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JAIME BARAJAS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JAIME BARAJAS, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

SCHUMACHER CARGO LOGISTICS, INC.,
a California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 21STCV04851

*[Assigned for All Purposes to Hon. Amy D. Hogue,
SSC-7]*

**DECLARATION OF SCOTT M.
LIDMAN IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 11, 2022
Time: 10:00 a.m.
Dept.: SSC-7

Action Filed: February 5, 2021
Trial Date: None Set

1 I, SCOTT M. LIDMAN, declare as follows:

2 1. I am a shareholder and principal of the law firm Lidman Law, APC, and counsel for the
3 named Plaintiff Jaime Barajas (“Plaintiff”) and the proposed Settlement Class in the above-captioned
4 matter. I am a member in good standing of the bar of the State of California and am admitted to practice
5 in this Court. I have personal knowledge of the facts stated in this declaration and could testify
6 competently to them if called upon to do so.

7 2. I am a 1998 graduate of Santa Clara University School of Law, where I graduated *summa*
8 *cum laude*. During law school, I worked as a summer associate for the international employment law
9 firm of Littler Mendelson, P.C., located in Los Angeles, California.

10 3. Since graduating from law school, my practice has focused exclusively on employment
11 litigation. In September 1998, I began working as an associate attorney at the international law firm of
12 Littler Mendelson P.C., at its Los Angeles office, which according to its website is the largest law firm
13 in the world exclusively devoted to representing management in employment, employee benefits and
14 labor law matters.

15 4. In 2000, I left Littler Mendelson to work at the Los Angeles office of Jones Day, which
16 was at the time one of the largest international firms in the world. During my employment at Jones
17 Day, I worked exclusively in the labor and employment department. In or around 2003, I went to work
18 at the law firm of Loeb & Loeb, again working exclusively in the Labor & Employment department. In
19 2008, I returned to Littler Mendelson, was promoted to Shareholder in 2009, and from 2008 until the
20 end of 2017, I practiced exclusively labor and employment law, with a strong emphasis and most of my
21 time working on wage and hour class actions venued in both state and federal courts. During that time
22 and my legal career in general, I also worked on a number of single and multi-plaintiff wage and hour
23 matters as well.

24 5. During my employment at Littler Mendelson, I played a significant role in the class
25 actions that I was staffed on, and ran many on my own both as an Of Counsel and as a Shareholder. In
26 particular, I received a wide-array of wage and hour class action experience performing the following
27 types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions from state court
28

1 to federal court; drafting and responding to written discovery; drafting and opposing discovery related
2 motions; arguing discovery related motions; drafting motions to consolidate related matters;
3 interviewing putative class members and obtaining declarations in connection with class certification;
4 drafting oppositions to motions for class certification; drafting motions for decertification following
5 class certification; conducting exposure analyses to assess the strengths and weaknesses of asserted
6 claims, the likelihood of prevailing at class certification and potential damages resulting from such
7 claims; drafting mediation briefs; serving as the primary contact to in-house counsel; deposing named
8 plaintiffs and putative class members; deposing retained expert witnesses; and defending the depositions
9 of corporate witnesses. I also was involved in the negotiations and settlements of many large wage and
10 hour class actions. In short, I played an integral role in all aspects of litigation from the inception of a
11 matter through and beyond class certification. I also supervised the work of several junior attorneys
12 who were staffed on the same wage and hour class actions.

13 6. Although not exhaustive, below is a list of many of the wage and hour class and PAGA
14 actions that I performed substantial work on while I was a shareholder at Littler Mendelson:

- 15 ► *Ortega v. J.B. Hunt Transport, Inc.*, Case No. 07-cv-8336-RGK-AFMx, United
16 States District Court, Central District of California, Honorable Gary Klausner,
17 presiding¹.
- 18 ► *Aceves v. J.B. Hunt Transport, Inc.*, Case No. CIVDS1306133, California
19 Superior Court, County of San Bernardino, Honorable Michael Sachs, presiding.
- 20 ► *Moreno v. J.B. Hunt Transport, Inc.*, Case No. BC388612, California Superior
21 Court, County of Los Angeles, Honorable Mel Red Recana, presiding.
- 22 ► *Newcomb v. J.B. Hunt Transport, Inc.*, Case No. RG16815734, California
23 Superior Court, County of Alameda, Honorable Winifred Smith, presiding.
- 24 ► *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. 12-cv-08590-PA-MAN,
25 United States District Court, Central District of California, Honorable Percy
26 Anderson, presiding.

27 ¹ My work on this matter including proceedings not only in District Court, but also work before the United States Court of
28 Appeals for the Ninth Circuit as well as the United States Supreme Court.

- 1 ▶ *Vaquero v. Stoneledge Furniture, LLC, et al.*, Case No. BC388612, California
2 Superior Court, County of Los Angeles, Honorable Elihu Berle, presiding.²
- 3 ▶ *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United
4 States District Court, Central District of California, Honorable Percy Anderson,
5 presiding.
- 6 ▶ *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United
7 States District Court, Central District of California, Honorable Percy Anderson,
8 presiding.
- 9 ▶ *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California
10 Superior Court, County of Los Angeles, Honorable Jane Johnson, presiding.³
- 11 ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California
12 Superior Court, County of Orange, Honorable Thierry Patrick Colaw, presiding.
- 13 ▶ *Sakkab v. Luxottica Retail North America, Inc.*, Case No. 12-cv-00436-GPC-
14 KSC, United States District Court, Southern District of California.⁴
- 15 ▶ *Page v. Oakley, Inc.*, Case No. FCS041512, California Superior Court, County
16 of Solano, Honorable Paul Berman, presiding.
- 17 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00731617-CU-OE-CJC California
18 Superior Court, County of Orange, Honorable William Claster, presiding.
- 19 ▶ *Ramirez v. Oakley, Inc.*, Case No. 30-2014-00723846-CU-DE-CXC, California
20 Superior Court, County of Orange, Honorable William Claster, presiding.
- 21 ▶ *Sierra v. Oakley, Inc.*, Case No. 13-cv-00319-AG-JPR, United States District
22 Court, Central District of California, Honorable Andrew Guilford, presiding.⁵
- 23
- 24
- 25

26 ² My work on this matter included proceedings not only in the trial court, but also before the California Courts of Appeal
27 and the California Supreme Court.

28 ³ This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

⁴ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

⁵ The work I performed on this case included work in the United States Court of Appeals for the Ninth Circuit.

- 1 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
2 States District Court, Central District of California, Honorable Margaret Morrow,
3 presiding.
- 4 ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
5 States District Court, Central District of California, Honorable Margaret Morrow,
6 presiding.
- 7 ▶ *Khelghatian v. Comerica Bank, et al.*, Case No. 11-cv-7689-DSF-FFMx, United
8 States District Court, Southern District of California, Honorable John A.
9 Houston, presiding.
- 10 ▶ *Babasa v. Comerica Bank, et al.*, Case No. 11-cv-0595-JAH-BGS, United States
11 District Court, Central District of California, Honorable Margaret Morrow,
12 presiding.
- 13 ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States
14 District Court, Central District of California, Honorable Margaret Morrow,
15 presiding.
- 16 ▶ *Khalili v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United
17 States District Court, Northern District of California.
- 18 ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,
19 California Superior Court, County of San Diego, Honorable Jeffrey B. Barton,
20 presiding.
- 21 ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior
22 Court, County of Santa Clara.
- 23 ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior
24 Court, County of Los Angeles, Honorable Terry Green, presiding.
- 25 ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior
26 Court, County of San Francisco.

1 ► *Smith v. Werner Enterprises*, Case No. 15-cv-02978-RS, United States District
2 Court, Northern District of California, Honorable Richard Seeborg, presiding.

3 7. In January 2018, I voluntarily resigned from Littler Mendelson in order to open my own
4 law firm, Lidman Law, APC, to represent employees with work-related claims, including primarily
5 wage and hour claims and almost exclusively on a class-action basis. I am the President and Shareholder
6 of Lidman Law. Currently, over ninety percent (90%) of my practice is dedicated exclusively to the
7 prosecution of wage and hour class actions, and I am currently responsible for prosecuting over sixty-
8 five (65) wage and hour class actions filed in State courts throughout California, with several of them
9 having been removed to Federal courts. I believe that my professional experience renders me more than
10 qualified to serve as class counsel in this lawsuit involving claims of underpaid overtime and minimum
11 wages, meal and rest period violations, and derivative penalty claims. Not only have I litigated dozens
12 of wage and hour cases throughout my career involving similar claims, including the wage and hour
13 class actions identified above, I have litigated similar claims from both plaintiff and defense
14 perspectives. As a result, I am able to realistically assess and evaluate the facts and legal arguments
15 that can be made in pursuit and defense of similar wage and hour claims, as well as those facts and
16 arguments in support and in opposition to class certification. Consequently, I am able to appreciate the
17 significant risks, uncertainties, and delay involved in wage and hour class action litigation.

18 8. I have been appointed Class Counsel in: *Guardado v. Wesley Allen, Inc.*, Case No.
19 BC683027, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl
20 presiding; *Rodriguez v. Satco, Inc.*, Case No. BC682137, California Superior Court, County of Los
21 Angeles, Honorable Judge Ann I. Jones presiding; *Ong v. Howard's Appliances, Inc.*, Case No. 30-
22 2017-00964213-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
23 William Claster presiding; *Hanke v. C&W Facility Services, Inc.*, Case No. CIVDS1814412,
24 California Superior Court, County of San Bernardino, Honorable Judge David Cohn presiding; *Molina*
25 *v. Mader News, Inc.*, Case No. BC685960, California Superior Court, County of Los Angeles,
26 Honorable Judge Yvette M. Palazuelos presiding; *Alvarez v. Salamander Fire Protection, Inc.*, Case
27 No. BC688326, California Superior Court, County of Los Angeles, Honorable Judge William F.

Highberger presiding; *Rodriguez v. H.F. Cox, Inc.*, Case No. BC653164, California Superior Court, County of Los Angeles, Honorable Judge Carolyn B. Kuhl presiding; *Fregoso v. Amerigas Propane, Inc.*, Case No. BC697973, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Teran v. Western Plastics, Inc.*, Case No. RIC1722619, California Superior Court, County of Riverside, Honorable Judge Sunshine Sykes presiding; *Villegas de Torres v. El Monte Superstore Inc.*, Case No. BC688477, California Superior Court, County of Los Angeles, Honorable Judge Daniel J. Buckley presiding; *Huynh v. Polypeptide Laboratories, Inc.*, Case No. BC680872, California Superior Court, County of Los Angeles, Honorable Judge Rafael A. Ongkeko presiding; *Guzman v. Century Blinds*, Case No. RIC1723654, California Superior Court, County of Riverside, Honorable Judge Sunshine S. Sykes presiding; *George v. Convergence Marketing*, Case No. CIVDS1901039, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Coffee, et al. v. Flyers Transportation Energy, LLC*, Case No. 34-2017-00222084, California Superior Court, County of Sacramento, Honorable Judge Alan G. Perkins presiding; *Romero v. Fillmore Hospitality, LLC*, Case No. BC705667, California Superior Court, County of Los Angeles, Honorable Judge Maren E. Nelson presiding; *Wennerstrom, et al. v. Giant Inland Empire R.V. Center*, Case No. CIVDS1617291, California Superior Court, County of San Bernardino, Honorable Judge David S. Cohn presiding; *Contreras, et al. v. Letter Ride, LLC*, Case No. 37-2018-00020841-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Eddie C. Sturgeon presiding; *Davis v. WeDriveU*, Case No. 18CV322578, California Superior Court, County of Santa Clara, Honorable Judge Brian C. Walsh presiding; *Acuna v. Canton Food Co., Inc.*, Case No. BC685001, California Superior Court, County of Los Angeles, Honorable Judge David S. Cunningham presiding; and *Contreras v. Worldwide Flight Services, Inc.*, Case No. 2:18-cv-06036-PSG-SS, United States District Court for the Central District of California, the Honorable Judge Philip S. Gutierrez presiding.

9. As co-lead counsel for Plaintiff Barajas and the proposed Settlement Class, I have been intimately involved in every aspect of this case from its inception through the present, and I believe that the proposed Settlement is a favorable result for the Settlement Class Members under the circumstances presented.

10. Defendant Schumacher Cargo Logistics, Inc. (hereinafter “Schumacher” or “Defendant”) provides international freight transportation and relocation services. On February 5, 2021, Plaintiff filed a putative class action complaint against Schumacher in Los Angeles County Superior Court. On February 5, 2021, Plaintiff submitted a letter to the California Labor & Workforce Development Agency (“LWDA”) and Schumacher of his intention of filing a PAGA claim based on the labor code violations as alleged in his complaint. A true and correct copy of Plaintiff’s letter to the LWDA and Stratasys is attached hereto as **Exhibit 1**. Therefore, on May 7, 2021, after exhausting his administrative remedies, Plaintiff filed a First Amended Class and Representative Action Complaint adding a cause of action for civil penalties under the PAGA. *Id.* To effectuate the terms of the settlement, Plaintiff submitted a supplemental letter to the LWDA on December 23, 2021 to add an underlying labor code violation for failure to provide meal periods. A true and correct copy of Plaintiff’s supplemental letter to the LWDA and Stratasys is attached hereto as **Exhibit 2**. Plaintiff also filed a Second Amended Class and Representative Action complaint adding a cause of action for meal period violations. *Id.* Subsequently, on March 7, 2022, pursuant to the Parties’ stipulation and the Court granting leave, Plaintiff filed a Third Amended Class and Representative Action Complaint to add a claim for civil penalties under the PAGA for alleged meal period violations. Plaintiff’s primary claims/allegations which are being settled subject to Court approval are that Schumacher: (1) failed to pay all overtime wages owed; (2) failed to pay all minimum wages owed; (3) failed to pay all vacation wages; (4) failed to provide all legally required meal periods; (5) failed to authorize and permit all legally required rest periods; (6) failed to provide accurate, itemized wage statements; (7) failed to timely pay all wages upon termination; (8) engaged in unlawful business practices; and (9) liable for civil penalties under the PAGA.

11. In advance of mediation, Schumacher produced timekeeping and payroll data, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged. Schumacher also provided necessary metrics, including without limitation, class size, number of workweeks and pay periods. After the detailed review of the documents and data produced by Schumacher, Class Counsel drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiff’s case. This discovery allowed the parties to assess the merits and value of

Plaintiff's claims and Schumacher's defenses thereto.

Moreover, after the mediation, Schumacher provided a declaration under oath concerning the workweeks, class size, pay periods at issue. These representations will be further verified by Simpluris during the administration of the Settlement.

12. On December 2, 2021, after research and analysis, a mediation was held with Jeffrey Krivis, Esq., a On December 2, 2021, a mediation was held with Jeffrey Krivis, Esq., a well-respected wage and hour class action mediator. During mediation, the parties vigorously debated their opposing legal positions, the likelihood of certification of Plaintiff's claims, and the legal basis for the claims and defenses. Although the case did not settle at mediation, the parties agreed in the weeks that followed on a class-wide resolution. In the weeks that followed, the parties finalized the terms of settlement and executed the Stipulation of Settlement ("Settlement"). A true and correct copy of the Settlement is attached hereto as **Exhibit 3**. The proposed Notice Packet is attached as Exhibit C to the Settlement.

13. The monetary terms of the Settlement are summarized below:

Gross Settlement Amount ("GSA"):	\$500,000.00
Minus Court-approved attorneys' fees (update to 1/3 of GSA):	\$166,666.67
Minus Court-approved, verified costs (up to \$20,000.00):	\$20,000.00
Minus Court-approved Class Representative Service Award:	\$5,000.00
Minus Settlement Administration Costs:	\$3,500.00
Minus PAGA payment to the LWDA:	\$15,000.00
Net Settlement Amount ("NSA"):	\$289,833.33
Net Settlement Amount ("NSA"):	\$289,833.33
Settlement Class Members	64
Average Individual Payment: NSA/Settlement Class	\$4,528.65

The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members.

1 Defendant agrees to deposit and pay the Gross Settlement Amount in two (2) installments. Defendant
2 agrees to deposit one-half of the Gross Settlement Amount (\$250,000.00) with Simpluris, Inc. within
3 ten (10) calendar days after the Effective Date. Defendant agrees to pay the remaining half of the Gross
4 Settlement (\$250,000.00) no later than six (6) months after the first payment is made. The employer-
5 side taxes to be paid by Defendant separate and apart from the Gross Settlement Amount shall be
6 deposited with the Settlement Administrator no later than five (5) calendar days after the second and
7 final payment is made by Defendant under the terms of this Agreement. The Settlement Administrator
8 shall hold all portions of the Gross Settlement Amount in an interest-bearing account for benefit of the
9 Settlement Class until the time for disbursement.

10 After deducting amounts for the Court-approved attorneys' fees and verified costs, Service
11 Award to Plaintiff, Settlement Administrator costs, and the PAGA payment, the Settlement results in a
12 Net Settlement Amount ("NSA") of at least \$289,833.33 to be paid out to all Settlement Class members
13 who do not timely opt out.

14 14. According to Schumacher, there are at least 64 total Settlement Class members defined
15 as: All current and former non-exempt warehouse employees of Defendant Schumacher Cargo
16 Logistics, Inc. who worked for Defendant in California at any time from February 5, 2017 through the
17 date of preliminary approval of the Settlement."

18 The proposed PAGA Employees are defined as "current and former non-exempt warehouse
19 employees of Defendant Schumacher Cargo Logistics, Inc. who worked for Defendant in California at
20 any time from February 5, 2020 through the date of preliminary approval of the Settlement."

21 Therefore, this calculation of $\$289,833.33/64 = \$4,528.65$, assumes the Court approves the
22 requested attorneys' fees, maximum attorneys' costs, enhancement award, settlement administration
23 costs, and payment to the LWDA. *Id.* This calculation also assumes that all 41 putative class members
24 participate in the settlement and do not submit timely requests for exclusions.

25 15. Settlement Class members' claims arise from Schumacher's common, uniform policies
26 and practices that applied to Settlement Class members during the class period. Specifically, Plaintiff
27 alleged that Schumacher's common and uniform policies and practices resulted in the following
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1 violations: (1) failure to pay all overtime wages owed; (2) failure to pay all minimum wages owed; (3)
2 failure to pay vacation wages; (4) failure to provide all legally required meal periods; (5) failure to
3 authorize and permit all legally required rest periods; (6) failure to provide accurate, itemized wage
4 statements; (7) failure to pay all final wages upon separation of employment; (8) engagement in
5 unlawful business practices; and (9) liability for civil penalties under the PAGA.

6 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges
7 that he and Settlement Class members were not fully compensated for all of their time worked.
8 Specifically, Plaintiff alleges Schumacher would unlawfully shave their work time and/or round their
9 work time such that they would not be fully paid for all time worked. Plaintiff also alleges that this
10 time shaving and/or rounding practice utilized by Schumacher was not-even handed over time and
11 would almost exclusively round and shave in Schumacher's favor such that the employees were
12 routinely underpaid for their time worked and it appeared on average to be an underpayment of
13 approximately 30 minutes per week. Accordingly, Plaintiff analyzed this rounding issue and found
14 that it appeared to favor the employer, and then calculated a total wage underpayment of approximately
15 \$59,101.00, which is based on the overtime rate of \$22.74⁶ since employees generally worked over 8.0
16 hours in a shift.

17 17. Schumacher contends that it compensated Settlement Class members for all of their
18 time worked. Schumacher also contends that its rounding practices were lawful, and any unpaid time
19 was *de minimis* and therefore non-compensable. Schumacher further asserts that Plaintiff would be
20 unable to certify a rounding class given the individualized inquiries that would be required, and also
21 that Schumacher's rounding policy/mechanism was, according to it, neutral on its face and in its
22 application. In light of these defenses, Plaintiff discounted the maximum exposure by 40% for the risk
23 of non-certification, and an additional 35% to account for Schumacher's defenses on the merits, to
24 arrive at an estimated exposure of \$23,049.39.

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26
27 ⁶ The average hourly rate of \$15.16 was calculated by looking at the payroll data produced by
28 Schumacher in connection with mediation. Plaintiff reviewed the records and took the average.
Therefore, based on an hourly rate of \$15.16, the overtime rate is \$22.74 (\$15.16 x 1.5).

1 18. Plaintiff alleges that he and Settlement Class members were not paid for all of their
2 overtime hours worked. Specifically, Plaintiff alleges that Schumacher paid all overtime that was paid
3 was paid at the regular and not the overtime rate of pay. *Id.* Moreover, Plaintiff alleges that
4 Schumacher issued a separate wage statement with the overtime hours paid at the base rate of pay.
5 Therefore, Plaintiff calculated an additional .5 or (\$7.58) is owed for overtime hours and on average
6 about 16 hours of overtime was worked each workweek. As such, Schumacher's exposure is at
7 approximately \$630,413 (\$7.58 x 16 hours OT/week x 5,198 workweeks).

8 19. Schumacher contends it compensated Settlement Class members for all overtime hours
9 worked at the proper overtime rate. Schumacher further asserts that Plaintiff would be unable to certify
10 a rounding class given the individualized inquiries that would be required. In light of these defenses,
11 Plaintiff discounted the maximum exposure by 10% for the risk of non-certification, and an additional
12 10% to account for Schumacher's defenses on the merits, to arrive at an estimated exposure of
13 \$510,634.53.

14 20. Plaintiff alleges that at times during his employment with Schumacher, he and other
15 non-exempt employees were paid non-discretionary bonuses (hereinafter the aforementioned forms of
16 pay are collectively referred to as "Incentive Pay"). Plaintiff alleges that Schumacher failed, however,
17 to include the Incentive Pay when calculating the regular rate of pay for purposes of paying Plaintiff
18 and the other non-exempt employees' overtime wages. Accordingly, Plaintiff contends that
19 Schumacher did not properly calculate the regular rate of pay for Plaintiff and the other non-exempt
20 employees, thereby causing them to be underpaid for all their required overtime wages. Based on the
21 records provided in connection with mediation, Plaintiff calculated that he was owed approximately
22 \$123.73 per workweek for his underpaid overtime wages. Therefore, based on this, Plaintiff estimates
23 Schumacher's exposure at \$643,149 (\$123.73 x 5,198).

24 21. Schumacher contends that Settlement Class members received all overtime wages to
25 which they were entitled. Schumacher further counters that any bonuses paid to putative class members
26 during the relevant time period were discretionary and did not need to be included in the regular rate
27 of pay for overtime purposes. Accordingly, based on these risks, Plaintiff discounted the maximum
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1 exposure by 15% for the risk of non-certification, and an additional 10% to account for Schumacher's
2 defenses on the merits to arrive at an estimated exposure of \$492,008.99.

3 22. Plaintiff alleges that Schumacher failed to pay separated employees all of their earned,
4 accrued, and unused Personal Time Off ("PTO") wages at the time of their termination. Vacation pay
5 is a form of deferred wages that cannot be forfeited, and upon an employee's separation must be paid
6 to him or her as wages. Based on a review of Plaintiff's payroll records produced in connection with
7 mediation, Plaintiff estimates the maximum exposure on the vacation pay claim based on each former
8 employee being owed 24 PTO hours at termination. Therefore, with 16 former employees and average
9 hourly rate of \$15.16, Plaintiff calculates Schumacher's exposure at approximately \$224,125 (24 hours
10 x \$15.16 x 16 formers).

11 23. Schumacher asserts it pays all former Settlement Class members all wages owed upon
12 the separation of employment, including all earned, accrued, and unused PTO wages. Schumacher
13 also argues that Plaintiff's vacation pay is inherently unsuited for class treatment as an individualized
14 inquiry would be required to determine whether the amount of PTO owed and whether all earned,
15 accrued, and unused PTO wages. Accordingly, based on these risks, Plaintiff discounted the maximum
16 exposure by 45% for the risk of non-certification, and an additional 40% to account for Schumacher's
17 defenses on the merits to arrive at an estimated exposure of \$73,961.25.

18 24. Plaintiff alleges that he and Settlement Class members were not provided with all
19 legally-compliant first meal periods beginning before the end of the fifth hour of work. Specifically,
20 as a result of the work demands imposed by Schumacher, Plaintiff claims he was often provided with
21 a meal period after his fifth hour of work, or a meal period less than 30 minutes, in violation of
22 California law. Plaintiff also alleges that Schumacher did not require him and the other non-exempt
23 employees to clock in and out for their meal periods and believes that Schumacher unlawfully deducted
24 thirty minutes from his work time for purported meal periods, regardless of whether or not they were
25 taken. Therefore, based on one violation per shift over 6.0 hours (and virtually all shifts were over 6.0
26 hours), Plaintiff calculated Schumacher's maximum exposure for the alleged meal period violations at
27 approximately \$394,008 (5,198 workweeks x 5 shifts/week x \$15.16).

1 25. Schumacher counters that it has always maintained a lawful meal period policy and
2 provided non-exempt employees with an opportunity to take legally compliant meal periods, and any
3 non-compliant meal periods reflected in employee timekeeping records were solely the result of
4 employee choice, rather than any policy or practice of Schumacher. Schumacher points out that it is
5 only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken,
6 and that they have always done so. Finally, Schumacher contends Plaintiff’s meal period claim is not
7 suited for class certification, since individual inquiries would be required to assess which employees
8 took non-compliant meal periods, how many meal periods were non-compliant or missed, and the
9 reasons why a particular employee took a non-compliant meal period or missed a meal period during
10 a particular shift. Accordingly, Plaintiff discounted the maximum exposure by 50% for the risk of non-
11 certification, and an additional 40% to account for Schumacher’s defenses on the merits to arrive at an
12 estimated exposure of \$118,202.40.

13 26. Plaintiff alleges that he and Settlement Class members were also not authorized and
14 permitted to take all required rest periods due to Schumacher’s rest period policies and practices.
15 Specifically, Plaintiff alleges that Schumacher failed to authorize and permit all rest periods for every
16 four hours worked, *or major fraction thereof*. Therefore, based on one violation per shift over 3.5
17 hours (and virtually all shifts were over 3.5 hours), Plaintiff calculated Schumacher’s maximum
18 exposure for the alleged rest period violations at approximately \$394,008 (5,198 workweeks x 5
19 shifts/week x \$15.16).

20 27. Schumacher contends it has always maintained and enforced lawful rest period policies
21 and practices, and that Settlement Class Members were authorized and permitted to take all off-duty
22 rest periods in compliance with California law. Schumacher also argues that Plaintiff’s rest period
23 claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether
24 each Settlement Class Member was in fact authorized and permitted to take a compliant rest period,
25 which would devolve into an unmanageable series of mini-trials. Accordingly, Plaintiff discounted the
26 maximum exposure by 55% for the risk of non-certification, and an additional 35% to account for
27 Schumacher’s defenses on the merits to arrive at an estimated exposure of \$115,247.34.
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1 28. Plaintiff further alleges that Schumacher issued inaccurate wage statements in violation
2 of Labor Code § 226 as a result of the alleged unpaid minimum wages and overtime wages, and meal
3 and rest period premium wages described above. Specifically, Plaintiff contends that this conduct
4 violated Labor Code § 226(a) because the wage statements issued to Settlement Class Members did
5 not include all hours worked and the rate at which they were being paid. Plaintiff also alleges that
6 Schumacher would at time split his hours worked into separate wage statements for the same period.
7 Plaintiff's data analysis reflected that there were approximately 2,599 wage statements issued during
8 the relevant time period. Therefore, Plaintiff calculated Schumacher's maximum exposure for wage
9 statement violations at approximately \$258,650 (($\50.00×25 current employees) + ($\$100.00 \times 2,574$
10 subsequent wage statements)).

11 29. Schumacher argues that meal and rest period claims cannot support a claim for wage
12 statement penalties. Schumacher further argues that its alleged wage statement violations could not be
13 shown to be "knowing and intentional," and that Plaintiff cannot show that he or any other employee
14 "suffer[ed] injury" as a result of the alleged wage statement violations, as required by Lab. Code §
15 226(e) for imposition of penalties. As such, Plaintiff discounted the calculated exposure by 10% for a
16 risk of non-certification and an additional 10% for a risk of being unsuccessful on the merits, to arrive
17 at an estimated total of \$209,506.50.

18 30. Plaintiff alleges that Schumacher is also liable for waiting time penalties under Labor
19 Code section 203 as a result of its failure to timely pay all wages upon separation. There are
20 approximately 16 Settlement Class members who have separated their employment with Schumacher
21 during the relevant time period who could be entitled to waiting time penalties. Therefore, Plaintiff
22 calculated Schumacher's maximum exposure for waiting time penalties at approximately \$58,214 (16
23 former employees x $\$15.16/\text{hour} \times 30 \text{ days} \times 8 \text{ hours/day}$).

24 31. Schumacher asserts it has strong defenses to the waiting time claim because there exist
25 good-faith disputes as to Plaintiff's underlying claims, precluding imposition of penalties.
26 Accordingly, Plaintiff discounted the maximum exposure by 30% for the risk of non-certification, and
27
28

1 an additional 20% to account for Schumacher's defenses on the merits, to arrive at an estimated
2 exposure of \$32,599.84.

3 32. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged
4 Labor Code violations. Plaintiff calculated Schumacher's maximum exposure at \$259,900 (2,599 pay
5 periods x \$100 initial violation rate).

6 33. Schumacher argues that Plaintiff's PAGA claim will fail for the same reasons that his
7 underlying claims will fail. Schumacher also maintains that, given its good faith defenses, this Court
8 would exercise its discretion to substantially reduce any PAGA penalties if it were to find Schumacher
9 liable for any of Plaintiff's claims. Therefore, Plaintiff discounted the maximum exposure figure by
10 20% for a risk of being unsuccessful on the merits, and an additional 25% to account for the possibility
11 of this Court reducing penalties, to arrive at an estimated exposure of \$155,940.00.

12 34. Using these estimated figures for each of the claims described above, Plaintiff predicted
13 the realistic total recovery for the Settlement Class would be approximately \$1,731,150.24. The
14 proposed settlement of \$500,000.00 therefore represents approximately 29% of the reasonably
15 forecasted recovery for the Settlement Class. Preliminary approval is appropriate as the settlement will
16 provide tangible monetary relief to Settlement Class members, and will still provide an average recovery
17 to Settlement Class members of over \$4,000.00.

18 35. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the
19 GSA, which is currently estimated to be \$166,666.67, and up to \$20,000.00 in verified costs
20 reimbursement. Class Counsel has incurred substantial attorney fees conducting pre-filing
21 investigation, analyzing Plaintiff's claims, conducting legal research, analyzing timekeeping data and
22 payroll records, preparing for and attending mediation, negotiating and revising the long-form
23 Settlement, preparing this Motion, and otherwise litigating the case. Class Counsel expect to expend
24 additional attorney time in attending the hearing on this Motion, overseeing the Notice process and
25 fielding questions from Settlement Class members, preparing the final approval papers and attending
26 the Final Approval hearing.

27 36. As of the date of this filing, and not including costs associated with filing the instant
28

brief, Plaintiff's costs to date are \$11,057.99. Plaintiff anticipates an additional \$3,500.00 in future costs, which includes costs associated with filing of the motion for Final Approval, court appearances, copying, postage, service fees, and Case Anywhere quarterly fees for the next approximately 2 years (given 2 installment payment plan and 180-day expiration date of checks). Therefore, in total Plaintiff's costs are anticipated to be approximately \$14,557.99 and will not exceed the \$20,000.00 maximum.

EXPENSE	AMOUNT
Mediation Costs (including Plaintiff's portion of mediator expenses)	\$8,000.00
Filing, Service, and Messenger Fees	\$3,008.67
Copying Costs	\$26.30
Postage Costs	\$23.02
Anticipated Costs for: filing the Final Approval motion, court appearances, quarterly Case Anywhere fees for Class Counsel through the date the final distribution declaration is filed (in approximately 2 years), service fees, copying and postage	\$3,500.00
TOTAL:	\$14,557.99

37. Plaintiff has provided written approval of the split of attorneys' fees in this action: 46.5% to Haines Law Group, APC, 31% to Lidman Law, APC, and 22.5% to Michael Burgis & Associates, P.C. Michael Burgis & Associates is the referring attorney.

38. Plaintiff will seek a service award of \$5,000.00 at the time of seeking final approval, and I believe this is reasonable given Plaintiff's efforts in this case and the risks he undertook on behalf of the Settlement Class members, including the risk that he could be liable for Stratasys' costs if this case was unsuccessful. Plaintiff was integral in the prosecution of this action, by, among other things, providing substantial factual information and documents to Class Counsel, attending multiple meetings with Class Counsel to discuss the claims and theories at issue in the litigation, and otherwise actively participating in the prosecution of their claims.

39. Although the parties engaged in informal discovery throughout this action, the parties still had significant discovery to complete in formal litigation had the matter not settled. Moreover, Plaintiff still had to file for class certification, and faced the prospect of appeals in the wake of a disputed class certification ruling for Plaintiff and/or an adverse summary judgment ruling. Even if the classes sought to be certified by Plaintiff were in fact certified, the parties would incur considerably more attorneys' fees and costs through a possible decertification motion, trial, and possible appeal. *Id.* This Settlement avoids those risks and the accompanying expense.

40. I do not have any conflicts of interest with the class. I have also made reasonable inquiry of other members of my firm and my co-counsel's firm, Haines Law Group, APC, and no one have any conflicts of interest with the class.

41. Consistent with almost all class action settlements, Plaintiff's Counsel will not be receiving the Class Data after preliminary approval. However, after the Class Data is received by Simpluris, Simpluris will verify that the information provided by Defendant is complete and accurate for the mailing of the Notice Packet. Simpluris will then create an excel spreadsheet with the hire and termination dates (if applicable) and workweek count for each of the putative class members. This spreadsheet is then circulated to the Parties for their review and approval, along with the Notice Packet. It is during this process that Plaintiff's Counsel will be able to verify the workweek count and whether or not ¶4.F. of the Settlement Agreement is triggered. Further, the Notice Packet includes Plaintiff's Counsel's contact information, therefore, Settlement Class members will be able to contact counsel if they have any questions or concerns with the Class Notice and/or any disputes about the number of workweeks allocated to him or her.

42. Plaintiff will serve the Motion for Preliminary Approval and proposed Settlement Agreement on the LWDA on the same date he files his Motion for Preliminary Approval.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 21, 2022 at El Segundo, California.


Scott M. Lidman

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 5, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

Re: *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Barajas in claims arising from his employment with Schumacher Cargo Logistics, Inc., a California corporation (“Defendant”). Mr. Barajas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly-paid employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Barajas, a former employee, was employed by Defendant as an hourly, non-exempt warehouse employee from approximately May 2005 through approximately October 9, 2020. During his employment with Defendant, Mr. Barajas worked as a Packer/Mover out of Defendant’s warehouse in Gardena, California.

Throughout Mr. Barajas’ employment with Defendant, Mr. Barajas was generally scheduled to work Monday through Friday from approximately 6:00 a.m. to approximately 6:00 or 7:00 p.m., but would at times work as late as 8:00 or 9:00 p.m. During his employment with Defendant, Defendant required Mr. Barajas to clock in and out by punching a timecard twice a day, when his shift began and when his shift ended.

During at least a portion of Mr. Barajas’ employment, Defendant would keep track of Mr. Barajas’ time worked and would unlawfully shave Mr. Barajas’ work time and/or round Mr. Barajas’ work time such that Mr. Barajas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Barajas was routinely unpaid at least minimum wages for his time worked. Further, because Mr. Barajas would typically work more than eight (8) hours per day and/or forty (40) hours per week, Defendant’s time-keeping policies and practices also deprived Mr. Barajas of overtime wages owed to him.

Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check. However, this separate check paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him.

During his employment with Defendant, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate.

Mr. Barajas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. Accordingly, Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

On those occasions when Mr. Barajas was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Barajas with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

Labor Code section 227.3 states in relevant part: whenever an "employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such ... employer policy respecting eligibility or time served." Defendant possessed a policy providing for paid vacation days, which accrued over time. Mr. Barajas accrued vacation under Defendant's policies; however, Defendant failed to pay Mr. Barajas all vacation pay that was due to him at the time of his termination of employment and after the vacation pay vested. This is unlawful under California law. See Lab. Code § 227.3, *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].

As a result of Defendant's failure to pay all minimum and overtime wages, all vested vacation wages, as well as the failure to pay all rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Barajas and other non-exempt warehouse employees. Additionally, the wage statements issued by Defendant to Mr. Barajas were independently inaccurate and unlawful insofar as Defendant would at times split the hours worked by Mr. Barajas into

separate paychecks for the same pay period. Also, the paychecks issued to Mr. Barajas for the overtime hours worked did not include the information required under California law, including the hours worked, rate of pay and other information required under applicable law. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all minimum and overtime wages, vacation wages, as well as the failure to pay all rest period premium wages, Defendant failed to pay Mr. Barajas all wages owed upon his separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 9, § 4. Mr. Barajas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Barajas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Barajas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Barajas' time worked. This practice by Defendant resulted in Defendant not paying Mr. Barajas for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of shaving Mr. Barajas' work time and/or rounding Mr. Barajas' work time such that he was not fully paid for all time worked. Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check that paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him. Further, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. As detailed above, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to

include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate. As a result of these policies/practices, Mr. Barajas and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Failure to Pay All Vacation Wages

Labor Code section 227.3 states in relevant part:

[W]henever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served, provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

Lab. Code §227.3; see *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774.

Defendant possessed a policy providing for providing for paid vacations. Mr. Barajas and other aggrieved employees accrued vacation/PTO under Defendant's policies. However, Defendant failed to follow its own policies in the accrual of vacation/PTO and failed to pay Mr. Barajas and other aggrieved employees all vacation/PTO pay that was due to them at the termination of their employment after such vacation/PTO pay vested. (*Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].) Defendant's vacation policies and procedures were applied to Mr. Barajas and other aggrieved employees and resulted in Mr. Barajas and other aggrieved employees not receiving all wages due to them in violation of Labor Code section 227.3.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Barajas and other aggrieved employees to take all required rest periods. See Labor Code §§ 226.7 and 516; Wage Order 9, § 12. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. As a result, Mr. Barajas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Barajas and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other

things, underpaid minimum and overtime wages, vacation time wages, and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Barajas and similarly aggrieved employees was willful and, consequently, entitles Mr. Barajas and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Barajas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, vacation time wages, and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Barajas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, vacation time wages, and rest period wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

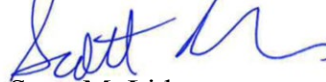
As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Barajas and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Barajas and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code § 227.3 by failing to pay accrued vacation time wages that were due to Mr. Barajas and other aggrieved employees at the termination of their employment after such vacation pay vested;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Barajas and other aggrieved employees;
- e) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Barajas and other aggrieved employees;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Barajas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Barajas and other aggrieved employees all earned wages at least twice during each calendar month; and

- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Barajas and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

December 23, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

NEWHOUSE LAW GROUP, PC

Suzanne Henry, Esq.
Michael Newhouse, Esq.
1800 Century Park East, 6th Floor
Los Angeles, CA 90067
Attorneys for Defendant
SCHUMACHER CARGO LOGISTICS, INC.

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

Re: *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Barajas in claims arising from his employment with Schumacher Cargo Logistics, Inc., a California corporation (“Defendant”). Mr. Barajas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Barajas intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former employees who worked as warehouse employees (and other similar job positions/titles) in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

By this letter, Mr. Barajas supplements his correspondence to the LWDA dated February 5, 2021 (the “LWDA letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. In addition to the Labor Code violations identified in the LWDA letter, Mr. Barajas alleges Defendant is also liable for the following

Meal Period Violations

Defendant failed to provide Mr. Barajas and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 9, § 11. Throughout Mr. Barajas’ employment with Defendant, Defendant did not require Mr. Barajas and the other Aggrieved

Employees to clock in and out for their meal periods. Therefore, despite Defendants' failure to keep any records of Plaintiff's meal periods, Mr. Barajas is informed and believes that Defendants unlawfully automatically deducted thirty minutes from Mr. Barajas' work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Barajas and other Aggrieved Employees all of their minimum and overtime wages owed. Throughout Mr. Barajas' employment with Defendants, Mr. Barajas and other Aggrieved Employees were not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, Defendant provided short, late, missed, or otherwise unlawful meal periods to Mr. Barajas and other Aggrieved Employees. Additionally, Mr. Barajas and other Aggrieved Employees employees often worked in excess of 10.0 hours in a shift, yet Defendant failed to provide Mr. Barajas and the other Aggrieved Employees with the opportunity to take a second meal period as required by applicable law. As a result, Mr. Barajas and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Barajas and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Barajas and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Barajas and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

February 5, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

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During at least a portion of Mr. Barajas’ employment, Defendant would keep track of Mr. Barajas’ time worked and would unlawfully shave Mr. Barajas’ work time and/or round Mr. Barajas’ work time such that Mr. Barajas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Barajas was routinely unpaid at least minimum wages for his time worked. Further, because Mr. Barajas would typically work more than eight (8) hours per day and/or forty (40) hours per week, Defendant’s time-keeping policies and practices also deprived Mr. Barajas of overtime wages owed to him.

Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check. However, this separate check paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him.

During his employment with Defendant, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate.

Mr. Barajas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. Accordingly, Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

On those occasions when Mr. Barajas was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Barajas with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

Labor Code section 227.3 states in relevant part: whenever an "employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such ... employer policy respecting eligibility or time served." Defendant possessed a policy providing for paid vacation days, which accrued over time. Mr. Barajas accrued vacation under Defendant's policies; however, Defendant failed to pay Mr. Barajas all vacation pay that was due to him at the time of his termination of employment and after the vacation pay vested. This is unlawful under California law. See Lab. Code § 227.3, *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].

As a result of Defendant's failure to pay all minimum and overtime wages, all vested vacation wages, as well as the failure to pay all rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Barajas and other non-exempt warehouse employees. Additionally, the wage statements issued by Defendant to Mr. Barajas were independently inaccurate and unlawful insofar as Defendant would at times split the hours worked by Mr. Barajas into

separate paychecks for the same pay period. Also, the paychecks issued to Mr. Barajas for the overtime hours worked did not include the information required under California law, including the hours worked, rate of pay and other information required under applicable law. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all minimum and overtime wages, vacation wages, as well as the failure to pay all rest period premium wages, Defendant failed to pay Mr. Barajas all wages owed upon his separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 9, § 4. Mr. Barajas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Barajas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Barajas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Barajas' time worked. This practice by Defendant resulted in Defendant not paying Mr. Barajas for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of shaving Mr. Barajas' work time and/or rounding Mr. Barajas' work time such that he was not fully paid for all time worked. Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check that paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him. Further, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. As detailed above, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to

include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate. As a result of these policies/practices, Mr. Barajas and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Failure to Pay All Vacation Wages

Labor Code section 227.3 states in relevant part:

[W]henever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served, provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

Lab. Code §227.3; see *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774.

Defendant possessed a policy providing for providing for paid vacations. Mr. Barajas and other aggrieved employees accrued vacation/PTO under Defendant's policies. However, Defendant failed to follow its own policies in the accrual of vacation/PTO and failed to pay Mr. Barajas and other aggrieved employees all vacation/PTO pay that was due to them at the termination of their employment after such vacation/PTO pay vested. (*Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].) Defendant's vacation policies and procedures were applied to Mr. Barajas and other aggrieved employees and resulted in Mr. Barajas and other aggrieved employees not receiving all wages due to them in violation of Labor Code section 227.3.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Barajas and other aggrieved employees to take all required rest periods. See Labor Code §§ 226.7 and 516; Wage Order 9, § 12. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. As a result, Mr. Barajas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Barajas and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other

things, underpaid minimum and overtime wages, vacation time wages, and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Barajas and similarly aggrieved employees was willful and, consequently, entitles Mr. Barajas and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Barajas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, vacation time wages, and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Barajas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, vacation time wages, and rest period wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

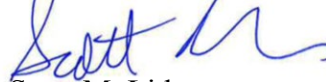
As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Barajas and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Barajas and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code § 227.3 by failing to pay accrued vacation time wages that were due to Mr. Barajas and other aggrieved employees at the termination of their employment after such vacation pay vested;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Barajas and other aggrieved employees;
- e) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Barajas and other aggrieved employees;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Barajas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Barajas and other aggrieved employees all earned wages at least twice during each calendar month; and

- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Barajas and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT 3

EXHIBIT 3

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Jaime Barajas (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant Schumacher Cargo Logistics, Inc. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC (collectively, “Class Counsel”). Defendant is represented by Michael R. Newhouse and Suzanne M. Henry of Newhouse Law Group, PC.

On February 5, 2021, Plaintiff filed a class action Complaint against Defendant in Los Angeles County Superior Court, in the matter entitled *Jaime Barajas, as an individual and on behalf of all others similarly situated v. Schumacher Cargo Logistics, Inc., a California corporation, et al.*, Case No. 21STCV04851 (the “Action”).

As a prerequisite to asserting a PAGA claim in this Action, on February 5, 2021, Plaintiff submitted to the California Labor and Workforce Development Agency (“LWDA”) a letter detailing the alleged wage and hour violations set forth in Plaintiff’s original Complaint (a true and correct copy of Plaintiff’s February 5, 2021 letter to the LWDA is attached hereto as Exhibit A). On December 23, 2021, Plaintiff filed a Second Amended Complaint which added a cause of action against Defendant for failure to provide meal periods. On December 23, 2021, Plaintiff also submitted a supplemental letter to the LWDA alleging Defendant failed to provide meal periods, as a prerequisite to amending his PAGA cause of action to add the failure to provide meal periods as an additional basis for the recovery of civil penalties (a true and correct copy of Plaintiff’s December 23, 2021 letter to the LWDA is attached hereto as Exhibit B).

On March 4, 2022, Plaintiff filed a Third Amended Complaint in the Action alleging the following claims against Defendant: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime wages owed; (c) failure to provide meal periods, or pay premium pay for non-compliant meal periods; (d) failure to authorize and permit all rest periods, or pay premium pay for non-compliant rest periods; (e) failure to pay all vacation wages; (f) failure to provide accurate, itemized wage statements; (g) failure to pay all wages owed upon termination. As a result of the foregoing alleged violations, Plaintiff contends that Defendant is further liable to Plaintiff and the Settlement Class (defined below) because it engaged in unlawful business practices pursuant to Business and Professions Code section 17200 that could have been premised on the facts, claims, causes of action or legal theories described above. Plaintiff also contends that Defendant is further liable for civil penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”) premised on the facts, claims, causes of action or legal theories described above.

Defendant denies all of Plaintiff’s claims.

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class, aggrieved employees and the State of California. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt warehouse employees of Defendant Schumacher Cargo Logistics, Inc. who worked for Defendant in California at any time from February 5, 2017 through the date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of February 5, 2017 through the date of preliminary approval of the Settlement.

The Parties agree that certification for purposes of this Settlement Agreement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement and the Settlement Agreement shall be null and void *ab initio*, and inadmissible for any reason in the Action.

2. **PAGA Employees.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the following definition of PAGA Employees:

All current and former non-exempt warehouse employees of Defendant Schumacher Cargo Logistics, Inc. who worked for Defendant in California at any time from February 5, 2020 through the date of preliminary approval of the Settlement.

For purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period between February 5, 2020 through the date of preliminary approval of the Settlement.

3. **Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the Settlement Class (except those who timely and properly submit a Request for Exclusion as set forth below) will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, as well as its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the “Released Parties”), as follows:

- A. Settlement Class Members’ Release: Settlement Class members and Plaintiff will release all claims, demands, rights, liabilities and causes of action that were pled in the operative Third Amended Complaint in the Action, or which could have been pled in the Third Amended Complaint in the Action based on the factual allegations therein, that arose during the Class Period including, but not limited to the following claims: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime wages owed; (c) failure to provide meal periods, or pay premium pay for non-

compliant meal periods; (d) failure to authorize and permit all rest periods, or pay premium pay for non-compliant rest periods; (e) failure to pay all vacation wages; (f) failure to provide accurate, itemized wage statements; (g) failure to pay all wages owed upon termination; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, the “Released Claims”).

- B. The time period for the release of the Released Claims shall be the same time period as the Class Period.
- C. PAGA Release: PAGA Employees, including Plaintiff, will release and forever discharge all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letters to the Labor & Workforce Development Agency (“LWDA”) dated February 5, 2021 and December 23, 2021 and the operative Third Amended Complaint: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime wages owed; (c) failure to provide meal periods, or pay premium pay for non-compliant meal periods; (d) failure to authorize and permit all rest periods, or pay premium pay for non-compliant rest periods; (e) failure to pay all vacation wages; (f) failure to provide accurate, itemized wage statements; (g) failure to pay all wages owed upon termination (collectively, “PAGA Released Claims”). The PAGA Period and the time period of the PAGA Released Claims is defined as the time period of February 5, 2020 through the date that the Court grants preliminary approval of the Settlement (“PAGA Period”).
- D. In light of the Class Representative Service Award, Plaintiff agrees to release, in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties, including causes of action of every kind or nature and description whatsoever, asserted or that might have been asserted prior to the date of the full execution of this Agreement arising from his employment or the termination thereof, whether in tort, contract, or for violation of any state or federal statute. Plaintiff understands that this release includes unknown claims, which includes waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

- E. Notwithstanding the above, nor anything else in this Settlement, the waiver and release in this Settlement does not apply to (i) those rights that as a matter of law cannot be waived, including, but not limited to, workers’ compensation claims, pending or otherwise and/or benefits to be received by Plaintiff in workers’

compensation pursuant to the jurisdiction of workers' compensation; and (ii) rights or claims arising out of this Settlement.

- F. The releases identified herein in Paragraphs 3.A-D above will only be effective on the date that Defendant fully funds the Gross Settlement Amount and all employer-side taxes in full.

4. **Gross Settlement Amount.** As consideration, Defendant agrees to pay a "Gross Settlement Amount" of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Simpluris Class Action Settlement Administration ("Simpluris") as the "Settlement Administrator" to administer this Settlement. All administrative costs shall be paid from the Gross Settlement Amount.
- B. This Settlement shall become effective on the latter of: (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; (c) the final resolution of any appeal that has been filed ("Effective Date").
- C. The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit and pay the Gross Settlement Amount in two (2) installments. Defendant agrees to deposit one-half of the Gross Settlement Amount (\$250,000.00) with Simpluris, Inc. within ten (10) calendar days after the Effective Date. Defendant agrees to pay the remaining half of the Gross Settlement (\$250,000.00) no later than six (6) months after the first payment is made. The employer-side taxes to be paid by Defendant separate and apart from the Gross Settlement Amount shall be deposited with the Settlement Administrator no later than five (5) calendar days after the second and final payment is made by Defendant under the terms of this Agreement. The Settlement Administrator shall hold all portions of the Gross Settlement Amount in an interest-bearing account for benefit of the Settlement Class until the time for disbursement. In the event that the Gross Settlement Amount and all employer-side taxes are not paid in full as required under Paragraph 4 of this Agreement, after Defendant's counsel receives written notice of the default, and is given ten (10) days to cure, then at Plaintiff's option the Settlement, Final Approval Order, and Judgment may be enforced by remedies available and Defendant agrees to the payment of reasonable attorneys' fees and costs necessary in enforcing the Agreement. Additionally, after Defendant's counsel receives written notice of the default, and is given ten (10) days to cure and does not cure, all further payments owed under the Settlement shall be accelerated and due and payable immediately. Except with regard to the Settlement Administrator costs as explained more fully below in Paragraph 8, the parties agree that, unless otherwise ordered by the Court, there shall be no other disbursements of the Gross Settlement Amount unless and until

the Court has issued final approval of the Settlement, and the Gross Settlement Amount and employer-side taxes have been fully funded.

D. This is a non-reversionary settlement. The Gross Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class members;
- (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00);
- (3) Up to Five Thousand Five Dollars and Zero Cents (\$5,000.00) for Plaintiff's Class Representative Service Award, in recognition of his contributions to the Action, his service to the Settlement Class, and his execution of a general release of all known and unknown claims. Even in the event that the Court reduces or does not approve the requested Class Representative Service Award, Plaintiff shall not have the right to revoke this Settlement Agreement, and this Settlement shall remain binding. Plaintiff's Class Representative Service award awarded by the Court shall be paid by the Settlement Administrator to Plaintiff from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court;
- (4) Up to one-third of the Gross Settlement Amount in Class Counsel's attorneys' fees (estimated to be One Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$166,666.67), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees and/or costs, Class Counsel shall not have the right to revoke this Settlement Agreement, and it will remain binding. Class Counsel's fees and costs awarded by the Court shall be paid by the Settlement Administrator to Class Counsel from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court; and
- (5) Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%), or Five Thousand Dollars and Zero Cents (\$5,000.00), will be payable to the PAGA Employees as the "PAGA Amount," as described below.

- E. Defendant's share of payroll taxes shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount. The employer-side taxes to be paid by Defendant separate and apart from the Gross Settlement Amount shall be deposited with the Settlement Administrator no later than five (5) calendar days after the second and final payment is made by Defendant under the terms of this Agreement. Further, no less than ten (10) business days prior to Defendant's payment of the second and final installment of the Gross Settlement Amount, Defendant shall provide to the Settlement Administrator any and all information the Settlement Administrator requires to calculate the employer-side taxes.
 - F. **Estimated Workweeks.** Defendant represents that there are an estimated 6,773 workweeks worked by the settlement Class Members from February 5, 2017 through January 31, 2022. If the number of workweeks during the Class Period is more than 15% greater than this figure (i.e., if there are more than 7,789 workweeks worked by the settlement Class Members during the Class Period), the Class Period, the Release Period and the PAGA Period will close on the date that the number of workweeks reaches 7,789.
5. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Settlement Award") from the Settlement. Settlement Awards will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Gross Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Service Award, the Settlement Administrator's fees and expenses for administration, and the amount designated as PAGA civil penalties payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."
 - B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Settlement Award based on the following formula:
 - i. The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of workweeks worked as a non-exempt employee during the Class Period, the numerator of which is the Settlement Class member's total workweeks worked as a non-exempt employee during the Class Period, and the denominator of which is the total workweeks worked as non-exempt employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
 - C. **PAGA Amount:** Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. Each PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during this PAGA

Period which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee's number of workweeks worked as a non-exempt employee during this time period, and the denominator of which is the total number of workweeks worked by all PAGA Employees.

- D. Within ten (10) calendar days following Defendant's deposit of the second and final installment of the full Gross Settlement Amount and the employer-side taxes with the Settlement Administrator, the Settlement Administrator will calculate Settlement Award amounts and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel. Settlement Awards will be mailed to all Class members who did not validly exclude themselves, including to those Class members whose Class Notice was returned as undeliverable. Additionally, before Settlement Awards are mailed, the Settlement Administrator must update addresses of recipients using the National Change of Address Database. For returned checks directed to Class members whose Class Notice was returned as undeliverable and no new address was ascertained, no further steps need to be taken by the Settlement Administrator with respect to these checks. As to other checks returned, the Settlement Administrator must use skip trace or other usual means to ascertain a new address (and direct contact, if the Class Member is still employed by Defendant). The Settlement Administrator must re-mail checks to new addresses ascertained thereby within seven business days of the return of the check. The void date of all class checks must be stated on the checks and shall be 180 days from the date of the mailing.
- E. For purposes of calculating applicable taxes and withholdings, each Settlement Award shall be allocated as follows: Sixty-Seven percent (67%) as penalties and interest; and Thirty-Three percent (33%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Each Settlement Class member who receives a Settlement Award will be responsible for correctly characterizing the payment for tax purposes and for payment of any taxes owing on said amount. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.
- F. Each member of the Settlement Class who receives a Settlement Award must cash the check(s) within 180 days from the date the Settlement Administrator mails it/them. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will escheat to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class member.

6. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of one-third of the Gross Settlement Amount, which is currently estimated to be estimated to be One Hundred Sixty-Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$166,666.67). Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) from the Gross Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court. Class Counsel's fees and costs awarded by the Court shall be paid by the Settlement Administrator to Class Counsel from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court.

7. **Class Representative Service Award.** Defendant will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff for his time and risk in prosecuting this case, his service to the Settlement Class and his execution of a general release of all known and unknown claims. This award will be in addition to Plaintiff's Settlement Award as a Settlement Class member and shall be reported on an IRS Form 1099 issued by the Settlement Administrator. Even in the event that the Court reduces or does not approve the requested Service Award, Plaintiff shall not have the right to revoke this Settlement, and it will remain binding. The Class Representative Service Award awarded by the Court shall be paid by the Settlement Administrator to Plaintiff from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court.

8. **Settlement Administrator.** Defendant will not object the appointment of Simpluris as Settlement Administrator. Defendant will not object to Plaintiff's seeking permission to pay up to Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) for its services from the Gross Settlement Amount. The Settlement Administrator shall be responsible for sending notices and for calculating Settlement Awards and preparing all checks and mailings, calculating Defendant's share of taxes payable on the wages, which shall be paid by Defendant separate and apart from the Gross Settlement Amount, and other duties as described in this Settlement Agreement. The first Three Thousand Five Hundred Dollars and Zero Cents (\$3,500.00) paid by Defendant under this Settlement shall be earmarked to pay for the Settlement Administration costs. The Settlement Administrator shall be authorized to pay itself from this amount upon receipt from Defendant.

9. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;

- B. Appointing Paul K. Haines of Haines Law Group, APC and Scott M. Lidman, Milan Moore and Elizabeth Nguyen of Lidman Law, APC as Class Counsel;
- C. Appointing Jaime Barajas as Class Representative for the Settlement Class;
- D. Approving Simpluris as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Notice Packet (which is comprised of the Notice of Pendency of Class Action and Settlement and Notice of Settlement Award, drafts of which are attached collectively hereto as Exhibit C), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

10. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within ten (10) business days after entry of an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, and dates of employment (or information allowing the Settlement Administrator to calculate the total workweeks worked by each Settlement Class Member) of each Settlement Class member employed during the Class Period and PAGA Period (the "Class Data"). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
- B. Within ten (10) business days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").
 - i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security

number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice (Simpluris, Inc., P.O. Box 26170, Santa Ana, California 92799). The Request for Exclusion may alternatively be faxed (714-824-8591) or emailed (casesupport@simpluris.com) to the Settlement Administrator. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, unless the Settlement Administrator can ascertain the identity of the Class member and also ascertain that the Class member indeed desires to exclude himself or herself from the Settlement. The date of the postmark, fax receipt or email receipt on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon.

- ii. The Parties agree there is no statutory or other right for any Settlement Class member/PAGA Employee to opt out or otherwise exclude himself or herself from the PAGA portion of the Settlement. A Settlement Class member/PAGA Employee who submits a valid and timely Request for Exclusion shall still receive his or her proportionate share of the PAGA Amount.

- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by mailing, faxing, or emailing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel). Class Counsel shall file any objections with the Court. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval. To be valid, any written objection must: (1) contain the objecting Settlement Class member's full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence, if any; and (4) be postmarked and mailed to the Settlement Administrator (Simpluris, Inc., P.O. Box 26170, Santa Ana, California 92799) no later than the Response Deadline. Notwithstanding the foregoing, even if the information above is not all contained in a written objection, it will be deemed valid if the Settlement Administrator can ascertain the identity of the Class member and also ascertain that the Class member indeed desires to object. The written Objection may alternatively be faxed (714-824-8591) or emailed (casesupport@simpluris.com) to the Settlement Administrator. Members of the Settlement Class who do not request exclusion may also object to the Settlement by appearing at the Final Approval Hearing in person or virtually irrespective of

whether they submitted any written objections. Neither a written objection nor a notice of appearance is required in order for a Class member to appear at the hearing on the Motion for Final Approval and object.

- E. Notice of Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Settlement Award as well the Settlement Class member's number of pay periods worked as a non-exempt employee during the Class Period. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, can be mailed to the Settlement Administrator (Simpluris, Inc., P.O. Box 26170, Santa Ana, California 92799) and postmarked by the Response Deadline. The dispute may alternatively be faxed (714-824-8591) or emailed (casesupport@simpluris.com) to the Settlement Administrator. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement. If a resolution cannot be reached by and among the Parties and the Settlement Administrator, the Court will render all final decisions on disputes.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified before the Response Deadline, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within three (3) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Additionally, any Class member who is still currently employed by Defendant and whose Class Notice is returned as undeliverable shall be contacted directly by the Settlement Administrator with appropriate contact information provided by Defendant. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once before the Response Deadline, the Settlement Administrator shall continue to make reasonable efforts to obtain an updated mailing address. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Defendant's Counsel to provide notice of the proposed settlement.

11. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Service Award, and settlement administration costs; and
- C. Entering judgment pursuant to California Rule of Court 3.769 and posting notice of the judgment on a static website created and maintained by the Settlement Administrator.

12. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In particular, but without limiting the generality of the foregoing, nothing about this Settlement Agreement shall be offered or construed as an admission of liability, wrongdoing, impropriety, responsibility, or fault whatsoever on the part of Defendant and/or the Released Parties, and it shall not be construed as or deemed to be evidence of, or an admission or concession that the any Settling Class member has suffered any damage. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

13. **Non-disclosure and Non-publication.** Prior to the filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their respective websites but may not include the name(s) of any of the Parties, or the case name or case number of the Action.

14. **Legal Developments.** The Parties agree that Plaintiff will submit to the Court a motion for preliminary approval of this Settlement containing all of the terms and conditions contained herein notwithstanding any new legal developments regarding the Released Claims.

15. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and approved by the Court. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

16. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover his and/or its reasonable attorneys' fees and costs (including any expert costs) incurred arising from such dispute.

17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Michael R. Newhouse and Suzanne M. Henry of Newhouse Law Group, LLC, 1800 Century Park East, 6th Floor, Los Angeles, California 90067; mnewhouse@newhouselawgroup.com and shenry@newhouselawgroup.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

18. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

19. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

20. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

4/1/2022

DEFENDANT SCHUMACHER CARGO
LOGISTICS, INC.

By: 

Its: Martin Baker CEO/President

DATED:

PLAINTIFF JAIME BARAJAS

By: _____
Plaintiff and Settlement Class Representative

16. **Attorneys' Fees:** In the event of any dispute arising out of the interpretation, performance, or breach of any provision of this Settlement Agreement, the prevailing party in such dispute(s) shall be entitled to recover his and/or its reasonable attorneys' fees and costs (including any expert costs) incurred arising from such dispute.

17. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendant: Michael R. Newhouse and Suzanne M. Henry of Newhouse Law Group, LLC, 1800 Century Park East, 6th Floor, Los Angeles, California 90067; mnewhouse@newhouselawgroup.com and shenry@newhouselawgroup.com

if to Plaintiff: Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC, 2155 Campus Drive, Suite 150, El Segundo, California 90245; slidman@lidmanlaw.com and enguyen@lidmanlaw.com

Paul K. Haines, Haines Law Group, APC, 2155 Campus Drive, Suite 180, El Segundo, California 90245; phaines@haineslawgroup.com

18. **Cooperation.** The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to effectuate this Settlement are properly and timely filed.

19. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

20. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED: DEFENDANT SCHUMACHER CARGO
LOGISTICS, INC.

By: _____

Its: _____

DATED: 03/28/2022

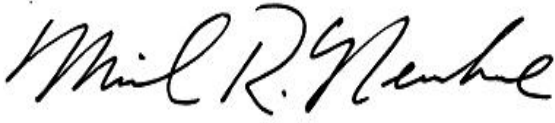
PLAINTIFF JAIME BARAJAS

By: Jaime Barajas
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: April 1, 2022

NEWHOUSE LAW GROUP, PC

By: 
Michael R. Newhouse
Attorneys for Defendant Schumacher Cargo
Logistics, Inc.

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff Jaime Barajas

DATED:

LIDMAN LAW, APC

By: _____
Scott M. Lidman
Attorneys for Plaintiff Jaime Barajas

APPROVED AS TO FORM:

DATED:

NEWHOUSE LAW GROUP, PC

By: _____
Michael R. Newhouse
Attorneys for Defendant Schumacher Cargo
Logistics, Inc.

DATED: March 31, 2022

HAINES LAW GROUP, APC

By:  _____
Paul K. Haines
Attorneys for Plaintiff Jaime Barajas

DATED: March 31, 2022

LIDMAN LAW, APC

By:  _____
Scott M. Lidman
Attorneys for Plaintiff Jaime Barajas

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

February 5, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

Re: *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Barajas in claims arising from his employment with Schumacher Cargo Logistics, Inc., a California corporation (“Defendant”). Mr. Barajas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly-paid employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Barajas, a former employee, was employed by Defendant as an hourly, non-exempt warehouse employee from approximately May 2005 through approximately October 9, 2020. During his employment with Defendant, Mr. Barajas worked as a Packer/Mover out of Defendant’s warehouse in Gardena, California.

Throughout Mr. Barajas’ employment with Defendant, Mr. Barajas was generally scheduled to work Monday through Friday from approximately 6:00 a.m. to approximately 6:00 or 7:00 p.m., but would at times work as late as 8:00 or 9:00 p.m. During his employment with Defendant, Defendant required Mr. Barajas to clock in and out by punching a timecard twice a day, when his shift began and when his shift ended.

During at least a portion of Mr. Barajas’ employment, Defendant would keep track of Mr. Barajas’ time worked and would unlawfully shave Mr. Barajas’ work time and/or round Mr. Barajas’ work time such that Mr. Barajas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Barajas was routinely unpaid at least minimum wages for his time worked. Further, because Mr. Barajas would typically work more than eight (8) hours per day and/or forty (40) hours per week, Defendant’s time-keeping policies and practices also deprived Mr. Barajas of overtime wages owed to him.

Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check. However, this separate check paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him.

During his employment with Defendant, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate.

Mr. Barajas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. Accordingly, Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

On those occasions when Mr. Barajas was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Barajas with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

Labor Code section 227.3 states in relevant part: whenever an "employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such ... employer policy respecting eligibility or time served." Defendant possessed a policy providing for paid vacation days, which accrued over time. Mr. Barajas accrued vacation under Defendant's policies; however, Defendant failed to pay Mr. Barajas all vacation pay that was due to him at the time of his termination of employment and after the vacation pay vested. This is unlawful under California law. See Lab. Code § 227.3, *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].

As a result of Defendant's failure to pay all minimum and overtime wages, all vested vacation wages, as well as the failure to pay all rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Barajas and other non-exempt warehouse employees. Additionally, the wage statements issued by Defendant to Mr. Barajas were independently inaccurate and unlawful insofar as Defendant would at times split the hours worked by Mr. Barajas into

separate paychecks for the same pay period. Also, the paychecks issued to Mr. Barajas for the overtime hours worked did not include the information required under California law, including the hours worked, rate of pay and other information required under applicable law. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all minimum and overtime wages, vacation wages, as well as the failure to pay all rest period premium wages, Defendant failed to pay Mr. Barajas all wages owed upon his separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 9, § 4. Mr. Barajas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Barajas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Barajas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Barajas' time worked. This practice by Defendant resulted in Defendant not paying Mr. Barajas for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of shaving Mr. Barajas' work time and/or rounding Mr. Barajas' work time such that he was not fully paid for all time worked. Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check that paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him. Further, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. As detailed above, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to

include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate. As a result of these policies/practices, Mr. Barajas and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Failure to Pay All Vacation Wages

Labor Code section 227.3 states in relevant part:

[W]henever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served, provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

Lab. Code §227.3; see *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774.

Defendant possessed a policy providing for providing for paid vacations. Mr. Barajas and other aggrieved employees accrued vacation/PTO under Defendant's policies. However, Defendant failed to follow its own policies in the accrual of vacation/PTO and failed to pay Mr. Barajas and other aggrieved employees all vacation/PTO pay that was due to them at the termination of their employment after such vacation/PTO pay vested. (*Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].) Defendant's vacation policies and procedures were applied to Mr. Barajas and other aggrieved employees and resulted in Mr. Barajas and other aggrieved employees not receiving all wages due to them in violation of Labor Code section 227.3.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Barajas and other aggrieved employees to take all required rest periods. See Labor Code §§ 226.7 and 516; Wage Order 9, § 12. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. As a result, Mr. Barajas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Barajas and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other

things, underpaid minimum and overtime wages, vacation time wages, and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Barajas and similarly aggrieved employees was willful and, consequently, entitles Mr. Barajas and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Barajas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, vacation time wages, and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Barajas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, vacation time wages, and rest period wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Barajas and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Barajas and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code § 227.3 by failing to pay accrued vacation time wages that were due to Mr. Barajas and other aggrieved employees at the termination of their employment after such vacation pay vested;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Barajas and other aggrieved employees;
- e) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Barajas and other aggrieved employees;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Barajas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Barajas and other aggrieved employees all earned wages at least twice during each calendar month; and

LWDA
February 5, 2021
Page 6 of 6

- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Barajas and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW APC



Scott M. Lidman

EXHIBIT B

EXHIBIT B

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

December 23, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

**VIA U.S. CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

NEWHOUSE LAW GROUP, PC

Suzanne Henry, Esq.
Michael Newhouse, Esq.
1800 Century Park East, 6th Floor
Los Angeles, CA 90067
Attorneys for Defendant
SCHUMACHER CARGO LOGISTICS, INC.

Re: *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Barajas in claims arising from his employment with Schumacher Cargo Logistics, Inc., a California corporation (“Defendant”). Mr. Barajas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Barajas intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former employees who worked as warehouse employees (and other similar job positions/titles) in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

By this letter, Mr. Barajas supplements his correspondence to the LWDA dated February 5, 2021 (the “LWDA letter”). Attached hereto as **Exhibit A** is a true and correct copy of the LWDA letter and is incorporated herein by reference. In addition to the Labor Code violations identified in the LWDA letter, Mr. Barajas alleges Defendant is also liable for the following

Meal Period Violations

Defendant failed to provide Mr. Barajas and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 9, § 11. Throughout Mr. Barajas’ employment with Defendant, Defendant did not require Mr. Barajas and the other Aggrieved

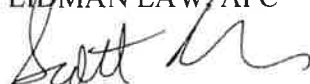
Employees to clock in and out for their meal periods. Therefore, despite Defendants' failure to keep any records of Plaintiff's meal periods, Mr. Barajas is informed and believes that Defendants unlawfully automatically deducted thirty minutes from Mr. Barajas' work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Barajas and other Aggrieved Employees all of their minimum and overtime wages owed. Throughout Mr. Barajas' employment with Defendants, Mr. Barajas and other Aggrieved Employees were not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, Defendant provided short, late, missed, or otherwise unlawful meal periods to Mr. Barajas and other Aggrieved Employees. Additionally, Mr. Barajas and other Aggrieved Employees employees often worked in excess of 10.0 hours in a shift, yet Defendant failed to provide Mr. Barajas and the other Aggrieved Employees with the opportunity to take a second meal period as required by applicable law. As a result, Mr. Barajas and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 ("If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."). Although Mr. Barajas and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Barajas and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Barajas and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC



Scott M. Lidman

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245
OFFICE: (424) 322-4772
FAX: (424) 322-4775

February 5, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN

RECEIPT REQUESTED

Schumacher Cargo Logistics, Inc.
c/o Martin Baker, Agent for Service of Process
550 W. 135th Street
Gardena, CA 90248

Re: *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Jaime Barajas in claims arising from his employment with Schumacher Cargo Logistics, Inc., a California corporation (“Defendant”). Mr. Barajas is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an “aggrieved employee” should be considered to include all current and former hourly-paid employees in California who worked, at least in part, during the one year immediately preceding the date of this letter through the present date.

Mr. Barajas, a former employee, was employed by Defendant as an hourly, non-exempt warehouse employee from approximately May 2005 through approximately October 9, 2020. During his employment with Defendant, Mr. Barajas worked as a Packer/Mover out of Defendant’s warehouse in Gardena, California.

Throughout Mr. Barajas’ employment with Defendant, Mr. Barajas was generally scheduled to work Monday through Friday from approximately 6:00 a.m. to approximately 6:00 or 7:00 p.m., but would at times work as late as 8:00 or 9:00 p.m. During his employment with Defendant, Defendant required Mr. Barajas to clock in and out by punching a timecard twice a day, when his shift began and when his shift ended.

During at least a portion of Mr. Barajas’ employment, Defendant would keep track of Mr. Barajas’ time worked and would unlawfully shave Mr. Barajas’ work time and/or round Mr. Barajas’ work time such that Mr. Barajas would not be fully paid for all time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Barajas was routinely unpaid at least minimum wages for his time worked. Further, because Mr. Barajas would typically work more than eight (8) hours per day and/or forty (40) hours per week, Defendant’s time-keeping policies and practices also deprived Mr. Barajas of overtime wages owed to him.

Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check. However, this separate check paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him.

During his employment with Defendant, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate.

Mr. Barajas was also not authorized and permitted to take all legally required paid rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. Accordingly, Defendant's rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

On those occasions when Mr. Barajas was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Barajas with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief, during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for paying rest period premiums when Defendant failed to provide a legally compliant rest period.

Labor Code section 227.3 states in relevant part: whenever an "employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such ... employer policy respecting eligibility or time served." Defendant possessed a policy providing for paid vacation days, which accrued over time. Mr. Barajas accrued vacation under Defendant's policies; however, Defendant failed to pay Mr. Barajas all vacation pay that was due to him at the time of his termination of employment and after the vacation pay vested. This is unlawful under California law. See Lab. Code § 227.3, *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].

As a result of Defendant's failure to pay all minimum and overtime wages, all vested vacation wages, as well as the failure to pay all rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Barajas and other non-exempt warehouse employees. Additionally, the wage statements issued by Defendant to Mr. Barajas were independently inaccurate and unlawful insofar as Defendant would at times split the hours worked by Mr. Barajas into

separate paychecks for the same pay period. Also, the paychecks issued to Mr. Barajas for the overtime hours worked did not include the information required under California law, including the hours worked, rate of pay and other information required under applicable law. Accordingly, such wage statements were in violation of Labor Code section 226.

As a further result of Defendant's failure to pay all minimum and overtime wages, vacation wages, as well as the failure to pay all rest period premium wages, Defendant failed to pay Mr. Barajas all wages owed upon his separation of employment.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 9, § 4. Mr. Barajas and other aggrieved employees were not paid for all hours worked due to Defendant's timekeeping and compensation practices. As alleged above, Defendant caused Mr. Barajas and other aggrieved employees to work hours in a workweek but did not properly compensate Mr. Barajas and other aggrieved employees at least minimum wages for all such hours, due to Defendant's unlawful timekeeping practices of rounding and/or shaving Mr. Barajas' time worked. This practice by Defendant resulted in Defendant not paying Mr. Barajas for all wages owed for the work he performed, including failing to pay him all required minimum wages.

Overtime Violations

Defendant was required to pay Mr. Barajas and other aggrieved employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 9, § 3. According to Labor Code § 510(a), "Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee." This Section further provides, "Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of shaving Mr. Barajas' work time and/or rounding Mr. Barajas' work time such that he was not fully paid for all time worked. Additionally, Defendant did not include any payment for overtime hours worked by Mr. Barajas in the same check as the wages earned for his non-overtime hours worked. Rather, Defendant unlawfully paid Mr. Barajas for his overtime hours in a separate check that paid Mr. Barajas for his overtime hours at his base rate of pay rather than his overtime rate of pay, thereby depriving him of all overtime wages owed to him. Further, Mr. Barajas routinely worked in excess of eight hours per workday and/or more than forty hours per workweek, but did not receive overtime compensation equal to one and one-half times his regular rate of pay for working overtime hours. As detailed above, for at least a portion of the time period relevant to his claims, Mr. Barajas received non-discretionary year-end bonuses, and/or other forms of pay not excludable as a matter of law when calculating an employee's regular rate (hereinafter the aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite Defendant's payment of Incentive Pay to Mr. Barajas, Defendant failed to

include all forms of Incentive Pay when calculating Mr. Barajas' regular rate of pay, thereby causing Mr. Barajas to be underpaid all of his required overtime wages. Rather, Mr. Barajas was only paid one and a half times (or two times in the case of double-time hours) his base hourly rate, which was not equal to his regular rate, as Defendant failed to include the various forms of Incentive Pay earned during corresponding time periods that were required to be included in the regular rate. As a result of these policies/practices, Mr. Barajas and other aggrieved employees were not compensated for all overtime wages on occasions when they worked over eight hours in a workday and/or 40 hours in a workweek.

Failure to Pay All Vacation Wages

Labor Code section 227.3 states in relevant part:

[W]henever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served, provided, however, that an employment contract or employer policy shall not provide for forfeiture of vested vacation time upon termination.

Lab. Code §227.3; see *Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774.

Defendant possessed a policy providing for providing for paid vacations. Mr. Barajas and other aggrieved employees accrued vacation/PTO under Defendant's policies. However, Defendant failed to follow its own policies in the accrual of vacation/PTO and failed to pay Mr. Barajas and other aggrieved employees all vacation/PTO pay that was due to them at the termination of their employment after such vacation/PTO pay vested. (*Suastez v. Plastic Dress-up Co.* (1982) 31 Cal.3d 774 [vacation entitlements constitute deferred wages which vests as labor is rendered and is due to employees at a pro rata share without any reduction or loss based on conditions imposed by the employer].) Defendant's vacation policies and procedures were applied to Mr. Barajas and other aggrieved employees and resulted in Mr. Barajas and other aggrieved employees not receiving all wages due to them in violation of Labor Code section 227.3.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Barajas and other aggrieved employees to take all required rest periods. See Labor Code §§ 226.7 and 516; Wage Order 9, § 12. Specifically, Mr. Barajas worked shifts in excess of 3.5 hours, but was never provided with a paid rest period for every 4-hour period worked, or major fraction thereof. As a result, Mr. Barajas and other aggrieved employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. See Labor Code § 226.7 ("If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest period is not provided.")

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Barajas and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other

things, underpaid minimum and overtime wages, vacation time wages, and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Barajas and similarly aggrieved employees was willful and, consequently, entitles Mr. Barajas and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendant failed to pay their final wages after their separation, up to a maximum of thirty days.

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Barajas and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, total gross wages earned, total net wages earned, vacation time wages, and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendant's failure to furnish Mr. Barajas and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, vacation time wages, and rest period wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Barajas will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Barajas' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Barajas and other aggrieved employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Barajas and other aggrieved employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code § 227.3 by failing to pay accrued vacation time wages that were due to Mr. Barajas and other aggrieved employees at the termination of their employment after such vacation pay vested;
- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Barajas and other aggrieved employees;
- e) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Barajas and other aggrieved employees;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Barajas and other aggrieved employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Barajas and other aggrieved employees all earned wages at least twice during each calendar month; and

- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Barajas and other aggrieved employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW APC



Scott M. Lidman

EXHIBIT C

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JAIME BARAJAS,

Plaintiff,

vs.

SCHUMACHER CARGO LOGISTICS, INC., a
California corporation; and Does 1 through 100,

Defendants.

Case No. 21STCV04851

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt warehouse employees of Defendant Schumacher Cargo Logistics, Inc. who worked for Defendant Schumacher Cargo Logistics, Inc. in California at any time from February 5, 2017 through **[insert date of preliminary approval]**. Collectively, these employees will be referred to as "Settlement Class members."

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the "Settlement") in *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*, Case No. 21STCV04851 (the "Lawsuit"). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant's records show that you were employed by Schumacher Cargo Logistics, Inc. ("Schumacher" or "Defendant") as a non-exempt warehouse employee in California between February 5, 2017 and **[insert date of preliminary approval]**. For purposes of this Settlement Agreement, the "Class Period" shall mean the time period of February 5, 2017 through **[insert date of preliminary approval]**.

Based on Defendant's records, and the Parties' current assumptions, **your Individual Settlement Payment is estimated to be \$_____ (before taxes and withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amounts you may receive may be different and will depend on a number of factors.

You will automatically be mailed both amounts in one check if you do nothing and continue to be a member of the Settlement Class. You will only receive a check in the amount of your Individual PAGA Payment if you exclude yourself from the Settlement (and will be bound by the release of PAGA claims). Estimates of your payment are contained in the "Notice of Settlement Award," which is the last page of this Notice.

The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully and forever completely release and discharge Defendant, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, as well as its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys, (collectively the "Released Parties"), from all claims, demands, rights, liabilities and causes of action that were pled in the operative Third Amended Complaint in the Action, or which could have been pled in the Third Amended Complaint in the Action based on the factual allegations therein, that arose during the Class Period including, but not limited to the following claims: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime wages owed; (c) failure to provide meal periods, or pay premium pay for non-compliant meal periods; (d) failure to authorize and permit all rest periods, or pay premium pay for non-compliant rest periods; (e) failure to pay all vacation wages; (f) failure to provide accurate, itemized wage statements; (g) failure to pay all wages owed upon termination; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above (collectively, the "Released Claims"). The period of the Release shall extend to the limits of the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Release Parties from all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letters to the Labor & Workforce Development Agency (“LWDA”) dated February 5, 2021 and December 23, 2021 and the operative Third Amended Complaint: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime wages owed; (c) failure to provide meal periods, or pay premium pay for non-compliant meal periods; (d) failure to authorize and permit all rest periods, or pay premium pay for non-compliant rest periods; (e) failure to pay all vacation wages; (f) failure to provide accurate, itemized wage statements; (g) failure to pay all wages owed upon termination (collectively, “PAGA Released Claims”).

The time period of the PAGA Released Claims is defined as the time period of February 5, 2020 through [insert date of preliminary approval] (“PAGA Period”)

The Parties acknowledge that under the release, the right of the LWDA to investigate the released PAGA claims is not released, but Released Claims do include any claims for penalties by a Class Member as a result of any such LWDA investigation, and Class Members are waiving their right to act as a private attorney general as to the Released Claims.

You cannot submit a Request for Exclusion from the PAGA Release.

The release identified herein shall only be effective following Defendant’s payment of the Gross Settlement Amount and all employer-side taxes in full.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of individual workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

PLEASE KEEP THE SETTLEMENT ADMINISTRATOR ADVISED OF ANY CHANGE OF YOUR ADDRESS.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, and also the proportionate number of workweeks you have worked during the PAGA Period. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award (consisting of both the Individual Settlement Payment and Individual PAGA Payment), is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. The dispute may be mailed to the Settlement Administrator, Simpluris, Inc. at P.O. Box 26170, Santa Ana, California 92799, or it may be faxed (714-824-8591) or emailed (customersupport@simpluris.com). **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator’s decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion from the Class Action Settlement” letter or card postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE BARAJAS V. SCHUMACHER LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Mail the Request for Exclusion directly to the Settlement Administrator at P.O. Box 26170, Santa Ana, California 92799. Alternatively, the Request for exclusion may be faxed to the Settlement Administrator at (714-824-8591) or emailed to (customersupport@simpluris.com).

If you submit a Request for Exclusion, you will not be bound by the Settlement Agreement, except for the PAGA Payment and PAGA Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the

PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between February 5, 2020 and [insert date of preliminary approval].

Do not submit both a Dispute over the number of your workweeks and a Request for Exclusion. If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you must mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections can be in writing and can be mailed to Simpluris, Inc. at P.O. Box 26170, Santa Ana, California 92799 and must be postmarked on or before <<RESPONSE DEADLINE>>. Written objections may also be faxed to the Settlement Administrator at (714-824-8591) or emailed (customersupport@simpluris.com).

Whether or not you submit a written objection or given written notice of an intent to appear, if you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department SSC-7 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. You have the right to appear either remotely, in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement can, but is not required to, file a notice of appearance with the Court and serve counsel for all parties on or before <<RESPONSE DEADLINE>>. All objections or other correspondence must state the name and number of the case, which is *Jaime Barajas v. Schumacher Cargo Logistics, Inc.*, Los Angeles County Superior Court Case No. 21STCV04851.

Any Settlement Class member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court's social distancing and mandatory face covering requirements, as well as any other orders related to COVID-19. All such rules and orders can be located at the Court's website: www.lacourt.org. For more information on how to appear remotely, please visit the Court's website at <http://www.lacourt.org/division/civil/CI0040.aspx> and <https://www.lacourt.org/lacc/>.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is this case about?

Plaintiff Jaime Barajas ("Plaintiff") brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former non-exempt warehouse employees who worked for Defendant in California at any time beginning February 5, 2017. Plaintiff is known as the "Class Representative," and his attorneys, who also represent the interests of all Settlement Class members, are known as "Class Counsel."

The Lawsuit alleges that Schumacher failed to provide Settlement Class members all minimum and/or overtime wages, failed to provide all legally required meal periods, failed to authorize and permit all legally required rest periods, and failed to pay all vacation wages. As a result of the foregoing alleged violations, Plaintiff also alleges that Schumacher failed to provide accurate, itemized wage statements, failed to pay all wages upon termination of employment, engaged in unfair business practices and is liable for civil penalties under the California Labor Code Private Attorney General Act ("PAGA").

Schumacher denies that it has done anything wrong. Schumacher further denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Schumacher, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Schumacher has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. After Schumacher provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are their belief the settlement is fair, as well as with consideration of the defenses to liability potentially available to Schumacher, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Schumacher, your decision about whether to participate in the Settlement will not affect your employment. California law and Schumacher's policies strictly prohibit unlawful retaliation. Schumacher will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class Members: LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	Attorneys for Defendant Schumacher: NEWHOUSE LAW GROUP PC Michael R. Newhouse (SBN 211204) mnewhouse@newhouselawgroup.com Suzanne M. Henry (SBN 204772) shenry@newhouselaw.com 1800 Century Park East, 6th Floor Los Angeles, CA 90067 Tel: (310) 684-3162 Fax: (310) 694-3076
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Depending on what action you take in connection with the Settlement, you may need to contact or submit documents to the Settlement Administrator. You can do this as follows:

SIMPLURIS, INC.
P.O. Box 26170, Santa Ana, California 92799
E-MAIL: customersupport@simpluris.com
FAX: 714-824-8591
TELEPHONE: 888-369-3780

What are the terms of the Settlement?

On [INSERT DATE OF PRELIMINARY APPROVAL], the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt warehouse employees who worked for Schumacher in California at any time from February 5, 2017 through [insert date of preliminary approval]. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below.

Defendant has agreed to pay \$500,000.00 (the "Gross Settlement Amount") to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys' fees and expenses, payment to the Labor Workforce Development Agency ("LWDA"), settlement administration costs, and the Class Representative's Service Award. Defendant's share of payroll taxes associated with any wage payments to Settlement Class members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

The following deductions from the Gross Settlement Amount will be requested by the parties and the amounts of the deductions will be decided at the Final Approval Hearing:

Settlement Administration Costs. The Court has approved Simpluris, Inc. to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$3,500.00 from the Gross Settlement Amount to pay the Settlement administration costs. The first \$3,500.00 paid by Defendant under this Settlement shall be earmarked to pay for the Settlement Administration costs. The Settlement Administrator shall be authorized to pay itself from this amount upon receipt from Defendant.

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$166,666.67, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit. Class Counsel's fees and costs awarded by the Court shall be paid by the Settlement Administrator to Class Counsel from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class members. Plaintiff's Service Award awarded by the Court shall be paid by the Settlement Administrator to Plaintiff from the Gross Settlement Amount only after Settlement Class member's Settlement Awards have been mailed to Settlement Class members and the Settlement Administrator has been paid all costs and fees awarded by the Court.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$20,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act ("PAGA"). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$15,000.00 will be payable to the LWDA, and the remaining twenty-five percent (25%), or (\$5,000.00), will be payable to certain Settlement Class members as the "PAGA Amount," as described below.

Calculation of Individual Settlement Class Members' Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount ("NSA"), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$284,833.33, to be shared among an estimated [insert total number of class members] Settlement Class members. The NSA will be divided as follows:

- (i) The Net Settlement Amount shall be allocated to Settlement Class members who worked during the Class Period, as follows: each participating Settlement Class member shall receive a proportionate settlement share based upon the number of workweeks worked as a non-exempt warehouse employee during the Class Period, the numerator of which is the Settlement Class member's total workweeks worked as a non-exempt warehouse employee during the Class Period, and the denominator of which is the total workweeks worked as non-exempt warehouse employees by all Settlement Class members (who do not opt out) who worked during the Class Period.
- (ii) In addition, Five Thousand Dollars and Zero Cents (\$5,000.00) of the Gross Settlement Amount has been designated as the "PAGA Amount" as described above. Each Settlement Class member who was employed by Defendant at any time from February 5, 2020 to [insert date of preliminary approval] (the "PAGA Period") of this Settlement shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked as a non-exempt warehouse employee during the PAGA Period. Each Settlement Class member who worked during the PAGA Period shall receive a portion of the PAGA Amount, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the Settlement Class members' number of workweeks worked as a non-exempt warehouse employee during the PAGA Period, and the denominator of which is the total number of workweeks worked by all Settlement Class members as non-exempt warehouse employees during the PAGA Period. You will receive this payment even if you submit a request for exclusion from the Settlement, and will still be bound by the PAGA release.

Payment by Defendant of Gross Settlement Amount. The Gross Settlement Amount shall be deposited by Defendant into a qualified settlement fund set up by the Settlement Administrator for the benefit of participating Settlement Class members. Defendant agrees to deposit and pay the Gross Settlement Amount in two (2) installments. The first installment in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) will be paid by Defendant to the Settlement Administrator within ten (10) calendar days after the Effective Date, defined as (a) the Court's final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; (c) the final resolution of any appeal that has been filed.

Defendant shall then pay to the Settlement Administrator the second and final installment of the Gross Settlement Amount in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000) no later than six (6) months after the first payment is made. The employer-side taxes to be paid by Defendant separate and apart from the Gross Settlement Amount shall be deposited with the Settlement Administrator no later than five (5) calendar days after the second and final payment is made by Defendant under the terms of the Settlement. The Settlement Administrator shall hold all portions of the Gross Settlement Amount in an interest-bearing account for benefit of the Settlement Class until the time for disbursement.

Defendant has requested this payment schedule as part of the negotiated Settlement. Please be patient in awaiting your settlement payment because the Gross Settlement Amount will be paid over 2 installments over a six-month period following the Effective Date. **PLEASE KEEP THE SETTLEMENT ADMINISTRATOR ADVISED OF ANY CHANGE OF YOUR ADDRESS.**

In the event that the Gross Settlement Amount and all employer-side taxes are not paid in full as required under the Settlement, after Defendant's counsel receives written notice of the default, and given ten (10) days to cure, then at Plaintiff's option the Settlement, Final Approval Order, and Judgment may be enforced by remedies available and Defendant agrees to the payment of reasonable attorneys' fees and costs necessary in enforcing the Agreement. Additionally, after Defendant's counsel receives written notice of the default, and given ten (10) days to cure and does not cure, all further payments owed under the Settlement shall be accelerated and due and payable immediately. Except with regard to the Settlement Administrator costs as explained more fully above, and unless otherwise ordered by the Court, there shall be no other disbursements of the Gross Settlement Amount unless and until the Court has issued final approval of the Settlement, and the Gross Settlement Amount and employer-side taxes have been fully funded.

Within ten (10) calendar days following Defendant's deposit of the final installment and full Gross Settlement Amount and all employer-side taxes with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Payments and Individual PAGA Payments and provide the same to counsel for the Parties for review and approval. Within seven (7) calendar days of approval by counsel for the Parties, the Settlement Administrator will prepare and mail Individual Settlement Payments and Individual PAGA Payments, less applicable taxes and withholdings, to participating Settlement Class members who did not exclude themselves from the Settlement. Those Class members who submitted a valid exclusion shall still be mailed their Individual PAGA Payment within seven (7) calendar days of approval of the calculations by the Parties. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Defendant's counsel. Individual Settlement Payments and/or Individual PAGA Payments will be mailed to all Class members, including to those Class members whose Class Notice was returned as undeliverable. Additionally, before Settlement Awards are mailed, the Settlement Administrator will update addresses of recipients using the National Change of Address Database. For returned checks directed to Class members whose Class Notice was returned as undeliverable and no new address was ascertained, no further steps shall be taken by the Settlement Administrator with respect to these checks. As to other checks returned, the Settlement Administrator will use skip trace or other usual means to ascertain a new address (and direct contact, if the Class member is still employed by Defendant). The Settlement Administrator will re-mail checks to new addresses ascertained thereby within seven business days of the return of the check. The void date of all class checks will be stated on the checks and shall be 180 days from the date of the mailing.

You must cash your settlement check by the expiration date stated on the check. Your failure to cash your check by the expiration date will result in you not receiving the amount represented by your check because the check will become automatically null and void (but you will still be bound by the settlement and releases). In order to obtain the amount represented by the voided check, you would need to timely make a claim to the State Controller's Office, Unclaimed Property Division.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment shall be allocated as follows: Sixty-Seven percent (67%) as penalties and interest; and Thirty-Three percent (33%) as wages. Each Individual PAGA Payment shall be allocated as 100% penalties. But please be advised that you are responsible for all taxes, penalties and interest owed with respect to your settlement payment, regardless of the foregoing allocations. The Settlement Administrator, Defendant, its counsel, Class Representative and Class Counsel are not providing any financial or tax advice. Accordingly, Class Members should consult with their own financial or tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

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

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department SSC-7 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class members. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (www.simpluris.com). Notice of the Court's final judgment will also be posted on the Settlement Administrator's website.

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 111 N. Hill Street, Los Angeles, California 90012, during regular court hours.

Further information, including court filings, may also be obtained through contacting Class Counsel or the Settlement Administrator.

PLEASE DO NOT CALL OR WRITE THE COURT, SCHUMACHER, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM APPROVAL DATE>>.

PLEASE KEEP THE SETTLEMENT ADMINISTRATOR ADVISED ON ANY CHANGE OF ADDRESS

NOTICE OF SETTLEMENT AWARD

JAIME BARAJAS v. SCHUMACHER CARGO LOGISTICS, INC.
LOS ANGELES COUNTY SUPERIOR COURT CASE No. 21STCV04851

Please complete, sign, date and return this Form to Simpluris, Inc., P.O. Box 26170, Santa Ana, CA 92799 **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute any of the items listed in Section (III), below. It is your responsibility to keep a current address on file with the Claims Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Individual Settlement Payment:

According to the records of Schumacher Cargo Logistics, Inc. ("Schumacher"):

- (a) You worked a total of ____ workweeks for Schumacher during the period February 5, 2017 through [date of preliminary approval]; and
- (b) You worked a total of ____ workweeks for Schumacher during the period February 5, 2020 through [date of preliminary approval].

Based on the above, your Individual Settlement Payment is estimated to be \$_____ (before taxes and withholdings).

Based on the above, your Individual PAGA Payment is estimated to be \$_____ (for which no taxes or withholdings shall be deducted)

The actual amounts you may receive may be different and will depend on a number of factors.

(IV) If you disagree with any of the information contained in Section III (a)-(b) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this form:

If you dispute the above information from Schumacher's records, Schumacher's records will control unless you are able to provide documentation that establishes that Schumacher's records are mistaken. If there is a dispute about whether Schumacher's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Parties and the Settlement Administrator as described in the "Notice of Pendency of Class Action and Proposed Settlement" that accompanies this Form. Any unresolved disputes will be submitted to the Court for a final determination.

ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MAY BE MAILED AND POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>> OR MAY BE FAXED (714-824-8591) OR EMAILED (customersupport@simpluris.com) NO LATER THAN <<RESPONSE DEADLINE>>