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

MAGDALENA CRUZ, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

SPS TECHNOLOGIES, LLC dba AIR  
INDUSTRIES COMPANY, a Pennsylvania  
limited liability company; PRECISION  
CASTPARTS CORP.; an Oregon corporation;  
AIR INDUSTRIES CORPORATION, a  
California corporation; and DOES 1 through  
100, inclusive,

Defendants.

Case No. 30-2021-01202173-CU-OE-CJC

*[Assigned for all purposes to the Hon. Glenda  
Sanders, Dept. CX101]*

**DECLARATION OF ELIZABETH  
NGUYEN IN SUPPORT OF MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

Date: September 23, 2022  
Time: 1:30 p.m.  
Dept. CX101

[Complaint Filed: May 21, 2021]  
[Trial Date None Set]

1 I, ELIZABETH NGUYEN, declare as follows:

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

7 2. I am a 2005 graduate of Loyola Law School. During law school, I worked as an extern for  
8 the Honorable Erithe A. Smith, U.S. Bankruptcy Court for the Central District of California. During law  
9 school, I also worked as a law clerk in the Enforcement Unit of the Office of the Chief Trial Counsel for  
10 the State Bar of California.

11 3. Since graduating from law school, my practice has focused almost exclusively on  
12 employment litigation. In October 2007, I began working as an associate attorney at the international law  
13 firm of Littler Mendelson P.C., at its Los Angeles office, which according to its website is the “largest  
14 law firm in the world exclusively devoted to representing management in employment, employee benefits  
15 and labor law matters.”

16 4. In June 2012, I left Littler Mendelson to work at the Los Angeles office of Reed Smith  
17 LLP. During my employment at Reed Smith, I worked exclusively in the labor and employment practice  
18 group. In June 2013, I returned to Littler Mendelson as an associate attorney, was promoted to Shareholder  
19 in 2015, and was elevated to participating Shareholder in 2017. Since October 2007, my practice has been  
20 and continues to be exclusively labor and employment law, with a strong emphasis on wage and hour  
21 class actions venued in both state and federal courts. During this time period and my legal career in  
22 general, I also worked on a number of single and multi-plaintiff wage and hour matters as well. During  
23 my employment at Littler Mendelson, I was a member of its Class Action Practice Group.

24 5. During my employment at Littler Mendelson, I played a significant role in the class actions  
25 that I was staffed on, and was primarily responsible for managing the litigation both in my role as a Senior  
26 Associate and as a Shareholder. In particular, I received a wide-array of wage and hour class action  
27 experience performing the following types of tasks: drafting demurrers, motions to strike and/or dismiss;  
28 removing actions from state court to federal court; drafting and responding to written discovery; drafting

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

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

- 15 ► *Branch v. PM Realty Group, Inc.* Case No. BC575759, Los Angeles Superior  
16 Court, County of Los Angeles, Honorable Ann Jones, presiding.
- 17 ► *Herrera v. Pharmavite, LLC*, Case No. BC599201, Los Angeles Superior Court,  
18 County of Los Angeles, Honorable Judge Carolyn Kuhl, presiding.
- 19 ► *Dugan v. Stoneledge Furniture, LLC*, Case No. 16-cv-01125-PA-FFMx, United  
20 States District Court, Central District of California, Honorable Judge Percy  
21 Anderson, presiding.
- 22 ► *Klune v. Stoneledge Furniture, LLC*, Case No. 14-cv-03986-PA-FFMx, United  
23 States District Court, Central District of California, Honorable Judge Percy  
24 Anderson, presiding.
- 25 ► *Diaz v. ABM Industries, Inc.; Ampco Parking*, Case No. BC362932, California  
26 Superior Court, County of Los Angeles, Honorable Judge Jane Johnson, presiding.<sup>1</sup>

27  
28 <sup>1</sup> This matter was consolidated and litigated collectively with Case Nos. BC380923, BC 381523 and BC 406663.

- 1           ▶ *Adams v. Luxottica Retail North America, Inc.*, Case No. 07CC01346, California  
2           Superior Court, County of Orange, Honorable Judge Thierry Patrick Colaw,  
3           presiding.
- 4           ▶ *Page v. Luxottica Retail North America, Inc.*, Case No. FCS041512, California  
5           Superior Court, County of Solano, Honorable Judge Paul Berman, presiding.
- 6           ▶ *Parker v. FedEx National LTL, Inc.*, Case No. 11-CV-006380-DSF-FFM, United  
7           States District Court, Central District of California, Honorable Judge Dale Fischer,  
8           presiding.
- 9           ▶ *Cordova v. Comerica Bank, et al.*, Case No. 09-cv-08905-MMM-PLAx, United  
10          States District Court, Central District of California, Honorable Judge Margaret  
11          Morrow, presiding.
- 12          ▶ *Bernal v. Comerica Bank, et al.*, Case No. 11-cv-01298-JAH-BGS, United States  
13          District Court, Central District of California, Honorable Judge Margaret Morrow,  
14          presiding.
- 15          ▶ *Granata v. Comerica Bank, et al.*, Case No. 37-2011-00086316-CU-OE-CTL,  
16          California Superior Court, County of San Diego, Honorable Judge Jeffrey B.  
17          Barton, presiding.
- 18          ▶ *Mathews v. Comerica Bank, et al.*, Case No. 111CV194781, California Superior  
19          Court, County of Santa Clara.
- 20          ▶ *Gallegos v. Comerica Bank, et al.*, Case No. BC455515, California Superior Court,  
21          County of Los Angeles, Honorable Judge Terry Green, presiding.
- 22          ▶ *Rumohr v. Comerica Bank, et al.*, Case No. CGC-11-508433, California Superior  
23          Court, County of San Francisco.
- 24          ▶ *Robertson v. FedEx National LTL, Inc.*, Case No. 09-CV-05016-DSF-FFM, United  
25          States District Court, Central District of California, Honorable Judge Dale Fischer,  
26          presiding.
- 27
- 28

1                   ►     *Wittman v. FedEx National LTL, Inc.*, Case No. 09-CV-03663-DSF-FFM, United  
2                             States District Court, Central District of California, Honorable Judge Dale Fischer,  
3                             presiding.

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

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

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

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

27 10. Defendant SPS Technologies, LLC dba Air Industries Company (hereinafter “SPS” or  
28 “Defendant”) manufactures high-strength precision fasteners used by leading airframe, engine,

spacecraft, and missile manufacturers. On March 16, 2021, Plaintiff submitted a letter to the California Labor & Workforce Development Agency (“LWDA”) and SPS of her intention of filing a PAGA claim based on certain labor code violations. On May 21, 2021, after exhausting her administrative remedies, Plaintiff filed a representative class action complaint against SPS in Orange County Superior Court.<sup>2</sup> Subsequently, on May 23, 2022, pursuant to the Parties’ joint stipulation and as part of the Parties’ negotiated resolution, Plaintiff filed a First Amended Class and Representative Action Complaint for the following causes of action: (1) failed to pay all minimum wages owed; (2) failed to pay all overtime wages owed; (3) failed to provide all legally required meal periods; (4) failed to authorized and permit all legally required rest periods; (5) failed to provide accurate, itemized wage statements; (6) failed to pay all wages owed upon termination; (7) engaged in unlawful business practices; (8) is liable for civil penalties under the PAGA. A true and correct copy of Plaintiff’s letter to the LWDA and SPS is attached hereto as **Exhibit 1**.

11. The Parties engaged in written discovery. Plaintiff propounded and SPS responded to document requests, form and special interrogatories. After agreeing to participate in early mediation, SPS informally produced time records and payroll data for the putative class, as well as its wage and hour policies and other relevant documents and information relevant to the claims alleged in advance of mediation. After the detailed review of the payroll and time records and other documents and policies produced by SPS, 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 SPS’s defenses thereto, if a settlement could not be reached.

12. On February 9, 2022, after extensive research and analysis, a mediation was held with Lou Marlin, Esq. a well-respected wage and hour class action mediator. During mediation, the parties vigorously debated their opposing legal positions with respect to PAGA and class claims, the likelihood of certification of Plaintiff’s claims, and the legal basis for the claims and defenses. Ultimately, the Parties agreed in principle on a class-wide resolution. In the months that followed, the parties finalized the terms of settlement and executed the Class and Representative Stipulation of Settlement (“Settlement”). A true

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<sup>2</sup> Plaintiff initially filed this action against two other companies, Precision Castparts Corp and Air Industries Corporation. However, on July 7, 2021 and September 21, 2021, Plaintiff submitted a request for dismissal and the Court entered the dismissal without prejudice against these two entities. Therefore, SPS remains the only Defendant in this action.

and correct copy of the Settlement executed by Plaintiff and her counsel is attached hereto as **Exhibit 2**. The proposed Notice documents are attached as Exhibit A to the Settlement. Further SPS provide a declaration confirming the data and representations made during the Parties' mediation concerning the claims and allegations that were not yet asserted but were evaluated, mediated and ultimately settled were true and correct.

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

|                                                                |                     |
|----------------------------------------------------------------|---------------------|
| <b>Gross Settlement Amount ("GSA"):</b>                        | <b>\$550,000.00</b> |
| Minus Court-approved attorneys' fees (1/3 of GSA):             | \$183,333.33        |
| Minus Court-approved, verified costs (up to):                  | \$30,000.00         |
| Minus Court-approved Class Representative Enhancement (up to): | \$5,000.00          |
| Minus Settlement Administration Costs:                         | \$15,000.00         |
| Minus LWDA payment:                                            | \$37,500.00         |
| <b>Net Settlement Amount ("NSA"):</b>                          | <b>\$279,166.67</b> |

Defendant shall pay the Gross Settlement Amount and the employer's side taxes within thirty (30) days after the Final Settlement Date, which means the date on which the Final Judgment approval the Settlement becomes final. *See* Settlement, ¶ I.AA.

After deducting amounts for the Court-approved attorneys' fees and verified costs, Enhancement to Plaintiff, Settlement Administrator costs, and the LWDA payment, the Settlement requires SPS to pay a Net Settlement Amount ("NSA") of at least **\$279,166.67** to all Class Members who do not timely opt out. This amount does not include the \$12,500.00 Aggrieved Employee Share to be paid to the Aggrieved Employees, who may not exclude themselves from their Aggrieved Employee Payment Share.

14. According to SPS, there are approximately 691 total Class Members defined as: All current and former non-exempt, hourly employees of Defendant SPS Technologies, LLC dba Air Industries Company who worked in California at any time between September 20, 2019 and the Preliminary Approval Date. For purposes of this Settlement Agreement, the "Class Period" shall mean the time period between September 20, 2019 and the Preliminary Approval Date. Thus, the average Individual Settlement Awards (assuming all Class Members worked the same length of time) is projected to be approximately

1 \$404.00<sup>3</sup>. The lowest estimated individual payment is approximately \$5.26 (if a Class Member worked  
2 one week during the relevant time period)<sup>4</sup> and the highest estimated individual payment is approximately  
3 \$825.82.<sup>5</sup>

4 The proposed Aggrieved Employees is defined as “all any and all persons who are or were non-  
5 exempt employees employed by Defendant in California at any time during the PAGA Period of  
6 September 20, 2019 through the Preliminary Approval Date.” For purposes of this Settlement Agreement,  
7 the “PAGA Period” shall mean the time period between September 20, 2019 through the Preliminary  
8 Approval Date. Using September 16, 2022 as the Preliminary Approval Date, the average estimated  
9 Aggrieved Employee PAGA Share is \$18.09, with the lowest being approximately \$0.41<sup>6</sup> (if an Aggrieved  
10 Employee only worked one pay period) and the highest being approximately \$32.39.<sup>7</sup>

11 15. Class Members’ claims arise from SPS’s common, uniform policies and practices that  
12 applied to Class Members during the class period. Specifically, Plaintiff alleged that SPS’s common and  
13 uniform policies and practices resulted in the following violations: (1) failure to pay all minimum wages  
14 owed; (2) failure to pay all overtime wages owed; (3) failure to provide all legally required meal periods;  
15 (4) failure to authorized and permit all legally required rest periods; (5) failure to provide accurate,  
16 itemized wage statements; (6) failure to pay all wages owed upon termination; (7) unlawful business  
17 practices; and (8) liability for civil penalties under the Labor Code Private Attorneys General Act of 2004  
18 (“PAGA”).

19 16. As described in the accompanying Motion for Preliminary Approval, Plaintiff alleges that

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20 <sup>3</sup> This amount does not include the Aggrieved Employee PAGA Share for Aggrieved Employees.

21 <sup>4</sup> For Settlement, the Parties estimated that there are 48,192 workweeks worked by the Class Members during the Class Period  
22 and the escalator clause would be triggered if there were more than 53,031 workweeks. Based on the Class Period being  
23 September 20, 2019 through September 23, 2022 (approximate date for hearing on motion for Preliminary Approval), the pro  
24 rata share per workweek is approximately at least \$5.26/workweek (\$279,166.67 estimated NSA/53,031 workweeks). Thus, if  
25 a Class Member worked one week during the Class Period, his/her pro rata share would be \$5.26.

26 <sup>5</sup> This is based on the assumption that a Class Member worked the entire time between September 20, 2019 and September 23,  
27 2022, which is approximately 157 workweeks. Therefore, the employee would receive approximately \$825.82 (157 x \$5.26).  
28 However, the class period goes through the date of preliminary approval which has yet to be determined. Accordingly, the  
highest estimate payment is likely to be slightly lower.

There are approximately 30,567 bi-weekly pay periods worked between September 20, 2019 and September 23, 2022.  
Therefore, the Aggrieved Employee PAGA Share is approximately \$0.41/pay period (12,500 / 30,567). Thus, if an Aggrieved  
Employee only worked on pay period, his/her pro rata share would be \$0.41.

<sup>7</sup> This is based on the assumption that an Aggrieved Employee worked the entire time between September 20, 2019 and  
September 23, 2022, which is approximately 157 workweeks and received approximately 79 bi-weekly wage statements.  
Therefore, the employee would receive approximately \$32.39 (79 x \$0.41). However, the PAGA Period goes through the date  
of preliminary approval which has yet to be determined. Accordingly, the highest estimate payment is likely to be slightly  
higher

1 she and other Class Members were not paid for all time worked. Specifically, Plaintiff alleges that SPS's  
2 timekeeping policies and practices required Plaintiff and other non-exempt employees to clock in and  
3 begin working approximately five (5) minutes before their scheduled start time and continue working  
4 approximately five (5) minutes after the end of their scheduled end time for which they did not receive  
5 pay. Thus, Plaintiff alleges that SPS would unlawfully shave their work time and/or round their work  
6 time such that they would not be fully paid for all time worked. Plaintiff also alleges that this time shaving  
7 and/or rounding practice utilized by SPS was not-even handed over time and would almost exclusively  
8 round and shave in SPS's favor such that the employees were routinely underpaid for their time worked.  
9 Based on the records and information provided by SPS in connection with mediation and settlement,  
10 SPS's rounding practice was in effect from September 20, 2019 until July 11, 2020, which is  
11 approximately 21,192 workweeks during the relevant time period. Accordingly, SPS's exposure for its  
12 alleged unlawful rounding is approximately \$383,448 (21,192 workweeks x .83 (50 mins workweek/10  
13 mins per shift) x \$21.80 (average hourly rate)).

14 17. SPS contends that it compensated Class Members for all of their time worked. SPS also  
15 contends that its rounding practices were lawful, and any unpaid time was *de minimis* and therefore non-  
16 compensable. SPS also contends that Plaintiff and the other non-exempt employees were not working  
17 during these times and it ceased its rounding practices in July 2020. SPS further asserts that Plaintiff  
18 would be unable to certify a rounding class given the individualized inquiries that would be required, and  
19 also that SPS's rounding mechanism was, according to it, allegedly facially neutral. In light of these  
20 defenses, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and an  
21 additional 30% to account for SPS's defenses on the merits, to arrive at an estimated exposure of  
22 \$147,627.48.

23 18. Plaintiff further alleges that she and other Class Members were not properly compensated  
24 for all overtime hours worked. Specifically, for at least a portion of the time period relevant to her claims,  
25 Plaintiff and other non-exempt employees received non-discretionary bonuses and/or other forms of pay  
26 not excludable as a matter of law when calculating an employee's regular rate (hereinafter the  
27 aforementioned forms of pay are collectively referred to as "Incentive Pay"). Despite SPS's payment of  
28 Incentive Pay to Plaintiff and other non-exempt employees, SPS failed to include all forms of Incentive

1 Pay when calculating their regular rate of pay. In addition, throughout Plaintiff's employment, Plaintiff  
2 alleges she and other non-exempt employees worked shifts with varying pay rates. Thus, on the occasion  
3 when Plaintiff worked in excess of eight (8) hours per workday and/or more than forty (40) hours per  
4 workweek, Plaintiff received various overtime rates of pay for her overtime hours worked, depending on  
5 her shift. However, Plaintiff alleges that SPS failed to use her weighted average of overtime pay (instead  
6 paying overtime at the rate of 1.5 times the hourly rate in effect at the time the overtime was worked),  
7 reflecting Plaintiff's varying pay rates, when calculating Plaintiff's regular rate of pay for a workweek,  
8 thereby causing Plaintiff to be underpaid for her overtime hours worked. Therefore, Plaintiff estimates  
9 SPS's maximum exposure at approximately \$58,659.36.

10 19. SPS contends that it compensated non-exempt employees for all of their time worked. SPS  
11 also contends that any bonuses paid were discretionary. SPS further asserts that the data confirms that it  
12 did not pay Plaintiff nor any other Class Members different rates of pay during the same pay period during  
13 the Class Period, and therefore there is zero liability on this claim. SPS also contends that Plaintiff would  
14 be unable to certify a rounding class given the individualized inquiries that would be required.  
15 Accordingly, based on these risks, Plaintiff discounted the maximum exposure by 75% for the risk of non-  
16 certification, and an additional 90% to account for SPS's defenses on the merits, to arrive at an estimated  
17 exposure of \$1,466.48.

18 20. Plaintiff alleges that she and Class Members were not provided with all legally-required  
19 off-duty meal periods. Specifically, Plaintiff alleges that she and other Class Members were not timely  
20 provided all required second meal periods when they worked in excess of 10.0 hours. Based on the  
21 timekeeping data produced in connection with mediation, Plaintiff contends that there were no recorded  
22 second meal periods. Plaintiff also alleges that SPS failed to pay meal period premium wages at the correct  
23 rate of pay. Therefore, Plaintiff calculated SPS's maximum exposure for the alleged second meal period  
24 violations at approximately \$1,823,069 ((83,627 shifts over 10.0 hours with non-compliant meal period x  
25 \$21.80 average hourly rate).

26 21. SPS counters that it has always provided non-exempt employees with an opportunity to  
27 take legally compliant meal periods, and any non-compliant meal periods reflected in employee  
28 timekeeping records were solely the result of employee choice, rather than any policy or practice of SPS.

SPS points out that it is only required to “provide” the opportunity to take meal periods, not “ensure” meal periods are taken, and that they have always done so. SPS also asserts that approximately 97% of the Class, including Plaintiff signed second meal period waivers and that the Class preferred to waive the second meal period rather than worker a longer shift in order to take a second 30 minute meal period. SPS also contends that meal period premiums were paid at the base rate of pay for only 789 of the relevant pay periods and is therefore *de minimis* such that the Court would not try this claim on a class-wide or PAGA representative basis. Finally, SPS contends Plaintiff’s meal period claim is not suited for class certification, since individual inquiries would be required to assess which employees took non-compliant meal periods, how many meal periods were non-compliant or missed, and the reasons why a particular employee took a non-compliant meal period or missed a meal period during a particular shift. Accordingly, Plaintiff discounted the maximum exposure by 45% for the risk of non-certification, and an additional 70% to account for SPS’s defenses on the merits (including a potential inability to pay) to arrive at an estimated exposure of approximately \$300,806.39.

22. Plaintiff alleges that she and other Class Members were not authorized and permitted to take all required paid rest periods due to SPS’s rest period policies and practices that fail to authorize and permit all rest periods for every four hours worked, *or major fraction, thereof*. Specifically, Plaintiff alleges that due to work demands imposed by SPS, she was not authorized and permitted to take third rest periods on shifts worked in excess of 10.0 hours. Based on the records provided by SPS in connection with mediation, 83,756 shifts were in excess of 10.0 hours. Accordingly, Plaintiff calculated SPS’s maximum exposure at \$1,825,881 (83,756 shifts over 10 hours x \$21.80 average hourly rate).

23. SPS contends it has always maintained and enforced lawful rest period policies and practices, and that Class Members were authorized and permitted to take all off-duty rest periods in compliance with California law. Further, SPS argues that Plaintiff’s rest period claim is inherently unsuited for class treatment as it requires an individualized inquiry into whether each Class Member was in fact authorized and permitted to take a compliant rest period, which would devolve into an unmanageable series of mini-trials. Accordingly, Plaintiff discounted the maximum exposure by 40% for the risk of non-certification, and an additional 55% to account for SPS’s defenses on the merits to arrive at an estimated exposure of approximately \$492,987.87.

1           24. Plaintiff alleges that SPS is also liable for waiting time penalties under Labor Code section  
2 203 as a result of its failure to pay all wages. Based on the data provided by SPS, there were  
3 approximately 341 Class Members who have separated their employment with SPS during the relevant  
4 time period who could be entitled to waiting time penalties. Therefore, Plaintiff calculated SPS's  
5 maximum exposure for waiting time penalties at approximately \$1,784,112 (341 former employees x  
6 \$21.80 [average regular rate] x 30 days x 8 hours/day).

7           25. SPS asserts it has strong defenses to the waiting time claim because there exist good-faith  
8 disputes as to Plaintiff's underlying claims, precluding imposition of penalties. Accordingly, Plaintiff  
9 discounted the maximum exposure by 45% for the risk of non-certification, and an additional 40% to  
10 account for SPS's defenses on the merits to arrive at an estimated exposure of approximately \$588,756.96.

11           26. Plaintiff further alleges that SPS issued inaccurate wage statements in violation of Labor  
12 Code § 226 as a result of the alleged unpaid wages and meal and rest period premium wages described  
13 above. Specifically, Plaintiff contends that this conduct violated Labor Code § 226(a) because the wage  
14 statements issued to Class Members did not include all hours worked and the rate at which they were being  
15 paid. Therefore, Plaintiff calculated SPS's maximum exposure for wage statement violations at  
16 approximately \$2,373,000 (( $\$50.00 \times 350$  current employees) + ( $\$100.00 \times 23,555$  wage statements)).

17           27. SPS argues that meal and rest period claims cannot support a claim for wage statement  
18 penalties. SPS further argues that its alleged wage statement violations could not be shown to be "knowing  
19 and intentional," and that Plaintiff cannot show that she or any other employee "suffer[ed] injury" as a  
20 result of the alleged wage statement violations, as required by Lab. Code § 226(e) for imposition of  
21 penalties. As such, Plaintiff discounted the calculated exposure by 75% for a risk of non-certification and  
22 an additional 65% for a risk of being unsuccessful on the merits, to arrive at an estimated total of  
23 approximately \$207,637.50.

24           28. Plaintiff also seeks civil penalties under the PAGA as a result of the foregoing alleged Labor  
25 Code violations. Plaintiff calculated SPS's maximum exposure at \$2,390,500 (23,905 pay periods x \$100  
26 initial violation rate).

27           29. SPS argues that Plaintiff's PAGA claim will fail for the same reasons that her underlying  
28 claims will fail. SPS also maintains that, given its good faith defenses, this Court would exercise its

1 discretion to substantially reduce any PAGA penalties if it were to find SPS liable for any of Plaintiff's  
2 claims. Therefore, Plaintiff discounted the maximum exposure figure by 65% for a risk of being  
3 unsuccessful on the merits, and an additional 65% to account for the possibility of this Court reducing  
4 penalties, to arrive at an estimated exposure of \$292,836.25.

5 30. Using these estimated figures for each of the claims described above, Plaintiff predicted the  
6 realistic total recovery for the Class would be approximately \$2,032,118.93. The proposed settlement of  
7 \$550,000.00 therefore represents approximately 27% of the reasonably forecasted recovery for the  
8 Settlement Class, especially in light of the fact that the initial action was limited to civil penalties under  
9 the PAGA. Preliminary approval is appropriate as the settlement will provide tangible monetary relief to  
10 Class Members, and will still provide an average recovery to Class Members of over \$400.00.

11 31. Here, Class Counsel will also apply for an attorneys' fees award of one-third of the GSA,  
12 which is currently estimated to be \$183,333.33, and up to \$30,000 in verified costs reimbursement.  
13 Plaintiff submits the requested fee is fair compensation for undertaking complex, risky, expensive, and  
14 time-consuming litigation on a purely contingent fee basis. My office has incurred substantial attorney  
15 fees conducting pre-filing investigation, analyzing Plaintiff's claims, conducting legal research,  
16 reviewing SPS's documents and policies, analyzing Class Members' timekeeping data and payroll  
17 records, preparing for and attending mediation, negotiating and revising the long-form Settlement,  
18 preparing this Motion, and otherwise litigating the case. Class Counsel expects to expend additional  
19 attorney time in attending the hearing on this Motion, overseeing the Notice process and fielding  
20 questions from Settlement Class members, preparing the final approval papers and attending the Final  
21 Approval hearing.

22 32. Plaintiff has provided written approval of the split of attorneys' fees in this action: 48%  
23 to Haines Law Group, APC, 32% to Lidman Law, APC, and 20% to Brian Mitchell, a Law Corporation.  
24 Brian Mitchell, a Law Corporation is the referring attorney.

25 33. Plaintiff will seek a service award of \$5,000.00 at the time of seeking final approval, and  
26 I believe this is reasonable given Plaintiff's efforts in this case and the risks she undertook on behalf of  
27 the Class Members, including the risk that he could be liable for SPS's costs if this case was unsuccessful.  
28 Plaintiff was integral in the prosecution of this action, by, among other things, providing substantial

1 factual information and documents to Class Counsel, participated in meetings with Class Counsel to  
2 discuss the claims and theories at issue in the litigation, and otherwise actively participating in the  
3 prosecution of their claims. In addition, Plaintiff agreed to a general release of all claims against  
4 Defendant.

5 34. Although the parties engaged in informal discovery throughout this action, the parties still  
6 had significant discovery to complete in formal litigation had the matter not settled. Moreover, the initial  
7 action was a representative PAGA action and faced the prospect of appeals in the wake of an adverse  
8 summary judgment ruling. This Settlement avoids those risks and the accompanying expense. Thus, this  
9 factor supports preliminary approval.

10 35. After this Motion is filed, I will cause a copy of it to be submitted to the LWDA and will  
11 file a supplemental proof of service prior to the hearing.

12 36. As of the date of the filing of the instant Motion, I am not aware of any class,  
13 representative or other collective action in any other court in this or any other jurisdiction that asserts  
14 claims similar to those asserted in this action on behalf of a class or group of individuals some or all of  
15 whom would also be members of the defined class. I have made reasonable inquiry of other members of  
16 my firm and my co-counsel's firm, Haines Law Group, APC, regarding whether they are aware of any  
17 class, representative or other collective action in any other court in this or any other jurisdiction that  
18 asserts claims similar to those asserted in this action on behalf of a class or group of individuals some or  
19 all of whom would also be members of the defined class. My colleague, Milan Moore has asked the  
20 attorneys at my co-counsel's firm, Haines Law Group, APC, regarding whether they are aware of any  
21 similar action and confirmed the attorneys were not aware of any such actions.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
23 true and correct.

24 Executed on June 8, 2022 at El Segundo, California.

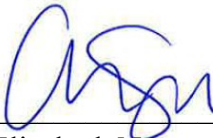
25   
26 \_\_\_\_\_  
27 Elizabeth Nguyen  
28

EXHIBIT 1

EXHIBIT 1

# LIDMAN LAW

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

OFFICE: (424) 322-4772

FAX: (424) 322-4775

March 16, 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**

Air Industries Corporation, a California  
corporation  
12570 Knott Street  
Garden Grove, CA 92841

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

Precision Castparts Corp., an Oregon  
corporation  
4650 S. Macadam Avenue, Suite 300  
Portland, OR 97239

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

SPS Technologies, LLC, a Pennsylvania limited  
liability company  
4650 S. Macadam Avenue, Suite 300  
Portland, OR 97239

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

Precision Castparts Corp., an Oregon  
corporation  
c/o National Registered Agents, Inc., Agent for  
Service of Process  
818 W. Seventh Street, Suite 930  
Los Angeles, CA 90017

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

SPS Technologies, LLC, a Pennsylvania limited  
liability company  
c/o National Registered Agents, Inc., Agent for  
Service of Process  
818 W. Seventh Street, Suite 930  
Los Angeles, CA 90017

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

Air Industries Corporation, a California  
corporation  
c/o Dan Higgins, Agent for Service of Process  
1431 21<sup>st</sup> Street  
Manhattan Beach, CA 90266

Re: *Magdalena Cruz v. SPS Technologies, LLC, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Magdalena Cruz in claims arising from her employment with SPS Technologies, LLC, a Pennsylvania limited liability company; Precision Castparts Corp., an Oregon corporation; and Air Industries Corporation, a California corporation (“Defendants”). Ms. Cruz is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendants’ 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. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, for purposes of this letter, an “aggrieved employee” should be considered to include all current and former non-exempt employees working for Defendants in California, during the one year plus 178 days immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Ms. Cruz files a civil lawsuit seeking civil penalties.

Ms. Cruz, a former employee, was employed by Defendants from approximately 1997 through approximately July 31, 2020. Throughout her employment with Defendants, Ms. Cruz worked out of Defendants’ facility in Garden Grove, California as an Operator.

During her employment with Defendants, Ms. Cruz was generally scheduled to work from approximately 2:30 p.m. to approximately 1:00 a.m., Monday through Friday and/or Saturday. Throughout her employment with Defendants, Defendants’ timekeeping policies and practices required Ms. Cruz to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. As a result, Defendants failed to pay Ms. Cruz all required minimum wages. Further, because Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours per week, the pay practices utilized by Defendants also deprived Ms. Cruz of all required overtime wages owed.

At times during Ms. Cruz’s employment with Defendants, Ms. Cruz was not provided all legally required meal periods due to Defendants’ meal period policies and practices. Specifically, during times when Ms. Cruz worked in excess of 10.0 hours per shift, Defendants failed to provide Ms. Cruz with a second, timely meal period of at least thirty (30) minutes in length. Additionally, at times when Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to properly compensate Ms. Cruz with all the required meal period premiums for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7. Specifically, on the occasions when Ms. Cruz received a meal period premium, it was paid at Ms. Cruz’s base rate of pay instead of her higher, regular rate of compensation in violation of Labor Code section 226.7.

Ms. Cruz was also not authorized and permitted to take all legally required paid rest periods due to Defendants’ unlawful rest period policies and practices. Specifically, Defendants maintained unlawful rest period policies and practices and failed to authorize and permit Ms. Cruz and other non-exempt employees take a third rest period when they worked shifts in excess of 10.0 hours. Accordingly, Defendants’ rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

Although Ms. Cruz was not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendants failed to compensate Ms. Cruz with the required rest period premium for each workday in which she 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, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to provide a legally compliant rest period.

During her employment with Defendants, Ms. Cruz would at times work in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek, but did not receive overtime compensation equal to one and one-half times her regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to her claims, Ms. Cruz received non-discretionary 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 Defendants' payment of Incentive Pay to Ms. Cruz, Defendants failed to include all forms of Incentive Pay when calculating Ms. Cruz's regular rate of pay, thereby causing Ms. Cruz to be underpaid all of her required overtime wages.

In addition, throughout Ms. Cruz's employment, Ms. Cruz worked shifts with varying pay rates. Thus, on the occasion when Ms. Cruz worked in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek, Ms. Cruz received various overtime rates of pay for her overtime hours worked, depending on her shift. However, Defendants failed to use Ms. Cruz's weighted average of overtime pay (instead paying overtime at the rate of 1.5 times the hourly rate in effect at the time the overtime was worked), reflecting Ms. Cruz's varying pay rates, when calculating Ms. Cruz's regular rate of pay for a workweek, thereby causing Ms. Cruz to be underpaid for her overtime hours worked. See *Alvarado v. Dart Container Corp. of California*, 4 Cal.5th 542, 569 (2018) ("[n]ot all employees earn at a fixed pay rate throughout a pay period, and therefore regular rate of pay is a weighted average reflecting work done at varying times, under varying circumstances, and at varying rates.") (emphasis in original); see also Lab. Code, § 246, subd. (1)(1) (referring to "the regular rate of pay for the workweek"); see also DLSE Manual, supra, § 49.2.5, p. 49-10 (setting forth the DLSE's "Weighted Average Method" for calculating regular rate of pay when worker has varying pay rates); see also 29 C.F.R. § 778.115 (2008) (setting forth the federal "weighted average" policy).

As a result of Defendants' failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Cruz.

As a further result of Defendants' failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendants failed to pay all wages owed to Ms. Cruz upon her separation of employment from Defendants.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

#### Minimum Wage Violations

Defendants were required to pay Ms. Cruz 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, 1197.1; The Wage Order 1, § 4. Ms. Cruz and other aggrieved employees were not paid for all hours worked due to Defendants' timekeeping policies and practices. As alleged above, throughout Ms. Cruz's employment with Defendants, Defendants' timekeeping policies and practices required her to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. As a result, Defendants failed to pay Ms. Cruz all required minimum wages. Further, because Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours

per week, the pay practices utilized by Defendants also deprived Ms. Cruz of all required overtime wages owed.

#### Overtime Violations

Defendants were required to pay Ms. Cruz 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 1, § 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, Ms. Cruz and other aggrieved employees were not paid for overtime wages owed due to Defendants’ timekeeping policies and practices. As alleged above, throughout Ms. Cruz’s employment with Defendants, Defendants’ timekeeping policies and practices required her to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours per week; as a result, the timekeeping and pay practices utilized by Defendants deprived Ms. Cruz of all required overtime wages owed. In addition, as alleged above, Ms. Cruz would at times work in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek during her employment with Defendants, but did not receive overtime compensation equal to one and one-half times her regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to her claims, Ms. Cruz received non-discretionary 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 Defendants’ payment of Incentive Pay to Ms. Cruz, Defendants failed to include all forms of Incentive Pay when calculating Ms. Cruz’s regular rate of pay, thereby causing Ms. Cruz to be underpaid all of her required overtime wages.

#### Meal Period Violations

As alleged above, Defendants failed to provide Ms. Cruz and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. Ms. Cruz was not provided all legally required meal periods due to Defendants’ meal period policies and practices. Specifically, during times when Ms. Cruz worked in excess of 10.0 hours per shift, Defendants failed to provide Ms. Cruz with a second, timely meal period of at least thirty (30) minutes in length. Additionally, at times when Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to properly compensate Ms. Cruz with all the required meal period premiums for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7. Specifically, on the occasions when Ms. Cruz received a meal period premium, it was paid at Ms. Cruz’s base rate of pay instead of her higher, regular rate of compensation, in violation of Labor Code section 226.7. As a result, Ms. Cruz 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 Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to compensate Ms. Cruz 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.

#### Rest Period Violations

Defendants also failed to authorize and permit Ms. Cruz and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. As alleged above, Specifically, Defendants maintained unlawful rest period policies and practices and failed to authorize and permit Ms. Cruz and other non-exempt employees take a third rest period when they worked shifts in excess of 10.0 hours. Accordingly, Defendants' rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof. As such, Ms. Cruz 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.")

#### Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Cruz and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendants' failure to furnish Ms. Cruz 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 failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

#### 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. Defendants failed to timely pay Ms. Cruz and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other things, all minimum and overtime wages, as well as meal and rest period premium wages. Pursuant to Labor Code § 203, Defendants' failure to pay all final wages due to Ms. Cruz and similarly aggrieved employees was willful and, consequently, entitles Ms. Cruz and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendants failed to pay their final wages after their separation, up to a maximum of thirty days.

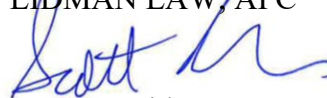
As an "aggrieved employee," Ms. Cruz will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage

and hour violations alleged herein. Based on Ms. Cruz's own investigation, and on information and belief, Defendants committed the following Labor Code violations:

- a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Cruz and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Cruz and other aggrieved employees all overtime compensation earned;
- c) Defendants 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 Ms. Cruz and other aggrieved employees;
- d) Defendants 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 Ms. Cruz and other aggrieved employees;
- e) Defendants violated Labor Code § 226 by failing to furnish Ms. Cruz and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendants violated Labor Code § 204 by failing to pay Ms. Cruz and other aggrieved employees all earned wages at least twice during each calendar month;
- g) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Cruz and other aggrieved employees; and
- h) Defendants violated Labor Code § 203 by failing to pay Ms. Cruz and other aggrieved employees for all wages owed at the time of their separation of employment.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendants 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

**BRYAN CAVE LEIGHTON PAISNER LLP**  
Allison C. Eckstrom, California Bar No. 217255  
1920 Main Street, Suite 1000  
Irvine, California 92614-7276  
Telephone (949) 223-7000  
Facsimile (949) 223-7100  
Email allison.eckstrom@bclplaw.com

Daria Dub Carlson, California Bar No. 150628  
120 Broadway, Suite 300  
Santa Monica, California 90401-2386  
Telephone (310) 576-2100  
Facsimile (310) 576-2200  
Email daria.carlson@bclplaw.com  
Attorneys for Defendant SPS Technologies, LLC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**IN AND FOR THE COUNTY OF ORANGE**

MAGDALENA CRUZ, as an individual  
on behalf of all similarly situated,

Plaintiff,

v.

SPS TECHNOLOGIES, LLC dba AIR  
INDUSTRIES COMPANY, a Pennsylvania  
limited liability company; PRECISION  
CASTPARTS CORP., an Oregon corporation;  
AIR INDUSTRIES CORPORATION, a  
California corporation; and Does 1 through  
100, Inclusive,

Defendants.

Case No.: 30-2021-01202173-CU-OE-CJC

[Assigned for all purposes to the Hon. Glenda  
Sanders, Dept. CX101]

**CLASS AND REPRESENTATIVE ACTION  
STIPULATION OF SETTLEMENT**

Complaint Filed: May 21, 2021  
Trial Date: None set

IT IS HEREBY STIPULATED AND AGREED, by and between the **Parties**,<sup>1</sup> subject to the approval of the **Court**, that the **Action** shall be settled and fully resolved pursuant to the terms and conditions set forth in this Class And Representative Action Stipulation of Settlement (the “**Stipulation**”) and Exhibits hereto:

**I. THE ACTION AND REASONS FOR STIPULATED SETTLEMENT**

A. On May 21, 2021, **Plaintiff** Magdalena Cruz (“**Plaintiff**”), as an individual and on behalf of all others similarly situated, initiated a Representative Action Complaint: (1) Civil Penalties Under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“**Complaint**”) against SPS Technologies, LLC, dba Air Industries Company, a Pennsylvania limited liability company (“**Defendant**”)<sup>2</sup> in the Superior Court for the County of Orange, Case No. 30-2-21-01202173-CU-OE-CJC. The **Complaint** seeks civil penalties pursuant to the Private Attorneys General Act (“PAGA”) alleging that: (a) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Plaintiff and other aggrieved employees the statutory minimum wage for all hours worked; (b) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Plaintiff and other aggrieved employees all overtime compensation earned; (c) 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 Plaintiff and other aggrieved employees; (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 Plaintiff and other aggrieved employees; (e) Defendant violated Labor Code § 226 by failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements; (f) Defendant violated Labor Code § 204 by failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month; (g) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees; and (h) Defendant violated Labor Code § 203 by failing to pay Plaintiff and other aggrieved employees

<sup>1</sup> The definition for all capitalized, bold terms can be found in Part II.

<sup>2</sup> The Complaint also named Precision Castparts Corp., an Oregon corporation (“PCC”) and Air Industries Corporation, a California corporation (“AIC”) as defendants. AIC was dismissed on July 7, 2021, and PCC was dismissed on September 21, 2021.

1 for all wages owed at the time of their separation of employment.

2 B. **Defendant** denies the allegations in the **Complaint**, and continues to deny any  
3 liability or wrongdoing of any kind associated with any of the claims alleged in the **Complaint**.

4 C. After the filing of the **Action**, the **Parties** engaged in formal discovery. Among  
5 other things, **Defendant** provided **Plaintiff** with copies of her time and payroll records, time and  
6 payroll records and other data for the **Class** and **Aggrieved Employees**, and copies of relevant  
7 written policies.

8 D. Counsel for the **Parties** engaged in extensive discussions about the respective  
9 strengths and weaknesses of the claims and defenses. On February 9, 2022, the **Parties** and their  
10 attorneys of record participated in a mediation session with Louis Marlin, Esq., an experienced  
11 and respected mediator, at which time the **Parties** reached agreement on the material terms of  
12 settlement of this **Action**.

13 E. **Plaintiff** and **Plaintiff's Attorneys**, after evaluation of the sharply disputed factual  
14 and legal issues relating to the **Parties'** respective positions in the **Action** and taking into account  
15 the risks, uncertainties, and expense of continued litigation, as well as the substantial benefits to  
16 be received pursuant to the compromise reached by the **Parties** and other relevant considerations,  
17 have concluded that a settlement of this **Action** on the terms and conditions set forth in this  
18 **Stipulation** is fair, adequate and reasonable, and in the best interests of **Plaintiff**, the **Class**, and  
19 the **Aggrieved Employees**. It provides a fair, flexible, speedy, cost-effective, and assured  
20 procedure for providing a monetary settlement to **Plaintiff**, the **Class**, and the **Aggrieved**  
21 **Employees**.

22 F. **Defendant** and its counsel, taking into account the risks, uncertainties, disruptions  
23 and expense involved in the **Action**, and its desire to put this controversy to rest, have concluded  
24 that a settlement of the **Action** on the terms and conditions set forth in this **Stipulation** is in the  
25 best interest of **Defendant** because it will end and encompass all pending, threatened, or possible  
26 litigation or claims by **Plaintiff**, the **Settlement Class**, and the **Aggrieved Employees** against  
27 **Defendant** that involve or allege the claims that have been asserted in the **Action**.

28 G. **Defendant** denies any and all wrongdoing and liability alleged in the **Action** and

the **Parties** specifically agree that neither **Defendant's** execution of the **Stipulation**, nor anything referred to herein, nor any action taken to carry out this **Stipulation**, is or may be construed as an admission by or against **Defendant** or deemed to be evidence: (i) of the validity of any of the claims made by **Plaintiff** or of any liability to **Plaintiff**, any **Class Member**, or any **Aggrieved Employee**; (ii) that **Defendant** violated California law; or (iii) that this **Action** (or any other action) is properly maintainable as a representative action and/or a class action or properly certifiable by the **Court** under California Code of Civil Procedure section 382.

## II. DEFINITIONS

These definitions are applicable to this **Stipulation**.

A. "**Action**" means the lawsuit, entitled *Cruz v. SPS Technologies, LLC, etc., et al.*, filed on May 21, 2021 in Orange County Superior Court, Case No. 30-2021-01202173-CU-OE-CJC, including the **Amended Complaint**.

B. "**Aggrieved Employee PAGA Share**" means the \$12,500 of the \$50,000 that is allocated to penalties under the **PAGA** that remains after making payment of \$37,500 to the **LWDA**.

C. "**Aggrieved Employee Payment**" or "**Aggrieved Employee Payments**" means the amounts to be paid to individual **Aggrieved Employees**.

D. "**Aggrieved Employee Release**" means the full and final release of the **Aggrieved Employee Released Claims** contained in the **Notice**, substantially in the form attached as **Exhibit A** to be sent to **Class Members**.

E. "**Aggrieved Employee Released Claims**" means the claims released by the **Aggrieved Employees** in Part III.D.3 of the **Stipulation**.

F. "**Aggrieved Employees**" means any and all persons who are or were non-exempt employees employed by Defendant in California at any time during the **PAGA Period**.

G. "**Agreement**" means this **Stipulation** and Exhibits attached hereto.

H. "**Amended Complaint**" means the amended complaint that **Plaintiff** shall file in the **Action**, pursuant to a joint stipulation of the **Parties** and subject to **Court** approval, to add class allegations for the following causes of action: (i) failure to pay all minimum wages owed;

(ii) failure to pay all overtime wages owed; (iii) failure to provide all meal periods; (iv) failure to authorize and permit all rest periods; (iv) failure to provide accurate, itemized wage statements; (vi) failure to timely pay all wages due upon separation of employment; and (vii) unfair competition for the time period September 20, 2019 through the date of preliminary approval.

H. **“Class” or “Class Members”** means all current and former non-exempt, hourly employees of Defendant who worked in California at any time during the **Class Period**.

I. **“Class Period”** means September 20, 2019 to the **Preliminary Approval Date**.

J. **“Class Release”** means the full and final release of the **Settlement Class Released Claims** contained in the **Notice**, substantially in the form attached as **Exhibit A** to be sent to **Class Members**.

K. **“Class Representative Enhancement”** means the additional sum to be paid to **Plaintiff** as compensation for her role as class representative, and for the risks and work attendant to that role.

L. **“Complaint”** means the Representative Action Complaint filed by **Plaintiff** in the **Action**.

M. **“Court”** means the Superior Court of the State of California for the County of Orange.

N. **“Day”** means calendar day, unless expressly stated to be otherwise.

O. **“Defendant”** means Defendant SPS Technologies, LLC dba Air Industries Company.

P. **“Final Judgment”** means the order approving the **Settlement** and this **Stipulation**, and the final determination of the rights of the **Parties** in the **Action** entered pursuant to California Code of Civil Procedure Section 664.6 and California Rules of Court rule 3.769(h), as contemplated in Part III.E.

Q. **“Final Settlement Date”** means the date on which the **Final Judgment** approving this **Stipulation** becomes final. For purposes of this definition, the **Final Judgment** shall become final on the latter of:

1. the Court’s final approval of the settlement if no objections by or on behalf

of Class Members have been filed;

2. the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or

3. the final resolution of any appeal that has been filed.

R. **“Final Settlement Hearing”** means the hearing to be conducted by the **Court** to determine whether to enter the **Final Judgment**.

S. **“Gross Settlement Amount”** means the non-reversionary, total settlement amount of five hundred fifty thousand dollars (\$550,000), and includes everything that could be payable to resolve the entire case including, by example, **Settlement Payments** to each and every **Settlement Class Member, Aggrieved Employee PAGA Share, the LWDA Payment, the Class Representative Enhancement, Plaintiff’s Attorneys’ Fees, Plaintiff’s Expenses, and the Settlement Administration Costs**. This is a non-reversionary settlement. The **Gross Settlement Amount** excludes **Defendant’s** FICA/FUTA payments and any other payroll taxes owing by **Defendant** on the **Gross Settlement Amount**. The FICA/FUTA payments and any other payroll taxes owing by **Defendant** on the portion of the **Settlement Payments** that are allocated to wages shall be paid by Defendant separately from the **Gross Settlement Amount**.

T. **“LWDA”** means the California Labor & Workforce Development Agency. **“LWDA Payment”** means the payment of \$37,500 to be made to the **LWDA** which is 75% of \$50,000.

U. **“Net Settlement Amount”** means the figure that shall be determined by deducting the amounts awarded for **Plaintiff’s Attorneys’ Fees, Plaintiff’s Expenses, the Class Representative Enhancement, Settlement Administration Costs, the LWDA Payment, and the Aggrieved Employee PAGA Share** from the **Gross Settlement Amount**.

V. **“Notice”** means the Notice of Class Action and PAGA Settlement, in English and Spanish, substantially in the form attached as **Exhibit A**.

W. **“Objection/Exclusion Deadline Date”** means the date sixty (60) **Days** from the date the **Settlement Administrator** mails the **Notice**. It is the date by which **Class Members** must: (i) mail to the **Settlement Administrator** a written statement objecting to the **Settlement**,

1 or (ii) mail to the **Settlement Administrator** a written request for exclusion if they wish to be  
2 excluded from the **Settlement Class**.

3 X. “**PAGA**” means the California Labor Code Private Attorneys General Act of 2004,  
4 California Labor Code sections 2698, *et seq.*

5 Y. “**PAGA Period**” means September 20, 2019 to the **Preliminary Approval Date**.

6 Z. “**Parties**” means **Plaintiff** and **Defendant**.

7 AA. “**Payment Date**” means within thirty days after the **Final Settlement Date**.

8 BB. “**Plaintiff**” means Plaintiff Magdalena Cruz, individually, and in her capacity as  
9 the party seeking to act as a class and PAGA representative.

10 CC. “**Plaintiff’s Attorneys**” means Lidman Law, APC and Haines Law Group, APC.

11 DD. “**Plaintiff’s Attorneys’ Fees**” means the amount awarded to the **Plaintiff’s**  
12 **Attorneys** by the **Court** for prosecuting the **Action**.

13 EE. “**Plaintiff’s Released Claims**” means the **Claims** released by **Plaintiff** in Part  
14 III.D.4, including claims for **Plaintiff’s Attorneys’ Fees** and **Plaintiff’s Expenses**.

15 FF. “**Plaintiff’s Expenses**” means all of those expenses and costs incurred in  
16 connection with the **Action** by or on behalf of **Plaintiff** or **Plaintiff’s Attorneys**, excluding  
17 **Settlement Administration Costs**.

18 GG. “**Preliminary Approval Date**” means the date of entry of the **Court’s** order  
19 granting preliminary approval of the **Settlement** according to the terms established in Part III of  
20 this **Stipulation**.

21 HH. “**Released Parties**” means the **Defendant** and its former and present officers,  
22 directors, shareholders, managers, employees, agents, principals, heirs, representatives,  
23 accountants, auditors, consultants, and its respective predecessors in interest, subsidiaries,  
24 affiliates, parents and attorneys.

25 II. “**Settlement**” means the complete settlement and conclusion of the **Action** and all  
26 related **Settlement Class Released Claims**, **Aggrieved Employee Released Claims**, and  
27 **Plaintiff’s Released Claims** effectuated by this **Stipulation**.

28 JJ. “**Settlement Administration Costs**” means the fees and costs of any type incurred

1 or charged by the **Settlement Administrator** in connection with the execution of its duties under  
2 this **Stipulation** including, but not limited to: fees and costs associated with preparing, issuing  
3 and/or monitoring notice, translating the notice into Spanish, computing payments and taxes  
4 made under this **Stipulation**, handling inquiries about the calculation of payments, and preparing  
5 and filing any tax returns and information returns and any other filings required by any  
6 governmental taxing authority or governmental agency. The Settlement Administration Costs  
7 shall not exceed \$15,000.

8 KK. “**Settlement Administrator**” means ILYM, the third-party administrator, as  
9 mutually designated by the **Parties**, to effectuate the processing and payment of all payments set  
10 forth in this **Agreement** and approved by the **Court**.

11 LL. “**Settlement Class**” or “**Settlement Class Member**” means those persons who are  
12 members of the **Class** who have not properly and timely opted out of the **Action**.

13 MM. “**Settlement Class Released Claims**” means the claims released by the  
14 **Settlement Class Members** in Part III.D.1 of the **Stipulation**.

15 NN. “**Settlement Payments**” means the amounts to be paid to individual **Settlement**  
16 **Class Members**.

### 17 **III. SETTLEMENT TERMS**

18 The **Parties** enter into this **Stipulation** and agree as follows:

19 The **Settlement** described herein will resolve fully and finally all claims raised or that  
20 could have been raised on behalf of **Settlement Class Members**, based on the same facts alleged,  
21 in the **Complaint** and **Amended Complaint**, including without limitation, all claims of the  
22 **Settlement Class Members** for the alleged failure to pay wages, failure to provide meal breaks,  
23 failure to provide rest breaks, failure to furnish accurate, itemized wage statements, failure to pay  
24 all wages owed at termination, and unfair competition while they worked for **Defendant** in  
25 California during the **Class Period**. The **Settlement** described herein will also resolve fully and  
26 finally the **Aggrieved Employees’** related representative claims under the **PAGA**.

#### 27 **A. Amendment to Complaint**

28

Within 30 days of the full execution of this **Stipulation**, the **Parties** shall enter into a Joint Stipulation, subject to Court approval, which shall permit **Plaintiff** to file an amended complaint to add class allegations for the following causes of action: (i) failure to pay all minimum wages owed; (ii) failure to pay all overtime wages owed; (iii) failure to provide all meal periods; (iv) failure to authorize and permit all rest periods; (iv) failure to provide accurate, itemized wage statements; (vi) failure to timely pay all wages due upon separation of employment; and (vii) unfair competition, for the time period September 20, 2019 through the date of preliminary approval. In the event that the Court does not approve the filing of an amended complaint to add class allegations for this time period, this **Settlement** shall be null and void, and the **Parties** will be returned to their original respective positions, and the **Action** shall proceed as it existed prior to the execution of this **Stipulation**.

#### **B. Class Certification**

For the purposes of this **Stipulation** only, the **Parties** have agreed to the certification of a conditional **Class** to facilitate class settlement. The designation of the **Class** is expressly made solely for this proposed **Stipulation** and is without prejudice to the issues of whether this lawsuit can properly be maintained as a class action. The **Parties** specifically reserve the right, should this **Stipulation** become inoperative for any reason, to raise and litigate any and all issues as to whether this **Action** can properly be maintained as a class action. The certification of the **Class** shall be effective only with respect to the **Settlement** of the **Action**. In the event that the **Stipulation** is terminated pursuant to its terms or the **Final Settlement Date** does not occur for any reason, the certification of the **Class** shall be vacated, and the **Action** shall proceed as it existed prior to execution of this **Stipulation**. The fact that the **Parties** were willing to stipulate to class certification as part of the **Settlement** shall have no bearing on, or be admissible in connection with, the issue of whether the **Class** could be certified in a non-settlement context or be considered admissible for any other purpose.

#### **C. Settlement Consideration**

1. This **Settlement** requires **Defendant** to pay a total settlement amount of five hundred fifty thousand dollars (\$550,000) for: (i) all costs for **Notice** regardless of media

(e.g., publication, letter, web-site, *etc.*); (ii) **Aggrieved Employee Payments** according to a formula set forth in Part III.H.2; (iii) cash **Settlement Payments** according to a formula set forth in Part III.H.4; (iv) **Plaintiff's Attorneys' Fees** not to exceed one-third (1/3) of the **Gross Settlement Amount** (including up to one-third of any increase to the **Gross Settlement Amount** pursuant to Part III.C.2); (v) **Plaintiff's Expenses** in an amount not to exceed \$30,000; (vi) **Plaintiff's Class Representative Enhancement** as set forth in Part III.J in an amount not to exceed \$5,000; (vii) an allocation of \$50,000 to penalties under the **PAGA**, \$37,500 of the **PAGA** amount shall be paid to the **LWDA**, the remaining \$12,500 shall be distributed to the **Aggrieved Employees**; (viii) **Settlement Administration Costs**, not to exceed \$15,000; and (ix) any other amount necessary to perform this **Settlement**.

2. **Defendant** has estimated that there are 48,192 workweeks worked by the **Class Members** during the **Class Period**. If the number of workweeks worked by **Class Members** during the **Class Period** is more than ten percent (10%) greater than this figure (*i.e.*, there are more than 53,011 workweeks), **Defendant** agrees to increase the **Gross Settlement Amount** on a proportional basis (*i.e.*, if there was an 11% increase in the number of workweeks worked by **Class Members**, **Defendant** would increase the **Gross Settlement Amount** by 1%).

3. Other than the **Gross Settlement Amount** and its employer-side tax obligations for the wage portion of the **Settlement Payments**, **Defendant** shall not be called upon or required to contribute additional monies under any circumstances whatsoever. All costs and expenses arising out of or in connection with the performance of this **Stipulation** shall be paid from the total consideration unless expressly provided otherwise herein.

#### **D. Release of Claims**

1. For and in consideration of the mutual promises contained herein, **Plaintiff** and the **Settlement Class Members** fully and finally release, as of the date that **Defendant** delivers the **Gross Settlement Amount** (including any increase to the **Gross Settlement Amount** pursuant to Part III.C.2) and **Defendant's** employer-side tax obligations for the wage portion of the **Settlement Payments** to the **Settlement Administrator**, the **Released Parties** from all claims during the **Class Period** under state, and local law that were or will be alleged in

1 the **Action** or could have been asserted based on the facts and allegations made in the **Action**, and  
2 any amendments thereto, including the following claims: (a) failure to pay all minimum wages  
3 owed for all hours worked; (b) failure to pay all overtime wages owed; (c) failure to provide all  
4 meal periods; (d) failure to authorize and permit all rest periods; (e) failure to provide accurate,  
5 itemized wage statements; (f) failure to timely pay all wages owed upon separation of  
6 employment; and (g) all claims for unfair business practices under California Business & Professions  
7 Code Section 17200 et seq. that could have been premised on the facts, claims, causes of action or  
8 legal theories described above.

9           2. Further, as a condition of receiving a **Settlement Payment**, each  
10 **Settlement Class Member** shall receive, in the **Notice**, substantially in the form attached hereto  
11 as **Exhibit A**, a **Class Release**, and by not timely submitting a written request for exclusion, will  
12 be deemed to have accepted and agreed to the terms of the **Class Release**. The terms of the **Class**  
13 **Release** shall be approved by the **Court**, and consistent with Part III.D.1.

14           3. For and in consideration of the mutual promises contained herein, **Plaintiff**  
15 and the **Aggrieved Employees** fully and finally release, as of the date that **Defendant** delivers the  
16 **Gross Settlement Amount** to the **Settlement Administrator**, the **Released Parties** from all  
17 claims for penalties pursuant to **PAGA** during the **PAGA Period** that were asserted in **Plaintiff's**  
18 March 16, 2021 letter to the California Labor and Workforce Development Agency and alleged in  
19 the **Action** or could have been asserted based on the facts and allegations made in the **Action**, and  
20 any amendments thereto, including the following claims: (a) failure to pay the statutory minimum  
21 wage for all hours worked in violation of Labor Code §§ 1194, 1194.2, and 1197; (b) failure to  
22 pay all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and  
23 1198; (c) failure to provide all legally required meal periods and failing to pay meal period  
24 premiums in violation of Labor Code §§ 226.7, 512, and 558 by; (d) failure to provide all legally  
25 required rest periods and failure to pay rest period premiums in violation of Labor Code §§ 226.7,  
26 516, and 558; (e) failure to furnish accurate and compliant itemized wage statements in violation  
27 of Labor Code § 226; (f) failure to pay all earned wages at least twice during each calendar month  
28 in violation of Labor Code § 204; (g) failure to maintain accurate records in violation of Labor

Code § 1174; and (h) failure to pay all wages owed at the time of separation of employment in violation of Labor Code § 203. A true and correct copy of the letter dated March 16, 2021 is attached hereto as **Exhibit B**.

4. In exchange for the consideration recited in this **Stipulation, Plaintiff**, solely on behalf of herself, does hereby and forever release, acquit, and discharge and covenant not to sue the **Released Parties** for any and all lawsuits, charges, claims, complaints, liabilities, obligations, promises, agreements, controversies, damages, actions, omissions, claims for relief, suits, rights, demands, costs, lawsuits, and expenses (including attorneys' fees and costs) of any nature whatsoever, known or unknown, suspected or unsuspected, which **Plaintiff** now has or claims to have, or which **Plaintiff** at any time heretofore had or claimed to have, or which **Plaintiff** at any time hereafter may have or claim to have against each or any of the **Released Parties**, arising out of or related to any matter, event, fact, act, omission, cause or thing which existed, arose or occurred on or prior to the date of the execution of this **Stipulation**, including without limitation, any claim for wages, compensation, overtime, bonuses, meal or rest period premiums, business expense reimbursement, penalties, interest, attorneys' fees or costs; any claim under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the Family and Medical Leave Act, the Americans with Disabilities Act, the California Labor Code, the IWC Wage Orders, the Fair Labor Standards Act, the California Business and Professions Code, the Consolidated Omnibus Budget Reconciliation Act of 1985, and the Employee Retirement Income Security Act of 1974, or any federal, state or local law or regulation prohibiting employment discrimination or regulating employment. This release also includes, but is not limited to, any claim for negligent or intentional infliction of emotional distress, conversion, violation of public policy, wrongful termination, retaliation, breach of contract, unfair business practices or any other claim, however styled, relating to or arising out of **Plaintiff's** employment with, or separation of employment from, the **Defendant**.

5. Except for the obligations expressly provided for in this **Stipulation, Plaintiff** fully and finally releases, as of the **Final Settlement Date**, the **Released Parties** from

any and all claims in favor of **Plaintiff's Attorneys** arising from the **Action**, including by way of example only, any and all claims for attorneys' fees, costs, consultant's fees, expert witness fees, interest, or any other expenses incurred by **Plaintiff** or on behalf of the **Class Members** or **Plaintiff's Attorneys** in connection with or related in any manner to the **Action**, the **Settlement** of the **Action** or the administration of the **Settlement**.

6. **Plaintiff**, with respect to **Plaintiff's Released Claims**, shall be deemed to have, and by operation of the **Final Judgment** shall have, expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of section 1542 of the California Civil Code, that provides:

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

Thus, even if **Plaintiff** may hereafter discover facts in addition to or different from those which she now knows or believes to be true with respect to the subject matter of **Plaintiff's Released Claims**, **Plaintiff** shall be deemed to have and by operation of the **Final Judgment** shall have, fully, finally, and forever settled and released any and all of **Plaintiff's Released Claims** on the **Final Settlement Date**. This is true whether such claims are known or unknown, suspected or unsuspected, contingent or non-contingent whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

7. Notwithstanding the foregoing, the waiver and release in this agreement does not apply to: (i) those rights of **Plaintiff** as a matter of law that cannot be waived, including, but not limited to, workers' compensation claims; (ii) rights or claims arising out of this Agreement after this Agreement is executed by Agreement and (iii) rights or claims arising of this Agreement. The Agreement in no way affects **Plaintiff's** entitlement and/or benefits to be received by **Plaintiff** in workers' compensation pursuant to the jurisdiction of workers' compensation.

1           **E.      Approval of Settlement**

2                   1.       As soon as practicable, the **Parties** shall execute and file this **Stipulation**  
3 including the attached Exhibits; the **Parties** shall file a Joint Stipulation to amend the Complaint  
4 (to be prepared by **Plaintiff**); and **Plaintiff** shall file a motion for preliminary approval and  
5 supporting papers with the **Court** that requests that the **Court** enter a proposed **Preliminary**  
6 **Approval Order**, establishing a procedure for obtaining final approval of the **Settlement**. Any  
7 dispute regarding forms of notices and other documents necessary to implement the **Settlement**  
8 contained in the **Stipulation**, if not timely resolved among the **Parties**, shall be referred to the  
9 **Court**.

10                   2.       If preliminary approval is granted, a **Final Settlement Hearing** to  
11 determine final approval of the **Settlement** shall be scheduled as soon as practicable, subject to  
12 the calendar of the **Court**, after the **Preliminary Approval Date**. Upon final approval of the  
13 **Settlement** by the **Court** at or after the **Final Settlement Hearing**, the **Parties** shall seek and  
14 obtain from the **Court** a **Final Judgment**. The **Final Judgment** shall comply with section 664.6  
15 of the California Code of Civil Procedure and all applicable California Rules of Court, including  
16 rule 3.769(h).

17                   3.       After entry of the **Final Judgment**, the **Court** shall have continuing  
18 jurisdiction over the **Action** solely for purposes of: (i) entering an order acknowledging  
19 satisfaction of the **Final Judgment**; (ii) enforcing this **Stipulation**; (iii) addressing settlement  
20 administration matters; and (iv) addressing such post-**Final Judgment** matters as may be  
21 appropriate under **Court** rules or applicable law.

22                   4.       Should the **Court** decline to approve this **Stipulation** or fail to enter the  
23 **Final Judgment**, the **Stipulation** shall be voidable by any of the **Parties** by written notice to the  
24 attorneys of record for the other **Parties** served in a manner authorized by California Code of  
25 Civil Procedure section 1013, no later than fifteen (15) **Days** after entry of any such order or after  
26 service of an applicable notice of ruling, whichever occurs later, or if no such order is entered or  
27 notice of ruling served, within 90 **Days** after the **Final Settlement Hearing**. This right to void  
28 the **Stipulation** does not apply to the **Court's** award of **Plaintiff's Attorney's Fees, Plaintiff's**

1 **Expenses** or the **Class Representative Enhancement**, provided any such awards do not exceed  
2 the amounts set forth in Parts III.I.3 and III.J. Should the **Court** award less than the maximum  
3 amount sought for **Plaintiff's Attorneys' Fees, Plaintiff's Expenses** or the **Class**  
4 **Representative Enhancement**, the reduced award shall not be grounds to void the settlement.

5 **F. Notice to Class Members**

6 1. The **Notice** substantially in the form attached hereto as **Exhibit A**, and as  
7 approved by the **Court**, shall be provided to the **Class** using the procedures in this Part III.F.

8 2. Within twenty (20) calendar days after the **Preliminary Approval Date**,  
9 the **Defendant** shall provide the **Settlement Administrator** with the names, most current mailing  
10 addresses, phone numbers, positions held, dates of employment and/or total workweeks worked  
11 by each **Class Member** during the **Class Period**, and Social Security numbers for the **Class** from  
12 the records maintained by **Defendant**. This information shall remain strictly confidential and  
13 shall not be disclosed to anyone, including **Plaintiff's Attorneys**, except as necessary for the  
14 **Settlement Administrator** to carry out the reasonable efforts described in this Part III.F, or  
15 pursuant to express written authorization by the **Defendant** or by order of the **Court**.

16 3. Within seven (7) calendar days of receipt of the mailing address  
17 information, the **Settlement Administrator** shall, using the information provided by the  
18 **Defendant** along with any updated information obtained from the National Change of Address  
19 database which the **Settlement Administrator** shall use to confirm mailing information, mail the  
20 **Notice** to all identified **Class Members** by first-class, regular U.S. Mail to the most recent  
21 address known for each **Class Member**. For **Notices** returned as undeliverable, the **Settlement**  
22 **Administrator** shall conduct one or more skip traces, then send additional **Notices** to any new  
23 address identified. Upon completion of these steps by the **Settlement Administrator**, the  
24 **Parties** shall be deemed to have satisfied their obligation to provide the **Notice** to the **Class**.

25 **G. Objection and Exclusion Procedures**

26 1. The **Notice** shall advise **Aggrieved Employees** that: (a) they may not  
27 object or request exclusion from the **Court's** approval of the **Aggrieved Employee Payments**,  
28 **Aggrieved Employee Release**, or **LWDA Payment**; (b) they are bound by the **Court's** approval

1 of the **Aggrieved Employee Payments, Aggrieved Employee Release, and LWDA Payment**;  
2 and (c) they will receive their **Aggrieved Employee Payment** and release the claims set forth in  
3 the **Aggrieved Employee Release** even if they object to or request exclusion from the  
4 **Settlement**.

5           2. Notwithstanding the preceding paragraph, the **Notice** shall provide that  
6 **Settlement Class Members** will have the opportunity, should they disagree with **Defendant's**  
7 records regarding the total workweeks worked by each **Class Member** during the **Class Period**  
8 as stated in the **Notice**, to provide documentation and/or an explanation to show contrary total  
9 workweeks worked. If there is a dispute, the **Settlement Administrator** will consult with the  
10 **Parties** to determine whether an adjustment is warranted. The **Settlement Administrator** shall  
11 determine the eligibility for, and the amounts of, any **Aggrieved Employee Payment** or  
12 **Settlement Payment** under the terms of this **Agreement**. The **Settlement Administrator's**  
13 determination of the eligibility for and amount of any **Aggrieved Employee Payment** or  
14 **Settlement Payment** shall be binding upon the **Aggrieved Employee** and/or the **Settlement**  
15 **Class Member** and the **Parties**.

16           3. The **Notice** shall provide that **Class Members** who wish to object to any  
17 aspect of the **Settlement** other than the **Aggrieved Employee Payments, Aggrieved Employee**  
18 **Release, and LWDA Payment** may either submit to the **Settlement Administrator** a signed and  
19 completed Objection Form, a written statement objecting to the **Settlement**, or appear at the  
20 **Final Settlement Hearing** and orally object to the **Settlement** without first providing a written  
21 objection to the **Settlement Administrator**. In the case of a written objection, the objection must  
22 be signed by the **Class Member** and state: (a) the full name of the **Class Member**; (b) the dates  
23 of employment of the **Class Member**; (c) the last four digits of the **Class Member's** Social  
24 Security number and/or the Employee ID number; (d) contain a statement of the **Class Member's**  
25 objections; and (e) the name of the case and case number, *Cruz v. SPS Technologies, LLC*, Case  
26 No. 30-2021-01202173-CU-OE-CJC. Such written objections must be mailed and postmarked to  
27 the **Settlement Administrator** on or before the **Objection/Exclusion Deadline Date**. The  
28 **Settlement Administrator** shall email a copy of the written statement objecting to the **Settlement**

1 to Class Counsel and defense counsel forthwith. Class Counsel shall lodge a copy of the written  
2 statement objecting to the Settlement with the Court. Any written statement objecting to the  
3 **Settlement** that is not postmarked to the **Settlement Administrator** on or before the  
4 **Objection/Exclusion Deadline Date** shall be of no force and effect under any circumstance.  
5 **Class Members** who fail to timely mail to the **Settlement Administrator** written objections in  
6 the manner specified above or who fail to appear at the **Final Settlement Hearing** and orally  
7 object to the **Settlement**, shall be deemed to have waived any objections and shall be foreclosed  
8 from making any objection (whether by appeal or otherwise) to the **Settlement**.

9           4. The **Notice** also shall provide that **Class Members** who wish to exclude  
10 themselves from the **Settlement Class** must submit to the **Settlement Administrator** a signed  
11 and completed Request for Exclusion Form or a written, signed statement expressing his or her  
12 desire to be excluded from the **Settlement**, and any such statement shall include the name (and  
13 former names, if any), current address, telephone number and the last four (4) digits of Social  
14 Security number of the **Class Member** and stating "I wish to be excluded from the *Cruz v. SPS*  
15 *Technologies, LLC* settlement. I understand by excluding myself, I will receive an Aggrieved  
16 Employee Payment if I worked during the PAGA Period, but I will not receive any other money  
17 from the settlement reached in this matter" or words to this effect. The written request for  
18 exclusion must be mailed to and received by the **Settlement Administrator** and must be  
19 postmarked on or before the **Objection/Exclusion Deadline Date**. Any written request for  
20 exclusion not received by the **Settlement Administrator** or postmarked after the  
21 **Objection/Exclusion Deadline Date** shall be of no force and effect under any circumstance.  
22 **Class Members** who fail to mail to the **Settlement Administrator** a valid and timely written  
23 request for exclusion on or before the **Objection/Exclusion Deadline Date** shall be deemed a  
24 **Settlement Class Member** and bound by all terms of the **Settlement** and any **Final Judgment**  
25 entered in the **Action** if the **Settlement** is approved by the **Court**, regardless of whether they have  
26 objected to the **Settlement**. Any **Class Member** who timely mails a valid written request for  
27 exclusion that is received by the **Settlement Administrator** will receive an **Aggrieved**  
28 **Employee Settlement Payment**, but will not be a **Settlement Class Member**, will not receive a

1 **Settlement Payment**, and will not have standing to object to the **Settlement**.

2 5. If more than ten percent (10%) of the persons in the **Class** file timely  
3 written requests for exclusion, then **Defendant** shall have the option to declare this **Stipulation**  
4 null and void if, within 15 **Days** after the **Objection/Exclusion Deadline Date**, **Defendant** serves  
5 written notice of the exercise of this option on **Plaintiff's Attorneys** in a manner provided for in  
6 California Code of Civil Procedure section 1013. If **Defendant** voids this **Agreement**, it shall  
7 pay any expenses of the **Notice** or settlement administration which the **Settlement**  
8 **Administrator** has incurred.

9 6. The **Parties'** counsel shall receive a copy of all valid and timely written  
10 objections and requests for exclusion from the **Settlement Administrator** within three (3) **Days**  
11 of the **Settlement Administrator's** receipt. No later than ten (10) **Days** before the **Final**  
12 **Settlement Hearing**, the **Settlement Administrator** shall provide the **Parties** with a complete  
13 and accurate list of names of all **Class Members** who have properly requested exclusion from the  
14 **Settlement Class** or who have submitted timely objections and all written objections to the  
15 **Settlement** and or notices of intention to appear and object that have been received.

16 7. The **Parties** agree that neither they nor their counsel will solicit or  
17 otherwise encourage directly or indirectly any **Class Member** to request exclusion from the  
18 **Settlement Class**, object to the **Settlement**, or appeal from the **Court's Final Judgment**.

19 **H. Settlement Administration and Payment**

20 1. **Aggrieved Employees** are not required to submit a claim form as a  
21 condition of receiving an **Aggrieved Employee Payment**. Instead, **Aggrieved Employees** shall  
22 automatically receive a pro rata share of the **Aggrieved Employee PAGA Share**.

23 2. In consideration for the **Settlement** and release of the **Aggrieved**  
24 **Employee Released Claims**, the **Defendant** shall deliver to the **Settlement Administrator** and  
25 the **Settlement Administrator** shall pay, pursuant to an agreement with the **Plaintiff's**  
26 **Attorneys**, to each **Aggrieved Employee** cash compensation from the **Aggrieved Employee**  
27 **PAGA Share** according to the procedures set forth in this Part III.H.2. The identified **Aggrieved**  
28 **Employees** shall receive a pro rata share of the **Aggrieved Employee PAGA Share**. The

individual **Aggrieved Employee's** payment shall be calculated by the **Settlement Administrator** by dividing the **Aggrieved Employee PAGA Share** by the total workweeks that have accrued for the **Aggrieved Employees** during the **PAGA Period** and multiplying that amount by the number of workweeks worked by the individual **Aggrieved Employee** during the **PAGA Period**.

Workweeks will be separately and distinctly calculated for each **Aggrieved Employee**. Only **Aggrieved Employees** who can be identified by the **Settlement Administrator** will receive an **Aggrieved Employee Payment**. No **Aggrieved Employee Payment** will be sent to any **Aggrieved Employees** for whom a current address has not been identified.

3. **Settlement Class Members** are not required to submit a claim form as a condition of receiving a **Settlement Payment**. Instead, **Settlement Class Members** shall automatically receive a pro rata share of the **Net Settlement Amount**.

4. In consideration for the **Settlement** and release of the **Settlement Class Released Claims**, the **Defendant** shall deliver to the **Settlement Administrator** and the **Settlement Administrator** shall pay, pursuant to an agreement with the **Plaintiff's Attorneys**, to each **Settlement Class Member** cash compensation from the **Net Settlement Amount** according to the procedures set forth in this Part III.H.4. The identified **Settlement Class Members** shall receive a pro rata share of the **Net Settlement Amount**. The individual **Settlement Class Member's** payment shall be calculated by the **Settlement Administrator** by dividing the **Net Settlement Amount** by the total workweeks that have accrued for the **Settlement Class** during the **Class Period** and multiplying that amount by the number of workweeks worked by the individual **Settlement Class Member** during the **Class Period**. Workweeks will be separately and distinctly calculated for each **Settlement Class Member**. Only **Settlement Class Members** who can be identified by the **Settlement Administrator** will receive a **Settlement Payment**. No **Settlement Payments** will be sent to any **Settlement Class Member** for whom a current address has not been identified.

5. If any **Settlement Class Member** or **Aggrieved Employee** does not cash his/her settlement check within one hundred eighty (180) **Days** after the **Settlement Administrator** mails the **Settlement Payment** to the **Settlement Class Member** or the

1 **Aggrieved Employee Payment** to the **Aggrieved Employee**, the unclaimed funds shall be  
2 distributed to the California State Controller's Office's Unclaimed Property Fund in the name of  
3 the Settlement Class Member or the **Aggrieved Employee**.

4           6.       The **Settlement Administrator** shall regularly and accurately report to the  
5 **Parties'** counsel, in written form when requested, the substance of the work performed, including  
6 the amounts paid to **Settlement Class Members** and **Aggrieved Employees**, and the total  
7 amount of **Settlement Payments** and **Aggrieved Employee Payments**. The **Settlement**  
8 **Administrator** shall respond to questions from **Class Members** and perform other duties as  
9 necessary to carry out its responsibilities under this **Stipulation**.

10           7.       All **Settlement Payments** paid to **Settlement Class Members** shall be  
11 allocated as follows: thirty-three percent (33%) to wages, subject to applicable withholdings, to  
12 be reported on a W-2 form; and sixty-seven percent (67%) to penalties and interest, not subject to  
13 withholdings and reported on a 1099 form to be issued by the **Settlement Administrator**. All  
14 **Aggrieved Employee Payments** paid to **Aggrieved Employees** shall be allocated to penalties,  
15 not subject to withholdings and reported on a 1099 form to be issued by the **Settlement**  
16 **Administrator**. The **Parties** agree that no taxes will be withheld or paid by **Defendant** with  
17 respect to the **Settlement Payments** allocated to interest or penalties or the **Aggrieved Employee**  
18 **Payments**. Each individual **Settlement Class Member** and **Aggrieved Employee** shall be  
19 responsible for his/her share of taxes due on the portion of his or her **Settlement Payment** and/or  
20 **Aggrieved Employee Payment**. The **Parties** further agree that no taxes will be withheld or paid  
21 by **Defendant** with respect to payments of the **Settlement Administration Costs, Class**  
22 **Representative Enhancement, Plaintiff's Attorneys' Fees** and **Plaintiff's Expenses**. Any  
23 taxes due thereon shall be respectively the responsibility of **Settlement Administrator, Plaintiff**  
24 and **Plaintiff's Attorneys**. The **Parties** acknowledge and agree that proper information reporting  
25 will be made to the appropriate taxing authorities regarding all payments made pursuant to this  
26 **Stipulation**.

27           8.       Each **Party** to this **Stipulation** and each **Class Member** acknowledges and  
28 agrees that (1) no provision of this **Stipulation**, and no written communication or disclosure

1 between or among the **Parties** or their attorneys and other advisors, is or was intended to be, nor  
2 shall any such communication or disclosure constitute or be construed or be relied upon as, tax  
3 advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,  
4 as amended); (2) the **Parties** and **Class Members** (a) have relied exclusively upon their own  
5 independent legal and tax advisors for advice (including tax advice) in connection with this  
6 **Stipulation**, (b) have not entered into this **Stipulation** based upon the recommendation of any  
7 other party or any attorney or advisor to any other party, and (c) are not entitled to rely upon any  
8 communication or disclosure by an attorney or advisor to any other party to avoid any tax penalty  
9 that may be imposed on either party; and (3) no attorney or advisor to any party has imposed any  
10 limitation that protects the confidentiality of any such attorneys' or advisor's tax strategies  
11 (regardless of whether such limitation is legally binding) upon disclosure by the parties of the tax  
12 treatment or tax structure of any transaction, including any transaction contemplated by this  
13 **Stipulation**.

14 9. **Defendant** will not use the **Settlement Payments** or **Aggrieved Employee**  
15 **Payments** to calculate any additional benefits including, by example but not limitation, vacation,  
16 holiday pay or 401(k) plan contributions. The **Settlement Payments** and **Aggrieved Employee**  
17 **Payments** do not represent any modification of previously-credited hours of service or other  
18 eligibility criteria under any employee pension or employee welfare benefit plan sponsored by  
19 **Defendant**, nor are the **Settlement Payments** or **Aggrieved Employee Payments**  
20 "compensation" for purposes of determining eligibility for, or benefit accrual within, an employee  
21 pension benefit plan or employee welfare benefit or other plan sponsored by **Defendant** or its  
22 predecessors, subsidiaries or successors.

23 10. **Defendant** agrees to deliver the **Gross Settlement Amount** (including any  
24 increase to the **Gross Settlement Amount** pursuant to Part III.C.2) and its employer-side tax  
25 obligations for the wage portion of the **Settlement Payments** to the **Settlement Administrator**  
26 on or before the **Payment Date**. The Settlement Administrator shall disburse the **Settlement**  
27 **Payments** to each identified **Settlement Class Member**, the **Aggrieved Employee Payments** to  
28 the **Aggrieved Employees**, and the **LWDA Payment** within 10 calendar days of the **Payment**

1 **Date.**

2 **I. Plaintiff's Attorneys' Fees and Plaintiff's Expenses**

3 1. For the purposes of settlement only, **Defendant** agrees that **Plaintiff's**  
4 **Attorneys** are entitled to an award of reasonable attorneys' fees and costs. **Defendant** also  
5 acknowledge that the **Class** and **Aggrieved Employees** possesses a potential claim for reasonable  
6 attorneys' fees and costs pursuant to, *inter alia*, the California Labor Code. The **Parties** agree  
7 that any and all such claims for reasonable attorneys' fees and costs related to this **Action** have  
8 been settled in this **Stipulation**. **Plaintiff's Attorneys' Fees** are to compensate **Plaintiff's**  
9 **Attorneys** for all work already performed in this **Action**, and all remaining work to be performed  
10 in documenting the **Settlement**, securing **Court** approval of the **Settlement**, making sure the  
11 **Settlement** is fairly administered and implemented, and obtaining the **Final Judgment**.

12 2. The **Parties** agree that the **Gross Settlement Amount** includes all costs,  
13 fees, expenses to be incurred in giving **Notice** to the **Class** and all of the costs, fees, and expenses  
14 of administering the disbursement of the **Settlement Payments** and **Aggrieved Employee**  
15 **Payments**.

16 3. **Defendant** understands that **Plaintiff's Attorneys** will apply to the **Court**  
17 for an award of **Plaintiff's Attorneys' Fees** and **Plaintiff's Expenses**, which will be scheduled  
18 for determination at the **Final Settlement Hearing** or as the **Court** directs. **Defendant** will not  
19 oppose **Plaintiff's Attorneys'** application for a reasonable award of **Plaintiff's Attorneys' Fees**  
20 in a total amount not to exceed one-third (1/3) of the **Gross Settlement Amount** (including up to  
21 one-third of any increase to the **Gross Settlement Amount** pursuant to Part III.C.2) and  
22 **Plaintiff's Expenses** not to exceed \$30,000. **Plaintiff**, the **Settlement Class**, and the **Aggrieved**  
23 **Employees** shall not seek payment of attorneys' fees or reimbursement of costs or expenses from  
24 **Defendant** except as set forth herein. **Plaintiff's Attorneys' Fees** and **Plaintiff's Expenses** shall  
25 be paid within 10 calendar days of the **Payment Date**.

26 **J. Class Representative Enhancement**

27 **Defendant** will not oppose a request that **Plaintiff** be paid a **Class Representative**  
28 **Enhancement** in an amount not to exceed five thousand dollars (\$5,000). The **Class**

**Representative Enhancement** shall be paid within 10 calendar days of the **Payment Date**.

**K. Additional Terms**

1. **Defendant** denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the **Action**. **Plaintiff** acknowledges that her claims against **Defendant** have been amicably resolved. The **Parties** expressly acknowledge that this **Stipulation** is entered into for the purpose of compromise of highly disputed claims and that nothing herein is an admission of liability, wrongdoing or certification of a class for purposes of determination on the merits by **Defendant**. Neither the **Stipulation** nor any document prepared in connection with the **Settlement** may be admitted in any proceeding as an admission by **Defendant**, **Plaintiff**, or any person within the definition of the **Class**. However, this paragraph and all other provisions of this **Stipulation** notwithstanding, any and all provisions of this **Stipulation** may only be admitted in evidence and otherwise used in any and all proceedings to enforce any or all terms of this **Stipulation**, or in defense of any claims released or barred by this **Stipulation**.

2. The **Parties** and **Parties' Attorneys** shall keep the **Settlement** and its terms confidential through the date of preliminary approval of the **Settlement**. **Thereafter**, the **Parties** and the **Parties' Attorneys** shall not publicize the **Settlement** or the **Action**, directly or indirectly, to any representative of any form of mass or social media, including, but not limited to, speeches, press conferences, press releases, interviews, television, print, radio, or internet media. The **Parties** and the **Parties' Attorneys** shall not make any public statement or release, including, but not limited to, on any website, which specifically references the **Action** or **Released Parties**. **Defendant** may make such disclosures as required under its contractual and legal obligations.

3. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To the **Class** or the **Plaintiff**:

**LIDMAN LAW, APC**  
Scott M. Lidman  
Elizabeth Nguyen

To **Defendant SPS Technologies, LLC**:

**BRYAN CAVE LEIGHTON PAISNER LLP**  
Allison C. Eckstrom  
1920 Main St., Suite 1000

Milan Moore  
2155 Campus Drive, Suite 150  
El Segundo, California 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
slidman@lidmanlaw.com  
enguyen@lidmanlaw.com  
mmoore@lidmanlaw.com

**HAINES LAW GROUP, APC**

Paul K. Haines  
2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
phaines@haineslawgroup.com

Irvine, California 92614-7276  
Telephone: (949) 223-7000  
Facsimile: (949) 223-7100  
allison.eckstrom@bclplaw.com

Daria Dub Carlson  
120 Broadway, Suite 300  
Santa Monica, California 90401-2386  
Telephone: (310) 576-2100  
Facsimile: (310) 576-2200  
daria.carlson@bclpalw.com

4. Except as expressly provided in this **Stipulation**, **Plaintiff**, individually and as class and PAGA representative, **Defendant**, all attorneys for **Plaintiff** and the **Class**, and all attorneys for **Defendant**, hereby waive any and all rights to appeal, this waiver being contingent upon the **Court** entering the **Final Judgment**. This waiver includes waiver of all rights to any post-judgment proceeding and appellate proceeding, including but not limited to, motions for relief from judgment and motions to amend or alter the judgment.

5. After this **Stipulation** is fully executed by all **Parties** and their attorneys of record, this **Stipulation** and attached Exhibits shall constitute the entire agreement relating to settlement of this **Action** and the causes of action and defenses asserted therein, and it shall then be deemed that no oral representations, warranties or inducements have been made to any party concerning this **Stipulation** or its Exhibits other than the representations, warranties and covenants expressly stated in this **Stipulation** and its Exhibits. In the event this **Stipulation** is canceled, rescinded, terminated, voided or nullified, however that may occur, or this **Stipulation** is barred by operation of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction, this **Stipulation** shall be null and void for all purposes and neither **Plaintiff** nor **Defendant** shall be bound by any of its terms. If such an event were to occur, the **Parties** shall revert to the position they were in immediately preceding the execution of this **Stipulation**.

6. After this **Stipulation** is fully executed by all **Parties** and their attorneys of record, all litigation in the **Action** shall be stayed, and no **additional Court** filings shall be made by the **Parties** except as specifically provided for herein and as are necessary to enforce the terms of this **Stipulation** or as ordered by the **Court**.

7. **Plaintiff's Attorneys** unconditionally warrant and represent that they are authorized by **Plaintiff** for whom they are attorneys of record, and the attorneys of record for **Defendant** warrant and represent that they are authorized by **Defendant**, to take all appropriate action required or permitted to be taken by such **Parties** pursuant to this **Stipulation** to effectuate its terms, and to execute any other documents required to effectuate the terms of this **Stipulation**. The **Parties** and their counsel will cooperate with each other and use their best efforts to effect the implementation of the **Settlement**. In the event the **Parties** are unable to reach agreement on the form or content of any document needed to implement the **Stipulation**, or on any supplemental provisions that may become necessary to effectuate the terms of this **Stipulation**, the **Parties** agree to first seek the assistance of mediator Louis Marlin. If the **Parties** are unable to reach an agreement with the mediator's assistance, they will seek the assistance of the **Court**. In all cases all such documents, supplemental provisions and assistance of the mediator and the **Court** shall be consistent with this **Stipulation**.

8. **Plaintiff's Attorneys** shall be permitted to retain a copy of all confidential documents produced by **Defendant** in the **Action** for a period of not more than five (5) years from the date of entry of Judgment. **Plaintiff's Attorneys** shall not be permitted to use any confidential documents produced by **Defendant** in the **Action**, except in a proceeding for malpractice against **Plaintiff's Attorneys**.

9. This **Stipulation** may be amended, modified, changed, or waived only by an express written instrument signed by all **Parties** or their successors-in-interest.

10. This **Stipulation** shall be binding upon, and inure to the benefit of, the successors of each of the **Parties**.

11. All **Settlement** documents, including form of notice, amended complaint, preliminary approval and final approval must be acceptable to both **Parties** prior to being filed

1 with the **Court**.

2 12. All terms of this **Stipulation** and its Exhibits shall be governed by and  
3 interpreted according to the laws of the State of California, without giving effect to any conflict of  
4 law principles or choice of law principles.

5 13. The **Parties** have cooperated in the drafting and preparation of this  
6 **Stipulation**. This **Stipulation** shall not be construed against any party on the basis that the party  
7 was the drafter or participated in the drafting.

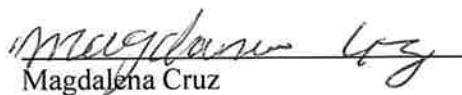
8 14. This **Stipulation** may be executed in one or more counterparts. All  
9 executed counterparts and each of them shall be deemed to be one and the same instrument.  
10 Facsimile signatures or electronic signature may be used for the same purposes as an original.  
11 Any executed counterpart shall be admissible in evidence to prove the existence and contents of  
12 this **Stipulation**.

13 15. **Plaintiff** and **Defendant** believe this is a fair, reasonable and adequate  
14 **Settlement** and have arrived at this **Settlement** through arms-length negotiations, taking into  
15 account all relevant factors, present and potential.

16 16. The descriptive headings of any paragraph or sections of this **Stipulation**  
17 are inserted for convenience of reference only and do not constitute a part of this **Stipulation**.

18  
19 Dated: 04-21, 2022

Magdalena Cruz

20  
21   
Magdalena Cruz

22  
23 Dated: \_\_\_\_\_, 2022

SPS TECHNOLOGIES, LLC

24 By: \_\_\_\_\_

25 Name: \_\_\_\_\_

26 Title: \_\_\_\_\_  
27  
28

with the **Court**.

12. All terms of this **Stipulation** and its Exhibits shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

13. The **Parties** have cooperated in the drafting and preparation of this **Stipulation**. This **Stipulation** shall not be construed against any party on the basis that the party was the drafter or participated in the drafting.

14. This **Stipulation** may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Facsimile signatures or electronic signature may be used for the same purposes as an original. Any executed counterpart shall be admissible in evidence to prove the existence and contents of this **Stipulation**.

15. **Plaintiff** and **Defendant** believe this is a fair, reasonable and adequate **Settlement** and have arrived at this **Settlement** through arms-length negotiations, taking into account all relevant factors, present and potential.

16. The descriptive headings of any paragraph or sections of this **Stipulation** are inserted for convenience of reference only and do not constitute a part of this **Stipulation**.

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

**Magdalena Cruz**

\_\_\_\_\_  
Magdalena Cruz

Dated: May 3, 2022

**SPS TECHNOLOGIES, LLC**

By: Colette Koby

Name: Colette Koby

Title: Senior Empl Counsel

1 APPROVED AS TO FORM ONLY:

2 Dated: May 3, 2022

**BRYAN CAVE LEIGHTON PAISNER LLP**

Allison C. Eckstrom

Daria Dub Carlson

By: 

Allison C. Eckstrom

Attorneys for Defendant

SPS Technologies, LLC

7 Dated: May 4, 2022

**LIDMAN LAW, APC**

Scott M. Lidman

Elizabeth Nguyen

Milan Moore

By: 

Elizabeth Nguyen

Attorneys for Plaintiff Magdalena Cruz

13 Dated: May 4, 2022

**HAINES LAW GROUP, APC**

Paul K. Haines

By: 

Paul K. Haines

Attorneys for Plaintiff Magdalena Cruz

EXHIBIT A

EXHIBIT A

**CRUZ V. SPS TECHNOLOGIES, LLC dba AIR INDUSTRIES COMPANY**  
**Orange County Superior Court Case No. 30-2021-01202173-CU-OE-CJC**  
*A court authorized this notice. This is not a solicitation. You are not being sued.*

**NOTICE OF CLASS ACTION AND PAGA SETTLEMENT**

If you worked for Air Industries Company in California as a non-exempt, hourly employee between September 20, 2019 and [REDACTED], 2022, then you may get money from a class action and PAGA settlement.

| <b>YOUR RIGHTS AND OPTIONS REGARDING THE SETTLEMENT</b>                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>You may:</u></b>                                                                                                                       | <b><u>What will happen:</u></b>                                                                                                                                                                                                                                                                                                                                                        |
| <b>Do nothing</b>                                                                                                                            | <b>You will get your Individual Settlement Payment and Aggrieved Employee Payment</b> , and give up the right to bring your own lawsuit for the Settlement Class Released Claims or Aggrieved Employee Released Claims. See below.                                                                                                                                                     |
| <b>Submit the Allocation Form and information or document(s) you have in support of the corrections to the Allocation Form by [REDACTED]</b> | A decision will be made regarding the number of workweeks based on the information in the Allocation Form and evidence submitted. <b>You will get your Individual Settlement Payment and Aggrieved Employee Payment</b> , and give up the right to bring your own lawsuit for the Settlement Class Released Claims or Aggrieved Employee Released Claims. See below.                   |
| <b>Request to be excluded from the settlement by [REDACTED]</b>                                                                              | <b>You will not receive your Individual Settlement Payment</b> but you will receive your <b>Aggrieved Employee Payment</b> . You will retain the right to file your own lawsuit for the Settlement Class Released Claims, but the request for exclusion does not and will not exclude you from the portion of the settlement related to Aggrieved Employee Released Claims. See below. |
| <b>Object to the terms of the settlement</b>                                                                                                 | The court will consider your objection. If the court overrules your objection, you will still be bound by the terms of the settlement. See below.                                                                                                                                                                                                                                      |

**I. What is the purpose of this notice?**

The purpose of this notice is to let you know that there is a class action lawsuit pending in the Superior Court of California for the County of Orange, a proposed settlement has been reached, and you may be a member of the class. This lawsuit was filed by Magdalena Cruz (“Plaintiff”) a former employee of Defendant SPS Technologies, LLC dba Air Industries Company (“Defendant”), Case No. 30-2021-01202173-CU-OE-CJC (“the Lawsuit”). The First Amended Class and Representative Action Complaint claims that Defendant allegedly failed to pay minimum wages for all hours worked, failed to pay all overtime wages owed, failed to provide meal periods, failed to authorize and permit rest periods, failed to provide accurate itemized wage statements, failed to pay all wages owed at the time of termination, engaged in unfair business practices, and owes penalties under the California Labor Code Private Attorneys’ General Act (Cal. Labor Code §§ 2698 *et seq.* “PAGA”). On [REDACTED], the Court ordered that you be sent this Notice. The Court file contains the settlement documents with more information on the Lawsuit.

**II. Why does Plaintiff seek settlement approval?**

Plaintiff seeks approval of the settlement because she has reached a proposed settlement with Defendant that she believes to be fair, reasonable, and adequate and in the best interest of the members of the class and all parties that resolves the uncertainties in this case. Please note that the Court has not decided anything yet, only that you should get a copy of this

Notice so that you can review the settlement and determine whether you want to participate in the settlement, object to it, or exclude yourself from the settlement.

### **III. What is Defendant's position on settlement?**

Defendant denies that any of its practices at issue in this Lawsuit were or are unlawful and Defendant is not admitting to any allegations in the case. Defendant views the settlement as a compromise, to which it has agreed in order to avoid the burden and expense of continued litigation. Thus, Defendant reserves the right to object to all claims if the settlement fails for any reason.

### **IV. Why did I get this Notice?**

You received this Notice because Defendant's records identify you as a member of the class. You may get money from the settlement if you worked for Defendant Air Industries Company in California as a non-exempt, hourly employee between September 20, 2019 and [REDACTED], 2022 (the "Class Period"). Specifically, "Class Member" is defined as follows:

All current and former non-exempt, hourly employees of Defendant SPS Technologies, LLC dba Air Industries Company who worked in California at any time during the Class Period.

### **V. Who are the parties in this class action?**

This lawsuit was filed against Defendant. Magdalena Cruz, a former non-exempt employee of Defendant, is the Plaintiff who brought the Lawsuit on behalf of herself and all similarly situated non-exempt employees in the state of California. The parties are settling the Lawsuit.

### **VI. Who are the attorneys for the parties?**

#### **Counsel for Plaintiff and Class Counsel**

##### **LIDMAN LAW, APC**

Scott M. Lidman  
Elizabeth Nguyen  
Milan Moore  
2155 Campus Drive, Suite 150  
El Segundo, CA 90245  
Telephone: (424) 322-4772  
Facsimile: (424) 322-4775  
slidman@lidmanlaw.com  
enguyen@lidmanlaw.com  
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2155 Campus Drive, Suite 180  
El Segundo, California 90245  
Telephone: (424) 292-2350  
Facsimile: (424) 292-2355  
phaines@haineslawgroup.com

#### **Counsel for Defendant Air Industries Company**

##### **BRYAN CAVE LEIGHTON PAISNER LLP**

Allison C. Eckstrom, Esq.  
1920 Main Street, Suite 1000  
Irvine, CA 92614  
Telephone: (949) 223-7000  
Facsimile: (949) 223-7100  
allison.eckstrom@bclplaw.com

##### **BRYAN CAVE LEIGHTON PAISNER LLP**

Daria Dub Carlson, Esq.  
120 Broadway, Suite 300  
Santa Monica, California 90401-2386  
Telephone: (310) 576-2100  
Facsimile: (310) 576-2200  
daria.carlson@bclplaw.com

### **VII. What is the proposed settlement?**

Defendant has agreed to pay a settlement amount of up to five hundred fifty thousand dollars (\$550,000) ("Gross Settlement Amount"). This sum includes the following: (1) fees for Settlement Administration, which is anticipated to be no more than \$15,000, (2) Class Representative Enhancement Payment in an amount not to exceed \$5,000 to Plaintiff, the class representative, for the initiation of the Lawsuit, prosecution and risks undertaken for costs in the event the case was unsuccessful, (3) the PAGA Payment of \$50,000, and (4) Plaintiff's attorneys' fees in an amount of up to one-third of the

Gross Settlement Amount (currently estimated to be **\$183,333.33**) and actual litigation costs of up to \$30,000, as approved by the Court.

The following is a summary of the settlement provisions. The specific and complete terms of the proposed settlement are stated in the Class and Representative Action Stipulation of Settlement between Plaintiff and Defendant ("Settlement Agreement"), a copy of which is filed with the Clerk of the Court.

**Individual Settlement Payment.** Defendant has agreed to pay all Class Members who do not submit a written Request for Exclusion ("Opt-Out") through the Settlement Administrator in accordance with the terms of the Settlement Agreement, after Final Approval of the Settlement.

After the deduction of the Court-approved expenses from the settlement amount, the remaining sum ("Net Settlement Amount") will be available to pay each Class Member who does not Opt-Out ("Settlement Class Member"). Each Settlement Class Member will receive a share of the Net Settlement Amount that is based on the total number of weeks the individual Settlement Class Member worked for Defendant in California during the Class Period ("Individual Settlement Payment").

The Individual Settlement Payment paid to each Settlement Class Member will be allocated as follows: 33% will be attributed to wages and will be reported as such on an IRS Form W-2 from which payroll withholding taxes and contributions shall be taken; and 67% to penalties and interest, not subject to withholdings and reported on an IRS Form 1099.

**Aggrieved Employee Payment.** Of the \$50,000 PAGA Payment, \$37,500 will be paid to the California Labor & Workforce Development Agency ("LWDA") and \$12,500 ("Aggrieved Employee PAGA Share") will be available for distribution to Class Members who were employed by Defendant at any time between September 20, 2019 and [REDACTED], 2022 ("Aggrieved Employees"). The time frame from September 20, 2019 to [REDACTED], 2022 is known as the "PAGA Period." Each Aggrieved Employee will receive a share of the Aggrieved Employee PAGA Share that is based on the total number of weeks the Aggrieved Employee worked for Defendant in California during the PAGA Period ("Aggrieved Employee Payment").

The Aggrieved Employee Payment paid to each Aggrieved Employee will be allocated as penalties, not subject to withholdings and reported on an IRS Form 1099.

The parties agree that all Settlement Class Members and Aggrieved Employees who receive any payment pursuant to the settlement will be responsible for any and all tax obligations associated with such receipt. **You will be responsible for correctly characterizing this compensation for tax purposes and paying any taxes that may be due on the payment you receive.**

### **VIII. What are my rights with regard to this matter?**

#### **A. Option One: You May Do Nothing.**

If you do not submit a correction to the enclosed Allocation Form and do not opt out from the class, you will receive your Individual Settlement Payment and Aggrieved Employee Payment based on the information contained in the Allocation Form, you will be bound by the Settlement, and you will be barred from separately pursuing the claims released by the Settlement Agreement.

#### **B. Option Two: Correct Information on Allocation Form**

If you believe the information contained on the Allocation Form is incorrect, you **must** complete the enclosed Allocation Form and return it to the Settlement Administrator, [REDACTED], at the address provided below on or before [REDACTED] ("Response Deadline"). The date of the postmark on the return mailing envelope on the Allocation Form shall be the exclusive means used to determine whether the Allocation Form was timely submitted. The Settlement Administrator will evaluate the information and document(s) you submit and, after reviewing the Company's records, the Settlement Administrator, together with the parties' counsel, will attempt to informally resolve the dispute as to your correct

number of workweeks. Unresolved disputes will be decided by the Settlement Administrator. If you dispute the number of workweeks, you may consult with Plaintiff's Attorneys or Settlement Administrator about your disputed claim.

C. Option Three: You May Exclude Yourself ("Opt-Out") From the Settlement Agreement.

If you do not wish to participate in or be bound by the Settlement Agreement, you must: (1) complete and sign the enclosed Request for Exclusion Form and return it to the Settlement Administrator at the specified address postmarked by [REDACTED]; or (2) you must submit a written signed statement expressing your desire to be excluded from the Settlement ("Request for Exclusion"), and any such statement shall include the name (and former names, if any), current address, telephone number and the last four (4) digits of Social Security number of the Class Member and stating "I wish to be excluded from the *Cruz vs. Air Industries Company* settlement. I understand by excluding myself, I will receive an Aggrieved Employee Payment if I worked during the PAGA Period, but I will not receive any other money from the settlement reached in this matter" or words to this effect; and (4) be postmarked by [REDACTED] and returned to the Settlement Administrator at the specified address. The Request for Exclusion will not be valid if it is not timely submitted, if it is not signed by the Class Member, or if it does not contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether the Request for Exclusion was timely submitted.

Any Class Member who requests to be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon. However, even if you request to be excluded from the Settlement Class and the Court approves the Settlement, you will still receive an Aggrieved Employee Payment if you worked during the PAGA Period and be bound by the Aggrieved Employee Released Claims. There is no right to exclude yourself from the settlement of the PAGA Claims.

Class Members who fail to submit a valid and timely written Request for Exclusion on or before [REDACTED] will be bound by all terms of the Settlement Agreement and any final judgment entered in this Lawsuit if the Settlement Agreement is approved by the Court.

D. Option Four: You May Object to the Settlement.

If you are a Class Member and you do not Opt-Out, you may object to the Settlement before Final Approval of the Settlement by the Court. However, you may not object to the Court's approval of the Aggrieved Employee Payments, Aggrieved Employee Release, or LWDA Payment. If you object to the Settlement and the Court approves the Settlement, you will still receive an Aggrieved Employee Payment if you worked during the PAGA Period and be bound by the Aggrieved Employee Released Claims. There is no right object to the settlement of the PAGA Claims.

If you choose to object to the Settlement, you may enter an appearance by yourself or through an attorney that you hire and pay for yourself. Any written objection must be signed by the Class Member and state: (a) the full name of the Class Member; (b) the dates of employment of the Class Member; (c) the last four digits of the Class Member's Social Security number and/or the Employee ID number; (d) contain a statement of the Class Member's objections, and (e) the name of the case and case number, *Cruz vs. Air Industries Company*, Case No. 30-2021-01202173-CU-OE-CJC. You must mail such written objection or complete, sign, and submit the enclosed Objection Form to the Settlement Administrator on or before [REDACTED] in order to be considered by the Court. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether the objection was timely submitted. You may also appear at the Final Approval/Settlement Fairness Hearing and present your objection to the Court. Any Class Member who submits a Request for Exclusion will not have the right to object to the Settlement.

IX. How much money will I get if I do not submit a Request for Exclusion?

The **estimated** gross share you will receive under the settlement if you are a Settlement Class Member or Aggrieved Employee is preprinted on your customized Allocation Form accompanying this Notice. The actual amount you receive may be higher or lower than this amount.

Defendant has agreed to pay a gross settlement amount of up to \$550,000 to settle the Lawsuit. The amount you receive as an Individual Settlement Payment depends on the number of weeks you worked during the Class Period for Defendant, calculated by multiplying the number of weeks you worked during the Class Period by the amount available for each such week. The amount available per week will be calculated by dividing the Net Settlement Amount by the total number of qualifying weeks worked by all Class Members during the Class Period.

The amount you receive as an Aggrieved Employee Payment depends on the number of weeks you worked during the PAGA Period for Defendant, calculated by multiplying the number of weeks you worked during the PAGA Period by the amount available for each such week. The amount available per week will be calculated by dividing the Aggrieved Employee PAGA Share by the total number of qualifying weeks worked by all Aggrieved Employees during the PAGA Period.

You will have 180 days to cash your check. If you do not cash your check within 180 days, the funds from the uncashed checks will be distributed to the California State Controller's Office's Unclaimed Property Fund in the name of the Settlement Class Member or the Aggrieved Employee.

#### **X. What is the effect of the settlement on my rights?**

Upon Final Approval by the Court, each Class Member who does not Opt-Out shall release, as of the date that Defendant delivers the Gross Settlement Amount and employer-side tax obligations for the wages portion of the Settlement to the Settlement Administrator, Defendant, and any of its former and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective predecessors in interest, subsidiaries, affiliates, parents and attorneys, from all claims during the Class Period under state, and local law that were alleged in the Lawsuit or could have been asserted based on the facts and allegations made in the Lawsuit, and any amendments thereto, including the following claims: (a) failure to pay the statutory minimum wage for all hours worked; (b) failure to pay all overtime wages owed; (c) failure to provide all meal periods; (d) failure to authorize and permit all rest breaks; (e) failure to furnish accurate, itemized wage statements; (f) failure to timely pay all wages owed upon separation of employment; (g) all claims for unfair business practices under California Business & Professions Code Section 17200 et seq. that could have been premised on the facts, claims, causes of action or legal theories of relief described above in (a)-(g); and (h) all damages, including, but not limited to, liquidated damages, civil and statutory penalties, interest and other amounts recoverable under said claims, causes of action or legal theories of relief identified above in (a)-(g) ("Settlement Class Released Claims").

In addition, each Class Member shall release, as of the date that Defendant delivers the Gross Settlement Amount and employer-side tax obligations for the wages portion of the Settlement to the Settlement Administrator, Defendant, and any of its former and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective predecessors in interest, subsidiaries, affiliates, parents and attorneys, from all claims for penalties pursuant to PAGA during the PAGA Period that were asserted in Plaintiff's March 16, 2021 letter to the California Labor and Workforce Development Agency and alleged in the Lawsuit or could have been asserted based on the facts and allegations made in the Lawsuit, and any amendments thereto, including the following claims: (a) failure to pay the statutory minimum wage for all hours worked in violation of Labor Code §§ 1194, 1194.2, and 1197; (b) failure to pay all overtime compensation earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198; (c) failure to provide all legally required meal periods and failing to pay meal period premiums in violation of Labor Code §§ 226.7, 512, and 558 by; (d) failure to provide all legally required rest periods and failure to pay rest period premiums in violation of Labor Code §§ 226.7, 516, and 558; (e) failure to furnish accurate and compliant itemized wage statements in violation of Labor Code § 226; (f) failure to pay all earned wages at least twice during each calendar month in violation of Labor Code § 204; (g) failure to maintain accurate records in violation of Labor Code § 1174; and (h) failure to pay all wages owed at the time of separation of employment in violation of Labor Code § 203 ("Aggrieved Employee Released Claims").

If the Settlement Agreement is not approved by the Court or does not become final for some other reason, then the litigation will continue.

#### **XI. What is a "Class Representative Enhancement Payment"?**

In class actions such as this one, a court may provide the Class Representative a "class representative enhancement payment"

in recognition of the time, effort and risks the Class Representative took to prosecute the class action and the Class Representative's execution of a general release of all claims. Plaintiff Magdalena Cruz will request that the Court approve a Class Representative Enhancement Payment of \$5,000, which will be deducted from the Gross Settlement Amount if approved by the Court.

**XII. Why does the Labor Workforce Development Agency receive any money?**

PAGA allows private citizens to step into the State's shoes and recover civil penalties for alleged violations of California's Labor Code. Seventy-five (75) percent of any such recovery must be given to the State. In the present case, the Settlement provides that \$37,500 be paid to the State as its share of the penalties recovered in this case ("LWDA Payment"). If the Court awards less than this amount, the difference will be made available for distribution to Aggrieved Employees as part of the Aggrieved Employee PAGA Share.

**XIII. How much will the attorneys for Plaintiff get?**

Class Counsel and/or Plaintiff will seek approval from the Court for payment of attorneys' fees in an amount up to one-third (1/3) of the Gross Settlement Amount (currently estimated to be \$183,333.33), plus costs not to exceed \$30,000. These amounts, if approved by the Court, will be deducted from the Gross Settlement Amount.

**XIV. Who is the Settlement Administrator?**

The Settlement Administrator is an independent third party appointed by the Court to send this notice, process and issue Individual Settlement Payments and Aggrieved Employee Payments, and otherwise administer the settlement. It is estimated that it will cost approximately \$15,000 for the Settlement Administrator to fully administer the settlement. The Court has approved [REDACTED] to be the Settlement Administrator in this case. You may contact the Settlement Administrator to provide updated contact information, make corrections regarding your employment information at the Company, or ask questions regarding the processing of settlement payments. **It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.** You may contact the Settlement Administrator at:

Cruz/Air Industries Company Settlement Administrator  
c/o \_\_\_\_\_

\_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_  
EMAIL: \_\_\_\_\_

**XV. When will the Court consider whether to finally approve the Settlement?**

The Court will hold a Final Approval/Settlement Fairness Hearing in Department CX101 of the Orange County Superior Court, located at 700 W. Civic Center Drive, Santa Ana, CA 92701 on \_\_\_\_\_, to decide whether to finally approve the settlement as fair, reasonable, and adequate. At that time, the Court also will be asked to approve Plaintiff's Attorneys' request for attorneys' fees and reimbursement of costs, and the Class Representative Enhancement Payment. The hearing may be postponed without further notice to the Class. If the Settlement is not approved, the lawsuit will continue to be prepared for trial or other judicial resolution. You are not required to attend the hearing, although any Settlement Class Members is welcome to attend the hearing.

The Court's final judgment will be posted on the Settlement Administrator's website ([http://www.\\_\\_\\_\\_\\_.com](http://www._____.com)).

**Questions?** You can contact the Settlement Administrator or Plaintiff's Attorneys at the numbers listed above. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701, during regular court hours, or by going to this website <https://civilwebshopping.occourts.org/Login.do> and enter the case number "01202173".  
**DO NOT TELEPHONE THE COURT REGARDING THE SETTLEMENT OR THE SETTLEMENT ADMINISTRATION PROCESS.**

**ALLOCATION FORM**

**CRUZ V. SPS TECHNOLOGIES, LLC dba AIR INDUSTRIES COMPANY**

Orange County Superior Court Case No. 30-2021-01202173-CU-OE-CJC

**You do NOT have to mail this Allocation Form to get your Individual Settlement Payment**

Please complete, sign, date and return this form to <<ADMINISTRATOR CONTACT INFO>> **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 Settlement 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 and Aggrieved Employee Payment:**

According to Air Industry Company's records ("Air Industry"):

You were employed by Air Industry and worked a total of [ ] workweeks during the time period between September 20, 2019 and [PRELIMINARY APPROVAL].

Based on the above, your Individual Settlement Payment is estimated to be \$ [ ] and Aggrieved Employee Payment is estimated to be \$ [ ].

**(IV) If you disagree with items in Section (III) 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 Air Industry's records, Air Industry's records will control unless you are able to provide documentation that establishes that Air Industry's records are mistaken. If there is a dispute about whether Air Industry'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 Class Action and PAGA Settlement" that accompanies this Form. The Settlement Administrator will render all final decisions on disputes.

**ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED NO LATER THAN <<RESPONSE DEADLINE>**

**REQUEST FOR EXCLUSION FORM**

**CRUZ V. SPS TECHNOLOGIES, LLC dba AIR INDUSTRIES COMPANY**  
Orange County Superior Court Case No. 30-2021-01202173-CU-OE-CJC

**SUBMIT THIS FORM ONLY IF YOU WISH TO BE EXCLUDED FROM PARTICIPATING IN THE CLASS ACTION SETTLEMENT**

By signing and returning this form, I represent that it is my desire to exclude myself from participating in the Settlement of the Class Action entitled ***Cruz v. SPS Technologies, LLC dba Air Industries Company***, Orange County Superior Court Case No. 30-2021-01202173-CU-OE-CJC, and that I received notice of the Settlement. I understand by excluding myself, I will receive an Aggrieved Employee Payment if I worked during the PAGA Period, but I will not receive any other money from the settlement reached in this matter.

**Please note:** Any person who submits this form will not receive an Individual Settlement Payment.

Name (Please Print): \_\_\_\_\_  
(First) (Middle) (Last)

Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City) (State) (Zip)

Last 4 Digits of Social Security Number: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

**TO BE VALID, THIS FORM MUST BE POST-MARKED NO LATER THAN \_\_\_\_\_, 2022 AND MAILED TO THE SETTLEMENT ADMINISTRATOR AT:**

***Cruz v. SPS Technologies, LLC dba Air Industries Company.,***  
Administrator Name  
c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## OBJECTION FORM

**CRUZ V. SPS TECHNOLOGIES, LLC dba AIR INDUSTRIES COMPANY**

Orange County Superior Court Case No. 30-2021-01202173-CU-OE-CJC

**COMPLETE THIS FORM ONLY IF YOU WISH TO OBJECT TO THE  
CLASS ACTION SETTLEMENT**

**In order for you to object to the Class Action Settlement entitled *Cruz v. SPS Technologies, LLC dba Air Industries Company.*, you must complete all steps listed in 1-5 below. You are not required to appear in Court in order to object to the Settlement. However, if you are planning on appearing in Court, please circle "yes" in Section 3 below. If you are planning on appearing in Court, you still must complete all steps listed in 1-5 below in order to object to the Settlement.**

**1. Provide the following information:**

Your Name (Please Print): \_\_\_\_\_  
(First) (Middle) (Last)

Your Address:

Last 4 Digits of your Social Security Number:

**2. Describe the reasons for your objection to the Settlement (please attach additional documents if you need more space):** \_\_\_\_\_

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**3. Do you intend to appear in Court at the Final Fairness Hearing, currently scheduled for [ADD DATE AND TIME].**

Circle One:      Yes                      No

You are not required to retain an attorney to object. However, if you are represented by an attorney, provide the name of your attorney and the attorney's phone number \_\_\_\_\_

**4. Date and sign this form below:**

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

**5. COMPLETE AND MAIL THIS FORM TO THE SETTLEMENT ADMINISTRATOR AT THE ADDRESS BELOW SO THAT IT IS POST-MARKED NO LATER THAN [REDACTED].**

***Cruz v. SPS Technologies, LLC dba Air Industries Company.***

Administrator Name

c/o

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EXHIBIT B

EXHIBIT B

# LIDMAN LAW

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

OFFICE: (424) 322-4772

FAX: (424) 322-4775

March 16, 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**

Air Industries Corporation, a California  
corporation  
12570 Knott Street  
Garden Grove, CA 92841

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

Precision Castparts Corp., an Oregon  
corporation  
4650 S. Macadam Avenue, Suite 300  
Portland, OR 97239

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

SPS Technologies, LLC, a Pennsylvania limited  
liability company  
4650 S. Macadam Avenue, Suite 300  
Portland, OR 97239

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

Precision Castparts Corp., an Oregon  
corporation  
c/o National Registered Agents, Inc., Agent for  
Service of Process  
818 W. Seventh Street, Suite 930  
Los Angeles, CA 90017

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

SPS Technologies, LLC, a Pennsylvania limited  
liability company  
c/o National Registered Agents, Inc., Agent for  
Service of Process  
818 W. Seventh Street, Suite 930  
Los Angeles, CA 90017

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

Air Industries Corporation, a California  
corporation  
c/o Dan Higgins, Agent for Service of Process  
1431 21<sup>st</sup> Street  
Manhattan Beach, CA 90266

Re: *Magdalena Cruz v. SPS Technologies, LLC, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Magdalena Cruz in claims arising from her employment with SPS Technologies, LLC, a Pennsylvania limited liability company; Precision Castparts Corp., an Oregon corporation; and Air Industries Corporation, a California corporation (“Defendants”). Ms. Cruz is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendants’ 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. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, for purposes of this letter, an “aggrieved employee” should be considered to include all current and former non-exempt employees working for Defendants in California, during the one year plus 178 days immediately preceding the date of this letter through the present date, and continuing through a civil judgment if the LWDA takes no action and Ms. Cruz files a civil lawsuit seeking civil penalties.

Ms. Cruz, a former employee, was employed by Defendants from approximately 1997 through approximately July 31, 2020. Throughout her employment with Defendants, Ms. Cruz worked out of Defendants’ facility in Garden Grove, California as an Operator.

During her employment with Defendants, Ms. Cruz was generally scheduled to work from approximately 2:30 p.m. to approximately 1:00 a.m., Monday through Friday and/or Saturday. Throughout her employment with Defendants, Defendants’ timekeeping policies and practices required Ms. Cruz to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. As a result, Defendants failed to pay Ms. Cruz all required minimum wages. Further, because Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours per week, the pay practices utilized by Defendants also deprived Ms. Cruz of all required overtime wages owed.

At times during Ms. Cruz’s employment with Defendants, Ms. Cruz was not provided all legally required meal periods due to Defendants’ meal period policies and practices. Specifically, during times when Ms. Cruz worked in excess of 10.0 hours per shift, Defendants failed to provide Ms. Cruz with a second, timely meal period of at least thirty (30) minutes in length. Additionally, at times when Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to properly compensate Ms. Cruz with all the required meal period premiums for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7. Specifically, on the occasions when Ms. Cruz received a meal period premium, it was paid at Ms. Cruz’s base rate of pay instead of her higher, regular rate of compensation in violation of Labor Code section 226.7.

Ms. Cruz was also not authorized and permitted to take all legally required paid rest periods due to Defendants’ unlawful rest period policies and practices. Specifically, Defendants maintained unlawful rest period policies and practices and failed to authorize and permit Ms. Cruz and other non-exempt employees take a third rest period when they worked shifts in excess of 10.0 hours. Accordingly, Defendants’ rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof.

Although Ms. Cruz was not authorized and permitted to take all legally-compliant rest periods to which she was entitled, Defendants failed to compensate Ms. Cruz with the required rest period premium for each workday in which she 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, Defendants maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to provide a legally compliant rest period.

During her employment with Defendants, Ms. Cruz would at times work in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek, but did not receive overtime compensation equal to one and one-half times her regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to her claims, Ms. Cruz received non-discretionary 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 Defendants' payment of Incentive Pay to Ms. Cruz, Defendants failed to include all forms of Incentive Pay when calculating Ms. Cruz's regular rate of pay, thereby causing Ms. Cruz to be underpaid all of her required overtime wages.

In addition, throughout Ms. Cruz's employment, Ms. Cruz worked shifts with varying pay rates. Thus, on the occasion when Ms. Cruz worked in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek, Ms. Cruz received various overtime rates of pay for her overtime hours worked, depending on her shift. However, Defendants failed to use Ms. Cruz's weighted average of overtime pay (instead paying overtime at the rate of 1.5 times the hourly rate in effect at the time the overtime was worked), reflecting Ms. Cruz's varying pay rates, when calculating Ms. Cruz's regular rate of pay for a workweek, thereby causing Ms. Cruz to be underpaid for her overtime hours worked. See *Alvarado v. Dart Container Corp. of California*, 4 Cal.5th 542, 569 (2018) ("[n]ot all employees earn at a fixed pay rate throughout a pay period, and therefore regular rate of pay is a weighted average reflecting work done at varying times, under varying circumstances, and at varying rates.") (emphasis in original); see also Lab. Code, § 246, subd. (1)(1) (referring to "the regular rate of pay for the workweek"); see also DLSE Manual, supra, § 49.2.5, p. 49-10 (setting forth the DLSE's "Weighted Average Method" for calculating regular rate of pay when worker has varying pay rates); see also 29 C.F.R. § 778.115 (2008) (setting forth the federal "weighted average" policy).

As a result of Defendants' failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendants maintained inaccurate payroll records and issued inaccurate wage statements to Ms. Cruz.

As a further result of Defendants' failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, Defendants failed to pay all wages owed to Ms. Cruz upon her separation of employment from Defendants.

As described above, Defendants committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

#### Minimum Wage Violations

Defendants were required to pay Ms. Cruz 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, 1197.1; The Wage Order 1, § 4. Ms. Cruz and other aggrieved employees were not paid for all hours worked due to Defendants' timekeeping policies and practices. As alleged above, throughout Ms. Cruz's employment with Defendants, Defendants' timekeeping policies and practices required her to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. As a result, Defendants failed to pay Ms. Cruz all required minimum wages. Further, because Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours

per week, the pay practices utilized by Defendants also deprived Ms. Cruz of all required overtime wages owed.

#### Overtime Violations

Defendants were required to pay Ms. Cruz 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 1, § 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, Ms. Cruz and other aggrieved employees were not paid for overtime wages owed due to Defendants’ timekeeping policies and practices. As alleged above, throughout Ms. Cruz’s employment with Defendants, Defendants’ timekeeping policies and practices required her to clock in and begin working approximately five (5) minutes before her scheduled start time and continue working approximately five (5) minutes after the end of her scheduled end time for which she did not receive pay. Thus, Ms. Cruz was often required to perform duties off-the-clock both before and after her shift for which she was not paid. Ms. Cruz would often work more than eight (8) hours per day and/or forty (40) hours per week; as a result, the timekeeping and pay practices utilized by Defendants deprived Ms. Cruz of all required overtime wages owed. In addition, as alleged above, Ms. Cruz would at times work in excess of eight (8) hours per workday and/or more than forty (40) hours per workweek during her employment with Defendants, but did not receive overtime compensation equal to one and one-half times her regular rate of pay for working overtime hours. Specifically, for at least a portion of the time period relevant to her claims, Ms. Cruz received non-discretionary 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 Defendants’ payment of Incentive Pay to Ms. Cruz, Defendants failed to include all forms of Incentive Pay when calculating Ms. Cruz’s regular rate of pay, thereby causing Ms. Cruz to be underpaid all of her required overtime wages.

#### Meal Period Violations

As alleged above, Defendants failed to provide Ms. Cruz and other aggrieved employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. Ms. Cruz was not provided all legally required meal periods due to Defendants’ meal period policies and practices. Specifically, during times when Ms. Cruz worked in excess of 10.0 hours per shift, Defendants failed to provide Ms. Cruz with a second, timely meal period of at least thirty (30) minutes in length. Additionally, at times when Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to properly compensate Ms. Cruz with all the required meal period premiums for each workday in which she experienced a meal period violation as mandated by Labor Code § 226.7. Specifically, on the occasions when Ms. Cruz received a meal period premium, it was paid at Ms. Cruz’s base rate of pay instead of her higher, regular rate of compensation, in violation of Labor Code section 226.7. As a result, Ms. Cruz 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 Ms. Cruz was not provided with all legally-compliant meal periods to which she was entitled, Defendants failed to compensate Ms. Cruz 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.

#### Rest Period Violations

Defendants also failed to authorize and permit Ms. Cruz and other aggrieved employees to take all required paid rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. As alleged above, Specifically, Defendants maintained unlawful rest period policies and practices and failed to authorize and permit Ms. Cruz and other non-exempt employees take a third rest period when they worked shifts in excess of 10.0 hours. Accordingly, Defendants' rest period policies and practices fail to authorize and permit duty-free rest periods for every four hours worked, or major fraction thereof. As such, Ms. Cruz 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.")

#### Wage Statement Violations

Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Ms. Cruz and other aggrieved employees with accurate and complete, itemized wage statements that included, among other requirements, failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, in violation of Labor Code § 226 *et seq.* Defendants' failure to furnish Ms. Cruz 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 failure to pay all minimum and overtime wages, as well as meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendants' reported data.

#### 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. Defendants failed to timely pay Ms. Cruz and other similarly aggrieved employees all of their final wages at the time of separation, which included, among other things, all minimum and overtime wages, as well as meal and rest period premium wages. Pursuant to Labor Code § 203, Defendants' failure to pay all final wages due to Ms. Cruz and similarly aggrieved employees was willful and, consequently, entitles Ms. Cruz and other similarly aggrieved employees to waiting time penalties equal to one day of wages at their standard hourly rate for each day Defendants failed to pay their final wages after their separation, up to a maximum of thirty days.

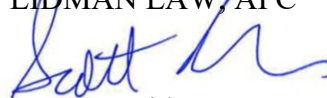
As an "aggrieved employee," Ms. Cruz will initiate a civil action on behalf of herself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage

and hour violations alleged herein. Based on Ms. Cruz's own investigation, and on information and belief, Defendants committed the following Labor Code violations:

- a) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Ms. Cruz and other aggrieved employees the statutory minimum wage for all hours worked;
- b) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Ms. Cruz and other aggrieved employees all overtime compensation earned;
- c) Defendants 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 Ms. Cruz and other aggrieved employees;
- d) Defendants 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 Ms. Cruz and other aggrieved employees;
- e) Defendants violated Labor Code § 226 by failing to furnish Ms. Cruz and other aggrieved employees with accurate and compliant itemized wage statements;
- f) Defendants violated Labor Code § 204 by failing to pay Ms. Cruz and other aggrieved employees all earned wages at least twice during each calendar month;
- g) Defendants violated Labor Code § 1174 by failing to maintain accurate records on behalf of Ms. Cruz and other aggrieved employees; and
- h) Defendants violated Labor Code § 203 by failing to pay Ms. Cruz and other aggrieved employees for all wages owed at the time of their separation of employment.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendants 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