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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF CONTRA COSTA

JUAN MEDINA, individually, and on behalf of
other members of the general public similarly
situated,

Plaintiff,

vs.

BIO-RAD LABORATORIES, INC., a
Delaware corporation

Defendant.

Case No. MSC21-00154

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT AND
RELEASE**

Assigned for all purposes to:
Hon. Charles S. Treat
Department 12

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE:

This Joint Stipulation of Class and Private Attorney General Act (“PAGA”) Action Settlement and Release (“Joint Stipulation,” “Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Juan Medina, as an individual and on behalf of all others similarly situated, all other aggrieved employees, the general public, the State of California, and the Labor Workforce Development Agency (collectively “Plaintiff”), and Defendant Bio- Rad Laboratories, Inc. (“Defendant”) (collectively with Plaintiff, the “Parties”).

This Joint Stipulation is subject to the approval of the Court, and is made for the sole purpose of attempting to consummate settlement of this Action on a class-wide and PAGA representative basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting approval of the PAGA Settlement, as defined below, preliminary or final approval of the Class Settlement, as defined below, or Final Judgment terminating the Action in accordance with the terms of this Agreement, or the conditions precedent are not met for any reason, this Joint Stipulation is void and of no force or effect whatsoever.

NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth below, the Parties agree that the Action shall be, and is finally and fully compromised and settled on the following terms and conditions, subject to Court approval:

FACTUAL AND PROCEDURAL BACKGROUND OF ACTION

1) On January 27, 2021, Plaintiff Medina filed a putative class action in Contra Costa Superior Court against Defendant, Case No. C21-00154 (the “Complaint”) alleging 10 causes of action: (1) unpaid overtime, (2) unpaid minimum wages, (3) failure to provide meal periods, (4) failure to provide and permit rest periods, (5) non-compliant wage statements and failure to maintain payroll records, (6) wages not timely paid upon termination, (7) failure to timely pay wages during employment, (8) unreimbursed business expenses, (9) unlawful business practices, and (10) unfair business practices).

2) On or about February 9, 2021, Plaintiff Medina filed online a PAGA letter with the Labor and Workforce Development Agency, alleging various California Labor Code violations by Defendant,

1 including violations of Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 245.5, 246, 246.5,
2 247, 247.5, 248.5, 249, 510, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802,
3 2810.5(a)(1)(A)-(C), and IWC Wage Order No. 1-2001, against allegedly similarly aggrieved employees
4 defined as all non-exempt employees working in California (“LWDA Notice”), and seeking to recover
5 penalties pursuant to the aforementioned statutes, as well as Labor Code Sections 210, 226.3, 256, 1174.5,
6 2699, 2699.3 and 2699.5.

7 3) On or about March 5, 2021, Defendant filed a Motion to Compel Arbitration of Plaintiff’s
8 Claims on an Individual Basis and Stay Action (“the Petition”).

9 4) On or about March 15, 2021, in response to the Petition, Plaintiff Medina filed a notice of
10 Non-Opposition.

11 5) In August 2021, the Parties filed a stipulation agreeing to, *inter alia*, the filing of a First
12 Amended Complaint asserting a single PAGA cause of action against Bio-Rad Laboratories, Inc., and
13 staying the Action while the parties mediated the matter and pursued arbitration of plaintiff’s individual
14 claims (to the extent not resolved at mediation). In September 2021, the Court approved the parties’
15 stipulation and thereafter, Plaintiff filed a First Amended Complaint in the Action (the “First Amended
16 Complaint” or “FAC”). The FAC alleges a single cause of action under PAGA and alleges the following
17 eleven Labor Code violations: (1) failure to pay overtime (including failure to correctly calculate and pay
18 overtime), (2) failure to pay minimum wages, (3) failure to provide meal periods, (4) failure to authorize
19 and permit rest periods, (5) failure to provide compliant wage statements and failure to maintain accurate
20 time and payroll records, (6) failure to pay wages during employment, (7) failure to pay wages upon
21 termination, (8) failure to pay for costs of mandatory physical examinations and/or drug testing, (9) failure
22 to pay sick leave (including incorrect payment), (10) failure to reimburse business expenses, and (11)
23 failure to provide notice of material terms of employment. Plaintiff’s First Amended Complaint seeks to
24 recover declaratory relief, PAGA penalties, attorneys’ fees and costs, and pre and post-judgment interest.

25 6) The Parties engaged in informal discovery for purposes of mediation, including an
26 exchange of information and documentation about *inter alia*: the number of current and former PAGA
27 Members and the estimated number of putative class members who worked during the relevant time
28 period; the estimated number of pay periods; Defendant’s timekeeping, payroll, overtime, expense

1 reimbursement, and meal period and rest break policies, as well as policies regarding certain other forms
2 of compensation; examples of Defendant's communications, training materials, and procedures for
3 managing payment for all hours worked, meal periods and rest breaks; a sampling of electronic time and
4 pay records; and other data and information necessary to value Plaintiff's claims.

5 7) On December 16, 2021, the Parties participated in a mediation before Mark Rudy, Esq., a
6 highly-respected neutral mediator who specializes in wage and hour mediations, in an attempt to negotiate
7 a resolution of the Action. With mediator Rudy's assistance, the Parties arrived at this Settlement after
8 lengthy, extensive arms-length negotiations, taking into account all relevant factors, present and potential.
9 The Parties further agreed to enter into this Agreement to memorialize their settlement of the Action for
10 submission for Court approval.

11 8) It is the desire of the Parties to fully, finally and forever settle, compromise and discharge
12 all disputes and claims that were alleged or that could reasonably have been alleged in the Complaint,
13 LWDA Notice, amended LWDA Notice, First Amended Complaint, the to be filed Second Amended
14 Complaint, or in any demand for arbitration for plaintiff's individual claims, and to achieve a full and
15 complete release of Defendant to the fullest extent possible.

16 9) Counsel for the Class have conducted a thorough investigation into the facts of this case,
17 including an extensive review of relevant documents and data, and have diligently investigated plaintiff's,
18 Class Members' and PAGA Members' claims against Defendant. Based on their own independent
19 investigation and evaluation, Class Counsel are of the opinion that the Settlement with Defendant for the
20 consideration and on the terms set forth in this Agreement is fair, reasonable and adequate and in the best
21 interest of Plaintiff, the Settlement Class and PAGA Members in light of all known facts and
22 circumstances, including the risk of significant delay, defenses asserted by Defendant, and numerous
23 potential appellate issues.

24 10) The Settlement set forth herein intends to achieve the following: (1) entry of an order
25 approving the PAGA Settlement; (2) entry of an order approving the Class Settlement; (3) entry of
26 judgment of the Action; (4) discharge of Released Parties from liability for any and all of the Released
27 PAGA Claims by the PAGA Members; (5) discharge of Released Parties from liability for any and all of
28 the Released Class Claims by Participating Class Members; and (6) discharge of Released Parties from

liability for any and all claims that Plaintiff may individually have against them.

11) The Parties agree to cooperate and take all steps necessary and appropriate to consummate this Settlement and to effectuate a Final Judgment and Order terminating the Action.

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. To the extent terms or phrases are used elsewhere in this Settlement Agreement but not specifically defined below in this Definitions section, they are incorporated by reference herein and will also be effective:

12) "Action" means *Juan Medina et al. v. Bio-Rad Laboratories, Inc.*, No. C21-00154 (Contra Costa County Superior Court). "Agreement," "Joint Stipulation," "Settlement" and "Settlement Agreement" mean this Joint Stipulation and Class and Representative Action Settlement and Release, including all attached exhibits.

14) "Attorneys' Fees and Costs" means attorneys' fees agreed upon by the Parties and approved by the Court for Class Counsel's litigation and resolution of the Action, not to exceed one-third (1/3) of the Gross Settlement Amount (\$983,333.00), and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, not to exceed \$30,000.00, and subject to the Court's approval or modification. Attorneys' Fees and Costs include but are not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court's approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action.

15) "Class Counsel" and "Plaintiff's Counsel" means Capstone Law APC.

16) "Class List" means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator within thirty (30) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include each Class Member's full name; most recent mailing address; Social Security number; dates of employment during the Class Period and PAGA Period; the estimated number of Pay Periods that each Class Member worked (i.e., the individual worked the majority of the Pay Period and was not on paid time off or leave of absence), as recorded in Defendant's records, between January 27, 2017 through and including March 18, 2022. The spreadsheet and all information contained therein

1 will be provided only to the Settlement Administrator, will be used only by the Settlement Administrator
2 for the sole purpose of effectuating the Settlement, and the contents shall not be shared with Plaintiff or
3 Class Counsel.

4 17) "Class Member(s)" or "Settlement Class" means all persons who are or were employed
5 by Defendant as non-exempt, hourly employees in the State of California at any time from January 27,
6 2017 through March 18, 2022.

7 18) "Class Period" means the period from January 27, 2017 through March 18, 2022.

8 19) "Class Representative" means Plaintiff Juan Medina.

9 20) "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff in
10 recognition of his effort and work in prosecuting the Action on behalf of Class Members, not to exceed
11 \$5,000.00.

12 21) "Class Settlement" means the non-PAGA portion of the settlement embodied in this
13 Agreement, which is subject to the Court's preliminary and final approval.

14 22) "Court" means the Contra Costa County Superior Court.

15 23) "Defendant" means Defendant Bio-Rad Laboratories, Inc.

16 24) "Effective Date" means the date on which all of the following has occurred: (a) the
17 Settlement Agreement has been executed by all Parties and their counsel; (b) Plaintiff has signed an
18 individual release, to take effect upon the settlement becoming final and non-appealable; (c) Plaintiff has
19 not revoked his individual release; (d) the Court has approved the PAGA Settlement and preliminarily
20 approved the Class Settlement; (e) the Class Notice has been distributed to Class Members as provided
21 herein; (f) the Court has held a fairness hearing and approved the Settlement and entered a final order and
22 judgment certifying the Settlement Class and approving the Settlement; and (g) the later of the following
23 events: (i) when the period for filing any appeal, writ or other appellate proceeding opposing the
24 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed or any
25 appeal, writ or other appellate proceeding opposing the Settlement has been dismissed finally and
26 conclusively with no right to pursue further remedies or relief; or (ii) any appeal, writ or other appellate
27 proceeding has upheld the Court's final order with no right to pursue further remedies or relief.

28 Additionally, it is agreed by the Parties that this Settlement will not become effective if Defendant is

1 required to pay to any person, entity or organization more than its maximum total liability of \$2,950,000
2 (“Maximum Settlement Amount”) under the Settlement, except as otherwise provided by the
3 Escalator/Reducer Clause.

4 25) “Final Approval” means the date on which the Court enters an order granting final
5 approval of the Settlement.

6 26) “Gross Settlement Amount” means the Gross Settlement Amount of Two Million Nine
7 Hundred Fifty Thousand Dollars (\$2,950,000), to be paid by Defendant in full satisfaction of all Released
8 Class Claims and Released PAGA Claims, which includes all Individual Settlement Payments to Class
9 Members (including the individual’s share of applicable taxes and required withholdings) and PAGA
10 Members, Attorneys’ Fees and Costs, the Class Representative Enhancement Payment, the PAGA
11 Settlement Amount, and Settlement Administration Costs. There will be no reversion of the Gross
12 Settlement Amount to Defendant. Defendant will be separately responsible for any employer payroll taxes
13 required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid
14 from the Gross Settlement Amount.

15 27) “Individual Settlement Payment” means each Participating Class Member’s and PAGA
16 Member’s respective shares of the Net Settlement Fund and PAGA Fund.

17 28) “LWDA” means the State of California Labor Workforce Development Agency.

18 29) “Net Settlement Fund” means the portion of the Gross Settlement Amount remaining after
19 deducting the Attorneys’ Fees and Costs, the Class Representative Enhancement Payment, the PAGA
20 Settlement Amount, all employee taxes and required withholdings for the Individual Settlement Payments
21 to Class Members, and Settlement Administration Costs. The Net Settlement Fund will be distributed to
22 Participating Class Members. There will be no reversion of the Net Settlement Fund to Defendant.

23 30) “Notice of Objection” means a Class Member’s valid and timely written objection to the
24 Class Settlement that is filed with the Court on or before the Response Deadline and faxed or mailed to the
25 Settlement Administrator with a postmark dated on or before the Response Deadline and includes: (a) the
26 objector’s full name, signature, address, and telephone number, (b) a written statement of all grounds and
27 all supporting facts for the objection accompanied by any legal support for such objection; (c) copies of
28 any papers, briefs, or other documents upon which the objection is based; and (d) a statement whether the

1 objector intends to appear at the Final Approval hearing.

2 31) "Notice Packet" means the Notice of Class Action Settlement, substantially in the form
3 attached as Exhibit A.

4 32) "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
5 California Labor Code section 2698, et seq.

6 33) "PAGA Fund" means the 25% portion of the PAGA Settlement Amount remaining after
7 the LWDA Payment for distribution to PAGA Members.

8 34) "PAGA Members" means all persons who are or were employed by Defendant as non-
9 exempt, hourly employees in the State of California at any time from February 9, 2020 through March 18,
10 2022.

11 35) "PAGA Payment" or "LWDA Payment" means the payment to the State of California
12 Labor Workforce Development Agency in settlement of all claims for PAGA penalties to be made from
13 the 75% portion of the PAGA Settlement Amount.

14 36) "PAGA Period" means the period from February 9, 2020 through March 18, 2022.

15 37) "PAGA Settlement" or "PAGA Settlement Amount" means the amount (\$200,000.00)
16 that the Parties have agreed to pay to the LWDA and PAGA Members in connection with Plaintiff's claim
17 under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq., "PAGA").

18 38) "PAGA Settlement Payment" means the payment issued to each PAGA Member for
19 his/her/their share of the PAGA Fund.

20 39) "Participating Class Members" or "Settlement Class" means all Class Members who do
21 not submit timely and valid Requests for Exclusion.

22 40) "Parties" means Plaintiff Juan Medina, as an individual and on behalf of all others
23 similarly situated, all other aggrieved employees, the general public, the State of California, and the Labor
24 Workforce Development Agency, and Defendant collectively.

25 41) "Pay Period(s)" means the number of bi-weekly pay periods during which each Class
26 Member/PAGA Member is estimated to have worked (meaning the individual worked the majority of the
27 Pay Period, and was not on paid time off or other leave of absence), from January 27, 2017 to March 18,
28 2022, as recorded in Defendant's records.

42) “Plaintiff” means Plaintiff Juan Medina, as an individual and on behalf of all others similarly situated, all other aggrieved employees, the general public, the State of California, and the Labor Workforce Development Agency.

43) “Preliminary Approval” means the date on which the Court enters an order granting preliminary approval of the Class Settlement.

44) “Released Class Claims” means any and all claims, causes of action, obligations, demands, disputes, rights, and/or liabilities alleged or which reasonably could have been alleged, as set forth in Paragraph 100 of this Agreement. The Released Class Claims are those that existed/accrued at any time during the Class Period.

45) “Released PAGA Claims” means any and all claims, causes of action, obligations, demands, disputes, rights, and/or liabilities for PAGA penalties alleged or which reasonably could have been alleged, as set forth in Paragraph 101 of this Agreement. The Released PAGA Claims are those that existed/accrued at any time during the PAGA Period.

46) “Released Parties” means Defendant and any of Defendant’s current, former, and future parent corporations, subsidiaries, divisions, affiliates, partners, shareholders, members, principals, employees, agents, accountants, auditors, consultants, directors, officers, attorneys, landlords, licensees, lessors, insurers, reinsurers, employee benefit plans and plan fiduciaries, representatives, predecessors, successors, assigns, transferees, heirs, executors, administrators, and related entities.

47) “Request for Exclusion” means a timely letter submitted by a Class Member to the Settlement Administrator stating a request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the name, address, and last four digits of the Social Security Number of the Class Member requesting exclusion; (b) stating words in substantially the same form and effect as “I wish to be excluded from the Settlement Class in the Medina Lawsuit and understand that this means I will not receive the payment available to me from the Class Settlement”; (c) be signed by the Class Member; (d) be returned to the Settlement Administrator; and (e) be faxed or postmarked on or before the Response Deadline.

48) “Response Deadline” means the deadline by which Class Members must postmark or fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the

1 calculation of Individual Settlement Payments, or postmark or fax Notices of Objection to the Settlement
2 Administrator and file such Notices of Objection with the Court. The Response Deadline will be thirty
3 (30) calendar days from the initial mailing of the Notice Packet by the Settlement Administrator, unless
4 the thirtieth (30th) calendar day falls on a Sunday or State holiday, in which case the Response Deadline
5 will be extended to the next day on which the U.S. Postal Service is open.

6 49) "Second Amended Complaint" means the proposed Second Amended Class and PAGA
7 Action Complaint, inclusive of the amended LWDA Notice (or "amended Notice"), that Plaintiff is to file
8 with the LWDA and in the Action for settlement purposes only, as described in Paragraph 59 below. A
9 copy of the proposed Second Amended Complaint subject to the Court's approval is attached hereto as
10 Exhibit B. A copy of the amended LWDA Notice to be filed for settlement purposes only is also attached
11 with Exhibit B. The Second Amended Complaint shall be deemed filed on the day the Court grants
12 approval of the PAGA Settlement and Preliminary Approval of the Class Settlement. The amended
13 LWDA Notice will be filed within three business days of the parties executing this Agreement and shall be
14 withdrawn by Plaintiff should the court not grant preliminary or final approval of the settlement.

15 50) "Settlement Administration Costs" means the costs payable from the Gross Settlement
16 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,
17 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross
18 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The
19 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,
20 any such reasonable costs in excess of the amount represented by the Settlement Administrator as being
21 the maximum costs necessary to administer the Settlement.

22 51) "Settlement Administrator" means CPT Group, Inc, or any other third-party class action
23 settlement administrator agreed to by the Parties and approved by the Court for the purposes of
24 administering this Settlement.

25 **CONDITIONAL CLASS CERTIFICATION**

26 52) Class Certification: Solely for the purposes of this Settlement, the Parties stipulate and
27 agree that in order for this Settlement to occur, the Court must certify the following class: all persons who
28

1 are or were employed by Defendant as non-exempt, hourly employees in the State of California at any
2 time from January 27, 2017 through March 18, 2022.

3 53) The Parties are not certifying any PAGA claims. In support of this agreement, Plaintiff
4 will request that the Court certify for settlement purposes only the Class as to all non-PAGA claims that
5 have been asserted.

6 54) The Parties intend the Class Settlement to be contingent upon the preliminary and final
7 approval of each and every term of this Agreement, without material or substantive modification, unless
8 the Parties agree to such modification. Except as expressly set forth in this Agreement, if the Court does
9 not so approve this Agreement, the Parties intend this Agreement to become null and void, and
10 unenforceable, in which event the settlement terms set forth herein, including any modifications made with
11 the consent of the Parties, and any action taken or to be taken in connection with this Agreement shall be
12 terminated and shall become null and void and have no further force or effect, and any order certifying the
13 Class pursuant to this Agreement will be null and void and the Class decertified for all purposes.

14 55) In the event that the Court does not grant approval of the PAGA Settlement, preliminary
15 or final approval of the Class Settlement, or in the event that this Agreement shall terminate or the
16 Settlement embodied herein does not become effective for any reason, the Agreement and all negotiations,
17 court orders and proceedings relating thereto shall be without prejudice to the rights of Plaintiff and
18 Defendant, each of whom shall be restored to his/its respective positions existing prior to the execution of
19 this Agreement, and evidence relating to the Agreement and all negotiations shall not be discoverable or
20 admissible in the Action or any other litigation or proceeding. Defendant does not waive, and instead
21 expressly reserves, its rights to challenge the propriety of any class or representative action for any purpose
22 should the Court not grant preliminary or final approval of the Parties' Settlement. Under no circumstances
23 shall this Agreement, the Parties' Memorandum of Understanding, or any argument be used, offered as
24 evidence, or raised against Defendant in this or any other action or proceeding that Defendant waived its
25 right to arbitration pursuant to any arbitration agreement with Plaintiff or any other current or former
26 employee.

27 56) If the Court grants approval of the PAGA Settlement and preliminary approval of the
28 Class Settlement but does not grant final approval of the Class Settlement, then the Order Approving the

1 PAGA Settlement and Preliminarily Approving the Class Settlement shall be vacated in its entirety. In
2 addition, this Agreement, the Preliminary Approval Order, and any other document in any way relating to
3 the Agreement or Settlement shall be voided from the record and may not be relied upon, referred to or
4 used in any way for any purpose in connection with any further proceedings in this or any other action,
5 including class certification proceedings. Defendant does not waive, and instead expressly reserves, its
6 rights to challenge the propriety of any class or representative action for any purpose should the Court not
7 grant preliminary or final approval of the Parties' Settlement.

8 57) Appointment of Class Representative. Solely for the purposes of this Settlement, the
9 Parties stipulate and agree that Plaintiff Juan Medina shall be appointed as a representative for the Class.

10 58) Appointment of Class Counsel. Solely for the purposes of this Settlement, the Parties
11 stipulate and agree that Capstone Law APC shall be appointed as Class Counsel for the Class.

12 59) Second Amended Complaint. For purposes of effectuating and obtaining Court approval
13 of this Settlement only, Plaintiff will file a Second Amended Complaint ("SAC"), attached hereto as
14 Exhibit B, to conform the pleadings with the scope of the Released Class Claims and Released PAGA
15 Claims. Defendant will not be required to file an answer or other responsive pleading to the SAC,
16 including, but not limited to any motion or petition to compel arbitration. Defendant does not impliedly or
17 expressly waive any arguments or defenses (whether procedural or otherwise) to the SAC. If, for any
18 reason, the Court does not approve the Settlement, or if the Settlement does not become final for any
19 reason, then within five (5) court days' notice of the Court's Order denying approval of the Settlement
20 (and if the parties are unable to resolve any issues raised by the Court), the SAC, including the amended
21 LWDA Notice, will be deemed withdrawn and the Parties will execute a Stipulation and Proposed Order
22 so stipulating to its withdrawal, to dismissal of the class claims with prejudice as to Plaintiff but without
23 prejudice as to alleged class members, stipulating that the First Amended Complaint will again become the
24 operative complaint, and stipulating that Plaintiff's individual claims will be sent to arbitration and the
25 non-individual PAGA claim remains stayed. The Parties agree that the parties need not re-litigate the
26 issue of arbitrability of Plaintiff's claims on an individual basis only, dismissal of class claims, or stay of
27 the PAGA action. Nothing herein precludes Defendant from moving to dismiss or otherwise challenge
28 Plaintiff's attempt to bring alleged non-individual PAGA claims pursuant to the recent change in law.

SETTLEMENT PAYMENT PROVISIONS

60) Funding of the Gross Settlement Amount. Defendant will make a one-time electronic deposit of the Gross Settlement Amount of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000) into a qualified settlement fund ("Qualified Settlement Account") to be established by the Settlement Administrator. Defendant will pay the employer's share of payroll taxes separately. After the Effective Date, the Gross Settlement Amount will be used for: (a) Individual Settlement Payments (and any associated deductions for employee taxes and withholdings) to Class Members and PAGA Members; (b) the Labor and Workforce Development Agency Payment; (c) the Class Representative Enhancement Payment; (d) Attorneys' Fees and Costs; and (e) Settlement Administration Costs. Defendant will deposit the Gross Settlement Amount within thirty (30) calendar days of the Effective Date ("Funding Date").

61) Attorneys' Fees and Costs. Plaintiff and Class Counsel shall make an application or motion for Attorney's Fees and Costs in connection with the motion for Final Approval of the Settlement. Defendant agrees not to oppose this application or motion by Class Counsel for Attorneys' Fees and Costs of not more than Nine Hundred Eighty-Three Thousand Three Hundred Thirty-Three Dollars (\$983,333), plus the reimbursement of all out-of-pocket costs and expenses associated with Class Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Thirty Thousand Dollars (\$30,000), both of which will be paid from the Gross Settlement Amount. The Attorneys' Fees and Costs shall encompass: (a) all work performed and costs and expenses incurred by, or at the direction of, any attorney purporting to represent Plaintiff, the Class and/or PAGA Members through the date of this Agreement; (b) all work to be performed and costs to be incurred in connection with approval by the Court of the Settlement and the termination of this Action; and (c) all work to be performed and costs and expenses, if any, incurred in connection with administering the Settlement through the Effective Date. Plaintiff and Class Counsel shall assume full responsibility for the payment of taxes due on such awards. Class Counsel will provide the Settlement Administrator with IRS Forms W-9, so that the Settlement Administrator may issue IRS Forms 1099 misc.

62) To the extent attorneys' fees are not approved in the full amount requested, as set forth above, then the amount not approved will be a part of the Net Settlement Fund for distribution to the Participating Class Members on a pro rata basis pursuant to Paragraph 69. Similarly, to the extent costs

sought by Class Counsel are not approved in their entirety, any sum not approved will be a part of the Net Settlement Fund for distribution to the Participating Class Members on a pro rata basis. Except as provided in this Paragraph, upon final approval, each Party shall bear his or its own attorneys' fees, costs, and expenses incurred in the prosecution, defense, and settlement of the Action.

In consideration of their awarded Attorney's Fees and Costs, Class Counsel waives all claims to any further attorney's fees and expenses in connection with the Action. The awarded amount shall constitute full and final satisfaction of the obligation to pay any amounts to any person, attorney and/or law firm for attorney's fees, costs or expenses in the Action incurred by any attorney on behalf of the Plaintiff, Class Members, and PAGA members and shall relieve the Released Parties and the Settlement Administrator of any other claims or liability to any other attorney or law firm for any attorney's fees, costs and expenses to which any of them may claim to be entitled on behalf of the Plaintiff, Class Members or PAGA Members.

63) Class Representative Enhancement Payment. In recognition of his effort and work in prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose any application or motion for a Class Representative Enhancement Payment of Five Thousand Dollars (\$5,000). The Class Representative Enhancement Payment is subject to Plaintiff's execution of a separate general release agreement of any and all claims, including under California Civil Code Section 1542, as set forth in the Confidential Settlement Agreement And General Release - November 8, 2022, which will not be filed with the Court. Should Plaintiff fail to execute the separate general release of claims substantially in the same form as Confidential Settlement Agreement And General Release - November 8, 2022, or revoke the separate general release of claims, this Settlement will be null and void and hereby revoked. The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount, and will be in addition to Plaintiff's Individual Settlement Payment, and PAGA Settlement Payment. Any additional consideration provided to Plaintiff for his execution of the individual general release agreement will be paid separate and apart from the Gross Settlement Fund. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payment. Plaintiff will provide the Settlement Administrator with IRS Forms W-9, so that the Settlement Administrator may issue IRS Forms 1099 misc. Approval of the Settlement shall not be contingent upon approval of the Class

1 Representative Enhancement Payment. If the Court approves and awards an amount less than the Five
2 Thousand Dollars (\$5,000.00), as set forth above, the amount not approved will be a part of the Net
3 Settlement Fund for distribution to the Participating Class Members on a pro rata basis pursuant to
4 Paragraph 69.

5 64) Settlement Administration Costs. The Settlement Administrator will be paid for the
6 reasonable costs of administration of the Settlement and distribution of payments from the Gross
7 Settlement Amount, which is currently estimated to be Twenty-Five Thousand Dollars (\$25,000.00).
8 These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required
9 calculation, withholding, remittance to the appropriate government agencies and tax reporting on the
10 Individual Settlement Payments and other distributions from the Gross Settlement Amount, the issuing of
11 1099 and W-2 IRS Forms, distributing Notice Packets, calculating and distributing the Gross Settlement
12 Amount, and providing necessary reports and declarations. If any portion of the Settlement
13 Administration Costs remains unused, it will go to the Net Settlement Fund. The Parties each represent
14 that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship
15 with the Settlement Administrator that could create a conflict of interest. If the Settlement is ineffective for
16 any reason, the Parties shall evenly split the settlement administration costs, regardless of the outcome of
17 the Settlement.

18 65) PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
19 of Two Hundred Thousand Dollars (\$200,000) from the Gross Settlement Amount will be designated for
20 satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or One Hundred
21 Fifty Thousand Dollars (\$150,000), of this sum will be paid to the LWDA and Twenty-Five Percent
22 (25%), or Fifty Thousand Dollars (\$50,000), will be paid to PAGA Members based on a pro rata basis as
23 set forth in Paragraph 69. The portion of the PAGA Settlement Amount to the PAGA Members shall be
24 treated entirely as penalties. At the same time that Plaintiff files his Motion for Approval of the PAGA
25 Settlement and Preliminary Approval of the Class Settlement, Plaintiff shall send a copy of the Agreement
26 to the LWDA pursuant to the 2016 amendments to PAGA. In the event the LWDA or the Court rejects
27 this allocation, the Parties will meet and confer with the Court and the LWDA to reach a penalty allocation
28 acceptable to all Parties that does not materially alter the terms of Settlement, nor require Defendant to pay

1 more than the Gross Settlement Fund.

2 66) No Right to Exclusion or Objections by PAGA Members. Because this settlement
3 resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
4 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
5 Member has the right to object to the terms of the PAGA Settlement, or exclude himself or herself from
6 receiving a PAGA Settlement Payment, or object to or exclude himself or herself from the release of the
7 Released PAGA Claims set forth in this Agreement. PAGA Members will be bound by the release of the
8 Released PAGA Claims upon its approval by the Court regardless of whether he or she cashes any
9 payment received as a result of this Settlement. PAGA Members who are also Participating Class
10 Members will be bound by the terms of the Settlement Agreement.

11 67) Net Settlement Fund. The entire Net Settlement Fund, less applicable employee's taxes
12 and required withholdings, will be distributed to Participating Class Members. The Parties acknowledge
13 and agree that the formula used to calculate Individual Settlement Payments does not imply that all of the
14 elements of damages alleged in the Action are not being taken into account. The formula was devised as a
15 practical and logistical tool to simplify the settlement process. Any Class Member who is not a
16 Participating Class Member shall not receive an Individual Settlement Payment from the Net Settlement
17 Fund but if he/she is a PAGA Member, such individual will still receive his/her PAGA Settlement
18 Payment. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

19 68) PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
20 portion of the PAGA Fund will revert to or be retained by Defendant.

21 69) Individual Settlement Payment Calculations. Individual Settlement Payments will be
22 calculated and apportioned from the Net Settlement Fund and the PAGA Fund based on the estimated
23 number of Pay Periods worked (meaning not on paid time off or other leave of absence for the majority of
24 the Pay Period), as evidenced by Defendant's records, during the Class Period or PAGA Period, as
25 applicable. Based on the information in the Class Member/PAGA Member list and the formula set forth
26 below, the Settlement Administrator shall promptly calculate the estimated Individual Settlement Payment
27 for every Class Member and PAGA Member, to be included in the individualized Class Notice to be sent
28 to that Class Member and/or PAGA Member, and shall prepare and send via a secure link or via e-mail a

password protected spreadsheet setting forth those calculations to Defense Counsel no fewer than five (5) business days before mailing the Class Notice to Class Members and PAGA Members. Specific calculations of Individual Settlement Payments will be made as follows:

a. Payments from the Net Settlement Fund. Defendant will calculate the estimated number of Pay Periods worked (meaning not on paid time off for the majority or other leave of absence for the majority of the Pay Period), as evidenced by Defendant's records, by each Class Member from January 27, 2017 through and including March 18, 2022, and the aggregate estimated total number of Pay Periods worked by all Class Members during that period. To determine each Class Member's estimated "Individual Settlement Payment" from the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Pay Periods, resulting in the "Pay Period Value." Each Class Member's "Individual Settlement Payment" will be calculated by multiplying each individual Class Member's total number of Pay Periods by the Pay Period Value. The Individual Settlement Payment will be reduced by any required deductions for each Participating Class Member as specifically set forth herein, including employee-side tax withholdings or deductions. The Individual Settlement Payments shall be paid to each Participating Class Member by way of a single check. The entire Net Settlement Fund will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase the Individual Settlement Payment for each Participating Class Member according to the number of Pay Periods worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

b. Payments from the PAGA Fund. Defendant will calculate the total estimated number of Pay Periods worked (i.e., not on paid time off for the majority of the Pay Period or other leave of absence), as evidenced by Defendant's records, by each PAGA Member during the PAGA Period and the aggregate total number of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated Individual Settlement Payment, the Settlement Administrator will use the following formula: That PAGA Fund will be divided by the aggregate total number of Pay Periods, resulting in the "PAGA Pay Period Value." Each PAGA Member's "Individual Settlement Payment" will be calculated by multiplying each individual PAGA Member's total number of Pay Periods

1 by the PAGA Pay Period Value. The entire PAGA Fund will be disbursed to all PAGA Members.

2 70) No Credit Toward Benefit Plans. The Individual Settlement Payments made to
3 Participating Class Members under this Settlement, as well as any other payments made pursuant to this
4 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any
5 Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)
6 plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, deferred compensation plans, and
7 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any
8 rights, contributions, or amounts to which any Class Members or PAGA Members may be entitled under
9 any benefit plans.

10
11 **NOTICE AND SETTLEMENT ADMINISTRATION PROCESS**

12 71) Administration Process. The Parties agree to cooperate in the administration of the
13 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in
14 administration of the Settlement.

15 72) Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval,
16 Defendant will provide the Class List to the Settlement Administrator. The Settlement Administrator will
17 keep the list confidential, use it only for the purposes described herein, and return it to Defendant upon
18 completion of the settlement administration process. The Settlement Administrator shall not share the list or
19 any of its contents with Plaintiff, Class Counsel, or any other person without Defendant's written approval.

20 73) Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving the Class
21 List from Defendant, the Settlement Administrator will mail a Notice Packet to all Class Members via
22 regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.
23 The mailing shall be sent by first-class U.S. Mail, postage pre-paid. The date that the Settlement
24 Administrator mails the Class Notices is the "Mailing Date." It shall be conclusively presumed that each
25 and every Class Member/PAGA Member whose Class Notice is not returned to the Settlement
26 Administrator as undeliverable within fourteen (14) calendar days after the Mailing Date has received the
27 Class Notice.

28 74) Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement

1 Administrator will perform a search based on the National Change of Address Database for information to
2 update and correct for any known or identifiable address changes. Any Notice Packets returned to the
3 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via
4 regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator
5 will indicate the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the
6 Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other
7 search using the name, address and/or Social Security number of the Class Member involved, and will then
8 perform a single re-mailing. Those Class Members who receive a re-mailed Notice Packet, whether by
9 skip-trace or by request, will have either (a) an additional ten (10) calendar days from the re-mailing date or
10 (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an objection to the
11 Class Settlement. It shall be conclusively presumed that those Class Members/PAGA Members whose re-
12 mailed Class Notice are not returned to the Settlement Administrator as undeliverable within fourteen (14)
13 days after re-mailing has received the Class Notice.

14 75) Notice Packets. All Class Members will be mailed a Notice Packet. Each Notice Packet
15 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal
16 terms; (c) the Class Member and PAGA Member definitions; (d) the total estimated number of Pay Periods
17 each respective Class Member and PAGA Member worked (i.e., not on paid time off for the majority of the
18 Pay Period or other leave of absence), as evidenced by Defendant's records, for Defendant during the Class
19 Period and PAGA Period; (e) each Class Member's and PAGA Member's estimated Individual Settlement
20 Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the
21 Class Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion or Notices of
22 Objection; (h) the deadlines by which the Class Member must postmark or fax Request for Exclusions, or
23 postmark or fax Notices of Objection to the Class Settlement; and (i) the claims to be released.

24 76) Disputed Information on Notice Packets. Class Members will have an opportunity to
25 dispute the estimated number of Pay Periods worked (meaning not on paid time-off or other leave of
26 absence for the majority of the Pay Period) on record. Class Members must provide written explanation
27 and produce evidence to the Settlement Administrator via fax or mail postmarked by the Response
28 Deadline showing that such information is inaccurate. Defendant's records will be presumed correct, but

1 the Settlement Administrator shall contact Defendant regarding the dispute and Defendant will work with
2 the Settlement Administrator in good faith to resolve it. All disputes must be submitted to the Settlement
3 Administrator with a fax date or postmark date by the Response Deadline, and will be decided within ten
4 (10) business days after the Response Deadline, or as soon thereafter as is possible.

5 77) Request for Exclusion Procedures. Any Class Member wishing to opt-out from the Class
6 Settlement must sign and fax or postmark a written Request for Exclusion to the Settlement Administrator
7 on or before the Response Deadline. The Request for Exclusion must: (a) set forth the name, address, and
8 last four digits of the Social Security Number of the Class Member requesting exclusion; (b) state in
9 substantially the same form and effect: "I wish to be excluded from the Settlement Class in the Medina
10 Lawsuit and understand that this means I will not receive the payment available to me from the Class
11 Settlement."; (c) be signed by the Class Member; (d) be returned to the Settlement Administrator; and (e)
12 be faxed or postmarked on or before the Response Deadline. In the case of Requests for Exclusion that are
13 mailed to the Settlement Administrator, the postmark date will be the exclusive means to determine
14 whether a Request for Exclusion has been timely submitted. Any Class Member who does not
15 affirmatively opt-out of the Settlement Class by submitting a timely and valid Request for Exclusion will be
16 bound by all of the terms of this Settlement, including those pertaining to the Released Class Claims, as
17 well as any Judgment entered by the Court granting final approval of the Settlement.

18 78) Escalator/Reducer Clause. This Settlement is entered based on Defendant's representation
19 that there are approximately 83,000 Pay Periods, which the Parties estimate to be approximately 166,000
20 work weeks at issue, through and including December 17, 2021 (because there are two workweeks in each
21 pay period). If the number of work weeks (which will be calculated at two per Pay Period) worked during
22 the Class Period is greater than 182,600, then Defendant will proportionally increase the Gross Settlement
23 Amount according to the following formula: \$17.77 per each additional work week. Conversely, if the
24 number of work weeks worked during the Class Period is less than 149,400, the Defendant will
25 proportionately decrease the Gross Settlement Amount by \$17.77 per each workweek less than 149,400.
26 Any additional weeks between December 18, 2021 and March 18, 2022 do not count against the Escalator
27 Clause above 182,600.

28 79) The Parties and their counsel agree that they shall not seek to solicit or otherwise

1 encourage Class Members to submit a Request for Exclusion or Notice of Objection to the Settlement or to
2 appeal from the Order Approving PAGA Settlement, Preliminary Approval Order, Final Approval Order
3 or Judgment.

4 80) Any person who is eligible to and does submit a complete and timely Request for
5 Exclusion, shall, upon receipt by the Settlement Administrator, opt out of this Class Settlement, shall be
6 barred from becoming a Participating Class Member and participating in the Class Settlement, shall be
7 barred from objecting to the Settlement, and shall receive no benefits under the Class Settlement. Requests
8 for Exclusion which are postmarked after the deadline are invalid, must be rejected by the Settlement
9 Administrator, and the person shall become a member of the Settlement Class and be bound by the
10 Settlement.

11 81) Any Class Member who properly submits a timely, complete and valid Request for
12 Exclusion as set forth in Paragraph 77 will not be entitled to an Individual Settlement Payment from the Net
13 Settlement Fund and will not be bound by the Class Settlement or have any right to object, appeal or
14 comment thereon, except that a Class Member that is also a PAGA Member will be bound by the PAGA
15 Settlement, the release of Released PAGA Claims set forth in this Agreement and will be issued an
16 Individual Settlement Payment from the PAGA Fund. PAGA Members will not have the opportunity to
17 opt out or object to the PAGA Settlement, PAGA Settlement Payment and/or release of the Released
18 PAGA Claims.

19 82) Upon receipt of any Request for Exclusion dated on or before the Response Deadline, the
20 Settlement Administrator shall review the request to verify the information contained therein, and to
21 confirm that the request complies with the requirements of this Agreement. If a Class Member timely
22 submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will be given
23 effect and considered valid, the Notice of Objection shall be rejected, and the Class Member shall not
24 participate in or be bound by the Class Settlement.

25 83) Any Class Member who fails to submit a timely, complete and valid Request for
26 Exclusion shall be barred from opting out of the Class Settlement. The Settlement Administrator shall not
27 review or consider any Request for Exclusion postmarked after the Response Deadline. It shall be
28 conclusively presumed that, if a Request for Exclusion is not postmarked on or before the Response

1 Deadline, or is not received by the Settlement Administrator, the Class Member did not make the request in
2 a timely or valid manner. Under no circumstances shall the Settlement Administrator have the authority to
3 extend the deadline for Class Members to submit a Request for Exclusion.

4 84) The Settlement Administrator shall give Class Counsel and Defense Counsel a weekly
5 update on the number of Requests for Exclusion it receives that week.

6 85) Defendant's Right to Rescind. Defendant will have, in its sole discretion, the right to
7 rescind, void and withdraw from the Settlement if Plaintiff fails to execute or revokes his individual general
8 release agreement. Defendant will also have, in its sole discretion, the right to rescind, void and withdraw
9 from the Settlement at any time prior to Final Approval, if Two Percent (2%) or more of Class Members
10 opt out of the Settlement Class. Defendant must exercise this right of rescission in writing to Class Counsel
11 by providing written notice to Class Counsel within ten (10) business days after the Settlement
12 Administrator furnishes the Parties with the number and percentage of valid and timely Requests for
13 Exclusion. The Settlement Administrator shall furnish this information within 21 (21) calendar days after
14 the Response Deadline. If Defendant exercises this right, it shall be solely responsible for all Settlement
15 Administration Costs through the rescission period. The Parties and all counsel shall not encourage any
16 Class Member or PAGA Member (or encourage anyone else to encourage any Class or PAGA Member) to
17 object, opt out, request exclusion from, or otherwise challenge the Settlement.

18 86) Objection to Class Settlement Procedures. To object to the Class Settlement, a Class
19 Member must file with Court by the Response Deadline and fax or postmark a valid Notice of Objection to
20 the Settlement Administrator on or before the Response Deadline. For the Notice of Objection to be valid,
21 it must be faxed or mailed to the Settlement Administrator with a postmark dated on or before the Response
22 Deadline and include: (a) the objector's full name, signature, address, and telephone number, (b) a written
23 statement of all grounds and all supporting facts for the objection accompanied by any legal support for
24 such objection; (c) copies of any papers, briefs, or other documents upon which the objection is based; and
25 (d) a statement whether the objector intends to appear at the final fairness hearing. The Settlement
26 Administrator will provide Class Counsel and Defendant's Counsel a copy of all Notices of Objection
27 within three (3) business days of receipt.

28 87) Any Class Members who do not submit a timely and valid Notice of Objection to the

1 Class Settlement, or who fail to otherwise comply with the specific and technical requirements of this
2 section, will be foreclosed from objecting to the Settlement and seeking any adjudication or review of the
3 Settlement, by appeal or otherwise. Only Participating Class Members may object to the Class Settlement.
4 If an objector intends to appear at the Final Approval Hearing, either in person or through an attorney of
5 his/her choice, he or she must also timely serve and file with his or her Notice of Objection a Notice of
6 Intention to Appear. This Paragraph shall be strictly applied and enforced. Failure to comply with its terms
7 shall render an objection ineffective and waived.

8 88) Class Members who fail to object by submitting a valid Notice of Objection will be
9 deemed to have waived all objections to the Settlement and will be foreclosed from making any objections,
10 whether at the hearing, by appeal or otherwise, to the Settlement Agreement. At no time will any of the
11 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections
12 to or otherwise challenge the Settlement Agreement or appeal from any order approving the Settlement or
13 judgment. Class Counsel will not represent any Class Members with respect to any such objections to this
14 Settlement. If a Class Member timely submits both a Notice of Objection and a Request for Exclusion, the
15 Request for Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected,
16 and the Class Member shall not participate in or be bound by the Class Settlement.

17 89) Within twenty-one (21) days after the close of the Response Deadline, the Settlement
18 Administrator will provide Defense Counsel with a report by name and last four digits of Social
19 Security Number listing the amount of all Individual Settlement Payments to be made to the Class
20 Members and PAGA Members, a list by name and last four digits of the Social Security Number of all
21 Class Members who timely –submitted a Request for Exclusion and a list by name and last four digits of
22 the Social Security Number of all Class Members who timely submitted a Notice of Objection. Within
23 that same time period, the Settlement Administrator will provide to Class Counsel a report stating the total
24 number of Participating Class Members, the total number of Class Members who timely opted out and the
25 total number of Class Members who timely objected.

26 90) Funding of Settlement. Within thirty (30) calendar days after the
27 Effective Date, Defendant shall electronically transfer to the Settlement Administrator an amount equal to
28 the Gross Settlement Amount (“Funding Date”). The delivery of the Gross Settlement Amount to the

1 Settlement Administrator shall constitute full and complete discharge of the entire obligation of Defendant
2 under this Agreement. Once Defendant has made the transfer payment, they will be deemed to have
3 satisfied all terms and conditions under this Agreement, shall be entitled to all protections afforded to
4 Defendant under this Agreement, and shall have no further obligations under the terms of the Agreement
5 regardless of what occurs with respect to those sums, except as set forth in paragraph 131. Additionally, no
6 Released Party shall have any further obligation or liability to the Plaintiff, PAGA Members, Class
7 Members, Class Counsel, the State of California, or the LWDA under this Agreement.

8 91) Distribution Timing. Within ten (10) calendar days of the Funding Date (the “Distribution
9 Deadline”), the Settlement Administrator will issue payments as described by the terms of this Agreement
10 to: (a) Participating Class Members; (b) PAGA Members; (b) the Labor and Workforce Development
11 Agency; (c) Plaintiff; and (d) Class Counsel. The Settlement Administrator will also issue a payment to
12 itself for Court-approved services performed in connection with the Settlement. The Settlement
13 Administrator shall be deemed to have timely distributed all such payments if it places in the mail
14 Individual Settlement Payments for all PAGA Members and Participating Class Members and the LWDA
15 Payment by the Distribution Deadline. No person, entity or organization shall have any claim against the
16 Settlement Administrator, Defendant, Released Parties, Class Counsel, Defense Counsel, or any other
17 agent designated by Plaintiff or Defendant based upon the distribution of Individual Settlement Payments
18 and the LWDA Payment made substantially in accordance with this Agreement or further orders of the
19 Court. Upon such payment by the Settlement Administrator of Class Counsel’s Attorney’s Fees and Costs
20 and the Class Representative Enhancement Award, Defendant, the Released Parties, Defense Counsel and
21 the Settlement Administrator shall have no further liability or responsibility to Plaintiff, Class Counsel or
22 to any vendors or third parties employed by the Plaintiff or Class Counsel. Defendant shall not be
23 obligated to make any payments contemplated by this Agreement until the conditions set forth in this
24 Agreement occur.

25 92) Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment
26 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for
27 more than one-hundred-and-twenty (120) calendar days after issuance will be tendered to Working
28 Wardrobes. The Parties do not have a connection to or a relationship with Working Wardrobes that could

1 reasonably create the appearance of impropriety as between the selection of Working Wardrobes as the
2 recipient of the unclaimed residuals and the interests of the class.

3 93) Certification of Completion. Upon completion of administration of the Settlement, the
4 Settlement Administrator will provide a written declaration under oath, the content to be agreed to by the
5 Parties, to certify such completion to the Court and counsel for all Parties.

6 94) Treatment of Individual Settlement Payments. All Individual Settlement Payments from
7 the Net Settlement Fund will be allocated as follows: (a) Twenty Percent (20%) of each Individual
8 Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued; and (b) Eighty
9 Percent (80%) will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. All
10 Individual Settlement Payments from the PAGA Fund will be allocated as penalties for which IRS Forms
11 1099-MISC will be issued.

12 95) The Parties agree that the Gross Settlement Amount will qualify as a settlement
13 fund pursuant to the requirements of section 468(B)(g) of the Internal Revenue Code of 1986, as
14 amended, and section 1.468B-1. et seq. of the income tax regulations. Furthermore, the Settlement
15 Administrator is hereby designated as the “Administrator” of the qualified settlement funds for purposes of
16 section 1.46B-2(k) of the income tax regulations. As such, all taxes imposed on the gross income of the
17 Gross Settlement Amount and any tax-related expenses arising from any income tax return or other
18 reporting document that may be required by the Internal Revenue Service or any state or local taxing body
19 will be paid from the Gross Settlement Amount.

20 96) Administration of Taxes by the Settlement Administrator. The Settlement Administrator
21 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
22 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this
23 Settlement. The Settlement Administrator will also be responsible for forwarding all employee payroll
24 taxes and penalties to the appropriate government authorities. The Settlement Administrator shall
25 calculate the Employer’s Taxes and inform Defendant of the amount of Employer’s Taxes to be paid by
26 Defendant separate and apart from the Gross Settlement Amount.

27 97) Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of
28 the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any

statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard.

98) Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

RELEASE PROVISIONS

99) Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that it has violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other

1 applicable laws, regulations or legal requirements; breached any contract, violated or breached any duty;
2 engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to
3 the Plaintiff or any Class Member and/or PAGA Member. Neither this Agreement, nor any of its terms or
4 provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession
5 by Defendant of any such violations or failures to comply with any applicable law. This Agreement and
6 its terms and provisions shall not be offered or received as evidence in any action or proceeding to
7 establish any liability or admission on the part of Defendant or to establish the existence of any condition
8 constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

9 100) Releases by Participating Class Members. Upon the Effective Date, and to the maximum
10 extent permitted by law, Plaintiff and all Participating Class Members and all persons purporting to act on
11 the Plaintiff or Class Members' behalf, or purporting to assert a claim under or through them, hereby do
12 and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and
13 discharged Defendant and all other Released Parties of and from any and all claims, causes of action,
14 obligations, demands, disputes, rights, and/or liabilities against the Released Parties during the Class
15 Period, that have been alleged or that could reasonably have been alleged, arising in whole or in part, from
16 the facts or allegations contained in the LWDA Notice, amended Notice, Complaint, First Amended
17 Complaint, and/or proposed Second Amended Complaint, including but not limited to: Any and all
18 claims for off-the-clock- work, alleged unpaid wages (including minimum, regular, overtime, incentive
19 wages, nondiscretionary bonuses, shift differential pay and/or other forms of remuneration), improper
20 payment of and/or failure to pay sick leave, improper calculation of the regular rate of pay for purposes of
21 calculating overtime, untimely wage payments during and/or at the termination of employment, failure to
22 provide meal periods, failure to authorize and permit rest breaks, non-compliant wage statements, non-
23 compliant timekeeping practices, payroll records, or other recordkeeping or maintenance thereof, failure to
24 pay premiums for noncompliant meal periods and/or rest breaks, failure to pay for costs of mandatory
25 physical examinations and/or drug testing, failure to reimburse business expenses, failure to provide
26 notice of material terms of employment, claims under the California Labor Code, including but not
27 limited to Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 245.5, 246, 246.5, 247, 247.5,
28 248.5, 249, 510, 511, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802,

1 2810.5(a)(1)(A)-(C), and the Private Attorneys General Act, Section 2699, et seq., claims based on or
2 under the California Industrial Welfare Commission Wage Orders and corresponding California Code of
3 Regulations based on any of the preceding allegations and/or claims, claims under the California Business
4 and Professions Code based on any of the preceding allegations and/or claims, claims under the Fair Labor
5 Standards Act based on any of the preceding allegations and/or claims; any and all other statutory, local,
6 state, federal, constitutional, contractual or common law claims based on any of the preceding allegations
7 and/or claims; any claims for injunctive relief, declaratory relief, equitable relief, restitution, fraudulent or
8 unfair business practices based on any of the preceding allegations and/or claim; and any and all potential
9 claims and forms of recovery, including but not limited to, damages, liquidated damages, punitive
10 damages, interest, premiums, penalties (including but not limited to waiting time penalties), expenses,
11 attorney's fees, costs, other expenses, and any other forms of remuneration based on any of the preceding
12 allegations and/or claims. (Collectively, the "Released Class Claims"). The Participating Class Members
13 are bound by the release of the Class Claims in their entirety regardless of whether they cash their
14 Individual Settlement Payment.

15 101) Releases by PAGA Members. Upon the Effective Date and to the maximum extent
16 permitted by law, Plaintiff and the PAGA Members and all persons purporting to act on the PAGA
17 Members' behalf or purporting to assert a claim under or through them, hereby do and shall be deemed to
18 have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of
19 the Released Parties of and from any and all PAGA claims, causes of action, obligations, demands,
20 disputes, rights, and/or liabilities for PAGA penalties against the Released Parties during the PAGA
21 Period that have been alleged or that could reasonably have been alleged, arising in whole or in part, from
22 the facts or allegations contained in the LWDA Notice, amended Notice, Complaint, First Amended
23 Complaint, and/or proposed Second Amended Complaint as set forth above in Paragraph 59, including
24 any and all potential claims and forms of recovery, including but not limited to, interest, premiums,
25 penalties (including but not limited to waiting time penalties), expenses, attorney's fees, costs, other
26 expenses, and any other forms of remuneration recoverable under PAGA, predicated on any claims for
27 off-the-clock- work, alleged unpaid wages (including minimum, regular, overtime, incentive wages,
28 nondiscretionary bonuses, shift differential pay and/or other forms of remuneration), improper payment of

and/or failure to pay sick leave, improper calculation of the regular rate of pay for purposes of calculating overtime, untimely wage payments during and/or at the termination of employment, failure to provide meal periods, failure to authorize and permit rest breaks, non-compliant wage statements, non-compliant timekeeping practices, payroll records, or other recordkeeping or maintenance thereof, failure to pay premiums for noncompliant meal periods and/or rest breaks, failure to pay for costs of mandatory physical examinations and/or drug testing, failure to reimburse business expenses, failure to provide notice of material terms of employment, and alleged violations of Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 245.5, 246, 246.5, 247, 247.5, 248.5, 249, 510, 511, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5(a)(1)(A)-(C), and the Private Attorneys General Act, Section 2699, et seq (collectively, the “Released PAGA Claims”). The PAGA Members will not have the opportunity to opt out of, or object to, the PAGA Settlement Amount, and release of the PAGA claims set forth in this Settlement Agreement. The PAGA Members are bound by the release of the Released PAGA claims regardless of whether they cash their PAGA Settlement Payment.

102) Signatures of the Class not Necessary. The Parties agree for settlement purposes only that, because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute this Agreement. Accordingly, the Class Notice will advise all Class Members of the binding nature of the release of claims and such notice shall have the same force and effect as if the Agreement were executed by each Class Member.

103) Labor Code Sections Do Not Apply To Releases. The Parties agree that California Labor Code section 206.5 and 2804 do not invalidate any provision of this Agreement, because among other things, the claims, Released Claims, Released Class Claims, and Released PAGA Claims are disputed and contested, and the Settlement was bargained for at arms’ length and approved by the Court.

COURT APPROVAL AND EFFECTIVE DATES

104) Plaintiff’s Request for Approval of PAGA Settlement and Preliminary Approval of Class Action Settlement. Within three (3) calendar days of executing this Agreement, Plaintiff will obtain a hearing date (including inquiring with the court whether ex parte or shortened time is possible, assuming there are no disputes between the Parties regarding the content of the papers) before the Court that is mutually agreeable to the Parties and all counsel, to request the Approval of the PAGA Settlement and

1 Preliminary Approval of the Class Settlement, and entry of order for the same. Within five (5) business
2 days of executing this Agreement, Plaintiff will prepare a motion for filing in the Action requesting that
3 the Court enter a Preliminary Approval Order and Order Approving PAGA Settlement in accordance with
4 this Agreement, including:

- 5 a. Approving the filing of the SAC;
- 6 b. Approving the PAGA Settlement Amount, including the LWDA Payment,
7 distribution plan of the PAGA Fund, and the release of the PAGA claims set forth in this Agreement and
8 preliminarily approving for settlement purposes only the remaining portions of the proposed Settlement;
- 9 c. Preliminarily approving the appointment of the Plaintiff as representative of the
10 Class for settlement purposes only;
- 11 d. Preliminarily approving the appointment of Class Counsel as counsel for the
12 Class for settlement purposes only;
- 13 e. Appointing and approving the Settlement Administrator as chosen by the Parties
14 and approved by the Court, to administer the claims and settlement payment procedures required by this
15 Agreement;
- 16 f. Approving the form of the Class Notice, attached hereto as Exhibit A, and
17 requiring that individualized Class Notice be sent to Class Members and PAGA Members;
- 18 g. Approving the plan for the provision of notice to Class Members and PAGA
19 Members, as stated herein and in the Class Notices;
- 20 h. Scheduling the Final Approval Hearing for consideration of class certification for
21 settlement purposes and final approval of this Agreement;
- 22 i. Approving the procedure for Class Members and PAGA Members to dispute the
23 estimated Individual Settlement Payment set forth in the Class Notice and the date after which no Class
24 Member and PAGA Member shall be allowed to submit a dispute;
- 25 j. Approving the procedure for Class Members to opt-out of the Class Settlement
26 and the date after which no Class Member shall be allowed to submit a Request for Exclusion; and
- 27 k. Approving the procedure for Participating Class Members to object to the Class
28 Settlement and the date after which no Participating Class Member shall be allowed to submit a Notice of

1 Objection.

2 105) In conjunction with the Preliminary Approval hearing, Plaintiff will submit this Settlement
3 Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice of Class
4 Action Settlement, attached as Exhibit A, and the proposed Second Amended Complaint, attached as
5 Exhibit B. Class Counsel will be responsible for drafting all documents necessary to obtain preliminary
6 approval, and will provide a draft of the moving papers to Defendant's counsel no later than five (5) court
7 days prior to the filing deadline so that Defendant's counsel can review, comment and revise. The Parties
8 will work in good faith on any disputes regarding the content of Motions filed to secure the court's
9 approval of the Settlement. The Parties will agree on the form of Approval and Preliminary Approval
10 Orders.

11 106) Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of
12 the deadlines to fax or postmark Requests for Exclusion or Notices of Objection to the Class Settlement,
13 and with the Court's permission, a final fairness hearing will be conducted to determine the Final
14 Approval of the Settlement, including: certifying the Class for settlement purposes only; finding that the
15 Agreement is fair, just, equitable, reasonable and adequate and in the best interests of the Class;
16 permanently enjoining all PAGA Members and Participating Class Members from pursuing or seeking to
17 reopen Released PAGA Claims and Released Class Claims against the Released Parties; the amounts
18 properly payable for: (a) Attorneys' Fees and Costs; (b) the Class Representative Enhancement Payment;
19 (c) Individual Settlement Payments; (d) the Labor and Workforce Development Agency Payment; (e) and
20 all Settlement Administration Costs; and requiring the Parties to carry out the provisions of this
21 Agreement. The Parties, Class Counsel, Defendant's Counsel and the Settlement Administrator will make
22 their best efforts to ensure a Final Approval Hearing is held within sixty (60) days following the Response
23 Deadline, or as soon thereafter as possible, on a date to mutually agreeable to the parties and the parties'
24 counsel. Class Counsel will be responsible for drafting all documents necessary to obtain Final Approval,
25 as well as the attorneys' fees and costs application, and will provide a draft of all such papers to
26 Defendant's counsel no later than five court days prior to the filing deadline so that Defendant's counsel
27 may review, comment and revise them. The Parties will work in good faith on any disputes regarding the
28 content of Motions filed to secure the Court's approval of the Settlement. The Parties will agree on the

1 form of Final Approval Orders, and Final Judgment.

2 107) Binding Effect of Agreement on Class Members and PAGA Members. Upon the
3 Effective Date, all Participating Class Members shall be bound by this Agreement and the Released Class
4 Claims which shall be released as against all of the Released Parties to the greatest extent permitted by
5 law. In addition, unless a Class Member submits a timely and valid Request for Exclusion from the Class
6 Settlement, he or she shall be bound by the Court's Order enjoining all Participating Class Members from
7 pursuing or seeking to reopen Released Class Claims against the Released Parties to the greatest extent
8 permitted by law. Upon Court approval of the PAGA Settlement Amount and the release of the PAGA
9 Claims, all PAGA Members shall be bound by the release of the PAGA Claims and the Released PAGA
10 Claims which shall be released as against all of the Released Parties to the greatest extent permitted by
11 law.

12 108) Non-Interference. The Parties and their counsel agree that they shall not seek to solicit or
13 otherwise encourage Class Members to submit a Request for Exclusion or an objection to the Settlement
14 or to appeal from the Order Approving PAGA Settlement, Preliminary Approval Order, and Final
15 Approval Order or Judgment. Plaintiff agrees he will not request to be excluded from the Settlement Class
16 and will not object to any terms of this Agreement. Any such request for exclusion or objection shall
17 therefore be void and of no force or effect.

18 109) Entry of Final Judgment. Plaintiff will request that the Court enter, immediately after the
19 Final Approval Hearing, a Final Approval Order and Judgment, the form and content of which is to be
20 agreed to by the Parties.

21 110) Nullification of Settlement Agreement. In the event that: (i) the Court does not finally
22 approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other
23 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
24 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
25 likewise be treated as void from the beginning. In such event, the Settlement Agreement (including all
26 exhibits, drafts and related documents, papers, and communications) and all negotiations, court orders and
27 proceedings relating thereto shall be without prejudice to the rights of any and all Parties hereto, and
28 evidence relating to the Settlement Agreement (including all exhibits, drafts and related documents,

papers, and communications) and all negotiations shall not be admissible or discoverable in the Action or otherwise.

111) Automatic Voiding of Agreement if Settlement Not Finalized. If for any reason the Settlement set forth in this Agreement does not become final, the Settlement shall be null and void and all orders and the judgment entered pursuant to this Agreement shall be vacated, and the Parties will be returned to the status quo prior to entering this Agreement with respect to the Action, as if the Parties had never entered into this Agreement, and the settlement class certified pursuant to this Agreement will be decertified for all purposes. In addition, in such event, the Agreement (including all exhibits, drafts and related documents, papers, and communications) and all negotiations, court orders and proceedings relating thereto shall be without prejudice to the rights of any and all Parties hereto, and evidence relating to the Agreement (including all exhibits, drafts and related documents, papers, and communications) and all negotiations shall not be admissible or discoverable in the Action, in any other litigation or proceeding, or otherwise.

112) Invalidation of Agreement for Failure to Satisfy Conditions. The terms and provisions of this Agreement are not recitals, but are deemed to constitute contractual terms. In the event that any of the material terms or conditions set forth in this Agreement are not fully and completely satisfied, this Agreement shall terminate and all terms of the Agreement including, but not limited to, the conditional certification of the Class, the payment of Individual Settlement Payments to PAGA Members or Participating Class Members, the payment of Attorneys' Fees and Costs to Class Counsel, the Class Representative Enhancement Award to Plaintiff, and the payment of the PAGA Settlement Amount shall be null and void. In such event, nothing in this Agreement shall be used, construed or admissible as evidence by or against any Party or Released Party as a determination, admission, or concession of any issue of law or fact in this Action, or in any other proceeding for any purpose; and the Parties do not waive, and instead expressly reserve, their respective rights to prosecute and defend this Action as if this Agreement never existed. In addition, notwithstanding the generality of the foregoing, if this Agreement is terminated for failure to satisfy any of the terms or conditions of this Agreement, Defendant shall not be obligated to create or maintain any type of settlement fund, and shall not be obligated to pay any part of the Gross Settlement Amount to any Class Member and/or PAGA Member, to Class Counsel, the Settlement

1 Administrator, the State of California, the LWDA or to Plaintiff.

2
3 **GENERAL PROVISIONS**

4 113) No Prior Assignments. Plaintiff and Class Counsel represent, covenant, and warrant that
5 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
6 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or
7 right herein released and discharged, except as set forth herein.

8 114) Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
9 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
10 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

11 115) Entire Agreement. This Agreement constitutes the full, complete and entire
12 understanding, agreement and arrangement between the Plaintiff, the Class Members and the PAGA
13 Members on the one hand, and Defendant on the other hand, about the Settlement. This Agreement
14 supersedes any and all prior oral or written understandings, agreements and arrangements between the
15 Parties with respect to the Settlement, including the Memorandum of Understanding reached on
16 December 18, 2021 and executed by the Parties on that date. The Settlement shall have no impact on the
17 validity or enforceability of the arbitration agreements entered by Plaintiff and other Class Members and
18 PAGA Members, and the settlement shall not prejudice Defendant or any of the other Released Parties
19 from seeking to enforce such arbitration agreements. This Settlement Agreement and any attached
20 Exhibits constitute the entirety of the Parties' settlement terms; no other prior or contemporaneous written
21 or oral agreements may be deemed binding on the Parties regarding this Settlement. The Parties expressly
22 recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a),
23 which provide that a written agreement is to be construed according to its terms and may not be varied or
24 contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written
25 representations or terms will modify, vary or contradict the terms of this Settlement Agreement.

26 116) Amendment or Modification. No amendment, change, or modification to this Settlement
27 Agreement will be valid unless in writing and signed by the Parties and their counsel and approved by the
28 Court.

117) Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the dispute shall be submitted to the mediator, Mark Rudy, for final resolution, with expenses shared equally between the Parties.

118) Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

119) California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

120) Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

121) Acknowledgement that the Settlement is Fair and Reasonable. Plaintiff believes this Settlement Agreement is a fair, adequate and reasonable settlement of the Action. The Parties have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding this Settlement.

122) Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

123) Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to class action certification for purposes of the Settlement only. Defendant does not waive its defenses and other arguments that a class action or class certification is not permissible in this or any other matter or that Plaintiff and other Class Members are bound by a valid and enforceable arbitration agreement, and no arguments shall be asserted against Defendant contrary thereto. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class action should be certified or (ii) Defendant is liable to Plaintiff or the Class. The Parties further agree that this Settlement does not constitute an admission by Defendant that a PAGA representative action is appropriate in this Action.

124) Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. This Settlement Agreement and its terms and provisions will not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable law.

125) No Public Comment. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage a Class Member, PAGA Member or any other person or organization to file or serve written objections to the Settlement or appeal from any order granting approval of the Settlement or judgment terminating the Action. Plaintiff and Class Counsel agree that they will not publicize this litigation or this Settlement in any manner, including, but not limited to on the firm's website or blogs.

1 Plaintiff and Class Counsel agree that they will not issue any press releases, initiate any contact with the
2 press, respond to any press inquiry. If contacted by the press or media, Plaintiff and Class Counsel may
3 only state that the case has been resolved.

4 126) Confidentiality. The Settlement Agreement will remain confidential until it is filed with
5 the Court as part of Plaintiff's Motion for Approval of the PAGA Settlement and Preliminary Approval of
6 the Class Action Settlement. In addition, neither Plaintiff nor Class Counsel, proxy, agent or other person
7 or entity acting on their behalf, will initiate any press release engage in any communications, post on
8 websites or social media, or take any other action that could or would provide the public, press or media or
9 any litigation reporting service with information publicizing the Settlement. Plaintiff will not counsel or
10 assist any attorneys or their clients in the presentation or prosecution of any disputes, differences,
11 grievances, claims, charges, or complaints by any third party against Defendant and/or any of the other
12 Released Parties, except in connection with filing a charge, in response to a valid subpoena or court order
13 to do so, or in connection with an investigation or proceeding conducted by the Equal Employment
14 Opportunity Commission, the National Labor Relations Board, or other comparable federal, state, or local
15 agency. The existence of and provisions of this Settlement Agreement, and the negotiations leading
16 thereto, will be held in strictest confidence by Plaintiff and will not be publicized or disclosed in any
17 manner whatsoever, including but not limited to any reference to its existence, meaning, importance, value
18 or comparative value, or the negotiations leading to this Agreement; provided, however, Plaintiff may
19 disclose this Settlement Agreement to his spouse (if any), attorney, accountant, tax preparer, and financial
20 advisor, and he may also disclose this Settlement insofar as such disclosure is required by law or in
21 connection with filing a charge or participating in any investigation or proceeding conducted by the Equal
22 Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange
23 Commission, or comparable federal, state or local agency.

24 127) Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
25 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
26 more strictly against one party than another merely by virtue of the fact that it may have been prepared by
27 counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between
28 the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

128) Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

129) Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

130) Destruction of Information Disclosed for Purposes of Mediation. Plaintiff, Class Representative and Class Counsel agree to destroy and certify in writing, by sending an email to Defendant's counsel of record, destruction of all informal discovery (including documents, lists, excel spreadsheets, pdfs, emails) and related information provided by Defendant for purposes of the mediation, whether it exists in hard copy or electronic form, within five (5) calendar days after the Court grants final approval of the Settlement, provided there were no unresolved objections, or if there were unresolved objections, within five (5) calendar days from the Effective Date. , At all times, all information and evidence produced to Class Counsel in connection with the mediation will be held in the strictest confidence and will not be disclosed, may be used only for purposes of effectuating this Settlement, and for no other purpose, and may not be used in any way that is inconsistent with Plaintiff and his counsel's confidentiality obligations, or otherwise violates Defendant's rights, any agreement, statute, or rule of court.

131) Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

132) Notices. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally or by registered or certified mail, return receipt requested, addressed as set forth below:

To Plaintiff	To Defendant:
Raul Perez Capstone Law APC 1875 Century Park East, Suite 1000 Los Angeles, CA 90067 Telephone: 310-556-4811 Facsimile: 310-943-0396 Email: raul.perez@capstonelawyers.com	Victoria R. Carradero Claire A. Hoffman Duane Morris LLP 2475 Hanover Street Palo Alto, CA 94304 Phone: 650-600-5307 Email: VCarradero@duanemorris.com CAHoffman@duanemorris.com

READ CAREFULLY BEFORE SIGNING**PLAINTIFF**

Dated: 12/6/2022

DocuSigned by:
Juan Medina
74EFE83624C643D...

Juan Medina

DEFENDANT BIO- RAD LABORATORIES, INC.

Dated: _____

Adam Pressman, Associate General Counsel

APPROVED AS TO FORM**CAPSTONE LAW APC**

Dated: 12/6/2022

By: *Raul Perez*
Raul Perez
Attorneys for Plaintiff Juan Medina

DUANE MORRIS LLP

Dated: _____

By: _____
Victoria Carradero
Attorneys for Defendant Bio- Rad Laboratories, Inc.

To Plaintiff	To Defendant:
Raul Perez Capstone Law APC 1875 Century Park East, Suite 1000 Los Angeles, CA 90067 Telephone: 310-556-4811 Facsimile: 310-943-0396 Email: raul.perez@capstonelawyers.com	Victoria R. Carradero Claire A. Hoffman Duane Morris LLP 2475 Hanover Street Palo Alto, CA 94304 Phone: 650-600-5307 Email: VCarradero@duanemorris.com CAHoffman@duanemorris.com

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: _____

Juan Medina

**DEFENDANT BIO- RAD LABORATORIES,
INC.**

Dated: _____

Adam Pressman, Associate General Counsel

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: _____

By: _____
Raul Perez
Attorneys for Plaintiff Juan Medina

DUANE MORRIS LLP

Dated: December 16, 2022

By: _____
Victoria Carradero
Attorneys for Defendant Bio- Rad Laboratories, Inc.

Exhibit A

Juan Medina v. Bio-Rad Laboratories, Inc., No. C21-00154
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF CONTRA COSTA
NOTICE OF CLASS ACTION AND PAGA SETTLEMENT

*You are not being sued. This Notice is Court approved. Please read this Notice carefully. Your rights may be affected.
To receive your share of this settlement, you do not need to do anything.*

To: All persons who are or were employed with Defendant Bio-Rad Laboratories, Inc. (“Defendant”) as non-exempt, hourly employees in the State of California at any time between January 27, 2017 and March 18, 2022.

You received this Notice because a proposed settlement (“Settlement”) has been reached in the class action and PAGA representative lawsuit entitled *Juan Medina, et al., v. Bio-Rad Laboratories, Inc.*, which is pending in the Contra Costa Superior Court., Case No. C21-00154 (hereinafter “the Action”).

On _____, the Honorable Charles S. Treat of the Contra Costa County Superior Court granted approval of the PAGA settlement and preliminary approval of the class action settlement. **Defendant’s records indicate that you are a Class Member and/or PAGA Member, and therefore entitled to a payment from the settlement.**

A Class Member is defined as: All persons who are or were employed with Defendant Bio-Rad Laboratories, Inc. (“Defendant”) as non-exempt, hourly employees in the State of California at any time between January 27, 2017 and March 18, 2022.

A PAGA Member is defined as: All persons who are or were employed with Defendant as non-exempt, hourly employees in the State of California at any time between February 9, 2020 and March 18, 2022.

Summary of the Litigation

Plaintiff Juan Medina, on his behalf and on behalf of other current and former similarly situated or aggrieved non-exempt employees, the general public, the State of California, and the Labor Workforce Development Agency (“LWDA”), filed suit alleging that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal periods and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; (4) reimburse employees for necessary business expenses; (5) compensate employees for the costs of mandatory physical examinations and/or drug tests; (6) pay employees with requisite sick pay; and (7) provide employees with accurate, itemized wage statements.

Defendant denies all allegations of wrongdoing, maintains that it has fully complied at all times with all applicable wage and hour laws, rules, and regulations at issue in the litigation, and denies that it has any liability to Plaintiff, the Class, PAGA Members, the State, or the LWDA.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to formally resolve all claims. On December 16, 2021, the parties participated in a mediation with an experienced and well-respected class and representative action mediator. After extensive settlement negotiations, and with the mediator’s guidance, the parties were able to negotiate a complete settlement of all of Plaintiff’s claims. The settlement was memorialized in a formal Joint Stipulation of Class and PAGA Action Settlement and Release (“Joint Stipulation” or “Settlement”). The Court has approved the PAGA portion of the Settlement and preliminarily approved the Class portion of the Settlement. The Court has not ruled on the merits of the lawsuit.

Plaintiff, on one hand, and Defendant, on the other hand, disagree about whether there is any liability, including but not limited to: (1) whether the case is appropriate for treatment as a class or representative action; (2) whether Plaintiff, Class Members and/or PAGA Members are owed any unpaid wages, premiums, and/or penalties; and (3) the amount of unpaid

wages, premiums, and/or penalties owed, if any. Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC ("Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$2,950,000. This amount is inclusive of: (1) Individual Settlement Payments to all Class Members who do not opt out ("Participating Class Members") and employee taxes and required deductions; (2) a Class Representative Enhancement Payment of \$5,000 to Juan Medina for his services on behalf of the class; (3) \$983,333 in attorneys' fees and up to \$30,000 in litigation costs and expenses; (4) a \$200,000 settlement ("PAGA Settlement") of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$150,000 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA claims, and a \$50,000 payment ("PAGA Fund") to be apportioned among all PAGA Members; and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$25,000. After deducting the above payments in items (2)-(5), a total of approximately \$_____ will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Fund"). Additionally, all PAGA Members will receive a proportional share of the \$50,000 PAGA Fund, regardless of whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendant will calculate the total number of Pay Periods worked (meaning not on paid time off or other leave of absence for the majority of the Pay Period) by each Class Member from January 27, 2017 through March 18, 2022 ("Class Period") and the aggregate total number of Pay Periods worked by all Class Members during the Class Period. To determine each Class Member's estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Pay Periods, resulting in the "Pay Period Value." Each Class Member's share of the Net Settlement Fund will be calculated by multiplying each individual Class Member's total number of Pay Periods by the Pay Period Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Member as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Net Settlement Fund according to the number of Pay Periods worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendant's records, you worked during the Class Period in a non-exempt position for a total of _____ Pay Periods. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$_____.

Payments from PAGA Fund. Defendant will calculate the total number of Pay Periods worked by each PAGA Member from February 9, 2020 through March 18, 2022 ("PAGA Period") and the aggregate total number of Pay Periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Pay Periods, resulting in the "PAGA Pay Period Value." Each PAGA Member's share of the PAGA Fund will be calculated by multiplying each individual Participating PAGA Member's total number of Pay Periods by the PAGA Pay Period Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you worked during the PAGA Period in a non-exempt position for a total of ____ Pay Periods. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Pay Period information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator

c/o _____

Fax No. _____

If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, for Individual Settlement Payments to Class Members from the Net Settlement Fund 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. For Individual Settlement Payments to PAGA Members from the PAGA fund, the settlement payment will be treated entirely as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Upon the Effective Date, and to the maximum extent permitted by law, Plaintiff and all Participating Class Members and all persons purporting to act on the Plaintiff or Class Members' behalf, or purporting to assert a claim under or through them, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged Defendant and all other Released Parties of and from any and all claims, causes of action, obligations, demands, disputes, rights, and/or liabilities against the Released Parties during the Class Period, that have been alleged or that could reasonably have been alleged, arising in whole or in part, from the facts or allegations contained in the LWDA Notice, amended Notice, Complaint, First Amended Complaint, and/or Second Amended Complaint, including but not limited to: Any and all claims for off-the-clock- work, alleged unpaid wages (including minimum, regular, overtime, incentive wages, nondiscretionary bonuses, shift differential pay and/or other forms of remuneration), improper payment of and/or failure to pay sick leave, improper calculation of the regular rate of pay for purposes of calculating overtime, untimely wage payments during and/or at the termination of employment, failure to provide meal

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

periods, failure to authorize and permit rest breaks, non-compliant wage statements, non-compliant timekeeping practices, payroll records, or other recordkeeping or maintenance thereof, failure to pay premiums for noncompliant meal periods and/or rest breaks, failure to pay for costs of mandatory physical examinations and/or drug testing, failure to reimburse business expenses, failure to provide notice of material terms of employment, claims under the California Labor Code, including but not limited to Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 245.5, 246, 246.5, 247, 247.5, 248.5, 249, 510, 511, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5(a)(1)(A)-(C), and the Private Attorneys General Act, Section 2699, et seq., claims based on or under the California Industrial Welfare Commission Wage Orders and corresponding California Code of Regulations based on any of the preceding allegations and/or claims, claims under the California Business and Professions Code based on any of the preceding allegations and/or claims, claims under the Fair Labor Standards Act based on any of the preceding allegations and/or claims; any and all other statutory, local, state, federal, constitutional, contractual or common law claims based on any of the preceding allegations and/or claims; any claims for injunctive relief, declaratory relief, equitable relief, restitution, fraudulent or unfair business practices based on any of the preceding allegations and/or claim; and any and all potential claims and forms of recovery, including but not limited to, damages, liquidated damages, punitive damages, interest, premiums, penalties (including but not limited to waiting time penalties), expenses, attorney's fees, costs, other expenses, and any other forms of remuneration based on any of the preceding allegations and/or claim. (Collectively, the "Released Class Claims"). The Participating Class Members are bound by the release of the Class Claims in their entirety regardless of whether they cash their Individual Settlement Payment.

Released PAGA Claims: Upon the Effective Date and to the maximum extent permitted by law, Plaintiff and the PAGA Members and all persons purporting to act on the PAGA Members' behalf or purporting to assert a claim under or through them, hereby do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all PAGA claims, causes of action, obligations, demands, disputes, rights, and/or liabilities for PAGA penalties against the Released Parties during the PAGA Period that have been alleged or that could reasonably have been alleged, arising in whole or in part, from the facts or allegations contained in the LWDA Notice, amended Notice, Complaint, First Amended Complaint, and/or Second Amended Complaint, including any and all potential claims and forms of recovery, including but not limited to, interest, premiums, penalties (including but not limited to waiting time penalties), expenses, attorney's fees, costs, other expenses, and any other forms of remuneration recoverable under PAGA, predicated on any claims for off-the-clock- work, alleged unpaid wages (including minimum, regular, overtime, incentive wages, nondiscretionary bonuses, shift differential pay and/or other forms of remuneration), improper payment of and/or failure to pay sick leave, improper calculation of the regular rate of pay for purposes of calculating overtime, untimely wage payments during and/or at the termination of employment, failure to provide meal periods, failure to authorize and permit rest breaks, non-compliant wage statements, non-compliant timekeeping practices, payroll records, or other recordkeeping or maintenance thereof, failure to pay premiums for noncompliant meal periods and/or rest breaks, failure to pay for costs of mandatory physical examinations and/or drug testing, failure to reimburse business expenses, failure to provide notice of material terms of employment, and alleged violations of Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 245.5, 246, 246.5, 247, 247.5, 248.5, 249, 510, 511, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, 2810.5(a)(1)(A)-(C), and the Private Attorneys General Act, Section 2699, et seq (collectively, the "Released PAGA Claims"). The PAGA Members will not have the opportunity to opt out of, or object to, the PAGA Settlement Amount, and release of the PAGA claims set forth in this Settlement Agreement. The PAGA Members are bound by the release of the Released PAGA claims regardless of whether they cash their PAGA Settlement Payment.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Option 2 – Opt Out of the Settlement Class

If you do not wish to participate in the Settlement Class, you may exclude yourself from participating by submitting a written Request for Exclusion to the Settlement Administrator expressly and clearly stating “I wish to be excluded from the Settlement Class in the Medina Lawsuit and understand that this means I will not receive the payment available to me from the Class Settlement.” The written request for exclusion must include your name, signature, address, and last four digits of your Social Security Number. Sign, date, and mail the Request for Exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator
c/o _____

Alternatively, you may fax the Request for Exclusion to _____.

The Request for Exclusion must be postmarked or faxed not later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, your Request for Exclusion will be rejected, and you will be included in the Settlement Class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Class Settlement

Only the Class portion of the settlement may be objected to, not the PAGA settlement. If you decide to object to the Class Settlement because you find it unfair or unreasonable, you must submit to the Court and Settlement Administrator a written Notice of Objection explaining why you object to the settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by all supporting facts and any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Final Approval Hearing. Sign, date, and file the objection with the Superior Court, Contra Costa County at the following address and attention below, and either fax the Notice of Objection to _____ or sign, date and mail the Notice of Objection by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator
c/o _____

The Notice of Objection must be filed with the court and postmarked or faxed not later than _____, 2023. If you submit a Notice of Objection which is not filed with the court and postmarked or faxed by _____, 2023, or does not otherwise comply with the requirements set forth above, you will not be allowed to object to or otherwise challenge the Settlement.

All written objections must be received by the Settlement Administrator by not later than _____ 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

If you submitted a Notice of Objection, you may also appear at the Final Approval Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Contra Costa and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing. However, you must also timely serve and file with your Notice of Objection a Notice of Intention to Appear.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case at the courthouse, located at the Contra Costa County Superior Court, 725 Court Street, Martinez, California 94533. You may also review the actions in the case via the online court docket at <https://www.cc-courts.org/civil/online-case.aspx>. All inquiries regarding this Notice and/or the settlement should be directed to the Settlement Administrator.

SETTLEMENT ADMINISTRATOR

[Insert CPT contact information]

CLASS COUNSEL

Raul Perez

Capstone Law APC

1875 Century Park E., Suite 1000

Los Angeles, CA 90067

Phone: 1 (877) 606-6133

DEFENDANTS' COUNSEL

Victoria R. Carradero

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2475 Hanover Street

Palo Alto, CA 94304

Phone: 650-600-5307

Email: VCarradero@duanemorris.com

CAHoffman@duanemorris.com

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Exhibit B

Robert Drexler (SBN 119119)
Robert.Drexler@CapstoneLawyers.com
Molly DeSario (SBN 230763)
Molly.DeSario@CapstoneLawyers.com
Jonathan Lee (SBN 267146)
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Facsimile: (310) 943-0396

Attorneys for Plaintiff Juan Medina

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA

JUAN MEDINA, individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

vs.

BIO-RAD LABORATORIES, INC., a
Delaware corporation; BIO-RAD
LABORATORIES (RISHON), INC., a
California corporation; BIO-RAD PACIFIC
LIMITED, a California corporation; and
DOES 1 through 10, inclusive,

Defendants.

Case No.: C21-00154

**SECOND AMENDED CLASS ACTION
COMPLAINT & ENFORCEMENT
ACTION UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698, *ET
SEQ.***

- (1) Violation of California Labor Code §§ 510, 511 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
- (3) Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods);
- (4) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods);
- (5) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records);
- (6) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination);
- (7) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment);
- (8) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses);
- (9) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, *et seq.*;
- (10) Violation of California Business & Professions Code §§ 17200, *et seq.*

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(Unlawful Business Practices); and
(11) Violation of California Business &
Professions Code §§ 17200, *et seq.* (Unfair
Business Practices)

Jury Trial Demanded

1 Plaintiff Juan Medina, individually and on behalf of all other members of the public
2 similarly situated and as an aggrieved employee and on behalf of all other aggrieved
3 employees, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This class action is brought pursuant to California Code of Civil Procedure
6 section 382 and California Labor Code sections 2698, *et seq.* (“PAGA”) to recover civil
7 penalties and any other available relief on behalf of Plaintiff, the State of California, and other
8 current and former employees who worked for Defendants in California as non-exempt,
9 hourly paid employees and received at least one wage statement and against whom one or
10 more violations of any provision in Division 2 Part 2 Chapter 1 of the Labor Code or any
11 provision regulating hours and days of work in the applicable Industrial Welfare Commission
12 (“IWC”) Wage Order were committed, as set forth in this complaint. The monetary damages,
13 penalties, and restitution sought by Plaintiff exceed the minimal jurisdiction limits of the
14 Superior Court and will be established according to proof at trial. This Court has jurisdiction
15 over this action pursuant to the California Constitution, Article VI, section 10. The statutes
16 under which this action is brought do not specify any other basis for jurisdiction. Plaintiff’s
17 share of damages, penalties, and other relief sought in this action does not exceed \$75,000.

18 2. This Court has jurisdiction over Defendants because Defendants are either
19 citizens of California, have sufficient minimum contacts in California, or otherwise
20 intentionally avail themselves of the California market so as to render the exercise of
21 jurisdiction over them by the California courts consistent with traditional notions of fair play
22 and substantial justice. There is no basis for federal diversity jurisdiction in this action
23 because there is no complete diversity, and this case falls within the statutory exceptions to
24 “minimal diversity” jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4).
25 Upon information and belief, two-thirds or more of the class members and Defendants are
26 citizens of California and/or (a) two-thirds of the class members and Defendants are citizens
27 of California; (b) the alleged wage and hour violations occurred in California; (c) significant
28 relief is being sought against Defendants whose violations of California wage and hour laws

1 form a significant basis for Plaintiff's claims; and (d) no other class action has been filed
2 within the past three (3) years on behalf of the same proposed class against Defendants
3 asserting the same or similar factual allegations.

4 3. Venue is proper in this Court, because Defendants BIO-RAD
5 LABORATORIES, INC. and BIO-RAD PACIFIC LIMITED filed Statement of Information
6 forms with the California Secretary of State designating a principal place of business in either
7 Hercules, County of Contra Costa, in accordance with California Corporations Code section
8 2105(a)(3). Venue is also proper in this Court because Defendants employ persons in this
9 county, and thus a substantial portion of the transactions and occurrences related to this action
10 occurred in this county.

11 4. California Labor Code sections 2698, *et seq.*, the "Labor Code Private
12 Attorneys General Act of 2004" ("PAGA"), authorize aggrieved employees to sue as private
13 attorneys general their current or former employers for various civil penalties for violations of
14 various provisions in the California Labor Code.

15 THE PARTIES

16 5. Plaintiff JUAN MEDINA is a resident of Lake Forest, in Orange County,
17 California. Defendants employed Plaintiff as an hourly paid, non-exempt Manufacturing
18 Associate II from approximately November 2012 to August 2020. Plaintiff worked for
19 Defendants at their facility in Irvine, California. During his employment, Plaintiff typically
20 worked eight (8) hours or more per day, and five (5) days per week. Plaintiff's primary job
21 duties included, without limitation, filling, capping, and labeling containers; washing tanks;
22 and assisting other departments as necessary.

23 6. BIO-RAD LABORATORIES, INC. was and is, upon information and belief, a
24 Delaware corporation, and at all times hereinafter mentioned, an employer whose employees
25 are engaged throughout this county, the State of California, or the various states of the United
26 States of America.

27 7. BIO-RAD LABORATORIES (RISHON), INC. was and is, upon information
28 and belief, a California corporation, and at all times hereinafter mentioned, an employer

1 whose employees are engaged throughout this county, the State of California, or the various
2 states of the United States of America.

3 8. BIO-RAD PACIFIC LIMITED was and is, upon information and belief, a
4 California corporation, and at all times hereinafter mentioned, an employer whose employees
5 are engaged throughout this county, the State of California, or the various states of the United
6 States of America.

7 9. Plaintiff is unaware of the true names or capacities of the Defendants sued
8 herein under the fictitious names DOES 1 through 10, but will seek leave of this Court to
9 amend the complaint and serve such fictitiously named Defendants once their names and
10 capacities become known.

11 10. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 10
12 were the partners, agents, owners, or managers of BIO-RAD LABORATORIES, INC.; BIO-
13 RAD LABORATORIES (RISHON), INC.; and BIO-RAD PACIFIC LIMITED, at all relevant
14 times.

15 11. Plaintiff is informed and believes, and thereon alleges, that each and all of the
16 acts and omissions alleged herein was performed by, or is attributable to, BIO-RAD
17 LABORATORIES, INC.; BIO-RAD LABORATORIES (RISHON), INC.; BIO-RAD
18 PACIFIC LIMITED; and/or DOES 1 through 10 (collectively, “Defendants” or “BIO-RAD”),
19 each acting as the agent, employee, alter ego, and/or joint venturer of, or working in concert
20 with, each of the other co-Defendants and was acting within the course and scope of such
21 agency, employment, joint venture, or concerted activity with legal authority to act on the
22 others’ behalf. The acts of any and all Defendants were in accordance with, and represent, the
23 official policy of Defendants.

24 12. At all relevant times, Defendants, and each of them, ratified each and every act
25 or omission complained of herein. At all relevant times, Defendants, and each of them, aided
26 and abetted the acts and omissions of each and all the other Defendants in proximately causing
27 the damages herein alleged.

28 13. Plaintiff is informed and believes, and thereon alleges, that each of said

Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

14. Under California law, Defendants are jointly and severally liable as employers for the violations alleged herein because they have each exercised sufficient control over the wages, hours, working conditions, and employment status of Plaintiff and class members. Each Defendant had the power to hire and fire Plaintiff and class members, supervised and controlled their work schedule and/or conditions of employment, determined their rate of pay, and maintained their employment records. Defendants suffered or permitted Plaintiff and class members to work and/or “engaged” Plaintiff and class members so as to create a common-law employment relationship. As joint employers of Plaintiff and class members, Defendants are jointly and severally liable for the civil penalties and all other relief available to Plaintiff and class members under the law.

15. Plaintiff is informed and believes, and thereon alleges, that at all relevant times, Defendants, and each of them, have acted as joint employers with respect to Plaintiff and class members because Defendants have:

- (a) jointly exercised meaningful control over the work performed by Plaintiff and class members;
- (b) jointly exercised meaningful control over Plaintiff’s and class members’ wages, hours, and working conditions, including the quantity, quality standards, speed, scheduling, and operative details of the tasks performed by Plaintiff and class members;
- (c) jointly required that Plaintiff and class members perform work which is an integral part of Defendants’ businesses; and
- (d) jointly exercised control over Plaintiff and class members as a matter of economic reality in that Plaintiff and class members were dependent on Defendants, who shared the power to set the wages of Plaintiff and class members and determined their working conditions, and who jointly reaped the benefits from the underpayment of their wages and

1 noncompliance with other statutory provisions governing their
2 employment.

3 16. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
4 there has existed a unity of interest and ownership between Defendants such that any
5 individuality and separateness between the entities has ceased.

6 17. BIO-RAD LABORATORIES, INC.; BIO-RAD LABORATORIES (RISHON),
7 INC.; BIO-RAD PACIFIC LIMITED; and/or DOES 1 through 10 are therefore alter egos of
8 each other.

9 18. Adherence to the fiction of the separate existence of Defendants would permit
10 an abuse of the corporate privilege, and would promote injustice by protecting Defendants
11 from liability for the wrongful acts committed by them under the name BIO-RAD.

12 19. Plaintiff further alleges, upon information and belief, that Defendants BIO-
13 RAD LABORATORIES, INC.; BIO-RAD LABORATORIES (RISHON), INC.; and BIO-
14 RAD PACIFIC LIMITED are alter egos of each other for the following reasons:

- 15 (a) In BIO-RAD LABORATORIES, INC.'s 10-K filing for 2019, Exhibit
16 21.1 lists BIO-RAD LABORATORIES (RISHON), INC. and BIO-RAD
17 PACIFIC LIMITED as subsidiaries of BIO-RAD LABORATORIES,
18 INC.;
- 19 (b) On the California Secretary of State's website
20 (<https://businesssearch.sos.ca.gov/>), BIO-RAD LABORATORIES, INC.
21 and BIO-RAD PACIFIC LIMITED share the same entity address, "1000
22 ALFRED NOBEL DRIVE, HERCULES, CA 94547;"
- 23 (c) Based on the Statement of Information forms filed with the California
24 Secretary of State's website (<https://businesssearch.sos.ca.gov/>), BIO-
25 RAD LABORATORIES, INC.; BIO-RAD LABORATORIES
26 (RISHON), INC.; and BIO-RAD PACIFIC LIMITED share the same
27 Chief Executive Officer, "NORMAN SCHWARTZ," and Agent for
28 Service of Process, "CT CORPORATION;"

1 (d) Based on the Statement of Information forms filed with the California
2 Secretary of State’s website (<https://businesssearch.sos.ca.gov/>), BIO-
3 RAD LABORATORIES (RISHON), INC. and BIO-RAD PACIFIC
4 LIMITED share the same Chief Financial Officer, “RONALD
5 HUTTON;” and

6 (e) On information and belief, BIO-RAD LABORATORIES, INC.; BIO-
7 RAD LABORATORIES (RISHON), INC.; and BIO-RAD PACIFIC
8 LIMITED utilize the same standardized employment forms and issue
9 the same employment policies.

10 **GENERAL ALLEGATIONS**

11 20. Defendants are a global developer, manufacturer, and marketer of life science
12 research and clinical diagnostic products. Upon information and belief, Defendants maintain
13 a single, centralized Human Resources (“HR”) department at their company headquarters in
14 Hercules, California, or Rishon LeZion, Israel, which is responsible for the recruiting and
15 hiring of new employees, and communicating and implementing Defendants’ company-wide
16 policies, including timekeeping policies and meal and rest period policies, to employees
17 throughout California.

18 21. In particular, Plaintiff and class members, on information and belief, received
19 the same standardized documents and/or written policies. Upon information and belief, the
20 usage of standardized documents and/or written policies, including new-hire documents,
21 indicate that Defendants dictated policies at the corporate level and implemented them
22 company-wide, regardless of their employees’ assigned locations or positions. Upon
23 information and belief, Defendants set forth uniform policies and procedures in several
24 documents provided at an employee’s time of hire.

25 22. Upon information and belief, Defendants maintain a centralized Payroll
26 department at their company headquarters in Hercules, California, or Rishon LeZion, Israel,
27 which processes payroll for all non-exempt, hourly paid employees working for Defendants at
28 their various locations and jobsites in California, including Plaintiff and class members.

1 Based upon information and belief, Defendants issue the same formatted wage statements to
2 all non-exempt, hourly paid employees in California, irrespective of their work locations.
3 Upon information and belief, Defendants process payroll for departing employees in the same
4 manner throughout the State of California, regardless of the manner in which each employee's
5 employment ends.

6 23. Defendants continue to employ non-exempt or hourly paid employees in
7 California.

8 24. Plaintiff is informed and believes, and thereon alleges, that at all times herein
9 mentioned, Defendants were advised by skilled lawyers and other professionals, employees
10 and advisors knowledgeable about California labor and wage law, employment and personnel
11 practices, and about the requirements of California law.

12 25. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and class
13 members were not paid for all hours worked because all hours worked were not recorded.

14 26. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to receive certain wages for
16 overtime compensation and that they were not receiving certain wages for overtime
17 compensation.

18 27. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
19 should have known that Plaintiff and class members were entitled to be paid at a regular rate
20 of pay, and corresponding overtime rate of pay, that included as eligible income all
21 remuneration required by law, including but not limited to, all income derived from incentive
22 pay, nondiscretionary bonuses, shift differential pay, and/or other forms of compensation.

23 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
24 should have known that Plaintiff and class members were entitled to receive at least minimum
25 wages for compensation and that they were not receiving at least minimum wages for work
26 that was required to be done off-the-clock. In violation of the California Labor Code, Plaintiff
27 and class members were not paid at least minimum wages for work done off-the-clock.

28 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or

1 should have known that Plaintiff and class members were entitled to meal periods in
2 accordance with the Labor Code or payment of one (1) additional hour of pay at their regular
3 rates of pay when they were not provided with timely, uninterrupted, thirty (30) minute meal
4 periods and that Plaintiff and class members were not provided with all meal periods or
5 payment of one (1) additional hour of pay at their regular rates of pay when they did not
6 receive a timely, uninterrupted, thirty (30) minute meal period.

7 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
8 should have known that Plaintiff and class members were entitled to rest periods in
9 accordance with the Labor Code and applicable IWC Wage Order or payment of one (1)
10 additional hour of pay at their regular rates of pay when they were not authorized and
11 permitted to take a compliant rest period. In violation of the California Labor Code, Plaintiff
12 and class members were not authorized and permitted to take compliant rest periods, nor did
13 Defendants provide Plaintiff and class members with payment of one (1) additional hour of
14 pay at their regular rates of pay when they were not authorized and permitted to take a
15 compliant rest period.

16 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
17 should have known that Plaintiff and class members were entitled to receive complete and
18 accurate wage statements in accordance with California law. In violation of the California
19 Labor Code, Plaintiff and class members were not provided complete and accurate wage
20 statements.

21 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that they had a duty to maintain accurate and complete payroll records in
23 accordance with the Labor Code and applicable IWC Wage Order, but willfully, knowingly,
24 and intentionally failed to do so.

25 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
26 should have known that Plaintiff and class members were entitled to timely payment of all
27 wages earned upon termination of employment. In violation of the California Labor Code,
28 Plaintiff and class members did not receive payment of all wages due, including, but not

1 limited to, overtime wages, minimum wages, and/or meal and rest period premium wages,
2 within permissible time periods.

3 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that Plaintiff and class members were entitled to timely payment of wages
5 during their employment. In violation of the California Labor Code, Plaintiff and class
6 members did not receive payment of all wages, including, but not limited to, overtime wages,
7 minimum wages, and/or meal and rest period premium wages, within permissible time
8 periods.

9 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
10 should have known that Plaintiff and class members were entitled to receive sick leave
11 benefits to be paid at a regular rate of pay, that included, as eligible income, all income
12 derived from incentive pay, nondiscretionary bonuses, shift differential pay, and/or other
13 forms of compensation.

14 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
15 should have known that Plaintiff and class members were entitled to receive full
16 reimbursement for all business-related expenses and costs they incurred during the course and
17 scope of their employment and that they did not receive full reimbursement of applicable
18 business-related expenses and costs incurred.

19 37. Plaintiff is informed and believes, and thereon alleges, that at all times herein
20 mentioned, Defendants knew or should have known that Defendants had a duty to provide
21 Plaintiff and class members with written notice of the material terms of their employment with
22 Defendants as required by the California Wage Theft Prevention Act, but willfully,
23 knowingly, and intentionally failed to do so.

24 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
25 mentioned, Defendants knew or should have known that they had a duty to compensate
26 Plaintiff and class members for all hours worked, and that Defendants had the financial ability
27 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
28 falsely represented to Plaintiff and class members that they were properly denied wages, all in

1 order to increase Defendants' profits.

2 **CLASS ACTION ALLEGATIONS**

3 39. Plaintiff brings this action on his own behalf, as well as on behalf of each and
4 all other persons similarly situated, and thus seeks class certification under California Code of
5 Civil Procedure section 382.

6 40. All claims alleged herein arise under California law for which Plaintiff seeks
7 relief authorized by California law.

8 41. Plaintiff's proposed class consists of and is defined as follows:

9
10 All persons who worked for Defendants as non-exempt, hourly
11 paid employees in California, within four years prior to the filing
12 of the initial complaint until the date of trial ("Class").

13 42. Plaintiff's proposed subclass consists of and is defined as follows:

14 All persons who worked for Defendants as non-exempt, hourly
15 paid employees in California and who received at least one wage
16 statement within one (1) year prior to the filing of the initial
17 complaint until the date of trial ("Subclass").

18 43. Members of the Class and Subclass are referred to herein as "class members."

19 44. Plaintiff reserves the right to redefine the Class and Subclass and to add
20 additional subclasses as appropriate based on further investigation, discovery, and specific
21 theories of liability.

22 45. There are common questions of law and fact as to class members that
23 predominate over questions affecting only individual members, including, but not limited to:

- 24 (a) Whether Defendants required Plaintiff and class members to work over
25 eight (8) hours per day, over twelve (12) hours per day, or over forty
26 (40) hours per week and failed to pay all legally required overtime
27 compensation to Plaintiff and class members;
28 (b) Whether Defendants failed to properly calculate the "regular rate" of
pay on which Plaintiff's and class members' overtime rate of pay was
based;
(c) Whether Defendants failed to pay Plaintiff and class members at least

- 1 minimum wages for all hours worked;
- 2 (d) Whether Defendants failed to provide Plaintiff and class members with
- 3 meal periods;
- 4 (e) Whether Defendants failed to authorize and permit Plaintiff and class
- 5 members to take rest periods;
- 6 (f) Whether Defendants provided Plaintiff and class members with
- 7 complete and accurate wage statements as required by California Labor
- 8 Code section 226(a);
- 9 (g) Whether Defendants maintained accurate payroll records as required by
- 10 California Labor Code section 1174(d);
- 11 (h) Whether Defendants failed to pay earned overtime wages, minimum
- 12 wages, and/or meal and rest period premium wages due to Plaintiff and
- 13 class members upon their discharge;
- 14 (i) Whether Defendants failed timely to pay overtime wages, minimum
- 15 wages, and/or meal and rest period premium wages due to Plaintiff and
- 16 class members during their employment;
- 17 (j) Whether Defendants failed to properly calculate the “regular rate” of
- 18 pay upon which Plaintiff’s and class members’ sick leave rate of pay
- 19 was based;
- 20 (k) Whether Defendants failed to reimburse Plaintiff and class members for
- 21 necessary and required business-related expenditures and/or losses
- 22 incurred by them in the scope of their employment;
- 23 (l) Whether Defendants failed to provide written notice of information
- 24 material to Plaintiff’s and class members’ employment with Defendants;
- 25 (m) Whether Defendants engaged in unlawful and unfair business practices
- 26 in violation of California Business & Professions Code sections 17200,
- 27 *et seq.*; and
- 28 (n) The appropriate amount of damages, restitution, or monetary penalties

1 resulting from Defendants' violations of California law.

2 46. There is a well-defined community of interest in the litigation and the class
3 members are readily ascertainable:

- 4 (a) Numerosity: The class members are so numerous that joinder of all
5 members would be unfeasible and impractical. The membership of the
6 entire class is unknown to Plaintiff at this time; however, the class is
7 estimated to be greater than one hundred (100) individuals and the
8 identity of such membership is readily ascertainable by inspection of
9 Defendants' employment records.
- 10 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately
11 protect the interests of each class member with whom he has a well-
12 defined community of interest, and Plaintiff's claims (or defenses, if
13 any) are typical of all class members as demonstrated herein.
- 14 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately
15 protect the interests of each class member with whom he has a well-
16 defined community of interest and typicality of claims, as demonstrated
17 herein. Plaintiff acknowledges that he has an obligation to make known
18 to the Court any relationship, conflicts or differences with any class
19 member. Plaintiff's attorneys, the proposed class counsel, are versed in
20 the rules governing class action discovery, certification, and settlement.
21 Plaintiff has incurred, and throughout the duration of this action, will
22 continue to incur costs and attorneys' fees that have been, are, and will
23 be necessarily expended for the prosecution of this action for the
24 substantial benefit of each class member.
- 25 (d) Superiority: The nature of this action makes the use of class action
26 adjudication superior to other methods. A class action will achieve
27 economies of time, effort, and expense as compared with separate
28 lawsuits, and will avoid inconsistent outcomes because the same issues

1 can be adjudicated in the same manner and at the same time for the
2 entire class.

3 (e) Public Policy Considerations: Employers in the State of California
4 violate employment and labor laws every day. Current employees are
5 often afraid to assert their rights out of fear of direct or indirect
6 retaliation. Former employees are fearful of bringing actions because
7 they believe their former employers might damage their future
8 endeavors through negative references and/or other means. Class
9 actions provide the class members who are not named in the complaint
10 with a type of anonymity that allows for the vindication of their rights
11 while simultaneously protecting their privacy.

12 **PAGA REPRESENTATIVE ALLEGATIONS**

13 47. At all times herein set forth, PAGA provides that any provision of law under
14 the Labor Code and applicable IWC Wage Order that provides for a civil penalty to be
15 assessed and collected by the LWDA for violations of the California Labor Code and
16 applicable IWC Wage Order may, as an alternative, be recovered by aggrieved employees in a
17 civil action brought on behalf of themselves and other current or former employees pursuant
18 to procedures outlined in California Labor Code section 2699.3.

19 48. PAGA defines an “aggrieved employee” in Labor Code section 2699(c) as “any
20 person who was employed by the alleged violator and against whom one or more of the
21 alleged violations was committed.”

22 49. Plaintiff and other current and former employees of Defendants are “aggrieved
23 employees” as defined by Labor Code section 2699(c) in that they are all Defendants’ current
24 or former employees and one or more of the alleged violations were committed against them.

25 50. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
26 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
27 following requirements have been met:

28 (a) The aggrieved employee or representative shall give written notice by

1 online filing with the LWDA and by certified mail to the employer of
2 the specific provisions of the California Labor Code alleged to have
3 been violated, including the facts and theories to support the alleged
4 violation.

5 (b) An aggrieved employee's notice filed with the LWDA pursuant to
6 2699.3(a) and any employer response to that notice shall be
7 accompanied by a filing fee of seventy-five dollars (\$75).

8 (c) The LWDA shall notify the employer and the aggrieved employee or
9 representative by certified mail that it does not intend to investigate the
10 alleged violation ("LWDA's Notice") within sixty (60) calendar days of
11 the postmark date of the aggrieved employee's notice. Upon receipt of
12 the LWDA Notice, or if no LWDA Notice is provided within sixty-five
13 (65) calendar days of the postmark date of the aggrieved employee's
14 notice, the aggrieved employee may commence a civil action pursuant
15 to California Labor Code section 2699 to recover civil penalties.

16 51. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees,
17 through Plaintiff, may pursue a civil action arising under PAGA for violations of any
18 provision other than those listed in Section 2699.5 after the following requirements have been
19 met:

20 (a) The aggrieved employee or representative shall give written notice by
21 online filing with the LWDA and by certified mail to the employer of
22 the specific provisions of the California Labor Code alleged to have
23 been violated (other than those listed in Section 2699.5), including the
24 facts and theories to support the alleged violation.

25 (b) An aggrieved employee's notice filed with the LWDA pursuant to
26 2699.3(c) and any employer response to that notice shall be
27 accompanied by a filing fee of seventy-five dollars (\$75).

28 (c) The employer may cure the alleged violation within thirty-three (33)

1 calendar days of the postmark date of the notice sent by the aggrieved
2 employee or representative. The employer shall give written notice
3 within that period of time by certified mail to the aggrieved employee or
4 representative and by online filing with the LWDA if the alleged
5 violation is cured, including a description of actions taken, and no civil
6 action pursuant to Section 2699 may commence. If the alleged violation
7 is not cured within the 33-day period, the aggrieved employee may
8 commence a civil action pursuant to Section 2699.

9 52. On February 9, 2021, Plaintiff provided written notice by online filing to the
10 LWDA and by Certified Mail to Defendants of the specific provisions of the California Labor
11 Code alleged to have been violated, including facts and theories to support the alleged
12 violations, in accordance with California Labor Code section 2699.3. Plaintiff's written
13 notice was accompanied with the applicable filing fee of seventy-five dollars (\$75). The
14 LWDA PAGA Administrator confirmed receipt of Plaintiff's written notice and assigned
15 Plaintiff PAGA Case Number LWDA-CM-821150-21. A true and correct copy of Plaintiff's
16 written notice to the LWDA and Defendants is attached hereto as "Exhibit 1."

17 53. As of the filing date of this complaint, over 65 days have passed since Plaintiff
18 sent the notice described above to the LWDA, and the LWDA has not responded that it
19 intends to investigate Plaintiff's claims and Defendants have not cured the violations.

20 54. Thus, Plaintiff has satisfied the administrative prerequisites under California
21 Labor Code section 2699.3(a) and 2699.3(c) to recover civil penalties against Defendants for
22 violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246,
23 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

24 55. Labor Code section 558(a) provides "[a]ny employer or other person acting on
25 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
26 provision regulating hours and days of work in any order of the Industrial Welfare
27 Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty
28 dollars (\$50) for each underpaid employee for each pay period for which the employee was

1 underpaid. . . (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was underpaid. . .” Labor
3 Code section 558(c) provides “[t]he civil penalties provided for in this section are in addition
4 to any other civil or criminal penalty provided by law.”

5 56. Defendants, at all times relevant to this complaint, were employers or persons
6 acting on behalf of an employer(s) who violated Plaintiff’s and other aggrieved employees’
7 rights by violating various sections of the California Labor Code as set forth above.

8 57. As set forth below, Defendants have violated numerous provisions of both the
9 Labor Code sections regulating hours and days of work as well as the applicable IWC Wage
10 Order.

11 58. Pursuant to PAGA, and in particular, California Labor Code sections 2699(a),
12 2699.3(a), 2699.3(c), and 2699.5, and section 558, Plaintiff, acting in the public interest as a
13 private attorney general, seeks assessment and collection of civil penalties for himself, all
14 other aggrieved employees, and the State of California against Defendants for violations of
15 California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246, 510, 512(a),
16 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

17 **FIRST CAUSE OF ACTION**

18 **Violation of California Labor Code §§ 510, 511, and 1198—Unpaid Overtime** 19 **(Against all Defendants)**

20 59. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
21 and every allegation set forth above.

22 60. Labor Code section 1198 makes it illegal to employ an employee under
23 conditions of labor that are prohibited by the applicable wage order. California Labor Code
24 section 1198 requires that “. . . the standard conditions of labor fixed by the commission shall
25 be the . . . standard conditions of labor for employees. The employment of any employee . . .
26 under conditions of labor prohibited by the order is unlawful.”

27 61. California Labor Code section 1198 and the applicable IWC Wage Order
28 provide that it is unlawful to employ persons without compensating them at a rate of pay

1 either time-and-one-half or two-times that person's regular rate of pay, depending on the
2 number of hours worked by the person on a daily or weekly basis.

3 62. Specifically, the applicable IWC Wage Order provides that Defendants are and
4 were required to pay Plaintiff and class members working more than eight (8) hours in a day
5 or more than forty (40) hours in a workweek, at the rate of time and one-half (1½) for all
6 hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a
7 workweek.

8 63. The applicable IWC Wage Order further provides that Defendants are and were
9 required to pay Plaintiff and class members working more than twelve (12) hours in a day,
10 overtime compensation at a rate of two (2) times their regular rate of pay. An employee's
11 regular rate of pay includes all remuneration for employment paid to, or on behalf of, the
12 employee, including nondiscretionary bonuses and incentive pay.

13 64. California Labor Code section 510 codifies the right to overtime compensation
14 at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8)
15 hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the
16 seventh (7th) day of work, and to overtime compensation at twice the employee's regular rate
17 of pay for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours
18 in a day on the seventh (7th) day of work.

19 65. During the relevant time period, Defendants willfully failed to pay all overtime
20 wages owed to Plaintiff and class members. During the relevant time period, Plaintiff and
21 class members were not paid overtime premiums for all of the hours they worked in excess of
22 eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40)
23 hours in a week, because all hours worked were not recorded.

24 66. First, upon information and belief, Defendants had, and continue to have, a
25 company-wide policy and/or practice of strictly staffing their facilities based on the labor
26 hours allocated by corporate for each location. Defendants' uniform use of labor budgets,
27 combined with production deadlines, resulted in understaffing and a failure to provide
28 Plaintiff and class members with adequate meal period coverage (*see infra*). Defendants also

1 had a practice of failing to schedule meal periods, which further caused Plaintiff and class
2 members to not be relieved of their duties for compliant meal periods. As a result of this lack
3 of meal period coverage, Plaintiff and class members were not always afforded 30-minute
4 meal periods during shifts when they were entitled to receive a meal period. For example,
5 Defendants' management would interrupt Plaintiff during his unpaid meal periods in order to
6 discuss and assign tasks to ensure that employees were meeting production deadlines given
7 the limited workforce available.

8 67. Additionally, upon information and belief, because Defendants frowned upon
9 employees accruing meal period penalties, Defendants pressured Plaintiff and class members
10 to clock out for meal periods and/or adjusted employee time records to reflect compliant meal
11 periods, regardless of whether they had received a compliant meal period, in order to strictly
12 limit meal penalties that Defendants would otherwise owe. For example, Plaintiff was
13 pressured by Defendants' management to clock out and record compliant meal periods on
14 shifts when he had not, in fact, received a compliant meal period. As a further example, on
15 days that Plaintiff was unable to take or record a compliant meal period, he was instructed by
16 Defendants' management not to clock out for his meal period at all, so that Defendants'
17 management could more easily adjust his time post hoc to reflect a compliant meal period.

18 68. Furthermore, Defendants' company-wide timekeeping system prevented
19 Plaintiff and class members from recording all hours worked when their meal periods were
20 shortened or interrupted, because the system locked out Plaintiff and class members once they
21 clocked out for a meal period, and would not permit them to clock back in from a meal period
22 before 30 minutes had elapsed. Thus, Defendants did not all record hours worked during meal
23 periods and Plaintiff and class members performed work during meal periods for which they
24 were not paid.

25 69. Second, during the relevant period, including prior to January 2019, Defendants
26 had a company-wide policy and/or practice of improperly rounding employees' clock-in and
27 clock-out times in their timekeeping system to the nearest quarter (0.25) of an
28 hour. Defendants' rounding policy resulted in the failure to compensate Plaintiff and class

1 members fully for all hours worked, causing Plaintiff and class members to not be paid
2 overtime wages for all of the overtime hours they actually worked. Defendants' policy
3 of rounding is unfair and has, over time, resulted in the underpayment of wages to Plaintiff
4 and class members. To the extent Defendants' rounding Plaintiff and class members were
5 denied overtime pay for all hours worked.

6 70. Third, Defendants had, and continue to have, a company-wide policy and/or
7 practice of requiring employees to complete work-related duties while off-the-clock, such as
8 responding to communications from supervisors or assisting with special assignments. Upon
9 information and belief, Defendants required Plaintiff and class members to respond to calls,
10 text messages, and email correspondence from Defendants' management on their personal
11 cellular phones outside of their scheduled shifts, but did not compensate them for this time.
12 For example, Plaintiff was required to spend five (5) minutes per day off-the-clock answering
13 phone calls, text messages, and in-person communications from his supervisor to discuss work
14 he had completed during his previous shifts. As a further example, Plaintiff was required to
15 respond to company emails regarding work assignments before and after his shifts and on his
16 days off. Moreover, Plaintiff was once required to prepare a PowerPoint presentation and
17 spent approximately six (6) hours off-the-clock on his days off completing the project.
18 Defendants did not compensate Plaintiff and class members for this time spent working off-
19 the-clock.

20 71. Defendants knew or should have known that as a result of these company-wide
21 practices and/or policies, Plaintiff and class members were performing their assigned duties
22 off-the-clock before and after their shifts and during meal periods, and were suffered or
23 permitted to perform work for which they were not paid. Because Plaintiff and class members
24 worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this
25 off-the-clock work qualified for overtime premium pay. Therefore, Plaintiff and class
26 members were not paid overtime wages for all of the overtime hours they actually worked.

27 72. Furthermore, Defendants did not pay Plaintiff and class members the correct
28 overtime rate for the recorded overtime hours that they generated. In addition to an hourly

1 wage, Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses,
2 shift differential pay, and/or other forms of compensation. However, in violation of the
3 California Labor Code, Defendants failed to incorporate all compensation, including but not
4 limited to, incentive pay, nondiscretionary bonuses, and/or shift differential pay, into the
5 calculation of the regular rate of pay for purposes of calculating the overtime wage rate.
6 Therefore, during times when Plaintiff and class members worked overtime and received these
7 other forms of pay, Defendants failed to pay all overtime wages by paying a lower overtime
8 rate than required.

9 73. Specifically, Defendants paid Plaintiff and class members incentive pay,
10 nondiscretionary bonuses, and/or shift differential pay, which were listed on Plaintiff's and
11 class members' wage statements as "EE Benefit Pln," "Reg Pay Swing," "OT Swing," and
12 "5% Premium Pay." On information and belief, "EE Benefit Pln" was an annual bonus
13 awarded for the company and Plaintiff's department meeting certain metrics. Additionally, on
14 information and belief, "Reg Pay Swing," "OT Swing," and "5% Premium Pay" denoted shift
15 differential pay for employees who worked a non-regular shift. During pay periods that
16 Plaintiff and class members were paid overtime wages, Defendants failed to incorporate the
17 incentive pay, nondiscretionary bonuses, and/or shift differential pay into Plaintiff's and class
18 members' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for
19 overtime hours worked. Specifically, Defendants paid Plaintiff and class members 1.5 times
20 their hourly rate of pay instead of 1.5 times their regular rate of pay. Defendants' failure to
21 properly calculate the overtime rates of pay based on all remuneration paid has resulted in an
22 underpayment of overtime wages to Plaintiff and class members on a company-wide basis.

23 74. Defendants' failure to pay Plaintiff and class members the balance of overtime
24 compensation as required by California law, violates the provisions of California Labor Code
25 sections 510, 511 and 1198. Pursuant to California Labor Code section 1194, Plaintiff and
26 class members are entitled to recover their unpaid overtime compensation, as well as interest,
27 costs, and attorneys' fees.
28

SECOND CAUSE OF ACTION
Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198—Unpaid
Minimum Wages
(Against all Defendants)

75. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

76. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a wage less than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 1 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11010(2)(G) (defining “Hours Worked”).

77. As set forth above, on information and belief, due to Defendants’ company-wide practice of utilizing labor budgets and production deadlines, failure to schedule meal periods, and subsequent lack of meal period coverage, Plaintiff and class members were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Additionally, as set forth above, on information and belief, Defendants systematically failed to pay Plaintiff and class members for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded, and because Defendants’ timekeeping system locked out Plaintiff and class members for an allotted time when they clocked out for a meal period.

78. Furthermore, as set forth above, prior to January 2019, Defendants had a company-wide policy and/or practice of rounding Plaintiff’s and class members’ hourly clock-in and clock-out times in their timekeeping system to the nearest quarter hour, resulting in the failure to compensate them for all hours worked. Also, as set forth above, Defendants required Plaintiff and class members to respond to phone calls, text messages, in-person communications, and emails from supervisors and complete assignments while off-the-clock,

1 but did not compensate them for this time.

2 79. Thus, Defendants did not pay minimum wages for off-the-clock hours that
3 Plaintiff and class members worked through that qualified for overtime premium payment. To
4 the extent that these off-the-clock hours did not qualify for overtime premium payment,
5 Defendants did not pay at least minimum wages for those hours worked off-the-clock in
6 violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

7 80. Defendants' failure to pay Plaintiff and class members minimum wages violates
8 California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198. Pursuant to
9 California Labor Code section 1194.2, Plaintiff and class members are entitled to recover
10 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

11 **THIRD CAUSE OF ACTION**

12 **Violations of California Labor Code, §§ 226.7, 512(a), 516, and 1198—Meal Period**

13 **Violations**

14 **(Against all Defendants)**

15 81. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
16 and every allegation set forth above.

17 82. At all relevant times herein set forth, California Labor Code section 512(a)
18 provides that an employer may not require, cause, or permit an employee to work for a period
19 of more than five (5) hours per day without providing the employee with a meal period of not
20 less than thirty (30) minutes, except that if the total work period per day of the employee is
21 not more than six (6) hours, the meal period may be waived by mutual consent of both the
22 employer and the employee. Under California law, first meal periods must start after no more
23 than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal.
24 2012).

25 83. At all relevant times herein set forth, California Labor Code sections 226.7,
26 512(a), 516, and 1198 provide that no employer shall require an employee to work during any
27 meal period mandated by an applicable order of the IWC.

28 84. At all relevant times herein set forth, Labor Code sections 226.7 and 512(a) and

1 the applicable IWC Wage Order also require employers to provide a second meal period of
2 not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an
3 employee one (1) additional hour of pay at the employee's regular rate, except that if the total
4 hours worked is no more than twelve (12) hours, the second meal period may be waived by
5 mutual consent of the employer and the employee only if the first meal period was not waived.

6 85. As stated, upon information and belief, Defendants had, and continue to have, a
7 company-wide policy and/or practice of understaffing locations due to labor budgeting and
8 assigning strict production deadlines. Defendants enforced certain production deadlines,
9 which required that biological materials and product be processed, taken "off the line," and
10 placed into freezers within specific timeframes, which would vary according to the material
11 that was being handled. These production deadlines were based on the temperature-sensitive
12 nature of the biological materials and products being handled, and Plaintiff and class members
13 were required to adhere to these deadlines or risk damaging company property. Adherence to
14 these strict deadlines resulted in Plaintiff and class members having missed, late, and/or
15 interrupted meal periods. These company-wide practices, combined with the failure to
16 schedule meal periods, which has resulted in a lack of meal period coverage and prevented
17 Plaintiff and class members from taking all timely, uninterrupted meal periods to which they
18 were entitled. The resulting lack of meal period coverage was exacerbated by the lack of
19 employees on duty to handle the workload.

20 86. In addition, because Defendants required one employee to monitor each stage
21 of the production line at any given time, Plaintiff and class members were required to stagger
22 their meal periods in order to provide adequate meal period coverage. When utilizing this
23 staggered meal period schedule, Plaintiff and class members were forced to take their meal
24 periods one at a time, and could not begin their meal period until another employee had
25 returned to provide coverage. As a result, Plaintiff and class members were further forced to
26 take their meal periods late, have their meal periods cut short, and/or miss their meal periods
27 entirely.

28 87. Moreover, as stated, because Defendants frowned upon employees accruing

1 meal period penalties, Defendants' management would adjust Plaintiff's and class members'
2 time records and/or pressured employees to clock out for meal periods to reflect compliant
3 meal periods, regardless of whether they had received a compliant meal period, in order to
4 strictly limit meal penalties that would need to be paid by Defendants. Furthermore, as stated,
5 Defendants' company-wide timekeeping system prevented Plaintiff and class members from
6 recording all hours worked when their meal periods were shortened or interrupted, because the
7 system locked out Plaintiff and class members once they clocked out for a meal period, and
8 would not permit them to clock back in from a meal period before 30 minutes had elapsed.

9 88. Defendants' practices and policies prevented Plaintiff and class members from
10 taking all compliant meal periods to which they were entitled. As a result, Plaintiff and class
11 members would be forced to work in excess of five (5) hours before taking a meal period and,
12 at times, had their meal periods interrupted and/or had to forgo their meal periods altogether.
13 For example, as stated, 1-2 times per month, Defendants' management would interrupt
14 Plaintiff's meal periods for five (5) minutes per instance to discuss and assign tasks to him in
15 order to ensure he was meeting production deadlines. As a further example, at least three (3)
16 times per week, Plaintiff was forced to take his meal periods after his fifth hour of work
17 because he was required to wait for other employees to return from meal periods in
18 accordance with their staggered meal period schedule. Specifically, Plaintiff's timepunch
19 records reflect that on August 17, August 19, and August 20, 2020, Plaintiff took his meal
20 periods after his fifth hour of work, but Defendants did not pay him any meal period
21 premiums.

22 89. In addition, during the relevant time period, Defendants did not provide
23 Plaintiff and class members with second 30-minute meal periods on days that they worked in
24 excess of ten (10) hours in one day. For example, Plaintiff would work shifts in excess of ten
25 (10) hours per day, but was not provided second meal periods during these shifts.
26 Specifically, Plaintiff's timepunch records reflect that on January 28, February 5, May 21,
27 June 5, and June 29 of 2020, Plaintiff did not take a second 30-minute meal period on days he
28 worked more than ten (10) hours in a day, but, yet again, he was not paid meal period

1 premiums. Plaintiff and class members did not sign valid meal period waivers on days that
2 they were entitled to meal periods and were not relieved of all duties.

3 90. At all times herein mentioned, Defendants knew or should have known that, as
4 a result of these policies, Plaintiff and class members were prevented from being relieved of
5 all duties and required to perform some of their assigned duties during meal periods.
6 Defendants further knew or should have known that Defendants did not pay Plaintiff and class
7 members meal period premium wages when meal periods were late, interrupted, shortened, or
8 missed.

9 91. Furthermore, Defendants engaged in a company-wide practice and/or policy of
10 not paying all meal period premiums owed when compliant meal periods are not provided.
11 Because of this practice and/or policy, Plaintiff and class members have not received premium
12 pay for missed, late, and interrupted meal periods. Alternatively, to the extent that Defendants
13 did pay Plaintiff and class members premium pay for missed, late, and interrupted meal
14 periods, Defendants did not pay Plaintiff and class members at the correct rate of pay for
15 premium wages because Defendants systematically failed to include all forms of
16 compensation, such as incentive pay, nondiscretionary bonuses, shift differential pay, and/or
17 other forms of compensation, in the regular rate of pay. As a result, Defendants failed to
18 provide Plaintiff and class members compliant meal periods in violation of California Labor
19 Code sections 226.7, 512, and 516 and failed to pay the full meal period premiums due.

20 92. Defendants' conduct violates the applicable IWC Wage Order, and California
21 Labor Code sections 226.7, 512(a), 516, and 1198. Plaintiff and class members are therefore
22 entitled to recover from Defendants one (1) additional hour of pay at the employee's regular
23 rate of compensation for each work day that the meal period was not provided.

24 **FOURTH CAUSE OF ACTION**

25 **Violation of California Labor Code §§ 226.7, 516, and 1198—Rest Period Violations** 26 **(Against all Defendants)**

27 93. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 94. At all relevant times herein set forth, the applicable IWC Wage Order and
2 California Labor Code sections 226.7, 516, and 1198 were applicable to Plaintiff and class
3 members' employment by Defendants.

4 95. At all relevant times, the applicable IWC Wage Order provides that "[e]very
5 employer shall authorize and permit all employees to take rest periods, which insofar as
6 practicable shall be in the middle of each work period" and that the "rest period time shall be
7 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
8 hours or major fraction thereof" unless the total daily work time is less than three and one-half
9 (3½) hours.

10 96. At all relevant times, California Labor Code section 226.7 provides that no
11 employer shall require an employee to work during any rest period mandated by an applicable
12 order of the California IWC. To comply with its obligation to authorize and permit rest
13 periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an
14 employer must "relinquish any control over how employees spend their break time, and
15 relieve their employees of all duties—including the obligation that an employee remain on
16 call. A rest period, in short, must be a period of rest." *Augustus v. ABM Security Services,*
17 *Inc.*, 2 Cal. 5th 257, 269-270 (2016). Pursuant to the applicable IWC Wage Order and
18 California Labor Code section 226.7(b), Plaintiff and class members are entitled to recover
19 from Defendants one (1) additional hour of pay at their regular rates of pay for each work day
20 that a required rest period was not authorized and permitted.

21 97. During the relevant time period, Defendants regularly failed to authorize and
22 permit Plaintiff and class members to take a ten (10) minute rest period per each four (4) hour
23 period worked or major fraction thereof. As with meal periods, Defendants' company-wide
24 practices, including utilizing labor budgets and production deadlines and requiring one
25 employee to monitor each stage of the production line at all times, prevented Plaintiff and
26 class members from being relieved of all duty to take rest periods. Additionally, Defendants
27 failed to schedule rest periods, which, coupled with Defendants' failure to provide adequate
28 rest period coverage, further led to Plaintiff and class members not being authorized and

1 permitted to take compliant rest periods.

2 98. Furthermore, upon information and belief, Defendants maintained and
3 implemented a company-wide on-premises rest period policy, which mandated that Plaintiff
4 and class members remain on the work premises during their rest periods. Because Plaintiff
5 and class members were restricted from leaving Defendants' premises during rest periods,
6 they were denied the ability to use their rest periods freely for their own purposes. Thus,
7 Defendants effectively maintained control over Plaintiff and class members during rest
8 periods.

9 99. As a result of Defendants' practices and policies, Plaintiff and class members
10 worked shifts in excess of 3.5 hours, in excess of 6 hours, and in excess of 10 hours without
11 receiving all uninterrupted 10-minute rest periods to which they were entitled. For example,
12 Plaintiff missed his rest periods once per month, either due to a lack of rest period coverage,
13 or to complete all the duties Defendants assigned to him. Additionally, Plaintiff did not
14 receive a third rest period when working shifts in excess of 10 hours.

15 100. Defendants have also engaged in a company-wide practice and/or policy of not
16 paying all rest period premiums owed when compliant rest periods are not authorized and
17 permitted. Alternatively, to the extent that Defendants did pay Plaintiff and class members
18 one (1) additional hour of premium pay for missed rest periods, Defendants did not pay
19 Plaintiff and class members at the correct rate of pay for premium wages because Defendants
20 failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses,
21 shift differential pay, and/or other forms of compensation, in the regular rate of pay. As a
22 result, Defendants denied Plaintiff and class members rest periods and failed to pay them rest
23 period premium wages due, in violation of Labor Code section 226.7, 516, and the applicable
24 IWC Wage Order.

25 101. Defendants' conduct violates the applicable IWC Wage Order and California
26 Labor Code sections 226.7, 516, and 1198. Plaintiff and class members are therefore entitled
27 to recover from Defendants one (1) additional hour of pay at the employee's regular rate of
28 compensation for each work day that a compliant rest period was not authorized and

1 permitted.

2 **FIFTH CAUSE OF ACTION**

3 **Violation of California Labor Code §§ 226(a), 1174(d), and 1198—Non-Compliant Wage**
4 **Statements and Failure to Maintain Accurate Payroll Records**
5 **(Against all Defendants)**

6 102. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
7 and every allegation set forth above.

8 103. At all relevant times herein set forth, California Labor Code section 226(a)
9 provides that every employer shall furnish each of his or her employees an accurate and
10 complete itemized wage statement in writing, including, but not limited to, the name and
11 address of the legal entity that is the employer, the inclusive dates of the pay period, total
12 hours worked, and all applicable rates of pay.

13 104. At all relevant times, Defendants have knowingly and intentionally provided
14 Plaintiff and Subclass members with uniform, incomplete, and inaccurate wage statements.
15 For example, Defendants issued uniform wage statements to Plaintiff and class members that
16 fail to correctly list: gross wages earned; total hours worked; net wages earned; and all
17 applicable hourly rates in effect during the pay period, including overtime rates of pay, and
18 the corresponding number of hours worked at each hourly rate. Specifically, Defendants
19 violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

20 105. First, Defendants failed to correctly list all applicable hourly rates in effect
21 during the pay period, namely, correct hourly and overtime pay rates in compliance with
22 section 226(a)(9). For example, Defendants issued wage statements to Plaintiff that
23 incorrectly indicate that he was paid at a rate of \$20.6600 for “Regular” hours, when the
24 correct hourly rate at which Plaintiff was actually paid was \$20.6619 ($48.00 \times \$20.6600 =$
25 $\$991.68$, not $\$991.77$, which was what he was actually paid). Similarly, Defendants issued
26 wage statements that incorrectly indicated overtime rates ($10.86 \times \$30.9900 = \336.55 , not
27 $\$336.58$, which was what he was actually paid).

28 106. Second, because Defendants did not record the time Plaintiff and Subclass

1 members spent working off-the-clock and deducted time from their records for meal periods
2 that were interrupted and/or missed (and therefore time for which they should have been paid),
3 Defendants did not list the correct amount of gross wages and net wages earned by Plaintiff
4 and Subclass members in compliance with section 226(a)(1) and section 226(a)(5),
5 respectively. For the same reason, Defendants failed to accurately list the total number of
6 hours worked by Plaintiff and Subclass members, in violation of section 226(a)(2), and failed
7 to list the applicable hourly rates of pay in effect during the pay period and the corresponding
8 accurate number of hours worked at each hourly rate, in violation of section 226(a)(9)).

9 107. Third, because Defendants did not calculate Plaintiff's and Subclass members'
10 regular rate of pay correctly for purposes of paying overtime and paid sick leave, Defendants
11 did not list the correct amount of gross wages earned by Plaintiff and Subclass members in
12 compliance with section 226(a)(1). For the same reason, Defendants failed to list the correct
13 amount of net wages earned by Plaintiff and Subclass members in violation of section
14 226(a)(5). Defendants also failed to correctly list all applicable hourly rates in effect during
15 the pay period, namely, correct overtime rates of pay and correct rates of pay for premium
16 wages, in violation of section 226(a)(9).

17 108. The wage statement deficiencies also include, among other things, failing to list
18 the number of piece-rate units earned and any applicable piece rate if the employee is paid on
19 a piece-rate basis; failing to list all deductions; failing to list the name of the employee and
20 only the last four digits of his or her social security number or an employee identification
21 number other than a social security number; failing to list the name and address of the legal
22 entity that is the employer; failing to list the inclusive dates of the period for which class
23 members were paid; and/or failing to state all hours worked as a result of not recording or
24 stating the hours they worked off-the-clock.

25 109. California Labor Code section 1198 provides that the maximum hours of work
26 and the standard conditions of labor shall be those fixed by the Labor Commissioner and as
27 set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he
28 employment of any employees for longer hours than those fixed by the order or under

conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, Defendants failed, on a company-wide basis, to keep accurate records of work period and meal period start and stop times for Plaintiff and Subclass members, in violation of section 1198. As stated, Defendants engaged in a company-wide practice and/or policy of falsifying Plaintiff’s and Subclass members’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Plaintiff and Subclass members. Furthermore, in light of Defendants’ failure to provide Plaintiff and Subclass members with second 30-minute meal periods to which they were entitled, Defendants kept no records of meal start and end times for second meal periods.

110. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” At all relevant times, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and Subclass members showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

111. Plaintiff and Subclass members are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

SIXTH CAUSE OF ACTION

Violation of California Labor Code §§ 201 and 202—Wages Not Timely Paid

Upon Termination
(Against all Defendants)

112. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

113. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages that were not timely paid to Plaintiff and those class members no longer employed by Defendants upon their termination.

114. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

115. Defendants willfully failed to pay Plaintiff and class members who are no longer employed by Defendants the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ.

116. Defendants' failure to pay Plaintiff and class members who are no longer employed by Defendants their wages earned and unpaid at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employ, violates Labor Code sections 201 and 202. Plaintiff and class members are therefore entitled to recover from Defendants the statutory penalty wages for each day they were not paid, at their regular rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SEVENTH CAUSE OF ACTION

Violation of California Labor Code § 204—Failure to Timely Pay Wages During

Employment
(Against all Defendants)

117. Plaintiff incorporates by reference and re-alleges as if fully stated herein each and every allegation set forth above.

118. This cause of action is dependent upon, and wholly derivative of, the overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages that were not timely paid to Plaintiff and those class members.

119. At all times relevant herein set forth, Labor Code section 204 provides that all wages earned by any person in any employment between the first (1st) and the fifteenth (15th) days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the sixteenth (16th) and the twenty-sixth (26th) day of the month during which the labor was performed.

120. At all times relevant herein, Labor Code section 204 provides that all wages earned by any person in any employment between the sixteenth (16th) and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the first (1st) and the tenth (10th) day of the following month.

121. At all times relevant herein, Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, at all times relevant herein, Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

122. During the relevant time period, Defendants willfully failed to pay Plaintiff and class members all wages due including, but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages within the time periods specified by California Labor Code section 204.

123. Defendants' failure to pay Plaintiff and class members all wages due violates

1 Labor Code section 204. Plaintiff and class members are therefore entitled to recover from
2 Defendants the statutory penalty wages pursuant to California Labor Code section 210.

3 **EIGHTH CAUSE OF ACTION**

4 **Violation of California Labor Code § 2802—Unpaid Business-Related Expenses**
5 **(Against all Defendants)**

6 124. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
7 and every allegation set forth above.

8 125. At all times herein set forth, California Labor Code section 2802 provides that
9 an employer must reimburse employees for all necessary expenditures and losses incurred by
10 the employee in the performance of his or her job. The purpose of Labor Code section 2802 is
11 to prevent employers from passing off their cost of doing business and operating expenses on
12 to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144
13 (2014). The applicable wage order, IWC Wage Order 1-2001, provides that: “[w]hen tools or
14 equipment are required by the employer or are necessary to the performance of a job, such
15 tools and equipment shall be provided and maintained by the employer, except that an
16 employee whose wages are at least two (2) times the minimum wage provided herein may be
17 required to provide and maintain hand tools and equipment customarily required by the trade
18 or craft.”

19 126. During the relevant time period, Defendants had a company-wide policy of
20 requiring Plaintiff and class members to utilize their own personal cellular phones and cellular
21 data to carry out their job duties, but failed to reimburse them for the costs of their work-
22 related cellular phone expenses. Plaintiff and class members were required to use their
23 personal cellular phones to fulfill their work-related responsibilities, such as responding to
24 phone calls, text messages, and email correspondence from Defendants’ management. For
25 example, Plaintiff would spend 25 minutes total per day answering calls and text messages
26 from Defendants’ management and responding to company emails on his personal cellular
27 phone. Although Defendants required Plaintiff and class members to utilize their personal
28 cellular phones to carry out their work-related responsibilities, Defendants failed to reimburse

1 them for this cost.

2 127. Additionally, during the relevant time period, Defendants had a company-wide
3 policy of requiring Plaintiff and class members to utilize their own personal vehicles to carry
4 out company business, such as attending off-site company meetings, but failed to reimburse
5 them for all costs of travel, including mileage. For example, because Defendants failed to
6 provide adequate transportation to all of their employees, Plaintiff drove his personal vehicle
7 4-6 miles roundtrip, per instance, to an off-site location to attend mandatory company
8 meetings several times a year. Although Defendants sometimes required Plaintiff and class
9 members to use their own personal vehicles to fulfill their job duties, Defendants never
10 reimbursed them for their travel expenses.

11 128. Defendants could have provided Plaintiff and class members with the actual
12 tools for use on the job, such as company phones and company vehicles. Or, Defendants
13 could have reimbursed employees for the cost of their cellular phone, mileage, and travel
14 expenses. Instead, Defendants passed these operating costs off onto Plaintiff and class
15 members. At all relevant times, Plaintiff did not earn at least two (2) times the minimum
16 wage.

17 129. Defendants' company-wide policy and/or practice of passing on their operating
18 costs to Plaintiff and class members violates California Labor Code section 2802. Defendants
19 have intentionally and willfully failed to reimburse Plaintiff and other class members for
20 necessary business-related expenses and costs.

21 130. Plaintiff and class members are entitled to recover from Defendants their
22 business-related expenses incurred during the course and scope of their employment, plus
23 interest.

24 **NINTH CAUSE OF ACTION**

25 **For Civil Penalties Pursuant to California Labor Code §§ 2698, *et seq.***

26 **(Against all Defendants)**

27 131. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
28 and every allegation set forth above.

1 132. California Labor Code §§ 2698, *et seq.* (“PAGA”) permits Plaintiff to recover
2 civil penalties for the violation(s) of the Labor Code sections enumerated in Labor Code
3 section 2699.5. Section 2699.5 enumerates Labor Code sections 201, 202, 203, 204, 222.5,
4 226(a), 226.7, 510, 511, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, and 2802.
5 Labor Code section 2699.3(c) permits aggrieved employees, including Plaintiff, to recover
6 civil penalties for violations of those Labor Code sections not found in section 2699.5,
7 including sections 246, 516, 1182.12, and 2810.5.

8 133. Defendants’ conduct, as alleged herein, violates numerous sections of the
9 California Labor Code, including, but not limited to, the following:

- 10 (f) Violation of Labor Code sections 510, 511, 1198, and the applicable
11 IWC Wage Order for Defendants’ failure to compensate Plaintiff and
12 other aggrieved employees with all required overtime pay and failure to
13 properly calculate the overtime rates paid to Plaintiff and other
14 aggrieved employees, as alleged herein;
- 15 (g) Violation of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198,
16 and the applicable IWC Wage Order for Defendants’ failure to
17 compensate Plaintiff and other aggrieved employees with at least
18 minimum wages for all hours worked, as alleged herein;
- 19 (h) Violation of Labor Code sections 226.7, 512(a), 516, 1198, and the
20 applicable IWC Wage Order for Defendants’ failure to provide Plaintiff
21 and other aggrieved employees with meal periods, as alleged herein;
- 22 (i) Violation of Labor Code sections 226.7, 516, 1198, and the applicable
23 IWC Wage Order for Defendants’ failure to authorize and permit
24 Plaintiff and other aggrieved employees to take rest periods, as alleged
25 herein;
- 26 (j) Violation of Labor Code sections 226(a), 1198, and the applicable IWC
27 wage order for failure to provide accurate and complete wage statements
28 to Plaintiff and other aggrieved employees, as alleged herein;

- 1 (k) Violation of Labor Code sections 1174(d), 1198, and the applicable
2 IWC Wage Order for failure to maintain payroll records, as alleged
3 herein;
- 4 (l) Violation of Labor Code sections 201, 202, and 203 for failure to pay all
5 earned wages upon termination, as alleged herein;
- 6 (m) Violation of Labor Code section 204 for failure to pay all earned wages
7 during employment, as alleged herein;
- 8 (n) Violation of Labor Code section 222.5 for failure to compensate other
9 aggrieved employees for mandatory physical examinations and/or drug
10 testing, as set forth below;
- 11 (o) Violation of Labor Code section 246 for failure to compensate Plaintiff
12 and other aggrieved employees sick pay and failure to properly calculate
13 the sick pay rates paid to Plaintiff and other aggrieved employees, as set
14 forth below;
- 15 (p) Violation of Labor Code section 2802 for failure to reimburse Plaintiff
16 and other aggrieved employees for all business expenses necessarily
17 incurred, as alleged herein; and
- 18 (q) Violation of Labor Code section 2810.5 for failure to provide Plaintiff
19 and other aggrieved employees with written notice of the material terms
20 of their employment, as set forth below.

21 134. At all relevant times herein, California Labor Code section 222.5 requires
22 employers to pay for the costs an employee incurs for obtaining any medical or physical
23 examination taken.

24 135. At all times relevant herein, Defendants implemented, on a company-wide
25 basis, an employer-imposed requirement that other aggrieved employees undergo mandatory
26 drug testing and/or physical examinations, but required them to do so at their own expense.
27 Defendants had a company-wide policy requiring that other aggrieved employees travel to a
28 specified medical facility using their own personal vehicles to undergo drug testing and/or

1 physical examinations. At all times, Defendants were in control of scheduling the date and
2 time for the testing and/or examinations, selecting the provider/facility where the testing
3 and/or examinations were to take place, and determining the scope of the testing and/or
4 examinations. However, Defendants did not compensate other aggrieved employees for the
5 time they spent traveling to and from the medical facilities; for the time they spent undergoing
6 the drug testing and/or physical examinations; or reimburse them for the travel expenses they
7 incurred getting to and from the medical facilities.

8 136. Defendants' policy and/or practice of not paying for all costs other aggrieved
9 employees incurred obtaining mandatory drug tests and/or physical examinations violates
10 California Labor Code section 222.5. Other aggrieved employees are therefore entitled to
11 recover civil penalties pursuant to Labor Code sections 2699(a), (f), and (g).

12 137. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
13 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
14 days from the commencement of employment with paid sick days, to be accrued at least one
15 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
16 employers must provide no less than 24 hours or three (3) days of paid sick leave (or
17 equivalent paid leave or paid time off) in each year of the employee's employment. Further,
18 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using
19 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in
20 the same manner as the regular rate of pay for the workweek in which the employee uses paid
21 sick time, whether or not the employee actually works overtime in that workweek[;]" or 2)
22 "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's
23 total wages, not including overtime premium pay, by the employee's total hours worked in the
24 full pay periods of the prior 90 days of employment."

25 138. During the relevant time period, Defendants did not pay Plaintiff and other
26 aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly
27 wage, Defendants paid Plaintiff and other aggrieved employees incentive pay,
28 nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration.

1 However, in violation of the California Labor Code, Defendants failed to incorporate all
2 remunerations, including incentive pay, nondiscretionary bonuses, and/or shift differential
3 pay, into the calculation of the regular rate of pay for purposes of calculating the sick leave
4 rate. Therefore, during times when Plaintiff and other aggrieved employees took sick leave
5 and received these other forms of pay, Defendants failed to pay all sick leave benefits by
6 paying a lower sick leave rate than required. Specifically, Defendants paid Plaintiff and other
7 aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate
8 of pay.

9 139. For example, during the pay period ending March 13, 2020, Plaintiff took 5.75
10 hours of sick leave and earned \$415.11 in incentive pay or nondiscretionary bonuses during
11 the same pay period. However, Defendants paid Plaintiff's sick leave rate based on his hourly
12 rate of approximately \$20.1579 instead of his regular rate of pay.

13 140. Defendants' failure to properly calculate the sick leave rates of pay based on all
14 remuneration paid has resulted in an underpayment of sick leave benefits to Plaintiff and other
15 aggrieved employees on a company-wide basis in violation of Labor Code 246(l). Plaintiff
16 and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees,
17 costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

18 141. California's Wage Theft Prevention Act was enacted to ensure that employers
19 provide employees with basic information material to their employment relationship at the
20 time of hiring, and to ensure that employees are given written and timely notice of any
21 changes to basic information material to their employment. Codified at California Labor
22 Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an
23 employer must provide written notice to employees of the rate(s) of pay and basis thereof,
24 whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including
25 any rates for overtime, the regular payday designated by the employer, and any allowances
26 claims as part of the minimum wage, including meal or lodging allowances. Effective January
27 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement
28 that the employee may accrue and use sick leave; has a right to request and use accrued paid

1 sick leave; may not be terminated or retaliated against for using or requesting the use of
2 accrued paid sick leave; and has the right to file a complaint against an employer who
3 retaliates.

4 142. Defendants failed to provide Plaintiff and other aggrieved employees written
5 notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-
6 (C). Defendants' failure to provide Plaintiff and other aggrieved employees with written
7 notice of basic information regarding their employment with Defendants is in violation of
8 Labor Code section 2810.5.

9 143. Plaintiff and other aggrieved employees are therefore entitled to recover civil
10 penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a),
11 (f)-(g).

12 **TENTH CAUSE OF ACTION**

13 **Violation of California Business & Professions Code §§ 17200, *et seq.* –**

14 **Unlawful Business Practices**

15 **(Against all Defendants)**

16 144. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
17 and every allegation set forth above.

18 145. Defendants are "persons" as defined by California Business & Professions
19 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
20 and/or associations.

21 146. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
22 unlawful and harmful to Plaintiff, class members, and to the general public. Plaintiff has
23 suffered injury in fact and has lost money as a result of Defendants' unlawful business
24 practices. Plaintiff seeks to enforce important rights affecting the public interest within the
25 meaning of Code of Civil Procedure section 1021.5.

26 147. Defendants' activities, as alleged herein, are violations of California law, and
27 constitute unlawful business acts and practices in violation of California Business &
28 Professions Code sections 17200, *et seq.*

1 148. A violation of California Business & Professions Code sections 17200, *et seq.*
2 may be predicated on the violation of any state or federal law. In the instant case, Defendants'
3 policies and practices have violated state law in at least the following respects:

- 4 (a) Requiring non-exempt, hourly paid employees, including Plaintiff and
5 class members, to work overtime without paying them proper
6 compensation in violation of California Labor Code sections 510, 511
7 and 1198 and the applicable IWC Order, and paying Plaintiff and class
8 members overtime at a lower rate than required by law by failing to
9 properly calculate the regular rate of pay for purposes of overtime, as
10 alleged herein;
- 11 (b) Failing to pay at least minimum wage to Plaintiff and class members in
12 violation of California Labor Code sections 1182.12, 1194, 1197,
13 1197.1, and 1198 and the applicable IWC Order, as alleged herein;
- 14 (c) Failing to provide uninterrupted meal periods to Plaintiff and class
15 members in violation of California Labor Code sections 226.7, 512(a),
16 516, 1198, and the applicable IWC Order, as alleged herein;
- 17 (d) Failing to authorize and permit Plaintiff and class members to take
18 uninterrupted rest periods in violation of California Labor Code sections
19 226.7, 516, 1198, and the applicable IWC Order, as alleged herein;
- 20 (e) Failing to provide Plaintiff and class members with accurate wage
21 statements and failing to maintain accurate payroll records in violation
22 of California Labor Code sections 226(a), 1174(d), 1198, and the
23 applicable IWC Order, as alleged herein;
- 24 (f) Failing timely to pay all earned wages to Plaintiff and class members in
25 violation of California Labor Code section 204 and the applicable IWC
26 Order, as alleged herein;
- 27 (g) Failing to properly calculate the sick leave paid to Plaintiff and class
28 members in violation of Labor Code section 246(l), as set forth below;

- 1 (h) Failing to reimburse Plaintiff and class members for all business
2 expenses necessarily incurred in violation of California Labor Code
3 sections 2802, as alleged herein; and
- 4 (i) Failing to provide written notice of information material to Plaintiff's
5 and class members' employment with Defendants in violation of Labor
6 Code section 2810.5(a)(1)(A)-(C), as set forth below.

7 149. At all relevant times herein, California Labor Code sections 245.5, 246, 246.5,
8 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more
9 days from the commencement of employment with paid sick days, to be accrued at least one
10 hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4),
11 employers must provide no less than 24 hours or three (3) days of paid sick leave (or
12 equivalent paid leave or paid time off) in each year of the employee's employment. Further,
13 Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using
14 one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in
15 the same manner as the regular rate of pay for the workweek in which the employee uses paid
16 sick time, whether or not the employee actually works overtime in that workweek[;]" or 2)
17 "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's
18 total wages, not including overtime premium pay, by the employee's total hours worked in the
19 full pay periods of the prior 90 days of employment."

20 150. During the relevant time period, Defendants did not pay Plaintiff and class
21 members the correct sick leave rates of pay. As stated, in addition to an hourly wage,
22 Defendants paid Plaintiff and class members incentive pay, nondiscretionary bonuses, shift
23 differential pay, and/or other forms of remuneration. However, in violation of the California
24 Labor Code, Defendants failed to incorporate all remunerations, including incentive pay,
25 nondiscretionary bonuses, and/or shift differential pay, into the calculation of the regular rate
26 of pay for purposes of calculating the sick leave rate. Therefore, during times when Plaintiff
27 and class members took sick leave and received these other forms of pay, Defendants failed to
28 pay all sick leave benefits by paying a lower sick leave rate than required. Specifically,

1 Defendants paid Plaintiff and class members sick leave based on their hourly rate of pay
2 instead of their regular rate of pay.

3 151. For example, during the pay period ending March 13, 2020, Plaintiff took 5.75
4 hours of sick leave and earned \$415.11 in incentive pay or nondiscretionary bonuses during
5 the same pay period. However, Defendants paid Plaintiff's sick leave rate based on his hourly
6 rate of approximately \$20.1579 instead of his regular rate of pay. Defendants' failure to
7 properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an
8 underpayment of sick leave benefits to Plaintiff and class members on a company-wide basis
9 in violation of Labor Code 246(l).

10 152. At all relevant times herein, California's Wage Theft Prevention Act was
11 enacted to ensure that employers provide employees with basic information material to their
12 employment relationship at the time of hiring, and to ensure that employees are given written
13 and timely notice of any changes to basic information material to their employment. Codified
14 at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the
15 time of hiring, an employer must provide written notice to employees containing basic and
16 material payroll information, including, among other things, the rate(s) of pay and basis
17 thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise,
18 including any rates for overtime, the regular payday designated by the employer, and any
19 allowances claims as part of the minimum wage, including meal or lodging allowances. Labor
20 Code § 2810.5(a)(1)(A)-(C).

21 153. At all relevant times, on information and belief, Defendants failed, on a
22 company-wide basis, to provide written notice to Plaintiff and class members that lists the
23 requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Defendants' failure
24 to provide Plaintiff and class members with written notice of basic information regarding their
25 employment with Defendants is in violation of Labor Code section 2810.5.

26 154. As a result of the violations of California law herein described, Defendants
27 unlawfully gained an unfair advantage over other businesses. Plaintiff and class members
28 have suffered pecuniary loss by Defendants' unlawful business acts and practices alleged

1 herein.

2 155. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
3 Plaintiff and class memberse entitled to restitution of the wages withheld and retained by
4 Defendants during a period that commences four years prior to the filing of this complaint; a
5 permanent injunction requiring Defendants to pay all outstanding wages due to Plaintiff and
6 class members; and an award of attorneys' fees pursuant to California Code of Civil
7 Procedure section 1021.5 and other applicable laws; and an award of costs.

8 **ELEVENTH CAUSE OF ACTION**

9 **Violation of California Business & Professions Code §§ 17200, et seq. –**

10 **Unfair Business Practices**

11 **(Against all Defendants)**

12 156. Plaintiff incorporates by reference and re-alleges as if fully stated herein each
13 and every allegation set forth above.

14 157. Defendants are "persons" as defined by California Business & Professions
15 Code sections 17201, as they are corporations, firms, partnerships, joint stock companies,
16 and/or associations.

17 158. Defendants' conduct, as alleged herein, has been, and continues to be, unfair,
18 and harmful to Plaintiff, class members, and to the general public. Plaintiff has suffered
19 injury in fact and has lost money as a result of Defendants' unfair business practices. Plaintiff
20 seeks to enforce important rights affecting the public interest within the meaning of Code of
21 Civil Procedure section 1021.5.

22 159. Defendants' activities, namely Defendants' company-wide practice and/or
23 policy of not paying Plaintiff and class members meal and rest period premium wages due to
24 them under Labor Code section 226.7, deprived Plaintiff and class members of the
25 compensation guarantee and enhanced enforcement implemented by section 226.7. The
26 statutory remedy provided by section 226.7 is a "'dual-purpose' remedy intended primarily to
27 compensate employees, and secondarily to shape employer conduct." *Safeway, Inc. v.*
28 *Superior Court*, 238 Cal. App. 4th 1138, 1149 (2015). The statutory benefits of section 226.7

1 were guaranteed to Plaintiff and class members as part of their employment with Defendants,
2 and thus Defendants' practice and/or policy of denying these statutory benefits constitutes an
3 unfair business practice in violation of California Business & Professions Code sections
4 17200, *et seq.* (*Id.*)

5 160. A violation of California Business & Professions Code sections 17200, *et seq.*
6 may be predicated on any unfair business practice. In the instant case, Defendants' policies
7 and practices have violated the spirit of California's meal and rest period laws and constitute
8 acts against the public policy behind these laws.

9 161. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
10 Plaintiff and class members are entitled to restitution for the class-wide loss of the statutory
11 benefits implemented by section 226.7 withheld and retained by Defendants during a period
12 that commences four years prior to the filing of this complaint; a permanent injunction
13 requiring Defendants to pay all statutory benefits implemented by section 226.7 due to
14 Plaintiff and class members; an award of attorneys' fees pursuant to California Code of Civil
15 Procedure section 1021.5 and other applicable laws; and an award of costs.

16 **REQUEST FOR JURY TRIAL**

17 Plaintiff requests a trial by jury.

18 **PRAYER FOR RELIEF**

19 Plaintiff, on behalf of all others similarly situated, prays for relief and judgment
20 against Defendants, jointly and severally, as follows:

21 1. For damages, unpaid wages, penalties, injunctive relief, and attorneys' fees in
22 excess of twenty-five thousand dollars (\$25,000), exclusive of interest and costs. Plaintiff
23 reserves the right to amend his prayer for relief to seek a different amount.

24 **Class Certification**

- 25 2. That this case be certified as a class action;
26 3. That Plaintiff be appointed as the representative of the Class and Subclass;
27 4. That counsel for Plaintiff be appointed as class counsel.

28 **As to the First Cause of Action**

5. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 510, 511, and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and class members;

6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;

7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due, or as otherwise provided by law;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a); and

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 by willfully failing to pay minimum wages to Plaintiff and class members;

11. For general unpaid wages and such general and special damages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation from the date such amounts were due, or as otherwise provided by law;

13. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code section 1194(a);

14. For liquidated damages pursuant to California Labor Code section 1194.2; and

15. For such other and further relief as the Court may deem equitable and appropriate.

As to the Third Cause of Action

16. That the Court declare, adjudge, and decree that Defendants violated California Labor Code sections 226.7, 512(a), 516, and 1198 and applicable IWC Wage Order(s) by willfully failing to provide all meal periods to Plaintiff and class members;

17. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a meal period was not provided;

18. For all actual, consequential, and incidental losses and damages, according to proof;

19. For premiums pursuant to California Labor Code section 226.7(c);

20. For pre-judgment interest on any unpaid meal period premiums from the date such amounts were due, or as otherwise provided by law;

21. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

22. For such other and further relief as the Court may deem equitable and appropriate.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7, 516, and 1198 and applicable IWC Wage Orders by willfully failing to authorize and permit Plaintiff and class members to take all rest periods;

24. That the Court make an award to the Plaintiff and class members of one (1) hour of pay at each employee's regular rate of pay for each workday that a rest period was not authorized and permitted;

25. For all actual, consequential, and incidental losses and damages, according to proof;

26. For premiums pursuant to California Labor Code section 226.7(c);

27. For pre-judgment interest on any unpaid rest period premiums from the date such amounts were due, or as otherwise provided by law;

28. For attorneys' fees pursuant to California Code of Civil Procedure section 1021.5, or as otherwise provided by law; and

29. For such other and further relief as the Court may deem equitable and appropriate.

1 **As to the Fifth Cause of Action**

2 30. That the Court declare, adjudge and decree that Defendants violated the
3 recordkeeping provisions of California Labor Code section 226(a) and applicable IWC Wage
4 Orders as to Plaintiff and Subclass members, and willfully failed to provide accurate itemized
5 wage statements thereto;

6 31. For all actual, consequential, and incidental losses and damages, according to
7 proof;

8 32. For injunctive relief pursuant to California Labor Code section 226(h);

9 33. For statutory penalties pursuant to California Labor Code section 226(e);

10 34. For attorneys' fees and costs pursuant to California Labor Code section
11 226(e)(1); and

12 35. For such other and further relief as the Court may deem equitable and
13 appropriate.

14 **As to the Sixth Cause of Action**

15 36. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 201 and 202 by willfully failing to pay overtime wages, minimum wages,
17 sick leave pay, and/or meal and rest period premiums, owed at the time of termination of the
18 employment of Plaintiff and other terminated class members;

19 37. For all actual, consequential and incidental losses and damages, according to
20 proof;

21 38. For waiting time penalties according to proof pursuant to California Labor
22 Code section 203 for all employees who have left Defendants' employ;

23 39. For pre-judgment interest on any unpaid wages from the date such amounts
24 were due, or as otherwise provided by law;

25 40. For attorneys' fees pursuant to California Code of Civil Procedure section
26 1021.5, or as otherwise provided by law; and

27 41. For such other and further relief as the Court may deem equitable and
28 appropriate.

1 **As to the Seventh Cause of Action**

2 42. That the Court declare, adjudge and decree that Defendants violated California
3 Labor Code section 204 by willfully failing to timely pay Plaintiff and class members
4 overtime wages, minimum wages, sick leave pay, and/or meal and rest period premiums,
5 during their employment;

6 43. For all actual, consequential and incidental losses and damages, according to
7 proof;

8 44. For statutory penalties according to proof pursuant to California Labor Code
9 section 210;

10 45. For pre-judgment interest on any unpaid wages from the date such amounts
11 were due, or as otherwise provided by law;

12 46. For attorneys' fees pursuant to California Code of Civil Procedure section
13 1021.5, or as otherwise provided by law; and

14 47. For such other and further relief as the Court may deem equitable and
15 appropriate.

16 **As to the Eighth Cause of Action**

17 48. That the Court declare, adjudge and decree that Defendants violated California
18 Labor Code section 2802 by willfully failing to reimburse and/or indemnify all business-
19 related expenses and costs incurred by Plaintiff and class members;

20 49. For unpaid business-related expenses and such general and special damages as
21 may be appropriate;

22 50. For pre-judgment interest on any unpaid business-related expenses from the
23 date such amounts were due, or as otherwise provided by law;

24 51. For all actual, consequential, and incidental losses and damages, according to
25 proof;

26 52. For attorneys' fees and costs pursuant to California Labor Code section
27 2802(c), or as otherwise provided by law; and

28 53. For such other and further relief as the Court may deem equitable and

appropriate.

As to the Ninth Cause of Action

1. That the Court declare, adjudge and decree that Defendants violated the following California Labor Code provisions as to Plaintiff and/or other aggrieved employees: 510, 511 and 1198 (by failing to pay all overtime compensation); 1182.12, 1194, 1197, 1197.1, and 1198 (by failing to pay at least minimum wages for all hours worked); 226.7, 512(a), 516, and 1198 (by failing to provide all meal periods); 226.7, 516, and 1198 (by failing to authorize and permit all rest periods); 226(a), 1174(d), and 1198 (by failing to provide accurate wage statements and maintain accurate payroll records); 201, 202, and 203 (by failing to timely pay all earned wages upon termination); 204 (by failing to timely pay all earned wages during employment); 222.5 (by failing to pay the costs of mandatory drug testing and/or physical examinations); 246 (by failing to provide written notice of available sick leave pay); 2802 (by failing to reimburse business expenses); and 2810.5 (by failing to provide written notice of the material terms of employment);

2. For civil penalties pursuant to California Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and/or 2699(a), (f) and (g), for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

3. For attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1), and any and all other relevant statutes, for Defendants' violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5;

4. For pre-judgment and post-judgment interest as provided by law; and

5. For such other and further relief as the Court may deem equitable and appropriate.

As to the Tenth Cause of Action

6. That the Court declare, adjudge and decree that Defendants' conduct of failing to provide Plaintiff and class members all overtime wages due to them, failing to provide

1 Plaintiff and class members all minimum wages due to them, failing to provide Plaintiff and
2 class members all meal periods, failing to authorize and permit Plaintiff and class members to
3 take all rest periods, failing to provide Plaintiff and class members accurate and complete
4 wage statements, failing to maintain accurate payroll records for Plaintiff and class members,
5 failing timely to pay Plaintiff and class members all earned wages during employment, failing
6 to properly calculate Plaintiff's and class members' sick leave, failing to reimburse Plaintiff
7 and class members for business-related expenses, and failing to provide written notice of
8 information material to employment, constitutes an unlawful business practice in violation of
9 California Business and Professions Code sections 17200, *et seq.*;

10 7. For restitution of unpaid wages to Plaintiff and all class members and
11 prejudgment interest from the day such amounts were due and payable;

12 8. For the appointment of a receiver to receive, manage and distribute any and all
13 funds disgorged from Defendants and determined to have been wrongfully acquired by
14 Defendants as a result of violations of California Business & Professions Code sections 17200
15 *et seq.*;

16 9. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
17 California Code of Civil Procedure section 1021.5; and

18 10. For such other and further relief as the Court may deem equitable and
19 appropriate.

20 **As to the Eleventh Cause of Action**

21 11. That the Court declare, adjudge and decree that Defendants' conduct of denying
22 Plaintiff and class members the statutory benefits guaranteed under section 226.7 constitutes
23 an unfair business practice in violation of California Business and Professions Code sections
24 17200, *et seq.*;

25 12. For restitution of the statutory benefits under section 226.7 unfairly withheld
26 from Plaintiff and class members and prejudgment interest from the day such amounts were
27 due and payable;

28 13. For the appointment of a receiver to receive, manage and distribute any and all

1 funds disgorged from Defendants and determined to have been wrongfully acquired by
2 Defendants as a result of violations of California Business & Professions Code sections 17200
3 *et seq.*;

4 14. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
5 California Code of Civil Procedure section 1021.5;

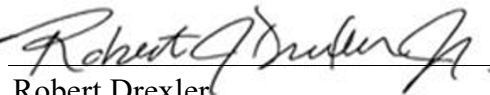
6 15. For pre-judgment and post-judgment interest as provided by law; and

7 16. For such other and further relief as the Court may deem equitable and
8 appropriate.

9
10 Dated: February 3, 2023

Respectfully submitted,

Capstone Law APC

11
12
13 By: 

14 Robert Drexler
15 Molly DeSario
16 Jonathan Lee

17 Attorneys for Plaintiff Juan Medina
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Exhibit 1

MAO SHIOKURA
310.712.8030 Direct
Mao.Shiokura@capstonelawyers.com

February 9, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Juan Medina v. BIO-RAD Laboratories, Inc., et al.*

Dear PAGA Administrator:

This office represents Juan Medina in connection with his claims under the California Labor Code. Mr. Medina was an employee of BIO-RAD LABORATORIES, INC.; BIO-RAD LABORATORIES (RISHON), INC.; and/or BIO-RAD PACIFIC LIMITED. For the purpose of this letter, Mr. Medina collectively refers to these entities as “BIO-RAD”).

The employers may be contacted directly at the addresses below:

BIO-RAD LABORATORIES, INC.
1000 ALFRED NOBEL DRIVE
HERCULES CA 94547

BIO-RAD LABORATORIES (RISHON), INC.
C/O C T CORPORATION SYSTEM (C0168406)
28 LIBERTY ST
NEW YORK NY 10005

BIO-RAD PACIFIC LIMITED
1000 ALFRED NOBEL DRIVE
HERCULES CA 94547

Mr. Medina intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Mr. Medina seeks relief on behalf of himself, the State of California, and other persons who are or were employed by BIO-RAD as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

BIO-RAD employed Mr. Medina as an hourly paid, non-exempt employee from approximately November 2012 to August 2020. Mr. Medina worked for BIO-RAD as a Manufacturing Associate II at its facility in Irvine, California. During his employment, Mr. Medina typically worked eight (8) hours or more per day, and five (5) days per week. At the time Mr. Medina’s employment with BIO-RAD ended, he earned approximately \$20.66 per hour. His job duties included, without

limitation, filling, capping, and labeling containers; washing tanks; and assisting other departments as necessary.

BIO-RAD committed one or more of the following Labor Code violations against Mr. Medina, the facts and theories of which follow, making him an “aggrieved employee” pursuant to California Labor Code section 2699(c):¹

BIO-RAD’s Company-Wide and Uniform Payroll and HR Practices

BIO-RAD LABORATORIES, INC. is a Delaware corporation, while BIO-RAD LABORATORIES (RISHON), INC. and BIO-RAD PACIFIC LIMITED are California corporations. Together, BIO-RAD is a global developer, manufacturer, and marketer of life science research and clinical diagnostic products. Upon information and belief, BIO-RAD maintains a single, centralized Human Resources (HR) department at its corporate headquarters in either Hercules, California, or Rishon LeZion, Israel, for all non-exempt, hourly paid employees working for BIO-RAD in California, including Mr. Medina and other aggrieved employees. At all relevant times, BIO-RAD issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Medina and other aggrieved employees, regardless of its location or position.

Upon information and belief, BIO-RAD maintains a centralized Payroll department at its corporate headquarters in Hercules, California, or Rishon LeZion, Israel, which processes payroll for all non-exempt, hourly paid employees working for BIO-RAD in California, including Mr. Medina and other aggrieved employees. Further, BIO-RAD issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Medina and other aggrieved employees, irrespective of their location, position, or manner in which each employee’s employment ended. In other words, BIO-RAD utilized the same methods and formulas when calculating wages due to Mr. Medina and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee’s regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

¹ These facts, theories, and claims are based on Mr. Medina’s experience and counsel’s review of those records currently available relating to Mr. Medina’s employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law’s requirements, the employer misinformed its employee of the law’s requirements, or because the employer effectively hid the violations). Thus, Mr. Medina reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

BIO-RAD willfully failed to pay all overtime wages owed to Mr. Medina and other aggrieved employees. During the relevant time period, Mr. Medina and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, upon information and belief, BIO-RAD had, and continues to have, a company-wide policy and/or practice of strictly staffing its facilities based on the labor hours allocated by corporate for each location. BIO-RAD's uniform use of labor budgets, combined with production deadlines, resulted in understaffing and a failure to provide Mr. Medina and other aggrieved employees with adequate meal period coverage (*see infra*). BIO-RAD also had a practice of failing to schedule meal periods, which further caused Mr. Medina and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, Mr. Medina and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, BIO-RAD's management would interrupt Mr. Medina during his unpaid meal periods in order to discuss and assign tasks to ensure that employees were meeting production deadlines given the limited workforce available.

Additionally, upon information and belief, because BIO-RAD frowned upon employees accruing meal period penalties, BIO-RAD pressured Mr. Medina and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that BIO-RAD would otherwise owe. For example, Mr. Medina was pressured by BIO-RAD's management to clock out and record compliant meal periods on shifts when he had not, in fact, received a compliant meal period. As a further example, on days that Mr. Medina was unable to take or record a compliant meal period, he was instructed by BIO-RAD's management not to clock out for his meal period at all, so that BIO-RAD's management could more easily adjust his time(s) post hoc to reflect a compliant meal period.

Furthermore, BIO-RAD's company-wide timekeeping system prevented Mr. Medina and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Medina and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, BIO-RAD did not all record hours worked during meal periods and Mr. Medina and other aggrieved employees performed work during meal periods for which they were not paid.

Second, during the relevant period, BIO-RAD had a company-wide policy and/or practice of improperly rounding employees' clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. BIO-RAD's rounding policy resulted in the failure to compensate other aggrieved employees fully for all hours worked, causing other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. BIO-RAD's policy of rounding is unfair and has, over time, resulted in the underpayment of wages to other aggrieved employees. To the extent BIO-RAD's rounding policy has taken away time worked that was eligible for overtime, other aggrieved employees were denied overtime pay for all hours worked.

Third, BIO-RAD had, and continue to have, a company-wide policy and/or practice of requiring employees to complete work-related duties while off-the-clock, such as responding to communications from supervisors or assisting with special assignments. Upon information and

belief, BIO-RAD required Mr. Medina and other aggrieved employees to respond to calls, text messages, and email correspondence from BIO-RAD's management on their personal cellular phones outside of their scheduled shifts, but did not compensate them for this time. For example, Mr. Medina was required to spend five (5) minutes per day off-the-clock answering phone calls, text messages, and in-person communications from his supervisor to discuss work he had completed during his previous shifts. As a further example, Mr. Medina was required to respond to company emails regarding work assignments before and after his shifts and on his days off. Moreover, Mr. Medina was once required to prepare a PowerPoint presentation and spent approximately six (6) hours off-the-clock on his days off completing the project. BIO-RAD did not compensate Mr. Medina and other aggrieved employees for this time spent working off-the-clock.

BIO-RAD knew or should have known that as a result of these company-wide practices and/or policies, Mr. Medina and other aggrieved employees were working before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Medina and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, BIO-RAD did not pay Mr. Medina and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration. However, in violation of the California Labor Code, BIO-RAD failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Medina and other aggrieved employees worked overtime and received these other forms of pay, BIO-RAD failed to pay all overtime wages by paying a lower overtime rate than required.

Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or shift differential pay, which were listed on Mr. Medina's and other aggrieved employees' wage statements as "EE Benefit Pln," "Reg Pay Swing," "OT Swing," and "5% Premium Pay." On information and belief, "EE Benefit Pln" was an annual bonus awarded for the company and Mr. Medina's department meeting certain metrics. Additionally, on information and belief, "Reg Pay Swing," "OT Swing," and "5% Premium Pay" denoted shift differential pay for employees who worked a non-regular shift. During pay periods that Mr. Medina and other aggrieved employees were paid overtime wages, BIO-RAD failed to incorporate the incentive pay, nondiscretionary bonuses, and/or shift differential pay into Mr. Medina's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. BIO-RAD's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Medina and other aggrieved employees on a company-wide basis.

Therefore, Mr. Medina and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510 and 1198. Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in Wage Order No. 1 as “the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, § 11010(2)(G) (defining “Hours Worked”).

As stated above, on information and belief, due to BIO-RAD’s company-wide practice of utilizing labor budgets and production deadlines, failure to schedule meal periods, and subsequent lack of meal period coverage, Mr. Medina and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Additionally, as set forth above, on information and belief, BIO-RAD systematically failed to pay Mr. Medina and other aggrieved employees for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded, and because BIO-RAD’s timekeeping system locked out Mr. Medina and other aggrieved employees for an allotted time when they clocked out for a meal period.

Furthermore, as set forth above, BIO-RAD had a company-wide policy and/or practice of rounding other aggrieved employees’ hourly clock-in and clock-out times in their timekeeping system to the nearest quarter hour, resulting in the failure to compensate them for all hours worked. Also, as set forth above, BIO-RAD required Mr. Medina and other aggrieved employees to respond to phone calls, text messages, in-person communications, and emails from supervisors and complete assignments while off-the-clock, but did not compensate them for this time.

Moreover, BIO-RAD maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles or alternate transportation to undergo mandatory drug testing and/or physical examinations. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. BIO-RAD gave other aggrieved employees strict instructions to undergo drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of BIO-RAD. Other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing BIO-RAD’s mandatory drug tests and/or physical examinations. However, BIO-RAD did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

Thus, BIO-RAD did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, BIO-RAD did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1.

Accordingly, BIO-RAD regularly failed to pay at least minimum wages to Mr. Medina and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Mr. Medina and other aggrieved employees are therefore

entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (Cal. 2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, during the relevant time period, BIO-RAD had, and continues to have, a company-wide policy and/or practice of understaffing its locations due to labor budgeting and assigning strict production deadlines. BIO-RAD enforced certain production deadlines, which required that biological materials and product be processed, taken "off the line," and placed into freezers within specific timeframes, which would vary according to the material that was being handled. These production deadlines were based on the temperature-sensitive nature of the biological materials and products being handled, and Mr. Medina and other aggrieved employees were required to adhere to these deadlines or risk damaging company property. Adherence to these strict deadlines resulted in Mr. Medina and other aggrieved employees having missed, late, and/or interrupted meal periods. These company-wide practices, combined with the failure to schedule meal periods, led to a lack of meal period coverage and prevented Mr. Medina and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. The resulting lack of meal period coverage was exacerbated by the shortage of employees on duty to handle the workload.

In addition, because BIO-RAD required one employee to monitor each stage of the production line at any given time, Mr. Medina and other aggrieved employees were required to stagger their meal periods in order to provide adequate meal period coverage. When utilizing this staggered meal period schedule, Mr. Medina and other aggrieved employees were forced to take their meal periods one at a time, and could not begin their meal period until another employee had returned to provide coverage. As a result, Mr. Medina and other aggrieved employees were further forced to take their meal periods late, have their meal periods cut short, and/or miss their meal periods entirely.

Moreover, as stated, because BIO-RAD frowned upon employees accruing meal period penalties, BIO-RAD's management would adjust Mr. Medina's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal

penalties that would need to be paid by BIO-RAD. Furthermore, as stated, BIO-RAD's company-wide timekeeping system prevented Mr. Medina and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Medina and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

BIO-RAD's practices and policies prevented Mr. Medina and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Medina and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, as stated, 1-2 times per month, BIO-RAD's management would interrupt Mr. Medina's meal periods for five (5) minutes per instance to discuss and assign tasks to him in order to ensure he was meeting production deadlines. As a further example, at least three (3) times per week, Mr. Medina was forced to take his meal periods after his fifth hour of work because he was required to wait for other employees to return from meal periods in accordance with their staggered meal period schedule. Specifically, Mr. Medina's timepunch records reflect that on August 17, August 19, and August 20, 2020, Mr. Medina took his meal periods after his fifth hour of work, but BIO-RAD did not pay him any meal period premiums.

In addition, during the relevant time period, Mr. Medina and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. For example, Mr. Medina would work shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. Specifically, Mr. Medina's timepunch records reflect that on January 28, February 5, May 21, June 5, and June 29 of 2020, Mr. Medina did not take a second 30-minute meal period on days he worked more than ten (10) hours in a day, but, yet again, he was not paid meal period premiums. Mr. Medina and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

BIO-RAD knew or should have known that as a result of its policies and practices, that Mr. Medina and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. BIO-RAD further knew or should have known that it did not pay Mr. Medina and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

Furthermore, BIO-RAD engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Medina and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that BIO-RAD did pay Mr. Medina and other aggrieved employees premium pay for missed, late, and interrupted meal periods, BIO-RAD did not pay other aggrieved employees at the correct rate of pay for premium wages because BIO-RAD systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, BIO-RAD failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Medina and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

During the relevant time period, BIO-RAD regularly failed to authorize and permit Mr. Medina and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, BIO-RAD's company-wide practices, including utilizing labor budgets and production deadlines and requiring one employee to monitor each stage of the production line at all times, prevented Mr. Medina and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. BIO-RAD also failed to schedule rest periods, which, coupled with BIO-RAD's failure to provide adequate rest period coverage, further led to Mr. Medina and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, BIO-RAD maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Medina and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Medina and other aggrieved employees were restricted from leaving BIO-RAD's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, BIO-RAD effectively maintained control over Mr. Medina and other aggrieved employees during rest periods.

As a result, Mr. Medina and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, Mr. Medina missed his rest periods once per month, either due to a lack of rest period coverage, or to complete all the duties BIO-RAD assigned to him. Additionally, Mr. Medina did not receive a third rest period when working shifts in excess of 10 hours.

BIO-RAD also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Alternatively, to the extent that BIO-RAD did pay Mr. Medina and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, BIO-RAD did not pay Mr. Medina and other aggrieved employees at the correct rate of pay for premium wages because BIO-RAD failed to include all

forms of compensation, such as incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, BIO-RAD failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Medina and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. BIO-RAD has not provided Mr. Medina and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, BIO-RAD has knowingly and intentionally provided Mr. Medina and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, BIO-RAD issued uniform wage statements to Mr. Medina and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including overtime rates of pay, and the corresponding number of hours worked at each hourly rate. Specifically, BIO-RAD violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, BIO-RAD failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct hourly and overtime pay rates in compliance with section 226(a)(9). For example, BIO-RAD issued wage statements to Mr. Medina that incorrectly indicate that he was paid at a rate of \$20.6600 for "Regular" hours, when the correct hourly rate at which Mr. Medina was actually paid was \$20.6619 ($48.00 \times \$20.6600 = \991.68 , not \$991.77, which was what he was actually paid). Similarly, BIO-RAD issued wage statements that incorrectly indicated overtime rates ($10.86 \times \$30.9900 = \336.55 , not \$336.58, which was what Mr. Medina was actually paid).

Second, because BIO-RAD did not record the time Mr. Medina and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), BIO-RAD did not list the correct amount of gross wages and net wages earned by Mr. Medina and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BIO-RAD failed to accurately list the total number of hours worked by Mr. Medina and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Third, because BIO-RAD did not calculate Mr. Medina's and other aggrieved employees' regular rate of pay correctly for purposes of paying overtime and paid sick leave, BIO-RAD did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, BIO-RAD also failed to list the correct amount of net wages in violation of section 226(a)(5). BIO-RAD also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct overtime rates of pay and correct rates of pay for meal and rest premium wages, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; failing to list the inclusive dates of the period for which aggrieved employees were paid; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that "[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors" and "[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . ." Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), BIO-RAD willfully failed to maintain accurate payroll records for Mr. Medina and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding other aggrieved employees' hourly clock-in and clock-out duration times in its timekeeping system.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. Section 1198 further provides that "[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful." Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, BIO-RAD failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Mr. Medina and other aggrieved employees, in violation of section 1198. As stated, BIO-RAD engaged in a company-wide practice and/or policy of falsifying Mr. Medina's and other aggrieved employees' time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Mr. Medina and other aggrieved employees. Furthermore, in light of BIO-RAD's failure to provide Mr. Medina and other aggrieved employees with second 30-minute meal periods to which they were entitled, BIO-RAD kept no records of meal start and end times for second meal periods.

Because BIO-RAD failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Medina and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Medina and other aggrieved employees have had to

look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, BIO-RAD failed to pay Mr. Medina and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages, within any time period specified by California Labor Code section 204.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

BIO-RAD willfully failed to pay Mr. Medina and other aggrieved employees who are no longer employed by BIO-RAD all their earned wages, including, but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premium wages, either at the time of discharge, or within seventy-two (72) hours of their leaving BIO-RAD's employ in violation of California Labor Code sections 201, 202, and 203.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, BIO-RAD implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing and/or physical examinations, but required them to do so at their own expense. As stated, BIO-RAD had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, BIO-RAD did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. BIO-RAD's policy and/or practice of not paying for all costs other aggrieved employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Unpaid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, BIO-RAD did not pay Mr. Medina and other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration. However, in violation of the California Labor Code, BIO-RAD failed to incorporate all remunerations, including incentive pay, nondiscretionary bonuses, and/or shift differential pay, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when Mr. Medina and other aggrieved employees took sick leave and received these other forms of pay, BIO-RAD failed to pay all sick leave benefits by

paying a lower sick leave rate than required. Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

For example, during the pay period ending March 13, 2020, Mr. Medina took 5.75 hours of sick leave and earned \$415.11 in incentive pay or nondiscretionary bonuses during the same pay period. However, BIO-RAD paid Mr. Medina's sick leave rate based on his hourly rate of approximately \$20.1579 instead of his regular rate of pay.

BIO-RAD's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Mr. Medina and other aggrieved employees on a company-wide basis in violation of Labor Code 246(l). Mr. Medina and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order 1-2001, provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

During the relevant time period, BIO-RAD, on a company-wide basis, required that Mr. Medina and other aggrieved employees use their own personal cellular phones and cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Medina and other aggrieved employees were required to use their personal cellular phones to fulfill their work-related responsibilities, such as responding to phone calls, text messages, and email correspondence from BIO-RAD's management. For example, Mr. Medina would spend 25 minutes total per day answering calls and text messages from BIO-RAD's management and responding to company emails on his personal cellular phone. Although BIO-RAD required Mr. Medina and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, BIO-RAD failed to fully reimburse them for this cost.

Additionally, during the relevant time period, BIO-RAD had a company-wide policy of requiring Mr. Medina and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, because BIO-RAD failed to provide adequate transportation to all of their employees, Mr. Medina drove his personal vehicle 4-6 miles roundtrip, per instance, to an off-site location to attend mandatory company meetings several times a year. Although BIO-RAD sometimes required Mr. Medina and other aggrieved employees to utilize their own vehicles to fulfill their job duties, BIO-RAD did not reimburse them for all of their travel expenses.

Furthermore, as stated, BIO-RAD had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel

expenses, including mileage. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. BIO-RAD gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of BIO-RAD. Although BIO-RAD required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, BIO-RAD never reimbursed them for their travel expenses.

BIO-RAD could have provided Mr. Medina and other aggrieved employees with the actual tools required for use on the job, including company phones and vehicles, or, BIO-RAD could have reimbursed employees for their cellular phone usage, mileage, and travel costs. Instead, BIO-RAD passed these operating costs off onto Mr. Medina and other aggrieved employees. At all relevant times, Mr. Medina and other aggrieved employees did not earn at least two (2) times the minimum wage.

Thus, BIO-RAD had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

BIO-RAD failed to provide Mr. Medina and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). BIO-RAD's failure to provide Mr. Medina and other aggrieved employees with written notice of basic information regarding their employment with BIO-RAD is in violation of Labor Code section 2810.5.

Mr. Medina and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of

an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . .” Labor Code section 558(c) provides that “[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.” BIO-RAD, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Medina’s and other aggrieved employees’ rights by violating various sections of the California Labor Code.

Accordingly, Mr. Medina seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Medina, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against BIO-RAD for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Medina seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Mao Shiokura
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
(310) 556-4811

Best Regards,

A handwritten signature in black ink, appearing to read "Mao Shiokura", with a stylized flourish at the end.

Mao Shiokura

Copy: BIO-RAD LABORATORIES, INC. (via U.S. Certified Mail); BIO-RAD LABORATORIES (RISHON), INC. (via U.S. Certified Mail); BIO-RAD PACIFIC LIMITED (via U.S. Certified Mail)

Exhibit 2

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

February 3, 2023

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/310>)

Subject: *Juan Medina v. BIO-RAD Laboratories, Inc., et al.*
LWDA Case No. LWDA-CM-821150-21 – AMENDED NOTICE

Dear PAGA Administrator:

This office represents Juan Medina in connection with his claims under the California Labor Code. Mr. Medina was an employee of BIO-RAD LABORATORIES, INC.; BIO-RAD LABORATORIES (RISHON), INC.; and/or BIO-RAD PACIFIC LIMITED. For the purpose of this letter, Mr. Medina collectively refers to these entities as “BIO-RAD”). We previously provided notice of Mr. Medina’s claims to the California Labor and Workforce Development Agency (“LWDA”) on February 9, 2021, and submitted the applicable filing fee pursuant to Labor Code section 2699.3(a)(1)(B). This amended notice supplements Mr. Medina’s prior LWDA notice and is intended to clarify the facts and theories supporting his claims

The employers may be contacted directly at the addresses below:

BIO-RAD LABORATORIES, INC.
1000 ALFRED NOBEL DRIVE
HERCULES CA 94547

BIO-RAD LABORATORIES (RISHON), INC.
C/O C T CORPORATION SYSTEM (C0168406)
28 LIBERTY ST
NEW YORK NY 10005

BIO-RAD PACIFIC LIMITED
1000 ALFRED NOBEL DRIVE
HERCULES CA 94547

Mr. Medina intends to seek civil penalties, attorney’s fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 (“PAGA”). Mr. Medina seeks relief on behalf of himself, the State of California, and other persons who are or were employed by BIO-RAD as a non-exempt, hourly paid employee in California and who received at least one wage statement (“aggrieved employees”).

BIO-RAD employed Mr. Medina as an hourly paid, non-exempt employee from approximately November 2012 to August 2020. Mr. Medina worked for BIO-RAD as a Manufacturing Associate II at its facility in Irvine, California. During his employment, Mr. Medina typically worked eight (8) hours or more per day, and five (5) days per week. At the time Mr. Medina's employment with BIO-RAD ended, he earned approximately \$20.66 per hour. His job duties included, without limitation, filling, capping, and labeling containers; washing tanks; and assisting other departments as necessary.

BIO-RAD committed one or more of the following Labor Code violations against Mr. Medina, the facts and theories of which follow, making him an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

BIO-RAD's Company-Wide and Uniform Payroll and HR Practices

BIO-RAD LABORATORIES, INC. is a Delaware corporation, while BIO-RAD LABORATORIES (RISHON), INC. and BIO-RAD PACIFIC LIMITED are California corporations. Together, BIO-RAD is a global developer, manufacturer, and marketer of life science research and clinical diagnostic products. Upon information and belief, BIO-RAD maintains a single, centralized Human Resources (HR) department at its corporate headquarters in either Hercules, California, or Rishon LeZion, Israel, for all non-exempt, hourly paid employees working for BIO-RAD in California, including Mr. Medina and other aggrieved employees. At all relevant times, BIO-RAD issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Mr. Medina and other aggrieved employees, regardless of its location or position.

Upon information and belief, BIO-RAD maintains a centralized Payroll department at its corporate headquarters in Hercules, California, or Rishon LeZion, Israel, which processes payroll for all non-exempt, hourly paid employees working for BIO-RAD in California, including Mr. Medina and other aggrieved employees. Further, BIO-RAD issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Mr. Medina and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, BIO-RAD utilized the same methods and formulas when calculating wages due to Mr. Medina and other aggrieved employees in California.

Violation of California Labor Code §§ 510, 511, and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required

¹ These facts, theories, and claims are based on Mr. Medina's experience and counsel's review of those records currently available relating to Mr. Medina's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Mr. Medina reserves the right to supplement this letter with additional facts, theories, and claims if he becomes aware of them subsequent to the submission of this letter.

to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

California Labor Code section 511 and the applicable IWC Wage Order allow employers, with the employees' approval, to offer an alternative workweek schedule that authorizes employees to work no more than ten (10) hours per day and forty (40) hours per week without receiving overtime compensation. An alternative workweek schedule must pay the employees overtime at one and one-half times their regular hourly rate for work in excess of ten (10) hours per day or forty (40) hours per week. Overtime must be paid at twice the employees' regular hourly rate for work in excess of twelve (12) hours a day. Labor Code 511 and the applicable IWC Wage Order further provide that an employer may not implement an alternative workweek schedule unless at least two-thirds of the affected employees approve the schedule through a secret ballot election, and the results must be reported to the California Division of Labor Standards Enforcement within 30 days after the results are final.

BIO-RAD willfully failed to pay all overtime wages owed to Mr. Medina and other aggrieved employees. During the relevant time period, Mr. Medina and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

First, upon information and belief, BIO-RAD had, and continues to have, a company-wide policy and/or practice of strictly staffing its facilities based on the labor hours allocated by corporate for each location. BIO-RAD's uniform use of labor budgets, combined with production deadlines, resulted in understaffing and a failure to provide Mr. Medina and other aggrieved employees with adequate meal period coverage (*see infra*). BIO-RAD also had a practice of failing to schedule meal periods, which further caused Mr. Medina and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, Mr. Medina and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period. For example, BIO-RAD's management would interrupt Mr. Medina during his unpaid meal periods in order to discuss and assign tasks to ensure that employees were meeting production deadlines given the limited workforce available.

Additionally, upon information and belief, because BIO-RAD frowned upon employees accruing meal period penalties, BIO-RAD pressured Mr. Medina and other aggrieved employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that BIO-RAD would otherwise owe. For example, Mr. Medina was pressured by BIO-RAD's management to clock out and record compliant meal periods on shifts when he had not, in fact, received a compliant meal period. As a further example, on days that Mr. Medina was unable to take or record a compliant meal period, he was instructed by BIO-RAD's management not to clock out for his meal period at all, so that BIO-RAD's management could more easily adjust his time(s) post hoc to reflect a compliant meal period.

Furthermore, BIO-RAD's company-wide timekeeping system prevented Mr. Medina and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Medina and other aggrieved employees once they

clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed. Thus, BIO-RAD did not all record hours worked during meal periods and Mr. Medina and other aggrieved employees performed work during meal periods for which they were not paid.

Second, during the relevant period, BIO-RAD had a company-wide policy and/or practice of improperly rounding employees' clock-in and clock-out times in its timekeeping system to the nearest quarter (0.25) of an hour. BIO-RAD's rounding policy resulted in the failure to compensate other aggrieved employees fully for all hours worked, causing other aggrieved employees to not be paid overtime wages for all of the overtime hours they actually worked. BIO-RAD's policy of rounding is unfair and has, over time, resulted in the underpayment of wages to other aggrieved employees. To the extent BIO-RAD's rounding policy has taken away time worked that was eligible for overtime, other aggrieved employees were denied overtime pay for all hours worked.

Third, BIO-RAD had, and continue to have, a company-wide policy and/or practice of requiring employees to complete work-related duties while off-the-clock, such as responding to communications from supervisors or assisting with special assignments. Upon information and belief, BIO-RAD required Mr. Medina and other aggrieved employees to respond to calls, text messages, and email correspondence from BIO-RAD's management on their personal cellular phones outside of their scheduled shifts, but did not compensate them for this time. For example, Mr. Medina was required to spend five (5) minutes per day off-the-clock answering phone calls, text messages, and in-person communications from his supervisor to discuss work he had completed during his previous shifts. As a further example, Mr. Medina was required to respond to company emails regarding work assignments before and after his shifts and on his days off. Moreover, Mr. Medina was once required to prepare a PowerPoint presentation and spent approximately six (6) hours off-the-clock on his days off completing the project. BIO-RAD did not compensate Mr. Medina and other aggrieved employees for this time spent working off-the-clock.

Fourth, BIO-RAD had, and continues to have, a company-wide policy and/or practice of failing to pay proper overtime when they required Mr. Medina and other aggrieved employees to work outside of their regularly scheduled alternative workweek schedule and failed to pay all applicable overtime and/or double-time compensation owed for such hours of work. In addition, to the extent BIO-RAD implemented an alternative workweek schedule as to Mr. Medina and other aggrieved employees, BIO-RAD failed to comply with all requirements for implementing an alternative workweek schedule, including, but not limited to, holding proper workweek elections for the employees working alternative workweeks. Accordingly, BIO-RAD owes Mr. Medina and other aggrieved employees unpaid overtime wages.

BIO-RAD knew or should have known that as a result of these company-wide practices and/or policies, Mr. Medina and other aggrieved employees were working before and after their shifts and/or during their meal periods, and were suffered or permitted to perform work for which they were not paid. Because Mr. Medina and other aggrieved employees worked shifts of eight (8) hours a day or more or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay.

Furthermore, BIO-RAD did not pay Mr. Medina and other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration. However, in violation of the California Labor

Code, BIO-RAD failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when Mr. Medina and other aggrieved employees worked overtime and received these other forms of pay, BIO-RAD failed to pay all overtime wages by paying a lower overtime rate than required.

Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, and/or shift differential pay, which were listed on Mr. Medina's and other aggrieved employees' wage statements as "EE Benefit Pln," "Reg Pay Swing," "OT Swing," and "5% Premium Pay." On information and belief, "EE Benefit Pln" was an annual bonus awarded for the company and Mr. Medina's department meeting certain metrics. Additionally, on information and belief, "Reg Pay Swing," "OT Swing," and "5% Premium Pay" denoted shift differential pay for employees who worked a non-regular shift. During pay periods that Mr. Medina and other aggrieved employees were paid overtime wages, BIO-RAD failed to incorporate the incentive pay, nondiscretionary bonuses, and/or shift differential pay into Mr. Medina's and other aggrieved employees' regular rate of pay and, as a result, paid them at incorrect and lower rates of pay for overtime hours worked. Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees 1.5 times their hourly rate of pay instead of 1.5 times their regular rate of pay. BIO-RAD's failure to properly calculate the overtime rates of pay based on all remuneration paid has resulted in an underpayment of overtime wages to Mr. Medina and other aggrieved employees on a company-wide basis.

Therefore, Mr. Medina and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked, in violation of California Labor Code sections 510, 511 and 1198. Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 1-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code Regs. tit. 8, § 11010(2)(G) (defining "Hours Worked").

As stated above, on information and belief, due to BIO-RAD's company-wide practice of utilizing labor budgets and production deadlines, failure to schedule meal periods, and subsequent lack of meal period coverage, Mr. Medina and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work off-the-clock. Additionally, as set forth above, on information and belief, BIO-RAD systematically failed to pay Mr. Medina and other aggrieved employees for actual hours worked during unpaid meal periods, because these hours were not always correctly recorded, and because BIO-RAD's timekeeping system locked out Mr. Medina and other aggrieved employees for an allotted time when they clocked out for a meal period.

Furthermore, as set forth above, BIO-RAD had a company-wide policy and/or practice of rounding other aggrieved employees' hourly clock-in and clock-out times in their timekeeping system to the

nearest quarter hour, resulting in the failure to compensate them for all hours worked. Also, as set forth above, BIO-RAD required Mr. Medina and other aggrieved employees to respond to phone calls, text messages, in-person communications, and emails from supervisors and complete assignments while off-the-clock, but did not compensate them for this time.

Moreover, BIO-RAD maintained and implemented a company-wide policy of requiring employees to travel to a medical facility on their own time and using their own personal vehicles or alternate transportation to undergo mandatory drug testing and/or physical examinations. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. BIO-RAD gave other aggrieved employees strict instructions to undergo drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or examinations for the sole benefit of BIO-RAD. Other aggrieved employees were required to travel in their own personal vehicles or obtain alternate transportation and spend time undergoing BIO-RAD's mandatory drug tests and/or physical examinations. However, BIO-RAD did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities and undergoing the mandatory drug testing and/or physical examinations.

Thus, BIO-RAD did not pay at least minimum wages for off-the-clock hours that qualified for overtime premium payment. Also, to the extent that these off-the-clock hours did not qualify for overtime premium payment, BIO-RAD did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, and 1197.1.

Accordingly, BIO-RAD regularly failed to pay at least minimum wages to Mr. Medina and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, 1198 and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

As set forth above, during the relevant time period, BIO-RAD had, and continues to have, a company-wide policy and/or practice of understaffing its locations due to labor budgeting and assigning strict production deadlines. BIO-RAD enforced certain production deadlines, which required that biological materials and product be processed, taken “off the line,” and placed into freezers within specific timeframes, which would vary according to the material that was being handled. These production deadlines were based on the temperature-sensitive nature of the biological materials and products being handled, and Mr. Medina and other aggrieved employees were required to adhere to these deadlines or risk damaging company property. Adherence to these strict deadlines resulted in Mr. Medina and other aggrieved employees having missed, late, and/or interrupted meal periods. These company-wide practices, combined with the failure to schedule meal periods, led to a lack of meal period coverage and prevented Mr. Medina and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. The resulting lack of meal period coverage was exacerbated by the shortage of employees on duty to handle the workload.

In addition, because BIO-RAD required one employee to monitor each stage of the production line at any given time, Mr. Medina and other aggrieved employees were required to stagger their meal periods in order to provide adequate meal period coverage. When utilizing this staggered meal period schedule, Mr. Medina and other aggrieved employees were forced to take their meal periods one at a time, and could not begin their meal period until another employee had returned to provide coverage. As a result, Mr. Medina and other aggrieved employees were further forced to take their meal periods late, have their meal periods cut short, and/or miss their meal periods entirely.

Moreover, as stated, because BIO-RAD frowned upon employees accruing meal period penalties, BIO-RAD’s management would adjust Mr. Medina’s and other aggrieved employees’ time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that would need to be paid by BIO-RAD. Furthermore, as stated, BIO-RAD’s company-wide timekeeping system prevented Mr. Medina and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system locked out Mr. Medina and other aggrieved employees once they clocked out for a meal period, and would not permit them to clock back in from a meal period before 30 minutes had elapsed.

BIO-RAD’s practices and policies prevented Mr. Medina and other aggrieved employees from taking all compliant meal periods to which they were entitled. As a result, Mr. Medina and other aggrieved employees would be forced to work in excess of five (5) hours before taking a meal period and, at times, had their meal periods interrupted and/or had to forgo their meal periods altogether. For example, as stated, 1-2 times per month, BIO-RAD’s management would interrupt Mr. Medina’s meal periods for five (5) minutes per instance to discuss and assign tasks to him in order to ensure he was meeting production deadlines. As a further example, at least three (3) times per week, Mr. Medina was forced to take his meal periods after his fifth hour of work because he was required to wait for other employees to return from meal periods in accordance with their staggered meal period schedule. Specifically, Mr. Medina’s timepunch records reflect that on August 17, August 19, and August 20, 2020, Mr. Medina took his meal periods after his fifth hour of work, but BIO-RAD did not pay him any meal period premiums.

In addition, during the relevant time period, Mr. Medina and other aggrieved employees worked shifts in excess of ten (10) hours without receiving an uninterrupted second 30-minute meal period. For example, Mr. Medina would work shifts in excess of ten (10) hours without receiving an

uninterrupted second 30-minute meal period. Specifically, Mr. Medina's timepunch records reflect that on January 28, February 5, May 21, June 5, and June 29 of 2020, Mr. Medina did not take a second 30-minute meal period on days he worked more than ten (10) hours in a day, but, yet again, he was not paid meal period premiums. Mr. Medina and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

BIO-RAD knew or should have known that as a result of its policies and practices, that Mr. Medina and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. BIO-RAD further knew or should have known that it did not pay Mr. Medina and other aggrieved employees meal period premium wages when meal periods were missed, late, short, and/or interrupted.

Furthermore, BIO-RAD engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Mr. Medina and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that BIO-RAD did pay Mr. Medina and other aggrieved employees premium pay for missed, late, and interrupted meal periods, BIO-RAD did not pay other aggrieved employees at the correct rate of pay for premiums because BIO-RAD systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, BIO-RAD failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Mr. Medina and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, 1198 and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

During the relevant time period, BIO-RAD regularly failed to authorize and permit Mr. Medina and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, BIO-RAD's company-wide practices, including utilizing labor budgets and production deadlines and requiring one employee to monitor each stage of the production line at all times, prevented Mr. Medina and other aggrieved employees from being relieved of all duty in order to take compliant rest periods. BIO-RAD also failed to schedule rest periods, which, coupled with BIO-RAD's failure to provide adequate rest period coverage, further led to Mr. Medina and other aggrieved employees not being authorized and permitted to take rest periods.

Furthermore, upon information and belief, BIO-RAD maintained and implemented a company-wide on-premises rest period policy, which mandated that Mr. Medina and other aggrieved employees remain on the work premises during their rest periods. Because Mr. Medina and other aggrieved employees were restricted from leaving BIO-RAD's premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes. Thus, BIO-RAD effectively maintained control over Mr. Medina and other aggrieved employees during rest periods.

As a result, Mr. Medina and other aggrieved employees would work shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without being permitted and authorized to take all ten (10) minute rest periods to which they were entitled. For example, Mr. Medina missed his rest periods once per month, either due to a lack of rest period coverage, or to complete all the duties BIO-RAD assigned to him. Additionally, Mr. Medina did not receive a third rest period when working shifts in excess of 10 hours.

BIO-RAD also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Alternatively, to the extent that BIO-RAD did pay Mr. Medina and other aggrieved employees one (1) additional hour of premium pay for missed rest periods, BIO-RAD did not pay Mr. Medina and other aggrieved employees at the correct rate of pay for premiums because BIO-RAD failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, BIO-RAD failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Mr. Medina and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. BIO-RAD has not provided Mr. Medina and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50.00 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a

subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, BIO-RAD has knowingly and intentionally provided Mr. Medina and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, BIO-RAD issued uniform wage statements to Mr. Medina and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages, meal and rest period premiums, and/or paid sick leave, and the corresponding number of hours worked at each hourly rate. Specifically, BIO-RAD violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

First, BIO-RAD failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct hourly and overtime pay rates in compliance with section 226(a)(9). For example, BIO-RAD issued wage statements to Mr. Medina that incorrectly indicate that he was paid at a rate of \$20.6600 for “Regular” hours, when the correct hourly rate at which Mr. Medina was actually paid was \$20.6619 ($48.00 \times \textbf{\$20.6600} = \991.68 , not \$991.77, which was what he was actually paid). Similarly, BIO-RAD issued wage statements that incorrectly indicated overtime rates ($10.86 \times \textbf{\$30.9900} = \336.55 , not \$336.58, which was what Mr. Medina was actually paid).

Second, because BIO-RAD did not record the time Mr. Medina and other aggrieved employees spent working off-the-clock, improperly rounded their total hours worked, and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), BIO-RAD did not list the correct amount of gross wages and net wages earned by Mr. Medina and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, BIO-RAD failed to accurately list the total number of hours worked by Mr. Medina and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Third, because BIO-RAD did not calculate Mr. Medina’s and other aggrieved employees’ regular rate of pay correctly for purposes of paying overtime wages, meal and rest period premiums, and/or paid sick leave, BIO-RAD did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, BIO-RAD also failed to list the correct amount of net wages in violation of section 226(a)(5). BIO-RAD also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages, meal and rest premiums, and/or paid sick leave, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which

employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), BIO-RAD willfully failed to maintain accurate payroll records for Mr. Medina and other aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked and improperly rounding other aggrieved employees’ hourly clock-in and clock-out duration times in its timekeeping system.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, BIO-RAD failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Mr. Medina and other aggrieved employees, in violation of section 1198. As stated, BIO-RAD engaged in a company-wide practice and/or policy of falsifying Mr. Medina’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Mr. Medina and other aggrieved employees. Furthermore, in light of BIO-RAD’s failure to provide Mr. Medina and other aggrieved employees with second 30-minute meal periods to which they were entitled, BIO-RAD kept no records of meal start and end times for second meal periods.

Because BIO-RAD failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Mr. Medina and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Medina and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are

deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, BIO-RAD failed to pay Mr. Medina and other aggrieved employees all wages due to them, including, but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premiums, within any time period specified by California Labor Code section 204.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

BIO-RAD willfully failed to pay Mr. Medina and other aggrieved employees who are no longer employed by BIO-RAD all their earned wages, including, but not limited to, overtime wages, minimum wages, sick leave pay, and/or meal and rest period premiums, either at the time of discharge, or within seventy-two (72) hours of their leaving BIO-RAD's employ in violation of California Labor Code sections 201, 202, and 203.

Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 222.5 – Failure to Pay for Costs of Mandatory Physical Exams and/or Drug Testing

At all times herein set forth, California Labor Code section 222.5 requires employers to pay for the costs an employee incurs for obtaining any required medical or physical examination.

During the relevant time period, BIO-RAD implemented, on a company-wide basis, an employer-imposed requirement that other aggrieved employees undergo mandatory drug testing and/or physical examinations, but required them to do so at their own expense. As stated, BIO-RAD had a company-wide policy requiring that other aggrieved employees travel to a specified medical facility on their own time and use their own means of transportation to undergo drug testing and/or physical examinations. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or examinations, selecting the provider/facility where the testing and/or examinations were to take place, and determining the scope of the testing and/or examinations.

However, BIO-RAD did not compensate other aggrieved employees for the time they spent traveling to and from the medical facilities, for the time they spent undergoing the drug testing and/or physical examinations, or reimburse them for the travel expenses they incurred getting to and from the medical facilities. BIO-RAD's policy and/or practice of not paying for all costs other aggrieved

employees incurred obtaining mandatory drug testing and/or physical examinations is in violation of California Labor Code section 222.5.

Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 246 – Unpaid Sick Leave

At all relevant times herein, California Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249 provide employees who have worked in California for 30 or more days from the commencement of employment with paid sick days, to be accrued at least one hour for every 30 hours worked. Pursuant to California Labor Code section 246(b)(4), employers must provide no less than 24 hours or three (3) days of paid sick leave (or equivalent paid leave or paid time off) in each year of the employee's employment. Further, Labor Code section 246(l) provides that an employer shall calculate paid sick leave by using one of two calculations: 1) "[p]aid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek[;]" or 2) "[p]aid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

During the relevant time period, BIO-RAD did not pay Mr. Medina and other aggrieved employees the correct sick leave rates of pay. As stated, in addition to an hourly wage, BIO-RAD paid Mr. Medina and other aggrieved employees incentive pay, nondiscretionary bonuses, shift differential pay, and/or other forms of remuneration. However, in violation of the California Labor Code, BIO-RAD failed to incorporate all remunerations, including incentive pay, nondiscretionary bonuses, and/or shift differential pay, into the calculation of the regular rate of pay for purposes of calculating the sick leave rate. Therefore, during times when Mr. Medina and other aggrieved employees took sick leave and received these other forms of pay, BIO-RAD failed to pay all sick leave benefits by paying a lower sick leave rate than required. Specifically, BIO-RAD paid Mr. Medina and other aggrieved employees sick leave based on their hourly rate of pay instead of their regular rate of pay.

For example, during the pay period ending March 13, 2020, Mr. Medina took 5.75 hours of sick leave and earned \$415.11 in incentive pay or nondiscretionary bonuses during the same pay period. However, BIO-RAD paid Mr. Medina's sick leave rate based on his hourly rate of approximately \$20.1579 instead of his regular rate of pay.

BIO-RAD's failure to properly calculate the sick leave rates of pay based on all remuneration paid has resulted in an underpayment of sick leave benefits to Mr. Medina and other aggrieved employees on a company-wide basis in violation of Labor Code 246(l). Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 248.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137,

1144 (2014). The applicable wage order, IWC Wage Order No. 1-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

During the relevant time period, BIO-RAD, on a company-wide basis, required that Mr. Medina and other aggrieved employees use their own personal cellular phones and cellular data to carry out their job duties, but failed to reimburse them for the costs of their work-related cellular phone expenses. Mr. Medina and other aggrieved employees were required to use their personal cellular phones to fulfill their work-related responsibilities, such as responding to phone calls, text messages, and email correspondence from BIO-RAD’s management. For example, Mr. Medina would spend 25 minutes total per day answering calls and text messages from BIO-RAD’s management and responding to company emails on his personal cellular phone. Although BIO-RAD required Mr. Medina and other aggrieved employees to utilize their personal cellular phones to carry out their work-related responsibilities, BIO-RAD failed to fully reimburse them for this cost.

Additionally, during the relevant time period, BIO-RAD had a company-wide policy of requiring Mr. Medina and other aggrieved employees to utilize their own personal vehicles for work purposes, but failed to reimburse them for all costs of travel, including mileage. For example, because BIO-RAD failed to provide adequate transportation to all of their employees, Mr. Medina drove his personal vehicle 4-6 miles roundtrip, per instance, to an off-site location to attend mandatory company meetings several times a year. Although BIO-RAD sometimes required Mr. Medina and other aggrieved employees to utilize their own vehicles to fulfill their job duties, BIO-RAD did not reimburse them for all of their travel expenses.

Furthermore, as stated, BIO-RAD had a company-wide policy of requiring other aggrieved employees to travel to medical facilities on their own time and using their personal vehicles to obtain mandatory drug testing and/or physical examinations, but did not reimburse them for their travel expenses, including mileage. At all times, BIO-RAD was in control of scheduling the date and time for the testing and/or physical examinations, selecting the provider or facility where the testing and/or physical examinations were to take place, and determining the scope of the testing and/or physical examinations. BIO-RAD gave other aggrieved employees strict instructions to obtain drug testing and/or physical examinations, and other aggrieved employees underwent the testing and/or physical examinations for the sole benefit of BIO-RAD. Although BIO-RAD required other aggrieved employees to use their own vehicles or obtain alternate transportation to undergo drug testing and/or physical examinations, BIO-RAD never reimbursed them for their travel expenses.

BIO-RAD could have provided Mr. Medina and other aggrieved employees with the actual tools required for use on the job, including company phones and vehicles, or, BIO-RAD could have reimbursed employees for their cellular phone usage, mileage, and travel costs. Instead, BIO-RAD passed these operating costs off onto Mr. Medina and other aggrieved employees. At all relevant times, Mr. Medina and other aggrieved employees did not earn at least two (2) times the minimum wage.

Thus, BIO-RAD had, and continues to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802. Mr. Medina and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

BIO-RAD failed to provide Mr. Medina and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). BIO-RAD's failure to provide Mr. Medina and other aggrieved employees with written notice of basic information regarding their employment with BIO-RAD is in violation of Labor Code section 2810.5.

Mr. Medina and other aggrieved employees are therefore entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code section 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." BIO-RAD, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Mr. Medina's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Mr. Medina seeks the remedies set forth in Labor Code section 558 for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Mr. Medina, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against BIO-RAD for violations of California Labor Code sections 201, 202, 203, 204, 222.5, 226(a), 226.7, 246, 510, 511, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Mr. Medina seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

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Best Regards,



Anthony Castillo

Copy: BIO-RAD LABORATORIES, INC. (via U.S. Certified Mail); BIO-RAD LABORATORIES (RISHON), INC. (via U.S. Certified Mail); BIO-RAD PACIFIC LIMITED (via U.S. Certified Mail)