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Attorneys for Plaintiff Marisa Silva, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF MERCED**

MARISA SILVA, on behalf of herself and all  
“aggrieved employees” pursuant to Labor  
Code § 2698 *et seq.*,

Plaintiffs,

v.

RETAIL SERVICES WIS CORP., a Delaware  
corporation, LAWRENCE SERVICE LLC, a  
Delaware limited liability company, and  
DOES 1 through 10, inclusive,

Defendants.

CASE NO: 21CV-01346

*Assigned to the Hon. Brian McCabe, Dept. 8*

**DECLARATION OF DANIEL F. GAINES  
IN SUPPORT OF STIPULATION AND  
[PROPOSED] ORDER APPROVING  
SETTLEMENT OF PRIVATE  
ATTORNEYS GENERAL ACT CLAIMS,  
DISMISSING ACTION WITH  
PREJUDICE, AND ENTERING  
JUDGMENT THEREON**

*Action Filed: April 21, 2021  
FAC Filed: June 25, 2021*

I, DANIEL F. GAINES, hereby declare and state as follows:

1. I am an attorney duly admitted to the practice of law in the State of California. I am a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Marisa Silva (“Silva” or “Plaintiff”) in this action. I have personal knowledge of the facts set forth herein and if called as a witness to testify to them, I could and would do so competently.

2. I obtained my BS degree from the University California at Berkeley in 2003. I majored in Business Administration at the Haas School of Business.

1           3.       Thereafter, I attended the University of Virginia School of Law. At Virginia, I was  
2 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy  
3 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my studies  
4 on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

5           4.       Since becoming a member of the Bar, I have practiced law with my partner/father,  
6 Kenneth, at Gaines & Gaines, APLC. Our practice specializes in litigation, with an emphasis in  
7 business, real estate, and employment disputes like this one. Over 95% of my practice is devoted to  
8 complex employment litigation similar to the instant action.

9           5.       My firm has represented employees in employment matters such as this one, with an  
10 emphasis in wage and hour issues. I have participated in and have been certified as Court-approved  
11 class counsel in dozens of class and representative action matters since my admission to the Bar. A  
12 true and correct list of the cases in which I have been appointed as class counsel is attached hereto as  
13 Exhibit "A".

14           6.       On February 11, 2021, my office, on behalf of Plaintiff, transmitted a letter to the  
15 California Labor & Workforce Development Agency ("LWDA") and Defendant Retail Services WIS  
16 Corp ("Defendant") in compliance with the exhaustion requirements of the California Labor Code  
17 Private Attorneys General Act ("PAGA"), articulating claims related to the failure to properly  
18 compute bonus wages and other non-base hourly wages into the regular rate of pay for purposes of  
19 paying overtime at the correct rates, failure to pay premium wages for missed rest and meal breaks,  
20 failure to reimburse all business-related expenses, failure to issue accurate wage statements, and  
21 failure to pay all wages due at the separation of employment. A true and correct copy of the February  
22 11, 2021 letter to the LWDA is attached hereto as Exhibit "B."

23           7.       On April 20, 2021, my office transmitted a second letter to the LWDA and Defendant  
24 to include claims against an additional Defendant, Lawrence Service LLC. A true and correct copy  
25 of the April 20, 2021 letter to the LWDA is attached hereto as Exhibit "C."

26           8.       On April 21, 2021, Silva filed a Representative Action Complaint in the Superior  
27 Court of the State of California for the County of Merced, entitled *Marisa Silva, et al. v. Retail*  
28 *Services Wis Corp., a Delaware corporation, et al.*, case number 21CV-01346. Silva filed her

1 Complaint on behalf of the State of California and other aggrieved employees as a PAGA action  
2 based on violations of Labor Code §§ 201, 202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5,  
3 1194 and 2802.

4 9. Plaintiff filed a First Amended Complaint (the “Silva Complaint”) on June 25, 2021,  
5 which added Lawrence Service LLC, a Delaware limited liability company, as an additional  
6 Defendant. After ascertaining that this was not a proper defendant, Lawrence Service LLC was  
7 dismissed from the Action on or about July 14, 2021. A true and correct copy of the Request for  
8 Dismissal is attached hereto as Exhibit “D.”

9 10. Defendant disputes and denies the allegations and claims asserted in the Perez  
10 Complaint and the Silva Complaint (collectively “the Complaints”), Perez and Studebaker’s July 3,  
11 2018 notice to the LWDA, and Silva’s February 11, 2021 and April 20, 2021 notices to the LWDA.  
12 It was also Defendant’s position that Plaintiffs Silva, Perez and Studebaker (hereinafter “Plaintiffs”)  
13 could not maintain their PAGA Complaints because there is no evidence of a common policy or  
14 practice that makes a trial manageable.

15 11. During the course of the litigation, my office, counsel for Plaintiffs Perez and  
16 Studebaker (hereinafter “my colleagues”), and Defendant’s counsel engaged in formal and informal  
17 discovery and fully shared the information necessary for all sides to conduct a legitimate investigation  
18 into the allegations of the action and potential defenses thereto. Plaintiffs and Defendant (hereinafter  
19 Plaintiffs and Defendant are collectively referred to as the “Parties”) have reached this settlement  
20 only after discovery and investigation was performed.

21 12. Being fully apprised of the value and strength of Plaintiffs’ claims, the Parties  
22 successfully negotiated a settlement of Plaintiffs’ claims asserted in the action through arm’s-length  
23 negotiations assisted by mediator Lisa Klerman, Esq.; the terms and conditions of the settlement are  
24 set forth in the Private Attorneys General Act (Labor Code § 2698 et seq.) Settlement Agreement  
25 (“Settlement” or “Settlement Agreement”). The Settlement Agreement resolves all claims asserted  
26 in the Complaints and contemplates that both Complaints will be dismissed with prejudice in  
27 exchange for the consideration set out in the Settlement Agreement. Attached hereto as Exhibit “E”  
28 is a true and correct copy of the Parties’ Settlement Agreement.

1           13. My office, my colleagues, and Defendant's counsel also considered the fact that the  
2 existence of numerous disputes of fact in this case make the outcome uncertain. In the estimation of  
3 counsel for Plaintiffs and Defendant, the delay, inconvenience, distraction, and uncertainty imposed  
4 by the litigation demands would far outweigh the potential benefits of additional litigation.

5           14. Based on the information and documents obtained through both formal and informal  
6 discovery, my office and my colleagues assessed the maximum value of the limited PAGA claims to  
7 be released by the settlement to be approximately \$22,663,100 (at the rate of a \$100.00 penalty for  
8 approximately 226,631 pay periods at issue for approximately 6,500 Aggrieved Employees).

9           15. My office and my colleagues also took into account that even if Plaintiffs prevailed on  
10 the merits of the PAGA claim, Defendant could persuasively argue that the Court should exercise its  
11 discretion, under Labor Code § 2699(e), to reduce the amount of civil penalties assessed.

12           16. As set forth in the Settlement Agreement, the amount of the Settlement Sum is  
13 \$2,420,000, or approximately 11% of the maximum recoverable penalties, and includes an  
14 apportionment of attorneys' fees and costs, payment to the settlement administrator, and a general  
15 release payment/enhancement award to each Plaintiff.

16           17. The Parties agree that this stipulation should be sufficient for purposes of approving  
17 the PAGA Settlement of the Complaints as set out in the Settlement Agreement pursuant to the  
18 requirements set out in Labor Code section 2699(l)(2).

19           18. The Parties request that the Court enter the accompanying order, approving the  
20 Settlement, as permitted by Labor Code § 2699(l), and entering Judgment in accordance with the  
21 terms and conditions of the Settlement Agreement.

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19. On January 31, 2022, my office uploaded the proposed Settlement Agreement and these accompanying approval documents to the LWDA through the State of California, Department of Industrial Relations Website at <https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html>.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 1st day of February, 2022 at Calabasas, California.

Daniel F. Gaines  
DANIEL F. GAINES

# **EXHIBIT A**

*Adams v. Newell Rubbermaid*, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

*Adams v. Sam's West, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1403987

*Agredano v. GS Brothers, Inc.*, Los Angeles County Superior Court, Case No. BC445561

*Allen v. Toms Sierra Company*, Nevada County Superior Court, Case No. CU18-082823

*Allen v. Valley Inventory Service, Inc.*, Solano County Superior Court, Case No. FCS034682

*Alvarez v. Pilot Travel Centers, LLC*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

*Alonzo v. Camblin Steel Service, Inc.*, Placer County Superior Court, Case No. SCV0034165

*Amenhotep v. Google, Inc.*, Santa Clara County Superior Court, Case No. 17CV311528

*Anaya v. Progressive Logistics Services, LLC*, Riverside County Superior Court, Case No. RIC1308270

*Andre v. Newell Rubbermaid, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1200282

*Anduha v. ABC Phones of North Carolina, Inc.*, Stanislaus County Superior Court, Case No. 2022729

*Anslow v. Wellington Energy, Inc.*, USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

*Aranda, et al. v. Universal Lumpers of California, Inc.*, San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

*Armendariz v. Integrated Pain Management Medical Group, Inc.*, Kern County Superior Court, Case No. BCV-19-100267-SDS

*Barrow, et al. v. Desmond Foods, L.P.*, Sacramento County Superior Court, Case No. 34-2015-00187227

*Batmanghelich v. Sirius XM Radio Inc.*, USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

*Bosser v. Hooked on Solar*, Yolo County Superior Court, Case No. CVCV-2016-876

*Bourland v. Horizon Personnel Services, Inc.*, Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

*Bowen v. IMI Material Handling Logistics, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

*Branson v. Mladen Buntich Construction*, San Bernardino County Superior Court, Case No. CIVDS1609129

*Brandt v. Sacramento Auto Insurance Center, Inc.*, San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

*Brown v. 22nd District Agricultural Association*, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

*Brown v. Sierra Central Credit Union*, Sutter County Superior Court, Case No. CVCS18-0002161

*Burgess v. Blue Cross and Blue Shield of South Carolina*, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

*Burgess v. Strategic Retail Solutions, LLC*, Los Angeles County Superior Court, Case No. BC413791

*Calhoun v. Celadon Trucking Services, Inc.*, USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

*Caporicci v. Owens & Minor Distribution, Inc.*, San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

*Carl v. Advanced Call Center Technologies, LLC*, Sacramento County Superior Court, Case No. 34-2013-00148310

*Carrete v. Gamestop, Inc.*, Imperial County Superior Court, Case No. ECU08501

*Carrillo v. Bimbo Bakeries, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1606813

*Caudillo v. Aegis Treatment Centers, LLC*, Merced County Superior Court, Case No. 18CV-0744

*Cerami v. Metlife, Inc.*, USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

*Charles v. Aaron's Inc.*, Los Angeles County Superior Court, Case No. BC431468

*Charles v. Nursefinders, LLC*, Imperial County Superior Court, Case No. ECU07422

*Cheifer v. JetBlue Airways Corporation*, Los Angeles County Superior Court, Case No. BC451887

*Cheifer, et al. v. WHGM, Inc.*, Los Angeles County Superior Court, Case No. LC104900

*Chong, et al. v. Crescent Northwoods Inn, Inc.*, Del Norte County Superior Court, Case No. CVUJ-2018-1133

*Church v. GameStop, Inc., et. al.*, USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

*Clothier v. Spar Marketing Services, Inc.*, Alameda County Superior Court, Case No: RG12-639317

*Coleman v. Wireless Lifestyle, Inc.*, USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

*Colombo-Beyeler, et al. v. Viking River Cruises, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1611608

*Conlee v. Clark Pacific Corporation*, Yolo County Superior Court, Case No. CV14-1409

*Contreras v. Osmose Utilities Services, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1513998

*Contreras v. West American Service Corporation*, Kings County Superior Court, Case No. 14C0280

*Corona v. Yosemite Meat & Locker Service, Inc.*, Stanislaus County Superior Court, Case No. 2006828

*Cortellessa v. Dotnext, Inc.*, Alameda County Superior Court, Case No. RG09429971

*County v. Ingram Mirco, Inc.*, San Bernardino Superior Court, Case No. CIVRS 1304445

*Covarrubias, et al. v. Petersendean Builder Group, Inc.*, Kern County Superior Court, Case No. BCV-16-101122

*Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf*, San Bernardino County Superior Court, Case No. CIVDS1719283

*Cruz-Garcia v. Lemonade Restaurant Group, LLC*, Los Angeles County Superior Court, Case No. BC478205

*Cunningham v. Performance Contracting, Inc.*, Contra Costa County Superior Court, Case No. C16-02157

*Dabney v. Coneybeare, LLC, et al.*, Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

*Dabney, et al. v. Panera, LLC.*, San Bernardino County Superior Court, Case No. CIVDS1516030

*Diaz, et al. v. Seaworld Entertainment, Inc.*, Imperial County Superior Court, Case No. ECU10046

*Diggs v. Western Waterproofing Company, Inc.*, San Francisco County Superior Court, Case No. CGC-14-539281

*Dismuke v. Rhodes Retail Services, Inc.*, Sacramento County Superior Court, Case No. 34-2011-00105001

*Dorsette v. TA Operating, LLC*, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

*Duran v. The Image of California, Inc.*, Kern County Superior Court, Case No. S-1500-CV-284056 DRL

*Edwards v. Trans World Entertainment Corp.*, San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

*Esakhani v. Central Valley Gaming*, Stanislaus County Superior Court, Case No. 2020667

*Escobar v. SMSSI of California, Inc.*, San Francisco Superior Court, JCCP No. 4776

*Espinosa v. Taltech Construction, et al.*, Los Angeles County Superior Court, Case No. BC590176

*Espinosa v. Bodycote Thermal Processing, Inc.*, Los Angeles County Superior Court, Case No. BC501617

*Espinoza v. Pabco Building Products, LLC*, Los Angeles County Superior Court, Case No. VC065660

*Estrada v. Net Source Communications, Inc.*, Los Angeles County Superior Court, Case No. BC431169

*Estrada v. OS Restaurant Services, LLC*, Santa Clara County Superior Court, Case No. 16CV293249

*Estupinan v. Global Development Strategies, Inc.*, Santa Clara County Superior Court, Case No. 110CV178898

*Fadhl. v. Siemens Healthcare Diagnostics Inc.*, Sacramento County Superior Court, Case No. 34-2017-00209518

*Fernandez v. The Regents of the University of California*, Los Angeles County Superior Court, Case No. BC656256

*Ferrer v. Dish Network Corporation*, Los Angeles County Superior Court, Case No. BC441354

*Flores v. Cintas Corporation*, Los Angeles County Superior Court, Case No. BC400422

*Friel v. Midwest Construction Services, Inc.*, San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

*Gagnon v. Banc of California*, Contra Costa County Superior Court, Case No. C 15-00196

*Galarza v. Bayou Well Services, LLC*, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

*Galarza v. C & H Testing Service LLC*, Kern County Superior Court, Case No. BCV-15-100008 SPC

*Garcia v. Old Dominion Freight Line, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1404636

*Geer v. Applied Aerospace Structures Corp.*, San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

*Getz v. California Cinema Investments, Inc.*, Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

*Gibbs v. M. Lehmann Enterprises*, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

*Gilles v. Schaefer Ambulance Service Inc.*, Imperial County Superior Court, Case No. ECU07970

*Goldman, et al. v. Defender's, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

*Gomez v. Low Desert Empire Pizza, Inc.*, San Bernardino County Superior Court, Case No. CIVVS900392

*Gomez v. Pizza Hut of Southeast Kansas, Inc.*, San Bernardino County Superior Court, Case No. CIVVS900679

*Gonzalez v. Harris Farms, Inc.*, USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

*Guerrero v. Main Electric Supply Company LLC*, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

*Gutierrez v. Asset Management Specialists, Inc.*, Fresno County Superior Court, Case No. 12CECG03577

*Gutierrez v. Linkus Enterprises, Inc.*, Madera County Superior Court, Case No. MCV065774

*Gutierrez v. Shiekh, LLC*, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

*Hindman v. Service Quick, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1724229

*Hogan v. iMobile of CA LLC*, San Bernardino County Superior Court, Case No. CIVDS1409263

*Hogan v. Wireless Evolution Inc.*, Riverside County Superior Court, Case No. MCC1300669

*Hogan v. Wireless That's It! LLC*, Riverside County Superior Court, Case No. RIC1201997

*Holmes v. Bottling Group, LLC*, Stanislaus County Superior Court, Case No. 2022584

*Hooper, et al. v. URS Midwest, Inc., et al.*, San Bernardino Superior Court, Case No. CIVDS1607489

*Humphrey v. Freedomroads, LLC*, Shasta County Superior Court, Case No. 178228

*Hurtado v. Rush Truck Centers of California, Inc.*, Los Angeles County Superior Court, Case No. BC427672

*Hyde v. Dent Wizard International Corporation*, Sacramento County Superior Court, Case No. 34-2015-00173882

*Ibrihim v. Imperfect Foods, Inc.*, San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

*Id-deen v. Educational Services of America*, Solano County Superior Court, Case No. FCS040803

*Isherwood v. Mason Dixon Intermodal, Inc.*, San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

*Jahanbin v. Pacific Mercantile Bank*, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

*Jenkins v. Sedgwick Claims Management Services, Inc.*, Los Angeles Superior Court, Case No. LC101648

*Job v. California Security Services*, Yuba County Superior Court, Case No. 14-0000820

*Johnson v. The Goodyear Tire & Rubber Company*, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

*Jolin v. Bay Cities Recovery, Inc.*, El Dorado County Superior Court, Case No. PC20100458

*Jordan v. Sutter Memorial Hospital*, Stanislaus County Superior Court, Case No. 2023344

*Keebaugh v. Mike Thompson Recreational Vehicles*, San Bernardino County Superior Court, Case No. CIV-DS-1500718

*Kelly v. Robin's Enviro Vac, Inc.*, Kern County Superior Court, Case No. S-1500-CV-282277  
DRL

*King v. Levy Premium Foodservice Limited Partnership*, Alameda County Superior Court, Case No. HG15786353

*Kunsman v. Punch Bowl Sacramento, LLC, et al.*, Sacramento County Superior Court, Case No. 34-2018-00243175

*LaFear v. Encore Education Corporation*, San Bernardino County Superior Court, Case No. CIVDS1802251

*Lanzarin v. AWI Management Corporation*, Solano County Superior Court, Case No. FCS041809

*Lee, et al. v. Foster Dairy Farms*, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

*Lemus, et al. v. Eastridge Workforce Technology, Inc.*, San Bernardino County Superior Court, Case No. CIV-DS-1611470

*Lewis v. American Casino & Entertainment Properties LLC*, San Bernardino County Superior Court, Case No. CIVDS1719094

*Lemus v. On Assignment Staffing Services*, San Bernardino County Superior Court, Case No. CIV-DS-1600497

*Leon v. Piercey West Inc.*, Los Angeles County Superior Court, Case No. BC656874

*Lopez v. Creative Communication Technologies, Inc.*, Imperial County Superior Court, Case No. ECU07851

*Lopez v. Go Green Auto Spa Franchise, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 562212

*Lopez v. Truck Accessories Group, LLC*, Yolo County Superior Court, Case No. CV13798

*Ludlow v. Prince Telecom, LLC*, Stanislaus County Superior Court, Case No. 684239

*Luna v. Express Locations, LLC*, Imperial County Superior Court, Case No. ECU09779

*Macias v. American Tire Distributors, Inc.*, Kern County Superior Court, Case No. BCV-18-101586

*Maldonado v. Hardwood Flooring Liquidators, Inc.*, Los Angeles County Superior Court, Case No. BC642170

*Mansfield v. Cambridge Real Estate Services, Inc.*, Butte County Superior Court, Case No. 160175

*Martinez v. DPI Specialty Foods West*, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

*Martinez v. Styles For Less, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1203057

*Mayne v. John Muir Behavioral Health*, Contra Costa County Superior Court, Case No. C17-00998

*Maze v. Bulldog Freightway, Inc.*, Imperial County Superior Court, Case No. ECU08716

*McCormick v. G & O Body Shop, Inc.*, El Dorado Superior Court, Case No. PC20130291

*McCrary v. Campbell Soup Supply Company*, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

*McDaniel v. Vancary, Inc.*, Tulare County Superior Court, Case No. 268036

*Melgar-Farela v. Guardian Compliance, Inc.*, Los Angeles County Superior Court, Case No. BC481865

*Mendiola v. Tyco Electronics Corporation*, Riverside County Superior Court, Case No. RIC1400721

*Mettler v. Les Schwab Tire Centers of California, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

*Miller v. California Subshine, Inc.*, Los Angeles County Superior Court, Case No. BC637754

*Miller v. Southwest Airlines Co.*, USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

*Mitchell v. Crossmark, Inc.*, USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

*Moghrabi v. Vitaligent, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

*Molina v. Berkshire Hathaway Energy Company, et al.*, Imperial County Superior Court, Case No. ECU000522

*Moore v. Horizon Solar Power, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1410001

*Murray v. Select Media Services, LLC*, Los Angeles County Superior Court, Case No. BC424506

*Myles v. Central Transport LLC*, San Bernardino County Superior Court, Case No. CIVDS1401434

*Navarro v. Mariana Packing Co., Inc.*, Solano County Superior Court, Case No. FCS045935

*Nehrlich, et al. v. RPM Mortgage, Inc.*, Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

*Overton v. Hat World, Inc.*, USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

*Perez v. Alcatel-Lucent USA Inc.*, Imperial County Superior Court, Case No. ECU07977

*Perez v. Major Gloves and Safety, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1710445

*Perry v. Cardinal Health 200, LLC*, Solano County Superior Court, Case No. FCS035303

*Phraxayavong-Briones v. RSM, Inc.*, Sacramento County Superior Court, Case No. 34-2012-00117524

*Pugh v. Wi Spa, LLC*, Imperial County Superior Court, Case No. ECU07932

*Quist v. Knight Transportation, Inc.*, San Bernardino Superior Court, Case No. CIVDS 1615414

*Quitco v. Aviation Fuel Systems Repair, Inc.*, San Bernardino Superior Court, Case No. CIVRS1302311

*Rambeau v. C.C.M. Corporation, et al.*, Sacramento County Court, Case No. 34-2018-00244842

*Rees v. Advantel, Incorporated*, Santa Clara County Superior Court, Case No. 16-CV-292219

*Renfrow v. Janra Enterprises, Inc.*, Sacramento County Superior Court, Case No. 3402010-00080471

*Reynolds v. Diamond Pet Food Processors of Ripon*, San Joaquin County Superior Court, Case No. 39-2014-00310818

*Richard v. A-Para Transit Corp.*, Alameda County Superior Court, Case No. HG17870373

*Richardson v. TEC Equipment, Inc., et al.*, Los Angeles County Superior Court, Case No. VC065536

*Robles v. North County Health Project Incorporated*, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

*Rodas v. Monetary Management of California, Inc.*, USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

*Rodriguez v. 20/20 Plumbing & Heating, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1705362

*Rodriguez v. Commerce Distribution Company*, Los Angeles County Superior Court, Case No. BC656259

*Rodriguez v. Valley Oak*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

*Roden v. Service Champions*, San Bernardino County Superior Court, Case No. CIVDS1613183

*Russell v. Bradshaw International*, Imperial County Superior Court, Case No. ECU00853

*Rutledge, et al. v. Healthport Technologies, LLC*, Alameda County Superior Court, Case No. RG16835813

*Sabala v. Econtactlive, Inc.*, Stanislaus County Superior Court, Case No. 684981

*Sabatier v. Picture Perfect Installation, Inc.*, Riverside County Superior Court, Case No. RIC10004953

*Salameh v. Sonomaience OPCO, LLC*, Sonoma County Superior Court, Case No. SVC264228

*Salazar v. Tag-3 Medical Investment Group, LLC*, Los Angeles County Superior Court, Case No. BC527698

*Salbeck v. Ingredion Incorporated*, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

*Sampson v. Healthnet of California Inc.*, Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

*Sanchez v. Don Roberto Jewelers, Inc.*, Imperial County Superior Court, Case No. ECU06819

*Sanders v. Lionakis*, Sacramento County Superior Court, Case No. 34-2017-00223601

*Santana v. United Staffing Associates, LLC*, Tulare County Superior Court, Case No. 249338

*Schrader v. Adidas Promotional Retail Operations, Inc.*, Los Angeles County Superior Court, Case No. BC414168

*Sebrell v. Pomeroy IT Solutions*, San Bernardino County Superior Court, Case No. CIVDS1721560

*Seymour v. Quest Service Group, LLC*, Sacramento County Superior Court, Case No. 34-2017-00206917

*Silva v. Trical*, San Benito County Superior Court, Case No. CU-16-00218

*Simler v. Polly's Inc.*, Riverside County Superior Court, Case No. RIC 1117862

*Sipin, Scott v. Salesforce.com, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

*Skuro v. BMW of North America, LLC*, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

*Smith v. Steelcase, Inc.*, San Bernardino County Superior Court, Case No. CIVDS1725850

*Sohal v. Foster Poultry Farms*, Stanislaus County Superior Court, Case No. 2026605

*Solomon v. City of Los Angeles*, Los Angeles County Superior Court, Case No. BC570345

*Solano v. Vozzcom, Inc.*, Imperial County Superior Court, Case No. ECU09519

*Smith, et al. v. Sente Development, Inc.*, Sacramento County Superior Court, Case No. 34-2016-00196614

*Solorzano v. FDS Manufacturing Corporation*, Los Angeles County Superior Court, Case No. BC542532

*Solowitz v. BakeMark USA LLC*, Los Angeles County Superior Court, Case No. BC467838

*Spampinato v. Wind & Sea Restaurants, Inc.*, San Bernardino County Superior Court, Case No. CIVVS1205154

*Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc.*, San Bernardino County Superior Court, Case No. C IVDS1712220

*Stephens v. C.S., Inc.*, Riverside County Superior Court, Case No. PSC1301224

*Stevenson v. Harvest Management Sub LLC*, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

*Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources*, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

*Thompson v. Sidhu Truck Line, Inc.*, Kern County Superior Court, Case No. BCV-15-101308-DRL

*Tigas v. Ajilon Communications*, Los Angeles County Superior Court, Case No. BC409737

*Torres v. Coastal Employment Inc.*, Los Angeles County Superior Court, Case No. BC529207

*Tran v. CSP Fiber Services*, San Bernardino County Superior Court, Case No. CIVDS172758

*Tripp v. California Guest Services, Inc.*, Plumas County Superior Court, Case No. CV16-00036

*Valdez v. Diamond Landscaping, Inc.*, Los Angeles County Superior Court, Case No. BC497097

*Valencia v. American Team Managers, Inc.*, Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

*Van Son v. Rush Truck Centers of California, Inc.*, Los Angeles County Superior Court, Case No. BC494747

*Vasquez v. Schurman Fine Papers*, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

*Velasquez v. Modesto Ventures, LLC*, Sacramento County Superior Court, Case No. 32-2012-00126159

*Victoria v. Bali Limousines Inc.*, San Mateo County Superior Court, Case No. CIV507774

*Victorian v. Vision X, Inc.*, Los Angeles County Superior Court, Case No. BC400333

*Wade v. Frito Lay*, Kern County Superior Court, Case No. BCV-17-102014

*Walls v. E. & J. Gallo*, Stanislaus County Superior Court, Case No. 2015874

*Warner v. Waterdrops Express Car Wash, LLC*, Tulare County Superior Court, Case No. 265708

*Waybright v. EAH, Inc.*, Stanislaus County Superior Court, Case No. 2011677

*Weiss v. C.A.R. Enterprises, Inc.*, Riverside County Superior Court, Case No. RIC1113165

*White v. Sally Beauty Supply, LLC*, Imperial County Superior Court, Case No. ECU08177

*Williams v. Dennis Dillon RV, LLC*, San Bernardino County Superior Court, Case No. CIVDS 16006879

*Williams v. Closet World, Inc.*, Los Angeles County Superior Court, Case No. BC400178

*Williams v. Progress Rail Services Corporation*, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

*Wing v. Three Group, Inc.*, Los Angeles County Superior Court, Case No. BC643883

*Wilson v. ALSCO, Inc.*, Imperial County Superior Court, Case No. ECU07406

*Wilson v. Michael C. Stead, Inc.*, Contra Costa Superior Court, Case No. C1400135

*Winningham v. Storer Transportation Service*, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

*Woody v. WBN Home Design*, San Bernardino County Superior Court, Case No. CIVDS1613367

*Woods, et al. v. F&B Innovations, LLC*, San Bernardino County Superior Court, Case No. CIVDS1717765

*Woodyard v. Bellus ALC Acquisition, LLC*, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

*Wright v. Social Vocational Services, Inc.*, Kern County Superior Court, Case No. BCV-15-101264

*Ybarra v. New Legend, Inc.*, Sutter County Superior Court, Case No. CVCS-16-2097

*Zaragoza v. Center Automotive, Inc.*, Los Angeles Superior Court, Case No. BC505194

# **EXHIBIT B**

# GAINES & GAINES

A PROFESSIONAL LAW CORPORATION

WWW.GAINESLAWFIRM.COM

27200 AGOURA ROAD, SUITE 101  
CALABASAS, CALIFORNIA 91301

PHONE (818) 703-8985  
FAX (818) 703-8984

February 11, 2021

***Via Certified Mail***

Labor & Workforce Development Agency  
By electronic submission

Retail Services WIS Corp.  
9265 Sky Park Court, Suite 100  
San Diego, CA 92123

Defendant mailed certified # 70190700000201197943

Agent for Service of Process for Retail Services WIS Corp.  
National Registered Agents, Inc.  
28 Liberty Street  
New York, NY 10005

Agent mailed certified # 70190700000201197950

Lawrence Merchandising  
1405 Xenium Lane N., Suite 250  
Plymouth, MN 55441

Defendant mailed certified # 70190700000201197967

Re: ***Labor Code Violations of Retail Services WIS Corp. and Lawrence  
Merchandising – Compliance Letter of California Labor Code § 2698, the  
Private Attorneys General Act of 2004***

Dear LWDA:

This office represents Marisa Silva, a former California employee of Retail Services WIS Corp. and Lawrence Merchandising (collectively, “Defendants”). We write this letter in compliance with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendants in Central California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to our client and other of Defendants’ non-exempt California employees employed as a “merchandise” (“Aggrieved Employees”).

Our client alleges that Defendants failed to properly compute bonus wages and other non-base hourly wages earned by our client and other Aggrieved Employees into their regular rate of pay for purposes of paying them overtime at the correct rates, in violation of Labor Code §§ 510, 558 and 1194. Defendants failed to properly blend bonus wages and other non-base hourly wages and instead paid our client and other Aggrieved Employees overtime based *only* on the base hourly

rate of pay, thus depriving our client and other Aggrieved Employees of all overtime wages earned, in violation of Labor Code §§ 510, 558 and 1194.

Defendants failed to pay premium wages to our client and Aggrieved Employees who were denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 4-2001. Our client and all other Aggrieved Employees were routinely not authorized and unable to take an off-duty 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. When our client and other Aggrieved Employees did receive a rest period, it would only be when they would commute between jobsites, which is not a rest period at all. This violates Labor Code §§ 226.7 and 558 and IWC Wage Order 4-2001.

Defendants failed to pay premium wages to our client and other Aggrieved Employees who were denied meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 4-2001. Our client and Aggrieved Employees were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, or a second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours in duration, but were not paid premium wages of one hour's pay for each missed first or second meal period. As with rest periods, when our client and other Aggrieved Employees did receive a meal period, it would only be when they would commute between jobsites, which is not a meal period at all. Defendants also fail to maintain meal period records. This violates Labor Code §§ 226.7, 512, 558, 1174 and 1174.5 and IWC Wage Order 4-2001.

Our client further alleges that Defendants failed to provide her and all other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Our client and other Aggrieved Employees were not paid all wages due, including all overtime wages and meal and rest period premium wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3. Further, and independent of the above allegations, the wage statements provided to our client and other Aggrieved Employees failed to set forth all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, Labor Code §§ 226(a)(9) and 226.3. The wage statements simply omit any applicable overtime rates.

Our client further alleges that Defendants failed to reimburse all business-related expenses to her and other Aggrieved Employees, in violation of Labor Code § 2802. Our client and Aggrieved Employees were required to use their personal automobiles to commute between jobsites and personal cellular phone to make calls for Defendants' benefit, but were not fully reimbursed by Defendants for these expenses, including, but not limited to, gas, maintenance, insurance, and cellular phone expense. This practice violates Labor Code § 2802.

Labor & Workforce Development Agency  
Retail Services WIS Corp.  
Lawrence Merchandising  
National Registered Agents, Inc.  
Page 3

Our client further alleges that Defendants failed to pay her all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and other Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. Moreover, and independent of the above allegations, when our client was terminated from her employment, Defendants did not issue her final wages at the time of her termination, rather, she was issued her wages a week later. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and certain Aggrieved Employees.

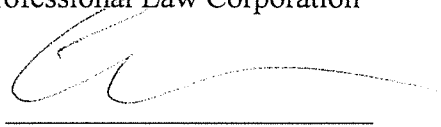
The \$75 PAGA filing fee has been electronically submitted to the LWDA concurrently with the transmission of this letter.

We invite Defendants or their attorneys to contact our office to discuss this matter, including whether an early resolution of the claims can be reached.

Very truly yours,

GAINES & GAINES  
A Professional Law Corporation

By :

  
\_\_\_\_\_  
EVAN S. GAINES

# **EXHIBIT C**



A PROFESSIONAL LAW CORPORATION

WWW.GAINESLAWFIRM.COM

27200 AGOURA ROAD, SUITE 101

CALABASAS, CALIFORNIA 91301

PHONE (818) 703-8985

FAX (818) 703-8984

April 20, 2021

***Via Certified Mail***

Labor & Workforce Development Agency  
By electronic submission

Retail Services WIS Corp.  
9265 Sky Park Court, Suite 100  
San Diego, CA 92123

Defendant mailed certified # 70190700000201198148

Agent for Service of Process for Retail Services WIS Corp.  
National Registered Agents, Inc.  
28 Liberty Street  
New York, NY 10005

Agent mailed certified # 70190700000201198155

Lawrence Merchandising  
1405 Xenium Lane N., Suite 250  
Plymouth, MN 55441

Defendant mailed certified # 70190700000201198162

Lawrence Service LLC  
1405 Xenium Lane N., Suite 250  
Plymouth, MN 55441

Defendant mailed certified # 70190700000201198179

Agent for Service of Process for Lawrence Service LLC  
CT Corporation  
818 W. 7<sup>th</sup> Street, Suite 930  
Los Angeles, CA 90017

Defendant mailed certified # 70190700000201200551

Re: ***Labor Code Violations of Retail Services WIS Corp. and Lawrence Merchandising – Compliance Letter of California Labor Code § 2698, the Private Attorneys General Act of 2004  
LWDA Case No. LWDA-CM-821459-21***

Dear LWDA:

This letter supplements our previous correspondence sent on February 11, 2021 and alleges claims against an additional Defendant.

This office represents Marisa Silva, a former California employee of Retail Services WIS Corp., Lawrence Merchandising, and Lawrence Service, LLC (collectively, "Defendants"). We write this letter in compliance with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et seq.*

Our client was employed by Defendants in Central California. Herein we set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to our client and other of Defendants' non-exempt California employees employed as a "merchandiser" ("Aggrieved Employees").

Our client alleges that Defendants failed to properly compute bonus wages and other non-base hourly wages earned by our client and other Aggrieved Employees into their regular rate of pay for purposes of paying them overtime at the correct rates, in violation of Labor Code §§ 510, 558 and 1194. Defendants failed to properly blend bonus wages and other non-base hourly wages and instead paid our client and other Aggrieved Employees overtime based *only* on the base hourly rate of pay, thus depriving our client and other Aggrieved Employees of all overtime wages earned, in violation of Labor Code §§ 510, 558 and 1194.

Defendants failed to pay premium wages to our client and Aggrieved Employees who were denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 4-2001. Our client and all other Aggrieved Employees were routinely not authorized and unable to take an off-duty 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. When our client and other Aggrieved Employees did receive a rest period, it would only be when they would commute between jobsites, which is not a rest period at all. This violates Labor Code §§ 226.7 and 558 and IWC Wage Order 4-2001.

Defendants failed to pay premium wages to our client and other Aggrieved Employees who were denied meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC Wage Order 4-2001. Our client and Aggrieved Employees were routinely denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, or a second timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours in duration, but were not paid premium wages of one hour's pay for each missed first or second meal period. As with rest periods, when our client and other Aggrieved Employees did receive a meal period, it would only be when they would commute between jobsites, which is not a meal period at all. Defendants also fail to maintain meal period records. This violates Labor Code §§ 226.7, 512, 558, 1174 and 1174.5 and IWC Wage Order 4-2001.

Our client further alleges that Defendants failed to provide her and all other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). Our client and other Aggrieved Employees were not paid all wages due, including all overtime wages and meal and rest period premium wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in

Labor & Workforce Development Agency  
Retail Services WIS Corp.  
Lawrence Merchandising  
Lawrence Service LLC  
National Registered Agents, Inc.  
CT Corporation  
Page 3

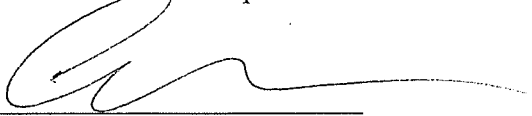
violation of Labor Code §§ 226(a)(9) and 226.3. Further, and independent of the above allegations, the wage statements provided to our client and other Aggrieved Employees failed to set forth all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, Labor Code §§ 226(a)(9) and 226.3. The wage statements simply omit any applicable overtime rates.

Our client further alleges that Defendants failed to reimburse all business-related expenses to her and other Aggrieved Employees, in violation of Labor Code § 2802. Our client and Aggrieved Employees were required to use their personal automobiles to commute between jobsites and personal cellular phone to make calls for Defendants' benefit, but were not fully reimbursed by Defendants for these expenses, including, but not limited to, gas, maintenance, insurance, and cellular phone expense. This practice violates Labor Code § 2802.

Our client further alleges that Defendants failed to pay her all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, our client and other Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. Moreover, and independent of the above allegations, when our client was terminated from her employment, Defendants did not issue her final wages at the time of her termination, rather, she was issued her wages a week later. This violates Labor Code §§ 201-202 and is alleged on behalf of our client and certain Aggrieved Employees.

Very truly yours,

GAINES & GAINES  
A Professional Law Corporation

By :   
EVAN S. GAINES

# **EXHIBIT D**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 Alex P. Katofsky, Esq. SBN: 202754  
 Gaines & Gaines, APLC  
 27200 Agoura Road, Suite 101, Calabasas, CA 91301  
 TELEPHONE NO.: 818-703-8985 FAX NO. (Optional): 818-703-8984  
 E-MAIL ADDRESS (Optional): alex@gaineslawfirm.com  
 ATTORNEY FOR (Name): Plaintiff, Marisa Silva

FOR COURT USE ONLY

ELECTRONICALLY FILED  
 Merced Superior Court  
 7/14/2021 10:15 AM  
 Amanda Toste  
 Clerk of the Superior Court  
 By: Nengsy Moua, Deputy

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED**

STREET ADDRESS: 2260 N Street

MAILING ADDRESS: 627 W. 21st Street

CITY AND ZIP CODE: Merced, 95340

BRANCH NAME: Main Merced Courthouse

PLAINTIFF/PETITIONER: Marisa Silva

DEFENDANT/RESPONDENT: Retail Services Wis Corp., et al.

**REQUEST FOR DISMISSAL**

CASE NUMBER: 21CV-01346

**A conformed copy will not be returned by the clerk unless a method of return is provided with the document.**

**This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)**

**1. TO THE CLERK: Please dismiss this action as follows:**a. (1) ☐ With prejudice (2) ☒ Without prejudiceb. (1) ☐ Complaint (2) ☐ Petition(3) ☐ Cross-complaint filed by (name):

on (date):

(4) ☐ Cross-complaint filed by (name):

on (date):

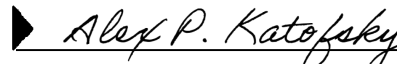
(5) ☐ Entire action of all parties and all causes of action(6) ☒ Other (specify): \* Lawrence Service LLC, a Delaware limited liability company ONLY**2. (Complete in all cases except family law cases.)**

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed).

Date: 7/12/21

Alex P. Katofsky, Esq. ....

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

  
 (SIGNATURE)

\*If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Attorney or party without attorney for:

☐ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant**3. TO THE CLERK: Consent to the above dismissal is hereby given.\*\***

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

\*\* If a cross-complaint – or Response (Family Law) seeking affirmative relief – is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

Attorney or party without attorney for:

☐ Plaintiff/Petitioner☐ Defendant/Respondent☐ Cross-Complainant

(To be completed by clerk)

4. ☒ Dismissal entered as requested on (date): 7/14/2021 10:15 AM5. ☐ Dismissal entered on (date): as to only (name):6. ☐ Dismissal **not entered** as requested for the following reasons (specify):7. a. ☐ Attorney or party without attorney notified on (date):b. ☐ Attorney or party without attorney not notified. Filing party failed to provide☐ a copy to be conformed ☐ means to return conformed copy

Amanda Toste

Date: 7/14/2021 10:15 AM

Clerk, by

  
 , Deputy

PLAINTIFF/PETITIONER: Marisa Silva

CASE NUMBER:

DEFENDANT/RESPONDENT: Retail Services Wis Corp., et al.

21CV-01346

**COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS**

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

**Declaration Concerning Waived Court Fees**

1. The court waived court fees and costs in this action for *(name)*:
2. The person named in item 1 is *(check one below)*:
  - a. ☐ not recovering anything of value by this action.
  - b. ☐ recovering less than \$10,000 in value by this action.
  - c. ☐ recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. ☐ All court fees and court costs that were waived in this action have been paid to the court *(check one)*: ☐ Yes ☐ No

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

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)



\_\_\_\_\_  
(SIGNATURE)

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to  
3 the within action; my business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301

4 \_\_\_\_\_ (For messenger) my business address is:

5 On July 14, 2021, I served the foregoing document described **REQUEST FOR DISMISSAL** on the interested  
6 parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

7 **Jody Landry, Esq.**  
8 **Littler Mendelson, P.C.**  
9 **501 W. Broadway, Suite 900**  
10 **San Diego, CA 92101**

11   X   (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was  
12 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection  
13 and processing correspondence for mailing. It is deposited with United States postal service on that same  
14 day in the ordinary course of business. I am aware that on motion of party served, service is presumed  
15 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for  
16 mailing in affidavit.

17 \_\_\_\_\_ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or  
18 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an  
19 authorized carrier or driver authorized by the express carrier to receive documents.

20 \_\_\_\_\_ (BY FACSIMILE TRANSMISSION) On \_\_\_\_\_, at \_\_\_\_\_, at Calabasas, California, I served the above-  
21 referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of  
22 the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-  
23 8984 and the telephone number(s) of the receiving facsimile machine was (916) 920-4402. A  
24 transmission report was properly issued by the sending facsimile machine, and the transmission was  
25 reported as complete and without error. Copies of the facsimile transmission cover sheet and the  
26 transmission report are attached to this proof of service.

27 \_\_\_\_\_ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-  
28 delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

\_\_\_\_\_ (BY ELECTRONIC SERVICE) The above-stated document was submitted for service by electronic  
transmission via email on the counsel of record listed above.

I certify that the above document was printed on recycled paper.

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

Executed on July 14, 2021, at Calabasas, California.

24 Beatriz Franco  
25 BEATRIZ FRANCO

# **EXHIBIT E**

**PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)**  
**SETTLEMENT AGREEMENT**

***Marisa Silva v Retail Services WIS Corp.***  
**(Merced County Superior Court, Case Number 21CV-01346)**

***Christina Perez and Stephanie Studebaker v. Retail Services WIS Corp.***  
**(San Diego Superior Court, Case No. 37-2018-99945996-CU-OE-CTL)**

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement (“**Agreement**”).

This Agreement is made by and between Defendant Retail Services WIS Corp. (“**Defendant**” or “**WIS**”), Plaintiffs Marisa Silva, Christina Celia Perez, and Stephanie Studebaker (together, “**Plaintiffs**,” and individually “**SILVA**,” “**PEREZ**,” and “**STUDEBAKER**”), for themselves, individually, and on behalf of the State of California, and the law firms defined below as “**Plaintiffs’ Counsel**” and “**Defense Counsel**” (WIS, Plaintiffs and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the “**Parties**”).

The Parties agree that the actions ***Christina Perez and Stephanie Studebaker v. Retail Services WIS Corp. (San Diego Superior Court, Case No. 37-2018-99945996-CU-OE-CTL)*** and ***Marisa Silva v Retail Services WIS Corp. (Merced County Superior Court, Case Number 21CV-01346)*** (together, the “**Litigation**”) shall be, and hereby are, ended, settled, resolved, and concluded by agreement of WIS to pay the total gross sum of Two Million Four Hundred Twenty Thousand U.S. Dollars and no cents (\$2,420,000.00) (hereinafter referred to as the “**Settlement Sum**”) for settlement of the Private Attorneys General Act (“**PAGA**”) penalties sought in the Litigation, which shall be inclusive of Plaintiffs’ Counsel’s attorneys’ fees and costs, the settlement administrator’s fees and costs, and a payment in resolution of Plaintiffs’ individual claims.

**Article I.**

**Definitions.**

Section 1.01 **Definitions.**

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “**Aggrieved Employees**” means all non-exempt WIS employees in the state of California from September 12, 2017 through November 25, 2021.
- (b) “**Complaint**” means the operative Complaint filed by Plaintiffs Perez and Studebaker on September 12, 2018 in San Diego County and Silva on April 21, 2021 in Merced County

Superior Court, Case No. 21CV-01346. These two lawsuits are jointly referred to as the **“Litigation.”**

- (c) **“Court”** means the Superior Court for the State of California, County of Merced.
- (d) **“Defendant”** means Retail Services WIS Corporation.
- (e) **“Defense Counsel”** or **“Counsel for WIS”** is:

Jody A. Landry, Esq.  
LITTLER MENDELSON, P.C.  
501 W. Broadway, Suite 900  
San Diego, CA 92101.3577

- (f) **“Effective Date”** means when all of the following have occurred and the Judgment is Final: (i) approval of the Settlement is granted by the Superior Court of California for the County of Merced, (ii) the Court’s Judgment approving the Settlement becomes Final; and (iii) the Complaint in the Perez Action is dismissed with prejudice. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court, or (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment, which is at least 60 days after notice of entry of judgment by the Court.
- (g) **“Plaintiffs”** means Christina Perez, Stephanie Studebaker, and Marisa Silva.
- (h) **“Plaintiffs’ Counsel”** is:

Alex P. Katofsky, Esq.  
Daniel F. Gaines, Esq.  
GAINES & GAINES, APLC  
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- (i) **“Pay Period Representation”**: Defendants represented in advance of the mediation as follows: (1) that Defendant’s LMS non-exempt employees in California worked 41,843 pay periods from 1/1/19 through 9/2/21; (2) that the non-exempt WIS employees on the Lowe’s project worked 2788 pay periods from 9/12/17 through the end of that project in 2018; and (3) that all other California non-exempt employees worked approximately 182,000 pay periods from 9/12/17 through 8/31/21. If these representations are not correct, Plaintiffs may terminate this Agreement.
- (j) **“Release Period”** means the time period between September 12, 2017 and November 25, 2021.
- (k) **“Released Claims”** means all claims for PAGA civil penalties that were alleged in the Litigation, including but not limited to unpaid minimum and overtime wages, failure to provide meal periods, failure to provide rest periods, failure to issue accurate and complete wage statements, failure to reimburse expenses, failure to keep accurate records, and failure to timely pay wages at separation (including but not limited to alleged violations of Labor Code sections 201, 202, 203, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802 and applicable provisions of the Wage Orders) or that could have been alleged in the Litigation based on the facts alleged in the Litigation, that arose during the Release Period, and all claims that Plaintiffs or the Aggrieved Employees may have against the Released Parties relating to the payment, taxation, and allocation of attorney’s fees and costs to Plaintiffs’ Counsel pursuant to this Settlement Agreement.
- (l) **“Released Parties”** means Retail Services WIS Corporation and its past, present, and future representatives, directors, officers, employees, agents, attorneys, affiliates, members and shareholders, as well as all parent companies, affiliated companies, subsidiary companies, affiliates, client(s), client(s) facilities, consultants, agents, attorneys, predecessors, assignors, and/or assigns and/or any other individual or entity which could be liable for the claims raised in the Litigation.
- (j) **“Settlement Administrator”** means the third-party administrator agreed upon by Parties to administer this Settlement, ILYM Group, Inc.

## **Article II.**

### **Background.**

#### **Section 2.01   Background.**

- (a) On or about July 3, 2018, PEREZ and STUDEBAKER transmitted a letter to the Labor & Workforce Development Agency and WIS in compliance with the exhaustion requirements of PAGA, articulating claims related to unpaid wages, meal periods, rest periods, itemized wage statements, failure to reimburse expenses, and failure to timely pay wages at separation.

- (b) On September 12, 2018, PEREZ and STUDEBAKER filed a Complaint in the Superior Court of the State of California for the County of San Diego, entitled *Perez and Studebaker, et al. v. Retail Services WIS Corporation, et al.*, case number 37-2018-00045996-CU-OE-CTL. The Perez Action was brought by Christina Celia Perez and Stephanie Studebaker as a PAGA action on behalf of themselves and other Defendant's California employees, and the State of California asserting claims based on similar factual predicates as those alleged in the Litigation.
- (c) On or about February 11, 2021, SILVA transmitted a letter to the Labor & Workforce Development Agency and WIS in compliance with the exhaustion requirements of PAGA, articulating claims related to unpaid wages, meal periods, rest periods, itemized wage statements, failure to reimburse expenses, timekeeping violations, and failure to timely pay wages at separation.
- (d) On April 21, 2021, SILVA filed a Complaint in the Superior Court of the State of California for the County of Merced, entitled *Marisa Silva, et al. v. Retail Services WIS Corp., et al.*, case number 21CV-01346. The Litigation was brought by Marisa Silva, on behalf of the State of California and other aggrieved employees, as a PAGA action based on violations of Labor Code §§ 201-202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194 and 2802.
- (e) During the course of the Litigation, the Parties engaged in discovery and fully shared the information necessary for all sides to conduct a legitimate investigation into the allegations of the Litigation and potential defenses thereto. The Parties have reached this Settlement only after discovery and investigation was performed.
- (f) WIS disputes and denies any liability or wrongdoing of any kind associated with the claims alleged in this matter. WIS contends, among other things, that it complied at all times with the local, state, and federal laws, and that the claims alleged in this matter are without merit. Further, WIS denies Plaintiffs, individually and as a representatives of the Aggrieved Employees, are owed any wages or penalties, as alleged, but does recognize that litigation will be protracted and expensive. As a result, WIS has agreed to pay a reasonable amount in order to resolve this matter. Any statements made by WIS in this Agreement are made for settlement purposes only.
- (g) The Parties believe and agree that this Agreement provides a fair, adequate, and reasonable resolution of Plaintiffs' individual claims and the PAGA claims after doing their own independent investigations and evaluations of the claims alleged in this matter. The parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.
- (h) This Settlement Agreement contemplates the (a) entry of an order by the Court approving the payment allocated for settlement of the PAGA penalties; (b) entry of judgment in the Silva Action consistent with this Agreement; (c) this Agreement being binding on Plaintiffs, individually, and all Aggrieved Employees for the Release Period; (d) dismissal of the Perez Action with prejudice; and (e) all parties bearing their respective fees and costs except as expressly provided in this Agreement.

### **Article III.**

#### **Approval and Implementation of Settlement.**

##### **Section 3.01 Cooperation.**

The Parties will cooperate in obtaining through an unopposed motion an Order from the Court approving the payment of PAGA penalties as described in this Agreement at the earliest possible date. Plaintiffs' Counsel shall request and be paid up to \$968,000.00 for attorneys' fees and up to \$30,000.00 for reimbursement of litigation costs from the Settlement Sum, and WIS will not oppose these requests. Plaintiffs SILVA, PEREZ and STUDEBAKER shall each request and be paid up to \$15,000.00 as a general release payment from the Settlement Sum for the resolution of their individual claims, and WIS will not oppose these requests. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of the payment of PAGA penalties as described in this Agreement.

##### **Section 3.02 Court Approval.**

The Parties will seek to obtain the Court's approval of the payment of PAGA penalties as described in this Agreement by way of a stipulation or motion to be filed by Plaintiffs' counsel as soon as practicable following the execution date of this Agreement but no later than twenty (20) calendar days thereafter. This Settlement shall be submitted to the Court for its approval. The Court's approval of the payment of PAGA penalties as described in this Agreement shall be embodied in a written order and judgment. Should the Court not grant approval of the payment of PAGA penalties as described in this Agreement, then the entirety of this Agreement shall be null and void.

The Court's approval of an attorneys' fees or costs award is not a material term of the Settlement. If the Court does not approve or approves only a lesser amount than that requested by Plaintiffs' Counsel for attorneys' fees or costs, the other terms of this Settlement shall still apply. The Court's refusal to approve the attorneys' fees or costs award requested by Plaintiffs' Counsel does not give Plaintiff or Plaintiff's Counsel any basis to abrogate the Settlement. Any amount of an attorneys' fees and costs award requested by Plaintiffs' Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

##### **Section 3.03 Settlement Administration.**

For the purposes of this Settlement, the Parties stipulate and agree that ILYM Group, Inc. shall be retained to serve as Settlement Administrator and shall administer the Settlement Sum under this Agreement pursuant to the terms outlined below.

### Section 3.04 Settlement Payment Procedures.

WIS shall pay as the Settlement Sum the total gross amount of Two Million Four Hundred Twenty Thousand U.S. Dollars and zero cents (\$2,420,000.00) in full and final Settlement of this matter. WIS shall pay the Settlement Sum to the Settlement Administrator as follows: (i) by the latter of twenty (20) business days after the Effective Date or April 1, 2022, WIS shall wire \$807,667 to the Settlement Account set up by the Settlement Administrator; (ii) no later than six months after the Effective Date, WIS shall wire \$807,666 to the Settlement Account set up by the Settlement Administrator; and (iii) no later than January 31, 2023, WIS shall wire the balance of \$804,667 to the Settlement Account set up by the Settlement Administrator. The Settlement Sum shall be deposited into a Qualified Settlement Fund ("QSF") within the meaning of Section 468B-1 of the United States Treasury Regulations. The Settlement Administrator shall be responsible for arranging for the establishment of a QSF in order to effectuate the disbursement of the Settlement Sum to the State of California Labor and Workforce Development Agency, to Aggrieved Employees, to Plaintiffs, and to Plaintiffs' Counsel in the manner and within the times periods described herein.

The first deposit of the Settlement Sum shall be used to pay all Aggrieved Employees and the Plaintiffs all sums they are due hereunder, as approved by the Court. The balance of the first installment, together with each subsequent installment, shall be paid proportionately to the Settlement Administrator, the LWDA, and Plaintiffs' Counsel for attorneys fees and costs.

(a) Notice to Aggrieved Employees and Payments from the Settlement Sum; Payment of PAGA Penalties.

The total sum available for payment of PAGA penalties shall be calculated by deducting Plaintiffs' Counsel's fees and costs (\$998,000.00), general release payments to Plaintiffs Silva, Perez and Studebaker (\$15,000.00 each), and the costs of administration (no more than \$32,890) from the Settlement Sum (this will yield the "Net Settlement Amount," which is estimated to be approximately \$1,344,110).

Seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA; the remaining twenty-five percent (25%) of the Net Settlement Amount (the "Employee Net Settlement Amount") shall be paid to Aggrieved Employees pro rata based on the number of pay periods worked during the Release Period. 100% of the PAGA payments are considered penalties and will not be subject to local, state or federal tax withholdings. All Aggrieved Employees who cash their settlement check may receive an IRS Form 1099 for their portion of the settlement, if deemed required by the settlement administrator (in compliance with IRS guidelines). Plaintiffs will be issued IRS Forms 1099 for payments received by them under this Agreement.

(b) Notice and Payment to Aggrieved Employees.

Notice shall be provided to the Aggrieved Employees in the following manner:

- (1) No later than ten (10) business days after the Effective Date, WIS shall confidentially provide the settlement administrator with a list of all Aggrieved Employees ("Aggrieved

Employees List”). The Aggrieved Employees List shall state the first name and last name for each Aggrieved Employee, the last known address for each Aggrieved Employee, each Aggrieved Employee’s social security number, and the number of pay periods worked by each Aggrieved Employee during the Release Period. The Settlement Administrator shall run all the addresses provided by WIS through the United States Postal Service NCOA database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to verify and/or obtain current address information.

- (2) No later than ten (10) business days after Defendant deposits the first installment of the Settlement Sum, the settlement administrator shall mail the Notice of PAGA Settlement (attached hereto as Exhibit “A”) to all Aggrieved Employees, together with their full settlement checks, by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices to the settlement administrator. For each Notice of PAGA Settlement that is returned as undeliverable, the settlement administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Aggrieved Employee involved and will then perform a single re-mailing.
- (3) The settlement checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) days after issuance. Thereafter, all uncashed checks shall be transmitted to the State of California Controller’s Office – Unclaimed Property Fund, to be held in the names of the respective Aggrieved Employees.
- (4) Tax Treatment. The Settlement Administrator shall be responsible for preparation and issuing all necessary IRS form 1099s, including to Plaintiffs’ Counsel, who shall assume full responsibility and liability for the payment of taxes due on the payments to Plaintiffs’ Counsel. Aggrieved Employees are solely responsible for all appropriate taxes due and any penalties assessed on any and all amounts paid to them under this Agreement. Aggrieved Employees shall hold the parties free and harmless from any claims resulting from treatment of such payments, including the treatment of such payment as not subject to withholding or deduction for payroll and employment taxes. Aggrieved Employees assume full responsibility and liability for the payment of taxes due on their individual shares of the Settlement Sum. Nothing in this Settlement is intended to constitute legal or tax advice regarding local, state, or federal tax obligations and the parties make no representations or warranties with respect to the tax consequences of any payment under this Agreement.
- (5) No Tax Advice. Neither Plaintiffs’ Counsel nor Defendant’s Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

(c) Payment to Settlement Administrator.

All costs incurred by the settlement administrator in connection with the administration of this settlement, including mailing of the Notice of PAGA Settlement described herein, whether foreseen or not, shall be paid out of the Settlement Sum. These costs shall not exceed \$32,890; to the extent they fall below this amount, they shall be added to the amount distributable to the Aggrieved Employees and the LWDA. The payment to the Settlement Administrator will be paid in accordance with the installment payment plan procedure as set forth in Section 3.04 above.

(d) General Release Payments to Plaintiffs.

No later than ten (10) business days after Defendant deposits the first installment of the Settlement Sum, the Settlement Administrator shall pay to Plaintiffs' their individual general release payments

(e) Attorneys' Fees and Costs

The payments for attorneys fees and costs to Plaintiff's Counsel shall be in the amounts set forth herein and will be paid by the Settlement Administrator in accordance with the installment payment plan procedure as set forth in Section 3.04 above.

(f) Payment to LWDA.

The payment of PAGA penalties to the LWDA will be paid by the Settlement Administrator in accordance with the installment payment plan procedure as set forth in Section 3.04 above.

(g) Settlement Administrator Declaration of Compliance.

The Settlement Administrator will send a declaration to Plaintiffs' Counsel attesting to the disbursement of the Settlement Sum no later than ten business days after the check cashing deadline has passed and all funds have been disbursed. If the Court so requires, Plaintiffs shall file the declaration with the Court within ten (10) calendar days of its receipt from the Settlement Administrator.

**Article IV.**

**Limitations On Use Of This Settlement.**

Section 4.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by WIS of any liability whatsoever, or as admission by WIS of any violations of Plaintiffs' or the Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. WIS specifically disclaims any liability to Plaintiffs, the Aggrieved Employees, or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract.

#### Section 4.02 Non-Evidentiary Use.

Neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Litigation or in any other action or proceeding; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement.

#### Section 4.03 Nullification.

Payment of the Settlement Sum is conditioned on the Court's approval of this Agreement. To comply with the requirements of Labor Code section 2699(l), Plaintiffs shall prepare and submit, after WIS's approval, a Stipulation or Motion to Approve Settlement Pursuant to the Private Attorneys General Act, together with a supporting declaration, to the Court and the LWDA within the time frames required by this Agreement. However:

- (a) If the Court should for any reason fail to approve the payment of PAGA penalties as described in this Agreement, then the Parties shall request leave and work jointly to attempt to revise the Agreement consistent with the Court's expressed concerns, if any, in order to obtain the Court's approval. In the event that the Court does not finally approve the settlement contained herein and enter a judgment in the Silva Action consistent with this agreement and dismiss of the Perez Action with prejudice: (a) this Agreement shall be considered null and void, (b) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect, and (c) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court.
- (b) Invalidation of any material portion of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

#### Section 4.04. No Right of Aggrieved Employees to Object or Opt Out.

The Parties agree there is no statutory right for any Aggrieved Employees to object, opt out or otherwise exclude himself or herself from the Settlement. Except as otherwise stated, Plaintiffs will vigorously defend against any attempt by any Aggrieved Employees or by any entity or agency to intervene in this matter or object to/opt-out of this settlement. The Parties further agree there is no right or opportunity for any Aggrieved Employees to appeal the approval of the Settlement by the Court. The Parties will jointly defend against any appeal filed with respect to the Final Order.

#### Section 4.05 LWDA Notice.

Pursuant to California Labor Code § 2699(l), Plaintiffs will provide a copy of this Settlement Agreement and the stipulation or motion for settlement approval to the LWDA concurrent with the filing of said stipulation or motion.

## Article V.

### **Release and Waiver of Claims.**

#### Section 5.01 Release by Aggrieved Employees.

Upon entry of the order and judgment approving payment of the PAGA penalties as described in this Agreement, and subject to WIS's full payment of the Settlement Sum, Plaintiffs, all Aggrieved Employees, and the State of California shall be deemed to have fully, finally, and forever released, relinquished, and discharged each and all of the Released Parties from the Released Claims.

#### Section 5.02 General Release by Marisa Silva, Christina Celia Perez, and Stephanie Studebaker.

Upon the Effective Date and subject to WIS's full payment of all sums required by this Settlement, Plaintiffs Marisa Silva, Christina Celia Perez, and Stephanie Studebaker shall be deemed to have fully, finally, and forever released the Released Parties from any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, whether known or unknown, and whether anticipated or unanticipated, including unknown claims covered by Civil Code Section 1542, arising through the date they sign this Agreement, for any type of relief, including, without limitation, claims for wages, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief arising from or related to their employment with WIS. Without limiting the generality of the foregoing, the release of claims by Marisa Silva, Christina Celia Perez, and Stephanie Studebaker is a complete general release. The claims released herein by Marisa Silva, Christina Celia Perez, and Stephanie Studebaker include, but are not limited to, the Released Claims, as well as any other claims under any provision of the California Labor Code or any applicable California Industrial Welfare Commission Wage Orders, and claims under local, state, or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, California Government Code §§ 12940 *et seq.*; the Unruh Civil Rights Act, California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; the Age Discrimination in Employment Act and all of their implementing regulations and interpretive guidelines; claims for harassment, discrimination, retaliation and allegedly unpaid wages. Marisa Silva, Christina Celia Perez, and Stephanie Studebaker have reviewed the manner in which they were paid and believe that after accounting for the payments they will receive hereunder, believe they have paid more than any amounts, if any, that Marisa Silva, Christina Celia Perez, and Stephanie Studebaker contend they are owed or could claim to be owed, even after accounting for all allegedly unpaid wages, penalties, interest, and attorneys' fees. With respect to these released claims as described in this Section, Plaintiffs shall each be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they may otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as follows:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

Plaintiffs each understand and acknowledge that the significance and consequence of this waiver of California Civil Code Section 1542 Plaintiffs acknowledge that they consciously intend these consequences even as to claims for injuries that they do not know exist and which, if known, would materially affect their decision to execute this Agreement, regardless of whether their lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

## **Article VI.**

### **Miscellaneous Provisions.**

#### **Section 6.01 Notice, Default, Cure, Acceleration, Time is of the Essence.**

If WIS fails to pay any portion of the Settlement Sum on the dates due, it shall be in default of its obligations under this Agreement. Plaintiffs shall e-mail notice of the default to Defense Counsel at the e-mail addresses listed in paragraph 1.01(d) above. WIS will then have ten (10) calendar days from the date notice is e-mailed to cure the default. If the default remains uncured for ten (10) calendar days from the date notice is sent, then all sums remaining unpaid under this Agreement shall be accelerated and become all due and payable and begin to accrue interest at the legal rate. Time is of the essence with respect to all provisions of this Agreement.

#### **Section 6.02 Voluntariness.**

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity. All Parties acknowledge that they had the opportunity to consult with legal counsel prior to entering into this Agreement.

#### **Section 6.03 No Other Actions.**

Plaintiffs represent that they have not filed any complaints, claims, or actions against WIS with any court or administrative agency other than the Litigation, the Perez Action, and the related notices filed with the LWDA. If any agency or court has or assumes jurisdiction of any complaint, claim, or action against WIS on behalf of either Plaintiff, the applicable Plaintiff will request that agency or court to withdraw from or dismiss the matter.

#### **Section 6.04 Non-Disparagement and No Media Announcements.**

Plaintiffs agree to not make, or encourage anyone else to make, any disparaging words, comments, or remarks, verbally or in writing, or engage in any conversation that disparages WIS

in any way. This includes, but is not limited to, any negative or disparaging comments, posts, review, opinions, or the like on any social media platform whatsoever at any time presently or in the future. While nothing will prevent Plaintiffs from complying with a lawfully issued subpoena, Plaintiffs will not voluntarily cooperate with any other current or former employee seeking to bring a claim against any party released by this Agreement. Defendant shall provide Plaintiffs with neutral employment references upon inquiry, stating only their dates of employment and job titles held.

Neither Plaintiffs nor Plaintiffs' Counsel shall publicize, or cause to be publicized, directly or indirectly, the discussions resulting in or the existence of this Settlement or its terms, in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media, Plaintiffs' Counsels' or any other website.

#### Section 6.05 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiffs and WIS and (b) approved by the Court. Any waiver of any provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

#### Section 6.06 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiffs' Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

#### Section 6.07 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

#### Section 6.08 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Litigation.

#### Section 6.09 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such

counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

#### Section 6.10 Necessary Acts.

The Parties agree to perform any further acts and execute and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

#### Section 6.11 Electronic Imaging and Signature.

The Parties intend to allow for the electronic imaging and storage of this Agreement, and the admissibility into evidence of such an image in lieu of the original paper version of this Agreement. The Parties stipulate that any computer printout of any such image of this Agreement shall be considered to be an "original" under the applicable court or arbitral rules of evidence when maintained in the normal course of business and shall be admissible as between the parties to the same extent and under the same conditions as other business records maintained in paper or hard copy form. The parties further warrant that all DocuSign and/or SignRequest signatures were authorized by the parties to this Agreement and carry the same weight and legal effect as any wet ink signatures. Any party using DocuSign and/or SignRequest waives any claim that the signature affixed to their name is not authentic for purposes of approval and authorization in the understanding or execution of this Agreement. The Parties agree not to contest, in any proceeding involving the parties in any judicial or other forum, the admissibility, validity, or enforceability of any image of this Agreement because of the fact that such image was stored or handled in electronic form. The Parties agree to allow the use of DocuSign and/or SignRequest, an electronic signature technology, to expedite the execution of this Agreement pursuant to California Civil Code Section 1633.7. Electronic signatures shall be deemed originals.

#### Section 6.12 Attorneys' Fees and Costs.

Except as expressly provided herein, WIS and Plaintiffs shall all bear their own attorney's fees and costs in connection with the Litigation and the Perez Action and the negotiation and execution of this Agreement (other than those included in the Settlement Sum and those which may be recoverable for any breach by any Party of this Agreement).

#### Section 6.13. Ambiguity.

In the event of an ambiguity under this Agreement, such ambiguity shall not be construed against either Party, as this Agreement has been negotiated at arm's length between the Parties and the Parties have sought and been advised by counsel.

#### Section 6.14 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s)

to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 6.15 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.16 Continuing Jurisdiction.

The Parties agree that upon the occurrence of the entry of judgment in this case pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure Section 664.6 and all other applicable law, and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and Aggrieved Employees to interpret and enforce the terms, conditions and obligation of the Agreement.

Section 6.17 Successors and Assigns.

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective Parties and their heirs, executors, administrators, agents, representatives, successors, and assigns.

Section 6.18 Waiver of Right to Appeal.

Provided that the Court's approval of this Settlement is consistent with the material terms of this Agreement, Plaintiffs, Defendant, and Plaintiffs' Counsel hereby waive any and all rights to appeal the approval of the settlement, and the Order therefore will become non-appealable at the time it is entered.

[INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

**APPROVED AND ACCEPTED.**

Dated: 02/01/2022, 2022

RETAIL SERVICES WIS CORPORATION

By Richard Baxter  
78B424DCBF840BB5F1B22C7FA01283D0 contractworks

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Marisa Silva, individually

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Christina Celia Perez, individually

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Stephanie Studebaker, individually

**IN WITNESS WHEREOF**, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

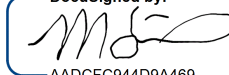
**APPROVED AND ACCEPTED.**

Dated: \_\_\_\_\_, 2022

RETAIL SERVICES WIS CORPORATION

By \_\_\_\_\_

Dated: January 27, 2022  
\_\_\_\_\_, 2022

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By \_\_\_\_\_  
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Marisa Silva, individually

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Christina Celia Perez, individually

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_  
Stephanie Studebaker, individually

**IN WITNESS WHEREOF**, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

**APPROVED AND ACCEPTED.**

Dated: \_\_\_\_\_, 2022

RETAIL SERVICES WIS CORPORATION

By \_\_\_\_\_

Dated: \_\_\_\_\_, 2022

By \_\_\_\_\_

Marisa Silva, individually

Dated: 1/27/2022  
\_\_\_\_\_

DocuSigned by:  
*Christina Celia Perez*  
By \_\_\_\_\_  
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Christina Celia Perez, individually

Dated: 1/27/2022  
\_\_\_\_\_

DocuSigned by:  
*[Signature]*  
By \_\_\_\_\_  
18B38D2AAE2E4D7...  
Stephanie Staudacher, individually

# EXHIBIT A

***Letter to Aggrieved Employees Enclosing Individual Settlement Payments***

[Date\_\_\_\_\_, 2022]

Re: ***Marisa Silva v Retail Services WIS Corp.***  
**Merced County Superior Court, Case No. 21CV-01346**

***Perez and Studebaker et al v. Retail Services WIS Corp.***  
**San Diego County Superior Court, Case No. 37-2018-00045996-CU-OE-CTL**

NAME  
ADDRESS

You are receiving this settlement payment because of a lawsuit brought by former employees Christina Perez and Stephanie Studebaker, as well as Marisa Silva (in a duplicative later filed action) (jointly “Plaintiffs”) against Retail Services WIS Corp. (the “Company”), for civil penalties pursuant to the Private Attorneys General Act, Labor Code § 2698 et seq. (“PAGA”). Plaintiffs claimed they and other non-exempt California employees employed at some point during the period from September 12, 2017 through November 25, 2021 are owed penalties due to alleged unpaid minimum and overtime wages, failure to provide meal periods, failure to provide rest periods, failure to issue accurate and complete wage statements, failure to reimburse expenses, failure to keep accurate records, and failure to timely pay wages at separation.

The Company denies these claims and denies it owes any penalties, but to avoid further time and expense of protracted and uncertain litigation, the Company and Plaintiffs agreed to settle the lawsuit. The settlement resolves the claims referenced above on behalf of Company non-exempt employees who worked in California any time during the period from September 12, 2017 through November 25, 2021 (“Affected Employees”).

According to Company records, you are an Affected Employee and entitled to a share of the settlement. The enclosed check is issued pursuant to the terms of the PAGA settlement in the lawsuit set forth at the top of this letter. The settlement check shall remain valid until [insert date 180 days of issuance].

This payment may be subject to federal, state, and local tax purposes and may be reported to the appropriate taxing authorities. An IRS Form 1099 has been enclosed with this letter and check to the extent required by law. You may be required to make tax payments. Please consult a tax advisor to determine your individual tax payment, if any, and reporting situation.

If you have any questions about your award, please contact the [insert administrator information].

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to  
3 the within action; my business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301

4 \_\_\_\_\_ (For messenger) my business address is:

5 On February 1, 2022, I served the foregoing document described (1) **STIPULATION AND [PROPOSED]**  
6 **ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, DISMISSING**  
7 **ACTION WITH PREJUDICE, AND ENTERING JUDGMENT THEREON, (2) DECLARATION OF DANIEL**  
8 **F. GAINES IN SUPPORT OF STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF**  
9 **PRIVATE ATTORNEYS GENERAL ACT CLAIMS, DISMISSING ACTION WITH PREJUDICE, AND**  
10 **ENTERING JUDGMENT THEREON and (3) DECLARATION OF GREGORY MAURO IN SUPPORT OF**  
11 **STIPULATION AND [PROPOSED] ORDER APPROVING SETTLEMENT OF PRIVATE ATTORNEYS**  
12 **GENERAL ACT CLAIMS, DISMISSING ACTION WITH PREJUDICE, AND ENTERING JUDGMENT**  
13 **THEREON** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed  
14 as follows:

|                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>11 <b>Jody Landry, Esq.</b><br/>12 <b>LITTLER MENDELSON, P.C.</b><br/>13 <b>501 W. Broadway, Suite 900</b><br/>14 <b>San Diego, CA 92101</b><br/>15 <b>Attorneys for Defendant Retail Services WIS Corp.</b></p> | <p>11 <b>James R. Hawkins, Esq.</b><br/>12 <b>Gregory Mauro, Esq.</b><br/>13 <b>JAMES HAWKINS APLC</b><br/>14 <b>9880 Research Drive, Suite 200</b><br/>15 <b>Irvine, CA 92618</b><br/>16 <b>Attorneys for Plaintiffs Christina Perez and</b><br/>17 <b>Stephanie Studebaker</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

18 ☒

19 (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was  
20 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection  
21 and processing correspondence for mailing. It is deposited with United States postal service on that same  
22 day in the ordinary course of business. I am aware that on motion of party served, service is presumed  
23 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for  
24 mailing in affidavit.

25 \_\_\_\_\_ (BY FACSIMILE TRANSMISSION) On \_\_\_\_\_, at \_\_\_\_\_, at Calabasas, California, I served the above-  
26 referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008 of  
27 the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-  
28 8984 and the telephone number(s) of the receiving facsimile machine was (916) 920-4402. A  
transmission report was properly issued by the sending facsimile machine, and the transmission was  
reported as complete and without error. Copies of the facsimile transmission cover sheet and the  
transmission report are attached to this proof of service.

29 ☒

30 (UPLOADED TO LWDA WEB PORTAL) I caused the above-described document to be delivered to the  
31 Labor & Workforce Development Agency via online process at the PAGA Filing website  
32 (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

33 I certify that the above document was printed on recycled paper.

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

35 Executed on February 1, 2022, at Calabasas, California.

36 Amelia Booth

37 AMELIA BOOTH