate of pay, among other violations.

As a result of these violations, and others described below, Claimant alleges that he and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

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**PAGA ASSESSMENT FOR FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked as well as the failure properly calculate the regular rate of pay for Claimant and other Aggrieved Employees. This resulted in earned, but unpaid, overtime wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees worked in excess of 8 and/or 12 hours per day, and/or forty hours per week without receiving proper payment of the requisite overtime and/or doubletime wages for all hours worked pursuant to Labor Code §§ 204 and 510 and/or the applicable IWC Wage Order. Claimants and the Aggrieved Employees were also not paid all earned wages to which they were entitled at the rates agreed upon by the Company, including, but not limited to shift differential pay.

Accordingly, Labor Code §§ 210, 558, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

**PAGA ASSESSMENT FOR DENIAL OF MEAL PERIODS,
REST BREAKS, AND WAGE PREMIUMS**

(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ..." Labor Code § 512(a) states in pertinent part: "[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

Section 12 of applicable IWC Wage Order states in pertinent part: "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof."

Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

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FAILURE TO PAY VESTED VACATION UPON SEPARATION OF EMPLOYMENT

(Labor Code § 227.3)

Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company only paid vested vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

FAILURE TO PAY SICK TIME AT PROPER RATE OF PAY

(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be "calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek." Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions that the Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay (not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2)). As such, penalties may be assessed pursuant to Labor Code § 2699.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

(Labor Code §§ 204, 204.1, 208, 256 and 2699)

Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

As a result of the Company's failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202(a) states in



pertinent part “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours’ previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Labor Code § 203(a) states “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements to Claimants and all Aggrieved Employees due to violations including: failure to accurately state gross wages earned; failure to accurately state total hours worked; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state all applicable hourly rates (including the accurate overtime rate of pay); and failure to accurately state the corresponding number of hours worked at each hourly rate. Accordingly, Claimants are entitled to damages under Labor Code § 226(e), including reasonable attorneys’ fees. Labor Code §§ 226.3 and 2699 also impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company’s violations described herein, the Company is subject to the civil penalties in accordance with Labor Code § 2699.

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ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

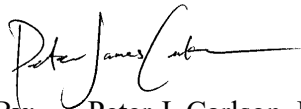
Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmlfirm.com





April 29, 2021

Sent Via Online Filing to the LWDA

California LWDA
Attn: PAGA Administrator
455 Golden Gate Ave., 9th Fl.
San Francisco, CA 94102

Sent Via U.S. Mail and Certified Mail

Deckers Outdoor Corporation
250 Coromar Dr.
Goleta, CA 93117

Re: PAGA Civil Penalty Claim
Joe Guzman v. Deckers Outdoor Corporation
LWDA Case No. LWDA-CM-821554-21

To the Labor and Workforce Development Agency and Deckers Outdoor Corporation:

Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2699, *et seq.*, this letter shall serve as the Second Amended Notice of the PAGA civil penalty claim of aggrieved employee Joe Guzman (“Claimant”), on behalf of the State of California and all Aggrieved Employees, against his former employer(s), Deckers Outdoor Corporation and/or any affiliated entities (the “Company”), for violations of Labor Code §§ 200, 201, 202, 203, 204, 208, 210, 218.6, 226, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, and 1199, among possibly other sections inadvertently omitted, and/or sections of the applicable Industrial Welfare Commission Wage Order(s).

FACTUAL BACKGROUND

Claimant was employed by the Company from approximately 2008 through January 2021. Claimant alleges that, at all relevant times, he and all other non-exempt employees employed by the Company in California (the “Aggrieved Employees”) were subjected to the same policies, working conditions, and corresponding wage and hour violations to Claimant was subjected during his employment.

For instance, at all relevant times, Claimant and the Aggrieved Employees were not provided proper minimum and overtime wages due to the Company’s failure to accurately record and compensate for all hours worked. Claimant and the Aggrieved Employees were frequently required to spend time subject to the direction and control of the Company to perform tasks at the beginning of the shift (before being allowed to clock in) and at the end of the shift (after being required to clock out). To illustrate, the Company required Claimant and the Aggrieved Employees to clock out and then wait in lengthy lines to undergo mandatory security checks and/or bag searches each time they left the facility for a rest break, meal period, and at the end of shifts. Additionally, at the start of shifts (but before clocking in), the Company required Claimant and the Aggrieved Employees to undergo mandatory temperature checks. However, because both examples illustrate time spent under Defendant’s control either before clocking in or after clocking out, it was uncompensated in violation of California law and led to minimum and overtime wage violations. See *Troester v. Starbucks Corporation* (2018) 5 Cal.5th 829 (California law “do[es] not allow employers to require employees to routinely work for minutes off the clock without compensation”).

Also, at all relevant times, Claimant was compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions when Claimant worked in excess of 8 and/or 12 hours per day and/or 40 hours per week and received additional earned compensation during the pay period, the Company failed to properly include these amounts in the calculations for Claimant's regular rate of pay. Additionally, the Company paid Claimant and the Aggrieved Employees performance-based bonuses yet failed to properly calculate and pay overtime owed on such bonuses. Therefore, the Company failed to pay proper overtime for the hours worked in excess of 8 and/or 12 per day and/or 40 per week.

Claimant was also not provided 30-minute off-duty meal periods, as mandated by California law, during employment with the Company. As a result of the Company's policies and practices, Claimant was subjected to meal period violations when he was: (1) unable to take a meal period due to workload, (2) forced to take an on-duty meal period while under the control of the Company, (3) forced to take a meal period after the 5th hour of work, and (4) not provided a mandated second meal period on occasions for shifts in excess of 10 hours. Moreover, Claimant and the Aggrieved Employees were actively discouraged from taking full 30-minute off-duty and off-premises meal periods due to the Company's security check and/or bag search policy, given that leaving the facility would require waiting in a line and, thus, reducing the amount of time actually provided for a meal period.

The Company also failed to provide Claimant with 10 minutes of net rest break time for every 4 hours worked, or major fraction thereof, as mandated by California law. The Company did not schedule Claimant's rest breaks, Claimant was unable to leave the premises for breaks, and Claimant was often not authorized and/or permitted to take mandated rest breaks due to being overwhelmed by the hectic workload. Furthermore, on occasions when Claimant worked in excess of 10 hours in a shift, the Company failed to authorize and/or permit a third mandated rest break.

Moreover, at all relevant times, the Company utilized a policy and practice through which Claimant and the Aggrieved Employees accrued vacation and/or PTO hours (collectively, "vacation hours"). However, on the occasions when Claimant and the Aggrieved Employees had accrued but unused vacation hours upon separation of employment, Defendants failed to pay for these earned wages at the "final rate" as required by Labor Code § 227.3. To illustrate, at the time of (and leading up to) Claimant's termination, he was paid a base hourly rate plus additional hourly compensation in the form of shift differential pay. However, despite that Claimant's "final rate" at the time of termination was comprised of his base hourly rate *plus* the shift differential, the Company paid Claimant's accrued and unused vacation at only the base hourly rate. As a result, Claimant did not receive compensation for all accrued but unused vacation hours at the "final rate" – in violation of Labor Code § 227.3.

The Company also failed to comply with the mandates of Labor Code § 204 regarding the timing of the payment of wages to its employees each period, including meal and rest period premiums. Also, the Company failed to comply with the mandates of Labor Code §§ 201 – 203 regarding payment of final wages upon separation of employment and further failed to pay the Aggrieved Employees for mandated sick time at a rate "calculated in the same manner as the regular rate of pay."

Finally, during his employment with the Company, Claimant received inaccurate and incomplete wage statements that failed to accurately state all necessary items required under Labor Code § 226(a). Specifically, Claimant alleges that he often received shift differentials for every hour worked at a set rate of pay. These shift differentials were indisputably an "applicable hourly rate" during the periods when they



were earned, yet the Company's wage statements failed to provide any information regarding the rate of pay or number of hours worked at the shift differential hourly rate – in direct violation of Labor Code § 226(a)(9). Claimant also alleges that the Company's wage statements failed to accurately state the overtime rate of pay, among other violations.

As a result of these violations, and others described below, Claimant alleges that he and other Aggrieved Employees were denied specific rights to which they are/were entitled under California law and the rules promulgated by the IWC Wage Orders, including the following:

**PAGA ASSESSMENT FOR FAILURE TO
PAY ALL MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 204, 221-223, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198; IWC Wage Order §§ 3, 4(B))

As discussed above, the Company failed to pay all required minimum, regular, and overtime wages to Claimant and the Aggrieved Employees due to the Company's failure to accurately record and compensate for all hours worked as well as the failure properly calculate the regular rate of pay for Claimant and other Aggrieved Employees. This resulted in earned, but unpaid, overtime wages due and owing to Claimant and the Aggrieved Employees. Therefore, Claimants and the Aggrieved Employees worked in excess of 8 and/or 12 hours per day, and/or forty hours per week without receiving proper payment of the requisite overtime and/or doubletime wages for all hours worked pursuant to Labor Code §§ 204 and 510 and/or the applicable IWC Wage Order. Claimants and the Aggrieved Employees were also not paid all earned wages to which they were entitled at the rates agreed upon by the Company, including, but not limited to shift differential pay.

Accordingly, Labor Code §§ 210, 558, 1197.1, and 2699, among possibly others, impose various penalties upon the Company for each employee and each pay period in which it failed to pay all wages including, but not limited to, minimum, regular, and overtime wages in violation of the Labor Code and/or the IWC Wage Orders.

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(Labor Code §§ 226.7(b) & (c), 512, 558; Cal. Admin. Code, Title 8, § 11090)

Labor Code § 226.7(b) states that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ...” Labor Code § 512(a) states in pertinent part: “[A]n employer may not employ an employee for a work period of more than 5 hours per day without providing the employee with an uninterrupted meal period of not less than 30 minutes [...] [a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes.”

Section 12 of applicable IWC Wage Order states in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof.”



Here, Claimant and other Aggrieved Employees were regularly not provided compliant mandatory meal periods and paid rest breaks due to the Company's policies described above. Although the Company was required to pay Claimant and all Aggrieved Employees premium wages equal to an additional hour of pay at the employee's regular rate of pay for each violation under Labor Code § 226.7(c), the Company did not pay the mandatory one-hour wage premiums. Labor Code § 558 imposes a penalty for each violation, plus an amount sufficient to recover the underpaid wages. Additionally, the civil assessment set forth in Labor Code § 2699 applies to these violations.

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Pursuant to Labor Code § 227.3, an employer that has implemented a paid vacation, paid time off, or compensated time off policy must, upon an employee's separation from employment, pay to the employee all vested but unused vacation and/or paid time off at her final rate of pay. However, as alleged herein, the Company only paid vested vacation upon separation at the base rate of pay, leading to a violation on each such occasion. As a result of these violations, penalties may be assessed pursuant to Labor Code § 2699.

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(Labor Code § 246)

Labor Code § 246(l)(1) provides that paid sick time for non-exempt employees must be "calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek." Additionally, Labor Code § 246(l)(2) states that the paid sick time must be "calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

Here, Claimant and the Aggrieved Employees were compensated on an hourly basis plus additional compensation in the form of shift differentials and/or nondiscretionary bonuses. However, on the occasions that the Aggrieved Employees took sick time and received paid sick leave, the Company only paid sick time at the base rate of pay (not factoring in the additional compensation as required by Labor Code §§ 246(l)(1-2)). As such, penalties may be assessed pursuant to Labor Code § 2699.

**PAGA ASSESSMENT FOR FAILURE TO PAY ALL WAGES DUE AND OWING
EACH PAYROLL PERIOD WITHIN THE TIME REQUIRED BY LAW**

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Labor Code § 204(a) states that all wages earned by a person are due and payable twice during each calendar month, and further states that wages earned during the first through fifteenth days of the month must be paid no later than the twenty-sixth day of the month, and that wages earned between the sixteenth and last day of the month must be paid by the tenth day of the following month. Labor Code § 204(d) states "[t]he requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period."

As a result of the Company's failure to pay Claimant and the Aggrieved Employees all compensation to which they were entitled, the Company had a pattern and practice of failing to pay all wages due and



owing to Claimant and the Aggrieved Employees within the time mandated by Labor Code § 204. As a result of these violations, penalties may be assessed pursuant to Labor Code §§ 203, 210, 256, and/or 2699.

PAGA ASSESSMENT FOR FAILURE TO TIMELY PAY FINAL WAGES

(Labor Code §§ 201, 202, 203, 256 and 2699)

Labor Code § 201(a) provides in pertinent part: “If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202(a) states in pertinent part “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours’ previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Labor Code § 203(a) states “If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

The Company did not pay the Aggrieved Employees all wages that were due and owing within the required time following the end of their employment in accordance with Labor Code §§ 201-202. As a result, all such Aggrieved Employees are entitled to 30 days of wages as a “waiting time penalty.” (Labor Code §§ 203, 256.) Labor Code § 2699 also imposes a penalty.

**PAGA ASSESSMENT FOR FAILURE TO PROVIDE ACCURATE,
ITEMIZED WAGE STATEMENTS**

(Labor Code §§ 226, 226.3, and 1174)

Labor Code § 226(a) requires an employer to provide its employees with itemized wage statements accurately stating gross wages earned, total hours worked, all deductions, net wages earned, the inclusive dates of the pay period, the employee’s name and the last four digits of his or her Social Security number (or employee identification number), the name and address of the legal entity that is the employer, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

At all times pertinent hereto, the Company failed to provide accurate itemized wage statements to Claimants and all Aggrieved Employees due to violations including: failure to accurately state gross wages earned; failure to accurately state total hours worked; failure to accurately state all deductions; failure to accurately state net wages earned; failure to state all applicable hourly rates (including the accurate overtime rate of pay); and failure to accurately state the corresponding number of hours worked at each hourly rate. Accordingly, Claimants are entitled to damages under Labor Code § 226(e), including reasonable attorneys’ fees. Labor Code §§ 226.3 and 2699 also impose a civil penalty and/or assessment for these violations.

PAGA ASSESSMENT FOR VIOLATIONS OF LABOR CODE § 1199

(Labor Code § 1199)

An employer violates Labor Code § 1199 if said employer: (a) requires or causes an employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the commission; (b) pays or causes to be paid to any employee a wage less than the minimum fixed by an order



of the commission; or, (c) violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the commission. Labor Code § 2699.5 specifically enumerates Labor Code § 1199 as a section to which the civil penalties under the PAGA apply. Therefore, as a result of the Company's violations described herein, the Company is subject to the civil penalties in accordance with Labor Code § 2699.

ATTORNEYS' FEES, INTEREST, AND PENALTIES

(Labor Code §§ 2699(f)(2), 2699(g)(1), 2699.5)

Labor Code § 2699(g)(1), give employees the right to recover in a civil action the unpaid balance of the full amount of wages, including interest thereon, penalties and other damages, as applicable, reasonable attorneys' fees, and costs of suit. Additionally, Claimants seek the assessment of penalties, including civil penalties, under Labor Code §§ 203, 210, 225.5, 226.3, 1174.5, 1197.1, 2699, and/or § 20 of the IWC Wage Orders, among possibly other provisions inadvertently omitted herein. Furthermore, Claimants is entitled to bring a wage/hour claim on behalf of all current and former similarly situated employees of the Company. Thus, the Company is exposed to these same penalties for violations involving all Aggrieved Employees.

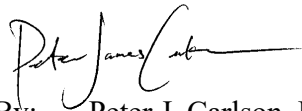
Additionally, Claimant seeks attorney's fees pursuant to C.C.P. § 1021.5. Please construe this correspondence as Claimants' notification of alleged wrongdoing and attempted resolution in accordance with C.C.P. § 1021.5 and *Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553.

CONCLUSION

Based on the foregoing, the Company may be liable for penalties related to the foregoing claims and remedies. If Claimant becomes aware of any additional claims for Labor Code violations related to his employment and/or other employees of the Company, he reserves the right to add new claims by amending this claim letter.

Should you have any questions, please feel free to give me a call. In the meantime, I look forward to your response.

Very Truly Yours,



By: Peter J. Carlson, Esq.

E-mail: peter@lmfirm.com



EXHIBIT “7”

Compliance Chart

Detailing Compliance with Class Action Case Management Order #1, filed April 13, 2021

CMO Requirement	Location in Moving Papers where Requirement is Satisfied	
H(1)(a)	See Settlement Agreement ("S.A."), attached as Exhibit 1 to Declaration of Brian J. Mankin ("Mankin Decl."), as well as the remainder of this Compliance Chart confirming that no prohibited items are included in any order, notice, form, or judgment.	
H(1)(b)	See generally S.A. confirming that the settlement agreement is written, signed by all necessary parties; See Exhibit 1 to Mankin Decl (S.A. filed as an attachment to declaration of counsel).	
H(3)(a)	<i>i.</i>	See Mankin Decl. ¶ 8 (Attorney estimate of # of class members)
	<i>ii.</i>	See Mankin Decl. ¶¶ 19-24 (estimate of total damages and penalties if successful at trial on all claims)
	<i>iii.</i>	See Mankin Decl. ¶¶ 19-24 (reasonable expectation of trial award and reasons for estimate), ¶ 3 (number of class cert orders and trials)
	<i>iv.</i>	See Mankin Decl. ¶ 8 (estimate of average, high, and low recoveries)
	<i>v.</i>	See Mankin Decl. ¶¶ 11-14 (formal and informal discovery, investigation, re size of class and strength of claims)
	<i>vi.</i>	See Mankin Decl. ¶ 42 (unaware of any related cases after reasonable inquiry)
H(3)(b)	See Declaration of Defendant's counsel/representative (Similar cases, made reasonable inquiry)	
H(3)(c)	<i>i.</i>	See S.A. ¶ 78 (uncashed funds go to State Controller in name of Class Member)
	<i>ii.</i>	N/A (no <i>Cy Pres</i> Recipient)
	<i>iii.</i>	N/A (no <i>Cy Pres</i> Recipient)
	<i>iv.</i>	See S.A. ¶ 78 (unclaimed funds will <u>not</u> go to Industrial Relations Unpaid Wage Fund).
H(3)(d)	<i>i.</i>	See Mankin Decl. ¶ 40 (bids sought from multiple admin, Phoenix low bid)
	<i>ii.</i>	See Declaration of Michael Moore of Phoenix ("Moore Decl.") ¶¶ 1-8 (experience) and ¶ 9 (fixed rate fee and how it was calculated)
H(3)(e)	<i>i.</i>	See S.A. ¶ 29 (defining Released Parties)
	<i>ii.</i>	See S.A. ¶ 38 (for "Vacation Pay Released Claims") and ¶ 41 (for "Wage Statement Released Claims")
	<i>iii.</i>	See S.A. ¶¶ 37 and 38 (establishing that the Vacation Pay Class only releases liability during the Vacation Pay Class Period) and ¶¶ 40 and 41 (establishing that the Wage Statement Class only releases liability during the Wage Statement Class Period)
H(3)(f)	Not applicable. Notice to be given by first class mail to addresses believed to be current.	
H(3)(g)	Not applicable. This is not a claims-made settlement. See S.A. ¶ 55 (non-claims-made)	
H(3)(h)	Not applicable. This is a non-reversionary settlement. See S.A. ¶ 55 (non-reversionary)	
H(3)(i)	See S.A. ¶ 53(a) (Defendant is responsible to pay employer's share of payroll taxes <i>in addition</i> to gross settlement amount)	
H(3)(j)	Not applicable.	
H(3)(k)	See Class Notice, Request for Exclusion Form, Objection Form and Dispute Form attached as Exhibits A - D to Proposed Order (drafted in a manner likely to be readily understood, without latin terms, legal terms of art, or unfamiliar symbols or abbreviations); See also Declaration of Defendant's representative re: age, education, experience of Class Members and ability to read and comprehend English	
H(3)(l)	See this Compliance Chart	

Compliance Chart

Detailing Compliance with Class Action Case Management Order #1, filed April 13, 2021

CMO Requirement	Location in Moving Papers where Requirement is Satisfied	
H(4)(a)	<i>See</i> Proposed Order and Exhibits A - D to Proposed Order (confirming that the Notice, Request for Exclusion Form, Objection Form and Dispute Form are included as attachments to the Proposed Order)	
H(4)(b)	<i>See</i> Proposed Order (confirming that Agreement is not attached)	
H(4)(c)	<i>See</i> Mankin Decl. ¶ 44 (noting that the terms and terminology of the order and accompanying forms were carefully reviewed to ensure they are internally consistent, consistent with each other, and consistent with the settlement agreement)	
H(4)(d)	<i>See</i> Proposed Order ¶ 7 (identifying the Settlement Administrator and describing - by reference to the S.A. - the nature of services it will be required to perform)	
H(4)(e)	<i>See</i> Proposed Order ¶¶ 5-8 (exclusion form)	
H(4)(f)	<i>See</i> Proposed Order ¶¶ 5-8 (objection form)	
H(4)(g)	<i>i.</i>	<i>See generally</i> Proposed Order and Exhibit C to Proposed Order (no requirement for objecting party to appear at hearing on the motion for final approval)
	<i>ii.</i>	<i>See generally</i> Proposed Order and Exhibit C to Proposed Order (no requirement for objecting party to file or serve a notice of intention to appear at hearing on the motion for final approval)
H(4)(h)	<i>See</i> Proposed Order ¶ 7 (admin must give notice to any objecting party of continuance of hearing of motion for final approval)	
H(4)(i)	<i>See generally</i> Proposed Order and Class Notice attached as Exhibit A to Proposed Order (confirming that neither the order nor the notice enjoin class members from filing any actions or administrative claims or proceedings pending the final hearing on settlement, or for any other period).	
H(4)(j)	Not applicable. This is not a claims-made settlement. <i>See</i> S.A. ¶ 55 (non-claims-made)	
H(5)(a)	<i>See</i> Class Notice, attached as Exhibit A to Proposed Order (including each Class Members' estimated recovery)	
H(5)(b)	<i>See</i> Class Notice, attached as Exhibit A to Proposed Order, pg. 2 (stating "the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable")	
H(5)(c)	<i>See</i> Class Notice, attached as Exhibit A to Proposed Order, pg. 5 (advising Class Members where to find the S.A. by describing (i) full title and filing date of the S.A. and noting that it is attached to Mankin Decl., (ii) the address of this Courthouse, and (iii) the web address where the case file can be viewed online)	
H(5)(d)	<i>See</i> Class Notice, Request for Exclusion Form, Objection Form and Dispute Form, attached as Exhibits A, B, and C to Proposed Order (confirming that the settlement administrator is <u>not</u> referred to as "claims administrator")	
H(5)(e)	<i>See</i> Class Notice, attached as Exhibit A to Proposed Order, pgs. 3 and 4 (describing the releases being given by the Vacation Pay and Wage Statement Classes)	
H(6)	Not applicable. This is not a claims-made settlement. <i>See</i> S.A. ¶ 55 (non-claims-made)	

Compliance Chart

Detailing Compliance with Class Action Case Management Order #1, filed April 13, 2021

CMO Requirement	Location in Moving Papers where Requirement is Satisfied	
H(7)(a)	See Objection Form, attached as Exhibit C to Proposed Order (objection must be mailed or delivered to the identified Settlement Administrator by the Response Deadline)	
H(7)(b)	See Objection Form, attached as Exhibit C to Proposed Order (required information for objection does not exceed what is necessary to (i) identify objector as person entitled to object to settlement, (ii) describe nature and basis for objection, and (iii) contact objector to clarify any uncertainties)	
H(7)(c)	Not applicable. This is not a claims-made settlement. See S.A. ¶ 55 (non-claims-made)	
H(8)(a)	See Request for Exclusion Form, attached as Exhibit B to Proposed Order (informing class members (i) that the Request for Exclusion must be mailed or delivered to the identified Settlement Administrator, (ii) of the name and address of the Settlement Administrator, and (iii) of the date by which the Request for Exclusion must be mailed or otherwise delivered)	
H(8)(b)	See Request for Exclusion Form, attached as Exhibit B to Proposed Order (required information for Request for Exclusion does not exceed what is necessary to: (i) identify the person as a class member, and (ii) contact the person to clarify any uncertainties).	
H(9)(a)	See Motion for Preliminary Approval, Section III [Terms of Settlement] and V(C) [Support for Assessment of PAGA Penalties]	
H(9)(b)	<i>i.</i>	See Mankin Decl. ¶¶ 19-24 (nature of alleged violations)
	<i>ii.</i>	See Mankin Decl. ¶¶ 19-24 (number of alleged violations)
	<i>iii.</i>	See Mankin Decl. ¶¶ 19-24 (total penalties for which Defendant potentially liable)
H(9)(c)	<i>i.</i>	See Mankin Decl. ¶¶ 19-24 (extent likely to be found true at trial)
	<i>ii.</i>	See Mankin Decl. ¶ 13-14 (nature and extent of discovery)
	<i>iii.</i>	See Mankin Decl. ¶¶ 19-24 (likelihood of proving knowing and intentional)
	<i>iv.</i>	See Mankin Decl. ¶¶ 25-30 (total penalties likely found liable)
	<i>v.</i>	See Mankin Decl. ¶¶ 25-30 (facts tend to suggest max unjust, etc)
	<i>vi.</i>	See Mankin Decl. ¶¶ 25-30 (how agreed-upon penalties calculated)
	<i>vii.</i>	See Mankin Decl. ¶¶ 15, 30 (confirming settlement reached via neutral mediator)
	<i>viii.</i>	See Mankin Decl. ¶¶ 25-30 (other factors re: penalty allocation is fair)
H(10)	Not applicable at this time.	

EXHIBIT “8”