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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

GERARDO ABUNDO, on behalf of himself and all others similarly situated,

Plaintiff,

v.

AMERICAN RESIDENTIAL SERVICES, LLC, a Tennessee limited liability company; and DOES 1 through 50, inclusive,

Defendant.

CASE NO. 30-2021-01202607-CU-OE-CXC

Assigned for all purposes to:
Hon. Melissa McCormick, Dept. CX104

DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT

Reservation Number: 74450299

Complaint Filed: May 24, 2021
Amended Complaint Filed: July 12, 2021

DECLARATION OF JAMES R. HAWKINS

1. I am an attorney in good standing duly admitted to the State Bar of California, the principal attorney at James Hawkins APLC, and counsel of record for Plaintiff GERARDO ABUNDO ("Plaintiff") in this action against Defendant AMERICAN RESIDENTIAL SERVICES, LLC ("Defendant") (Plaintiff and Defendant collectively, "the Parties"). Except for those matters stated on information and belief, which I am informed and believe are true and correct, I have personal knowledge of all matters set forth herein. If called as a witness, I could and would testify to them competently.

2. This declaration is made in support of the Motion for Approval of Settlement Pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code §§ 2698, et seq.) (hereinafter "PAGA Approval Motion") filed concurrently herewith.

Procedural History

3. On March 19, 2021, Plaintiff provided written notice to Defendant and the California Labor and Workforce Development Agency ("LWDA") of the alleged Labor Code violations, pursuant to Labor Code section 2699.3. A true and correct copy of the letter and complaint that were submitted to the LWDA and Defendant are attached hereto as **Exhibits 1 and 2**, respectively.

4. On May 24, 2021, Plaintiff Gerardo Abundo filed a representative action under the Private Attorneys General Act ("PAGA") against Defendant American Residential Services, LLC in Orange County Superior Court, captioned *Gerardo Abundo v. American Residential Services*, LLC, Case No. 30-2021-01202607-CU-OE-CXC (the "Action").

5. On July 12, 2021, Plaintiff filed a First Amended Complaint in the Action, which is the operative complaint, seeking civil penalties under PAGA for Defendant's alleged failure to: (1) pay all wages owed, including minimum wages and overtime; (2) provide lawful meal periods; (3) authorize and permit lawful rest periods; (4) timely pay wages due and payable during employment; (5) timely pay wages owed at separation; (6) comply with itemized employee wage statement provisions; (7) pay sick leave at the proper rate; and (7) reimburse business expenses.

6. On September 3, 2021, Defendant filed an answer to the First Amended Complaint ("FAC").

7. On June 27, 2022, the Parties participated in a mediation session with Hon. William J. Cahill (Ret.), but did not reach a settlement.

8. On July 7, 2022, Defendant filed a motion to compel arbitration of Plaintiff's individual claims and to dismiss the representative PAGA claims. On September 8, 2022, the Court denied Defendant's request to dismiss the PAGA claims and stayed the action pending arbitration of Plaintiff's individual claims.

9. On February 14, 2024, the Parties participated in a second mediation with Hon. Steven J. Stone (Ret.) and reached a settlement.

10. On or about April 22, 2024, the Parties executed a PAGA Settlement Agreement ("Settlement" or "Settlement Agreement").

11. On May 29, 2024, Plaintiff brought a Motion for Approval of PAGA Settlement. This motion was set for hearing on October 17, 2024, the first available hearing date at the time. On or around October 17, 2024, the Court issued a tentative ruling denying the motion without prejudice and raised a number of concerns for the parties' consideration. The parties subsequently met and conferred in good faith about the issues raised by the Court.

12. On December 11, 2024, the Parties executed the revised PAGA Settlement to address the Court's concerns about the settlement's terms.

13. The Parties also obtained an updated number of PAGA Pay Periods through October 19, 2024, for the purpose of better estimating the extrapolated number of PAGA Pay Periods through the date of the hearing on Plaintiff's Renewed Motion for Approval of PAGA Settlement.

Investigation Into the Claims; Settlement

14. Plaintiff and Defendant engaged in formal and informal discovery prior to resolving the Action. On October 8, 2021, Plaintiff propounded written discovery on Defendant consisting of Form Interrogatories, Special Interrogatories, Requests for Admissions, and Requests for Production.

15. The Parties agreed to attend mediation with Hon. William J. Cahill (Ret.) on June 27, 2022, to attempt to resolve the action and further agreed to engage in informal discovery in advance and in preparation thereof. Documents Plaintiff obtained through informal exchange included applicable policy documents, key data points regarding the size and makeup of the aggrieved employee group, and a sampling of employee time and pay records.

16. Defendant produced Plaintiff's personnel file, a sampling of payroll and timekeeping records, and copies of its relevant written policies. From the data and other documents obtained from Defendant pertaining to the aggrieved employees and Defendant's policies, Plaintiff's counsel was able to analyze the data provided and thoroughly assess the merits of each claim.

17. The June 27, 2022, mediation with Hon. William J. Cahill (Ret.) was unsuccessful.

18. On February 14, 2024, the Parties participated in a second mediation with Hon. Steven J. Stone (Ret.) and were able to reach a settlement to resolve the claims alleged against Defendant. A true and correct copy of the PAGA Settlement Agreement (the "Settlement") is attached hereto as **Exhibit 3.**

19. Counsel believes the proposed settlement is fair, reasonable, and adequate in view of PAGA's purposes in light of the complexities of the case, the uncertainties of further litigation, and that it represents a fair and reasonable recovery for the State of California and the aggrieved employees. The Parties have not engaged in any collusion or improper negotiations. The Parties do not have any agreements regarding the proposed Settlement that are not reflected in the Settlement.

Summary of the Settlement Terms

20. Key provisions of the Settlement include the following:

a. "PAGA Members" means all current and former non-exempt employees who worked at American Residential Services, LLC in California during the PAGA Period from March 19, 2020 to April 3, 2025. (Settlement, §§ 1.18, 1.23).

b. Defendant agreed to pay the Gross Fund Value of $975,000.00 (subject to an

escalator provision), which includes Individual PAGA Payments to PAGA Members, the PAGA Representative Service Payment to Plaintiff, PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, Administration Expenses Payment, and the LWDA Payment. (Id., §§ 1.8, 8).

c. If the number of PAGA Pay Periods exceeds 114,247 (10% more than the 103,861 PAGA Pay Periods estimated for March 19, 2020 through February 14, 2024), Defendant has the option to pay the pro-rata increase or have the PAGA Period expire at that point in time. (Id., §§ 4.1, 8.). The total number of PAGA pay periods is estimated to be 128,479 at the time of the PAGA approval hearing, which is approximately 23.7% greater than original PAGA pay period estimate. Therefore Defendants will pay an additional 13.7% of the Gross Fund Value (23.7% minus the 10% allowance before the escalator clause was triggered), bringing the total Gross Fund Value to $1,108,602.63.

d. Defendant agrees not to oppose Plaintiff's request for a PAGA Representative Service Payment of up to $10,000.00. (Id., 3.2.2.) If this request is not approved or is reduced by the Court, any amount not approved will be included in the PAGA Fund Value. (Id., § 3.2.2.)

e. PAGA Counsel will not seek more than 35% of the Gross Fund Value for the PAGA Counsel Fees Payment (Id., § 3.2.1.). The PAGA Counsel Fees Payment is currently estimated to be $388,010.92 based on the escalated Gross Fund Value of $1,108,602.63.

f. PAGA Counsel will not seek more than $25,000.00 for the PAGA Counsel Litigation Expenses Payment. (Id.) A true and correct copy of a report showing all expenses reasonably incurred in this matter by PAGA Counsel, totaling $23,198.03 after deducting postage costs, is attached hereto as **Exhibit 4**. Invoices for each mediation are attached hereto as **Exhibits 5 and 6.** The invoice for our expert that provided data analysis for mediation is attached hereto as **Exhibit 7**.

g. PAGA Allocation: Approximately $678,393.68 will be available for distribution to the PAGA Members and the LWDA as the PAGA Fund Value. (Id., § 1.17.) Of this amount, the LWDA will receive 75%, or approximately $508,795.26 as the LWDA Payment, and PAGA Members will receive 25%, or approximately $169,598.42 as Individual PAGA Payments. (Id., § 3.2.4.)

h. Defendant shall fund the Gross Fund Value within 21 days of the Effective Date. (Id., § 4.3.)

i. Within 21 days of Defendant funding the Gross Fund Value, the Administrator will issue checks for the Individual PAGA Payments, PAGA Representative Service Payment, LWDA Payment, Administration Expenses Payment, PAGA Counsel Fees Payment, and PAGA Counsel Litigation Expenses Payment. (Id., § 4.4.)

j. Notice to PAGA Members and administration of this Settlement will be handled by ILYM Group, Inc. as the Settlement Administrator. (Id., § 1.2.) The Administration Expenses Payment shall not exceed $9,000.00 except for good cause and as approved by the Court. (Id., § 3.2.3.)

k. In exchange for the settlement consideration, Defendant shall be entitled to a release of the Released PAGA Claims from the LWDA, PAGA Members, and Plaintiff. (Id., § 5.)

21. Plaintiff and his counsel have diligently investigated the claims in this matter. Plaintiff and PAGA Counsel concluded, after considering the disputed factual and legal issues, the substantial risks of further prosecution (including possible summary judgment efforts), and the substantial benefits to be received under the Settlement, that settlement on the agreed terms is in the best interest of Plaintiff, the PAGA Members, and the LWDA, and is fair and reasonable. PAGA Counsel brought extensive experience with wage and hour actions to the negotiation of this Settlement.

22. Resolution at this time will avoid the need for additional expensive and time-consuming litigation that could result in a less satisfactory outcome than proposed under this

Settlement. The Settlement is objectively reasonable and benefits the PAGA Members and the State of California by providing recovery without additional years of delay. The efficiency of this litigation benefits the Court, the Parties, and their counsel. A settled resolution is the most realistic method for addressing the claims raised.

23. The Parties engaged in necessary investigation, including Defendant's production of policies, PAGA Member data, and a sampling of payroll and timekeeping records. The information produced was sufficient for PAGA Counsel to adequately evaluate the Settlement. Plaintiff had ample information to evaluate a fair and reasonable settlement amount.

24. While the expense, complexity and duration of future litigation was to some extent unknown, establishing the foundational violations to support a substantial penalty award would certainly require tremendous time and expense.

25. The Settlement provides a significant monetary benefit within "the range of an acceptable settlement" under the circumstances, the standard on which this Settlement must be judged. The Ninth Circuit has held that a settlement may be fair and reasonable even if it provides only a fraction of what could be obtained at trial.

26. The Settlement is the product of arm's-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation and the legal positions of the Parties, the settlement amount reflects the best feasible recovery. The settlement amount is a compromise figure that took into account risks related to liability, damages, and Defendant's asserted defenses. Given the strong case Defendant could present, this is a consequential settlement.

Estimated Maximum Potential Recovery

27. Prior to mediation, Defendant provided PAGA Member data for the relevant time period, including the total number of PAGA Members and PAGA Pay Periods. This enabled Plaintiff's counsel to analyze the data and prepare a comprehensive damage analysis for mediation purposes. (Agreement, § 2.7.)

28. At the time of mediation Defendant represented there were approximately 103,861 PAGA Pay Periods from March 19, 2020, through February 14, 2024. (Agreement, §

4.1.) Defendant represented that there were approximately 128,479 PAGA Pay Periods through April 3, 2025, and the estimated potential recovery for the PAGA members during this period is $12,847,900. The escalated Gross Fund Value of $1,108,602.63 therefore represents approximately 8.6% of Defendant's maximum potential liability of $12,847,900 for the 128,479 Pay Periods up through April 3, 2025.

Risks of Continued Litigation and Discounts in Settlement

29. Despite a total potential recovery of over $10 million in PAGA penalties, Plaintiff recognizes the challenge in establishing liability on the underlying wage and hour claims. Plaintiff recognizes that the likelihood of proving a violation during each and every pay period is low making recovery of $10 million or anything close to that amount in civil penalties very unlikely. Continuing litigation will also drive up costs for both sides to amounts exceeding the potential recovery in relation to the number of PAGA Members. In that respect, the Gross Fund Value represents a very fair recovery of approximately 8.6% of the potential maximum civil penalties.

30. Furthermore, Plaintiff must prevail at a trial on the merits. In addition to having to prove that Plaintiff and the PAGA Members were not paid for all hours worked, Defendant contends that Plaintiff must establish willfulness for waiting time penalties under Labor Code Section 203 and a knowing and intentional violation under Labor Code Section 226 for wage statement penalties.

31. With respect to the claims asserted on behalf of the PAGA Members, there are significant risks that support the reduced compromise amount. These risks include, but are not limited to:

a. The risk that Plaintiff would be unable to establish liability for allegedly unpaid wages. (See *Duran v. US Bank Nat'l Ass'n*, 59 Cal.4th 1, 39 & fn. 33 (2014) ("Duran"), citing *Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014).) Defendant contends that Plaintiff and PAGA Members were paid for all hours worked, and that any off-the-clock work was done without Defendant's knowledge.

b. The risk that Plaintiff would not be able to prove liability for alleged meal and rest break violations; or that establishing such liability would require an individualized inquiry presenting trial manageability issues and potentially inconsistent testimony. Plaintiff alleged that PAGA Members were unable to take breaks without management approval and that understaffing led to an inability to take breaks. Defendant alleges its policies were compliant, that Plaintiff and PAGA Members acknowledged being provided compliant meal and rest breaks, and that any non-compliant breaks were due to the employee's voluntary choice. The Court may limit evidence at trial and penalties awarded if a trial for all employees would be unmanageable. (See *Estrada v. Royalty Carpet Mills* (2022) 76 Cal. App. 5th 685.) In discovery, Defendant provided several policies requiring its employees to maintain truthful and accurate timekeeping and advising them of the timing and availability of meal and rest breaks. It also provided information that it historically paid premiums for missed breaks.

c. The risk that Plaintiff would not recover waiting time and wage statement penalties under Labor Code sections 203 and 226. Plaintiff might not prove that Defendant acted with the intent necessary for penalties under Labor Code sections 203 and 226. Section 203 requires showing the employer committed a "willful" violation in withholding wages, and a good faith dispute that wages are due precludes waiting time penalties. (8 Cal. Code Regs. § 13520.) Similarly, section 226 penalties require a "knowing and intentional" violation. Defendant contends it would present good faith defenses precluding a finding of willfulness under section 203. (*See Naranjo v. Spectrum Security Services, Inc.*, Case No. S279397 (Cal. S. Ct. May 6, 2024)) Any good faith dispute could preclude penalties.

d. The risk that any PAGA civil penalties could be reduced by the Court in its discretion, which would materially impact the PAGA Members' recovery. (See Labor Code § 2699(e)(1).)

e. The risk that lengthy appellate litigation could ensue, with associated risks and

costs, enhances the value of a confirmed settlement over unpredictable litigation.

f. Although the potential PAGA penalties amount to $12,847,900, that amount is unlikely in this case. Ultimately, the penalty amount is always within the Court's discretion. Labor Code § 2699(e)(2) states:

In any action by an aggrieved employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.

Subdivision (a) states,

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.

g. Subdivision (f) specifies the penalties in instances where the underlying statute does not specify any civil penalty. In other words, where the facts and circumstances of the particular case demonstrate that an unreduced award would be "unjust, arbitrary and oppressive, or confiscatory," the court (or arbitrator) may reduce the award so as to ameliorate any such finding. (*See Carrington v. Starbucks Corp.* (2018) 30 Cal.App.5th 504, (reducing the civil penalties by 90% of the maximum penalty for all proven violations at trial); *Viceral v. Mistras Group, Inc.* (N.D. Cal., Oct. 11, 2016, No. 15-CV-02198-EMC) 2016 WL 5907869, at *8 (noting that courts often exercise discretion to reduce PAGA verdicts below the statutory penalty).)

h. Moreover, Plaintiff faced the risk of a potentially prolonged and expensive trial.

Defendants have indicated that they intend to question and/or cross-examine each and every employee for whom penalties are sought, which would lead to a trial involving hundreds witnesses. Thus, there is also a real risk that Plaintiff's claims would be dismissed or significantly narrowed in scope as a result of manageability concerns. (See, e.g., *Wesson v. Staples the Office Superstore LLC* (2021) 68 Cal.App.5th 746 (holding that trial courts have the power to strike PAGA claims that are not manageable).)

i. Plaintiffs faced the risk of being held liable for Defendants' attorneys' fees and costs if this case had been unsuccessful.

32. Each of these factors bore heavily on the negotiations leading to the Settlement. In view of these risks, the Settlement reflects a fair, adequate, and reasonable compromise amount for these claims and warrants preliminary approval. Indeed, while the risks listed herein are far from exhaustive, they show that the Settlement is fair, adequate, and reasonable in view of them.

33. In these respects, Defendant strongly deny any liability. Continued litigation of this lawsuit presented Plaintiff and Defendant with substantial legal risks that were (and continue to be) very difficult to assess.

34. In light of the uncertainties of protracted litigation, the Settlement amount reflects a fair and reasonable recovery for the State of California and the Aggrieved Employees. The Settlement amount is, of course, a compromise figure. By necessity, it took into account risks related to liability, trial manageability, discretionary penalties, and all the defenses asserted by Defendant as to all such matters.

Fairness of Distribution

35. The proposed method of distribution is fair and reasonable because each PAGA Member's actual potential penalties vary proportionally based on the number of PAGA Pay Periods worked during the PAGA Period. (Agreement, § 3.3.) A PAGA Member who worked a greater number of PAGA Pay Periods will have a larger potential claim than one who worked fewer PAGA Pay Periods and will likewise receive a proportionately greater share of the PAGA Fund Value allocated to the PAGA Members as their Individual PAGA Payment. At the time of

the original settlement, there were approximately 1,760 estimated PAGA Members. Presently, it is estimated that there are approximately 128,479 PAGA pay periods and 1,996 PAGA Members during the PAGA period, with the highest number of PAGA periods worked by an individual PAGA Aggrieved Employee being 264, and the lowest being 1. The average number of PAGA Pay Periods per PAGA Aggrieved Employee is 64. The highest estimated payment to the Aggrieved employees is estimated to be $359.69, and the lowest being $1.36. The average payment to the Aggrieved Employees is estimated to be $87.20. Plaintiff Abundo is estimated to receive approximately $1.36 as Individual PAGA Payment.

Attorney's Fees

36. Here, the Parties' agreement to pay PAGA Counsel fees of up to $388,010.92 (or approximately 35% of the Gross Fund Value) is reasonable.

37. James Hawkins APLC has done extensive work in connection with this case, including but not limited to: conducting the initial investigation of the case and developing the facts and theories regarding the alleged Labor Code violations, engaging in informal discovery to obtain applicable policies, PAGA Member data, and a sampling of time and pay records, preparing for and attending Plaintiff's deposition, reviewing documents obtained from Defendant, analyzing the data and records to prepare a damages analysis for negotiation, participating in two mediations, opposing Defendant's motion to compel arbitration, preparing a Belaire-West notice and stipulated protective order, meeting and conferring regarding discovery, attending numerous case management conferences, preparing the PAGA Settlement Agreement and related documents, and preparing the motion and supporting papers for PAGA settlement approval.

38. James Hawkins APLC prosecuted this matter on a contingent basis, meaning the firm would have received no compensation or reimbursement of costs if the case were unsuccessful. The time spent on the litigation diverted considerable time and effort from other fee-generating work.

39. I have reviewed the work performed and billing entered by the attorneys at my firm for this case. The table below summarizes the hours worked. My firm's lodestar is currently

in excess of **$312,475**, resulting in a modest multiplier of approximately 1.27.

40. I am the Founding Partner at James Hawkins, APLC and I have devoted approximately 108 hours in prosecuting this case and the related cases on behalf of Plaintiff, the state of California, and the Aggrieved Employees. I graduated from the University of California, Los Angeles in 1993 and received my law degree from Whittier Law School in 1997. I was also a full-time Judicial Extern for United States District Judge Consuelo B. Marshall and the United States Attorney's Office. I have been a member of the State Bar of California since 1997. From 1997 to 2007, I was a named partner at Hawkins & Sofonio, a law firm based out of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department litigating plaintiff related employment issues such as wrongful termination, age discrimination, disability, wage and hour, and sexual harassment claims. Through the success and experience I obtained litigating employment related matters, I commenced litigating wage and hour class actions in 2002. Since then, I have spent the vast majority of my practice litigating Wage and Hour Class Actions. In 2007, I incorporated my wage and hour class action practice as James Hawkins, APLC. Since its inception, this law firm has been exclusively involved in class action and complex litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class actions. Since 2002, I have been lead or co-lead counsel in hundreds of wage and hour class actions.

41. The following is a summary of my activities in litigating this matter and the related actions: day to day correspondence and conference; review and conduct client intake; review documents provided by client; conferences regarding claims and causes of action; review and revise class action complaint and LWDA letter; conferences regarding strategy; strategizing regarding the multiple actions and interplay; reviewing class data and sampling documents produced by Defendants for mediation; strategy regarding mediation; conferences with expert regarding damages analysis; review and revising mediation brief; prepare for and attend mediation; review mediator's proposal; post-mediation calls with mediator; conference regarding mediator's proposal; review and revise settlement agreement and notice documents; review and revise motion for preliminary approval of settlement agreement and related declarations; strategy regarding settlement. My hourly rate is $1050 per hour. The number of hours I have expended for

work performed and the corresponding attorney's fees of $388,010.92 are reasonable and necessary.

42. Christina Lucio is Of Counsel to James Hawkins APLC, and has devoted 136 hours in prosecuting this action and the related actions on behalf of Plaintiffs and the Settlement Class. Ms. Lucio was the primary day to day counsel on the matter. All hours spent were reasonable and necessary to this action. Ms. Lucio graduated from the University of California, Riverside in 2003 and received her law degree from the University of Southern California, Gould School of Law (USC Law School) in 2007. She has been a member of the State Bar of California since 2007 and am a member of the Labor and Employment Law section of the California Bar Association and American Bar Association. She was selected as a "Rising Star" for 2015 by Super Lawyers Magazine. Ms. Lucio's practice is focused primarily on employment law including wrongful termination, discrimination, retaliation, wage and hour violations (individual and class action), and sexual harassment claims. In recent years, a substantial part of my practice has been focused on class actions, including wage and hour litigation. She is a member of California Employment Lawyers Association.

43. The following is a summary of Ms. Lucio's activities in litigating this matter: day-to-day case management and correspondence; drafting and revision of multiple complaints and LWDA letters; review and analysis of discovery responses; preparation of extensive meet and confer correspondence; drafting written discovery; conferences with defense counsel regarding discovery disputes and case management; review of class data and sampling documents; preparation of damages analysis; drafting and revision of mediation briefs; preparation for and attendance at multiple mediations; extensive settlement negotiations; numerous conferences with client regarding claims and settlement; review and revision of settlement agreement; drafting and revision of PAGA approval motion and supplemental filings; coordination with administrators regarding notice process; review and analysis of supplemental discovery responses; conferences with expert regarding damages analysis; multiple status conferences with court. Ms. Lucio's hourly rate is $775 per hour. The number of hours she has expended for work performed and the corresponding attorney's fees of $105,400.00 are reasonable and necessary.

44. Mitchell J. Murray is Of Counsel to James Hawkins APLC. Mr. Murray has devoted 83 hours in representing Plaintiff and the Class in this case and the related actions. All hours spent were reasonable and necessary to this action. Mr. Murray is a 2007 graduate of the University of California, San Diego and 2012 graduate of California Western School of Law. He was admitted to the State Bar of California in 2012. Mr. Murray is a member of the Consumers Attorneys of San Diego. He was selected as a "Rising Star" in 2019 by Super Lawyers Magazine. His legal experience has focused primarily on personal injury and all areas employment law. Since 2016, Mr. Murray has further focused his practice in the area of wage and hour class action claims.

45. The following is a summary of Mr. Murray's tasks and activities in the litigation of this matter: extensive legal research regarding regular rate calculations and overtime pay for commissioned employees; drafting and revision of discovery responses; preparation of supplemental responses regarding calculation methodologies; conferences with client regarding discovery and case strategy; attendance at pre-mediation calls; preparation for and attendance at mediations; review and analysis of expert damages calculations; drafting and revision of settlement documents including MOU and PAGA settlement agreement; preparation of PAGA approval motion and supporting documentation; correspondence with defense counsel regarding settlement implementation; review and revision of stipulations and orders. Mr. Murray's hourly rate is $750 per hour. The number of hours he expended on the case, and the resulting attorney's fees of $62,250.00 are reasonable and necessary.

46. Paul A. Brown is Of Counsel to James Hawkins, APLC. Mr. Brown has devoted approximately 44.5 hours to this matter. Mr. Brown is a 2021 graduate of the University of San Francisco School of Law. The following is a summary of Mr. Brown's tasks and activities in this case: extensive review of discovery materials; legal research regarding additional claims; drafting of PMK deposition notice and related discovery requests; preparation of opposition to Rule 27 application; preparation for PMK deposition; conferences with client regarding case status and settlement; review and analysis of production documents; drafting and revision of mediation brief; attendance at PAGA approval hearing; multiple conferences regarding case strategy and

implementation, draft PAGA approval motion and supporting documents. Mr. Brown's hourly rate is $450.00 per hour. The number of hours expended by Mr. Brown for work performed and the corresponding attorney's fees of $20,025 are reasonable and necessary.

47. Eric Tims was Of Counsel to James Hawkins, APLC but no longer works with the firm. Mr. Tims devoted approximately 16 hours to this matter. Mr. Tims is 2022 graduate of Western New England University School of Law. The following is a summary of Mr. Tims tasks and activities in this case: preparation of motion for PAGA approval and supporting documentation; correspondence with defense counsel regarding approval process; conferences regarding strategy and implementation; review of court orders and preparation of related documentation. Mr. Tim's hourly rate is $450.00 per hour. The number of hours expended by Mr. Tims for work performed and the corresponding attorney's fees of $7,200 are reasonable and necessary.

48. Our paralegals have dedicated in excess of 21 hours in assisting with the prosecution of this litigation. Their hourly rate is $200.00 per hour. The number of hours expended for work performed and the corresponding fees of $4,200.00 are reasonable and necessary.

49. The number of hours that James Hawkins APLC has invested in working on pursuing these claims against Defendant were necessary and reasonable in pursuit of the resolution of this action and the asserted claims.

50. Based on those hours, my firm has incurred approximately $312,475 in attorneys' fees. The following table summarizes the hours and fees now documented for the Court's review:

Timekeeper	**Years**	**Hours**	**Rate**	**Total**
James R. Hawkins	25	108	$1050	$113,400
Christina M. Lucio	15	136	$775	$105,400
Mitchell J. Murray	11	83	$750	$62,250
Paul A. Brown	2	44.5	$450	$20,025
Eric D. Tims	2	16	$450	$7,200
Paralegals		21	$200	$4,200
TOTALS		**371**		**$312,475**

51. PAGA Counsel anticipates spending several additional hours communicating with the Settlement Administrator and appearing at the final accounting hearing, if necessary.

52. The billed hours represent time spent on tasks essential to the litigation and settlement. The standard hourly rates for PAGA Counsel - ranging from $450 to $1050 for attorneys - are reasonable. PAGA Counsel's rates align with those charged by experienced wage and hour lawyers practicing on a national scale and fall within the range approved by courts in similar circumstances. The 2023-2024 Adjusted Laffey Matrix sets forth hourly rates from $437 to $1057 for attorneys with similar experience levels. (http://www.laffeymatrix.com/see.html.) In addition, Plaintiff's Counsel's hourly rates have been approved by the Court. See *Vigueras v. Red Robin Int'l* (C.D.Cal. Dec. 2, 2020, No. SACV 17-1422 JVS (DFMx)) 2020 U.S.Dist.LEXIS 262135, at *15 (finding that the hourly rates of counsel are consistent with their experience and the prevailing rates in the community).

53. It is only fair that every PAGA Member who benefits from the settlement pay a pro rata share of the attorney's fees. The amount of fees PAGA Counsel seeks here is less than what PAGA Counsel would likely receive if they represented each PAGA Member individually, as typical contingent fee contracts provide for attorney's fees of about 40% of the recovery obtained for a client.

Experience of Plaintiff's Counsel

54. In 1993, I graduated from the University of California, Los Angeles with a Bachelor of Arts Degree. Following graduation, I attended Whittier Law School. In 1996, while a full-time law student, I was also a full-time Judicial Extern for the Honorable Consuelo B. Marshall, United States District Court for the Central District of California. After approximately five months of service for Judge Marshall, I became a full-time extern for the United States Attorney's Office, Central District of California. My externship lasted for approximately five months. Thereafter, in 1997, I graduated from Whittier Law School. The same year, I was admitted to practice law in the State of California.

55. From 1997-2007, I was a named partner at Hawkins & Sofonio, a law firm based out of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department

litigating plaintiff related employment issues such as: Wrongful Termination, Age Discrimination, Disability, Wage and Hour and Sexual Harassment claims. Through the success and experience I obtained litigating employment related matters; I commenced the Wage and Hour division of our employment department in 2002. Since then, I have spent the vast majority of my practice litigating Wage and Hour Class Actions.

56. In 2007, I incorporated my wage and hour class action practice as James Hawkins APLC. Since its inception, this law firm has been exclusively involved in class action and complex litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class actions.

57. I have a great deal of experience in wage and hour class action and representative action litigation. I have obtained certification of numerous classes and have obtained resolutions of numerous other class actions and representative actions. I have also been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

- Aguilar v. 7-Eleven, Inc., et. al., Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC.
- Carey, et. al. v. Arthur J. Gallagher, et. al., USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168.
- Dao v. 3M Company, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-04554.
- Ortiz v. Kmart, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
- Morgan v. Aramark Campus, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412.
- West v Iron Mountain Information Management, Inc, et. al.; Los Angeles County Superior Court, Case No. BC393709.
- Gonzalez v. Superior Industries Inter, Inc., et al., Los Angeles County Superior

Court, Case No. BC 357912.

- Acosta v. Fleetwood Travel Trailers of California, Inc., et al., Riverside County Superior Court, Case No. RIC 440630.
- Walker v. Sharkeez, et al., Orange County Superior Court, Case No. 05CC00293.
- Padron v. Universal Protection Service, et al, Orange County Superior Court, Case No. 05CC00013.
- Martinez v. Securitas Security Services USA, et al., Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460.
- Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al., Riverside Superior Court, Case No. RIC 420909.
- Ruiz, et al. v. Unisourse Worldwide, Inc., et al., USDC, CENTRAL DISTRICT, Case No. CV09-05848.
- Herrador v. Culligan International Company, et al., USDC, CENTRAL DISTRICT, Case No. SACV 08-680.
- Defries v. Domain Restaurants, et al., Orange County Superior Court, Case No. 05CC00128.
- Denton v. BLB Enterprises, Inc., et al., Orange County Superior Court, Case No. 07CC01292.
- Rios v. Sandberg Furniture Manufacturing Co., Inc, et al., Los Angeles Superior Court, Case No. BC411477.
- McMurray v. Dave and Busters, Inc., et al., Orange County Superior Court, Case No. 06CC00099.
- Osuna v. DFG Restaurants, Inc., et al., Los Angeles Superior Court, Case No. BC 330145.
- Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No. CGC-07-461612.
- Willems v. Diedrich Coffee, Inc., et al., Orange County Superior Court, Case No. 07CC00015.

- Davila, et al. v. Beckman Coulter, Inc., et al., Orange County Superior Court, Case No. 07CC01347.
- Perez v. Naked Juice Company of Glendora, Inc., Los Angeles Superior Court, Case No. BC387088.
- Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases, Los Angeles Superior Court, Case No. JCCP 4545.
- Placencia v. Amcor Packaging Distribution, Inc., Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC.
- Trani v. Lisi Aerospace, et al., Los Angeles Superior Court, Case No. BC495527.

aa. Galvan v. Goodwin Co., Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC.

- Reyes v. Bristol Fiberlite, Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC.
- Gutierrez v. HMT Tank, USDC Central Dist., Case No. CV14-1967-CAS(MANx).
- Williams v. Il Fornaio America Corp., Sacramento County, Case No. 34-2011-0009616.
- Aguilar v. 7-Eleven, Inc., Orange County, Case No. 30-2009-002687141-CU-OE-CXC.
- Madrigal v. Huntington Beach Market Broiler, Inc., Orange County, Case No. 30-2012-00611260.
- Vang v. Jazz Semiconductor, Inc., Orange County, Case no. 30-2011-00460278.
- Cano v. Financial Statement Services, Inc., Orange County, Case No. 30-2013-00653349-CU-OE-CXC.
- Gonzalez v. Quality Aluminum Force, LLC, Orange County, Case No. 30-2015-00817941-CU-OE-CXC.
- Smith v. Space Exploration Technologies Corp., Los Angeles County Case No. BC554258.

- Madrigal v. Balda C Brewer, Inc., Orange County Case No. 30-2015-00820218-CU-OE-CXC.
- Mendez v. Liberty Glass Fabricators, Inc., Riverside County Case No. RIC 1800119.
- Attia v. Neiman Marcus Group, Inc., United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM
- Vigueras v. Red Robin, United States District Court for the Central District of California Case No. 8:17-cv-1422-JVS-DFM.
- Payne v. Marriott Ownership Resorts, Inc., San Diego County Case No. 37-2018-00015175-CU-OE-CTL.

58. I have a great deal of experience in wage and hour class action and representative action litigation. I have obtained certification of numerous classes and have obtained resolutions of numerous other class actions and representative actions. I have also been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

59. In sum, my firm has been the lead or co-lead counsel in hundreds of cases since its inception. We have recovered hundreds of millions of dollars for employees in the State of California and millions for the State as well through PAGA.

60. Our firm has served as class counsel in a number of significant wage and hour settlements. Of particular note, in 2019, our firm was co-lead counsel in securing one of the largest wage and hour class action settlement in California history at $130,000,000. During this case, Plaintiffs appealed a decertification order. This case involved several appeals. The appellate record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-volume reporters' transcript, five briefs, four letter briefs, two motions for judicial notice, a motion to augment the record, and several additional letters informing the appellate court of new legal authority issued after Dukes. The matter was argued to and submitted by the Court of

Appeal on September 15, 2016, and on November 21, 2016, the decertification order was reversed and the case was remanded for further proceedings. (Lubin v. The Wackenhut Corporation ("Lubin"), 5 Cal. App. 5th 960 (2016).) Wackenhut filed a petition for review of the Court of Appeal decision to the California Supreme Court. The Supreme Court denied Wackenhut's petition for review of Lubin. The Court of Appeal issued remittitur on April 10, 2017. Eventually through more litigation, the parties were able to secure the 130 million settlement that was approved on October 21, 2019 by Judge Highberger in the Los Angeles Superior Court.

61. Additionally, in early 2020, our firm served as lead counsel in a class action jury trial in the Central District of California involving the class and PAGA representative claims of over 23,000 employees which were successfully resolved in the midst of trial for $8,500,000.

62. Even more recently, our office along with co-counsel filed an appeal in the 9th circuit in *Valiente, et. al. vs. Swift Transportation Co. of Arizona*, Case No. 21-55456, challenging the retroactive application of The Motor Vehicle Safety Act, 49 U.S.C. § 31141 preemption of California meal and rest periods laws as applied to commercial drivers.

63. Our firm has settled many high-stakes class and representative actions. Hawkins' settlements have directly compensated hundreds of thousands of California workers and consumers. Hawkins' actions have also forced employers to modify their policies for the benefit of employees including changing the compensation structure for certain employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Hawkins has secured millions of dollars in civil penalties for the State of California.

64. Based on our experience, demonstrated competence, resources to prosecute the claims at issue and reputation among our colleagues in the both the defense and plaintiffs' bar, I respectfully submit our firm's experience in the field of wage and hour cases provides us the ability to prosecute claims swiftly and often times without the need for protracted litigation. Although, as demonstrated in the Wackenhut cases, we do not give up fighting for class members when challenged and necessary.

Reasonableness of PAGA Representative Service Payment

65. Plaintiff's request for a PAGA Representative Service Payment of $10,000 is fair and reasonable in view of his efforts in this case, the risks he undertook, and the results he achieved. Courts routinely approve service awards to compensate representative plaintiffs for their services and risks incurred during representative action litigation, often in higher amounts than sought here. (*See, e.g*., *Bell v. Farmers Ins. Exchange* (2004) 115 Cal.App.4th 715, 726 (upholding "service payments" to named plaintiffs for their efforts); *Van Vranken v. Atlantic Richfield Co.* (N.D. Cal. 1995) 901 F. Supp. 294 (approving $50,000 enhancement award).)

66. The Settlement Agreement provides that Plaintiff may seek a PAGA Representative Service Payment of up to $10,000. (Agreement, ¶ 3.2.2.) This amount is less than 1% of the Gross Fund Value.

67. Awarding Plaintiff less than 1% of the Gross Fund Value is entirely reasonable given Plaintiff's efforts undertaken on behalf of the State of California and the PAGA Members. In this case, Plaintiff devoted more than 100 hours advancing the interests of the PAGA Members and the LWDA by, among other things, retaining experienced counsel, providing PAGA Counsel with extensive information about his work history with Defendant and Defendant's policies and practices related to the alleged Labor Code violations, preparing for and attending his deposition, and being actively involved in the settlement process to ensure a fair result for the PAGA Members and the State of California. (*See, generally*, Declaration of Gerardo Abundo in Support of Motion for Approval of PAGA Settlement ("Abundo Decl.")).

68. As a representative, Plaintiff agreed to: (1) consider the interests of the State of California and the PAGA Members as he would his own interests and, at times, put their interests before his own; (2) actively participate in the lawsuit as needed, including answering discovery, producing documents, and giving deposition and trial testimony if requested; (3) travel to give such testimony; (4) recognize that any dismissal or settlement of the lawsuit is subject to court approval and must be in the best interest of the PAGA Members and the State of California; (5) follow the lawsuit's progress and provide all relevant facts to PAGA Counsel; (6) champion others with similar claims because of the case's importance and the need for all PAGA Members

and the State of California to benefit; and (7) fight for a resolution in which individual recoveries to each PAGA Member and the State of California, including Plaintiff, may be relatively small. (*See, generally*, Abundo Decl.) Plaintiff agreed to these responsibilities in exchange for a proportionate share of funds made available for distribution to the PAGA Members and LWDA, with no guarantee of a service payment. This justifies the requested service payment.

69. In taking these actions, Plaintiff exposed himself to significant risks, including potentially being ordered to pay Defendant's attorneys' fees and costs if the action was unsuccessful under Labor Code §§ 218.5 and 218.6, California's fee and cost-shifting statutes for wage disputes. California courts have ordered wage and hour plaintiffs to pay substantial fee and cost awards for unsuccessful claims, such as:

a. *Zalewa v. Tempo Research Corp.* (CA 2nd Dist. March 1, 2013) No. B238142, 2013 WL 766535 (employee ordered to pay employer $2,210,360 in fees for unsuccessful suit for unpaid bonuses);

b. *Cun v. Caf Tiramisu LLC* (CA 1st Dist. Nov. 30, 2011) No. A131241, 2011 WL 5979937 (employee ordered to pay $36,612.50 in fees and costs for unsuccessful suit for unpaid wages);

c. *Csaszi v. Sharp Healthcare* (CA 4th Dist. Feb. 18, 2003) No. D038558, 2003 WL 352422 (employee ordered to pay $20,269 in fees and costs for unsuccessful suit for unpaid wages and overtime).

70. Such cost awards are substantially higher than Plaintiff's likely share of the Gross Fund Value as a PAGA Member. It is unfair, given the risk of an adverse fee or cost award of thousands of dollars, for Plaintiff to receive only slightly more than an individual PAGA Member for taking that risk. Even the lowest cost awards above would devastate Plaintiff given his modest earnings.

71. Plaintiff's individual recovery will likely be less than some PAGA Members' shares. Under the Settlement, each PAGA Member receives a share based on the number of PAGA Pay Periods worked compared to the total PAGA Pay Periods worked by all PAGA Members. PAGA Members who worked more PAGA Pay Periods will receive more than those

who worked fewer. There will likely be PAGA Members who earned more wages than Plaintiff and will thus receive larger shares - even though they did not actively participate in the lawsuit.

72. The public policy behind representative actions seeking an aggregate recovery of small individual amounts has been recognized by the courts. "The policy at the core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights. A class action solves this problem by aggregating the relatively paltry potential recoveries into something worth someone's (usually an attorney's) labor." (*Amchem Products, Inc. v. Windsor* (1997) 521 U.S. 591 (quoting *Mace v. Van Ru Credit Corp*. (1997) 109 F.3d 338, 344).) "A company which wrongfully exacts a dollar from each of millions of customers will reap a handsome profit; the class action is often the only effective way to halt and redress such exploitation." (*Blue Chip Stamps v. Superior Court* (1976) 18 Cal.3d 381.) "A current employee who individually sues his or her employer is at greater risk of retaliation. We have recognized that retaining one's employment while bringing formal legal action against one's employer is not a viable option for many employees." *(Gentry v. Superior Court* (2007) 42 Cal.4th 443.) If would-be PAGA representative plaintiffs are not adequately incentivized to assume the risk of a substantial cost award, they are unlikely to bring such lawsuits.

73. The average PAGA Member here would be unlikely to pursue individual claims against Defendant because such claims would be too small to justify the cost and risk. An individual PAGA Member would be unlikely to find an attorney willing to pursue the claims because they are too small to justify the extensive legal work required. Only the representative action vehicle, which allows aggregating hundreds of small, risky claims, makes the claims advantageous for an attorney to pursue on contingency. There can be no PAGA action without an aggrieved employee assuming the significant fiduciary responsibilities of a representative. This Court should allow the requested service payment; otherwise, employees (and attorneys) will be discouraged from bringing representative actions.

74. If would-be PAGA plaintiffs are not adequately incentivized to advance the public policy behind PAGA actions despite the time and risk involved, they are unlikely to bring

such lawsuits. Once employers realize this, they will lack incentive to comply with wage and hour laws.

75. Plaintiff faced the risk of worsened career prospects for suing a former employer for Labor Code violations and serving as the plaintiff in a PAGA action. Because he filed a public lawsuit, a record now exists that Plaintiff sued his employer - a fact prospective employers, especially in the same industry, will notice. Common sense dictates an employer will hesitate to hire someone who sued their last employer. California has laws to address this risk: Labor Code § 1102.5 prohibits retaliation against employees who report Labor Code violations and § 98.6 prohibits discrimination against employees who report violations to the Labor Commissioner. The risks to Plaintiff's future employment prospects show the requested service payment is fair, adequate, reasonable, and warrants Court approval.

76. The burden on each PAGA Member to pay Plaintiff's service payment is modest. There are approximately 1,996 PAGA members through April 3, 2025. Dividing the $10,000 service payment evenly among them yields a per-person payment of only $5.01. For an average PAGA Member, this is a small price to have someone else prosecute their claims, bear the risk of an adverse cost award, while they simply wait to receive their settlement share.

77. PAGA Counsel depended heavily on Plaintiff's input. Plaintiff made this case possible by challenging Defendant's allegedly unlawful practices, leading to Defendant paying unpaid wages to its employees. Plaintiff provided PAGA Counsel with detailed information about Defendant's business operations, employee hours and scheduling, and the nature of the work performed. (Abundo Decl., ¶¶ 17-18.)

PAGA Counsel Litigation Expenses

78. PAGA Counsel incurred $23,198.03 in litigation expenses attributable to prosecuting the Action. A true and correct copy of a report showing all expenses reasonably incurred is attached as **Exhibit 4**. Postage costs have been excluded from the amounts requested.

Settlement Administrator

79. The Parties propose ILYM Group, Inc. as the Administrator. PAGA Counsel obtained bids from at least two established settlement administrators and selected ILYM Group

as the most cost-effective. ILYM Group is an experienced administrator. Based on my experience, ILYM Group's bid of $9,000 for 1,760 PAGA Members (the count provided by Defendant) is reasonable for a settlement this size. A true and correct copy of a report of the administrator's costs estimate is attached as **Exhibit 8**.

LWDA Notice

80. A true and correct copy of the PAGA Settlement Agreement was submitted to the LWDA on December 17, 2024. A true and correct copy of the LWDA's email confirming submission is attached as **Exhibit 9**. Copies of Plaintiff's renewed PAGA approval motion were submitted to the LWDA on December 17, 2024. A true and correct copy of the LWDA's email confirming submission is attached as **Exhibit 10**.

PAGA Notice

81. The proposed PAGA Notice to be submitted to the Aggrieved Employees is attached hereto as **Exhibit 11.**

Executed on December 17, 2024 in Irvine, California

By: _____
James R. Hawkins

EXHIBIT 1

JAMES H. HAWKINS

A PROFESSIONAL LAW CORPORATION

9880 RESEARCH DRIVE, SUITE 200, IRVINE, CALIFORNIA 92618
TELEPHONE (949) 387-7200; FACSIMILE (949) 387-6676

March 19, 2021

Via Online Filing (LWDA) and Certified Mail (Employers)

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
http://www.dir.ca.gov/Private-Attorneys-General-Act

American Residential Services, LLC
965 Ridge Lake Blvd, Suite 201
Memphis, TN 38120
Certified Mail No. 7020 0640 0001 0089 9608

American Residential Services, LLC
Agent for Service of Process: CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
Certified Mail No. 7020 0640 0001 0089 9615

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698 et seq.

To Whom It May Concern:

PLEASE TAKE NOTICE that Plaintiff Gerardo Abundo, on behalf of himself and all others similarly situated, hereby gives NOTICE of his Complaint pursuant to Labor Code Sections 2698, *et seq*. against Defendant American Residential Services, LLC, a Delaware corporation, and DOES 1 through 50, inclusive. Plaintiff intends to commence an action against Defendants pursuant to Labor Code sections 2698 *et seq*. Plaintiff hereby gives written notice by online submission to the Labor and Workforce Development Agency, and by certified mail to Defendant American Residential Services, LLC via its agent for service of process. This notice is timely as it is provided within one year of the violations. In addition, the statute of limitation for the claim under the Private Attorney Generals Act, is tolled by operation of law under Emergency Rule 9 due to the COVID-19 pandemic.

Plaintiff has attached his Complaint, and incorporates the allegations in the Complaint as though fully set forth herewith, setting out the specific provisions of the Labor Code that Plaintiff alleges have been violated, including the facts and relevant theories alleged against Defendants in the Complaint.

Plaintiff alleges that Defendants committed the violations specified in the Complaint against both him and the group of aggrieved employees that he seeks to represent: Any and all persons who are or were employed as non-exempt employees, however titled, in by Defendants (the "Aggrieved Employees") in the State of California during the liability period as properly tolled by Emergency Rule 9.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Abundo has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at American Residential Services, LLC regardless of their classification, job title, locations, or whether they were hired directly or through a labor contractor or staffing agency.

Plaintiff was employed as an hourly non-exempt Service Technician from May 2019 through March 20, 2020. Plaintiff provided heating and air conditioning unit services in and around Defendant's location in Irvine, California.

In addition to the violations specified in the attached Complaint, Plaintiff alleges that Defendants failed to pay sick leave pay to Plaintiff and the Aggrieved Employees at the proper rate. Labor Code 246 (a) (1) provides: An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified. Labor Code section 246(l) provides: "For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations: (1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek. (2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment." In this case, Plaintiff alleges that Defendant failed to pay sick leave at the proper rate because it failed to take all forms of compensation, including incentives, bonuses, commissions, differentials, and other wages into account in calculating the regular rate. This constitutes a violation of Labor Code.

Moreover, Plaintiff alleges that Defendant violated Labor Code section 246(i). Labor Code Section 246(i) provides that, "an employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement 'unlimited.' The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226." Here, Plaintiff asserts that Defendant violated Labor Code section 246(i) because Defendant frequently omitted sick leave from the wage statements of Plaintiff and the other aggrieved employees.

Plaintiff further alleges that Defendants' failure to timely and properly pay sick leave as required by Healthy Workplace Healthy Family Act of 2014 (HWHFA), the Families First Coronavirus Response Act (FFCRA) and California Covid-19 Supplemental Paid Sick Leave laws also constituted violations of Labor Code section 1194 and 1197 because Defendants failed to pay the sick leave at the rates required by statute. Further, the failure to timely and properly pay sick leave when taken according to the timelines set forth in Labor Code § 204 constituted a violation Labor Code section 204 and subjects Defendants to penalties under Labor Code § 210. Former employees are also entitled to penalties under Labor Code section 203 for the failure to properly pay all sick leave wages owed for sick leave taken during employment in violation of Labor Code section 201-202.

All Labor Code and related Complaint allegations pertain to all entities or individuals named in the Complaint, even if not so specified.

Please advise by certified mail within sixty-five (65) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you, and please contact me if you have any questions or require additional information.

Very Truly Yours,

/s/ Christina M. Lucio

Christina M. Lucio, Esq.

Enclosure: Class Action Complaint

EXHIBIT 2

James R. Hawkins (SBN 192925)
james@Jameshawkinsaplc.com
Christina M. Lucio (SBN 253677)
christina@Jameshawkinsaplc.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

Attorneys for Plaintiff GERARDO ABUNDO,
on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

GERARDO ABUNDO, on behalf of himself and all others similarly situated,

Plaintiff,

v.

AMERICAN RESIDENTIAL SERVICES, LLC, a Delaware corporation, and DOES 1-50, inclusive,

Defendants.

Case No.

COMPLAINT

Assigned for All Purposes To:
Hon.
Dept.:

COMPLAINT FOR DAMAGES FOR:

1) Failure to Pay All Wages Owed, including Overtime;

2) Failure to Provide Lawful Meal Periods;

3) Failure To Authorize And Permit Rest Periods;

4) Failure to Timely Pay Wages During Employment;

5) Failure to Timely Pay Wages Owed Upon Separation From Employment;

6) Failure to Furnish Accurate Itemized Wage Statements;

7) Violation of the Unfair Competition Law;

8) Failure to Reimburse Necessary Expenses;

DEMAND FOR JURY TRIAL

Plaintiff GERARDO ABUNDO ("Plaintiff"), an individual, assert claims against defendant AMERICAN RESIDENTIAL SERVICES, LCC, a Delaware Corporation, and DOES 1-50, inclusive (collectively "ARS" or "Defendant(s)") as follows:

INTRODUCTION

1. This is a Class Action, pursuant to California Code of Civil Procedure section 382, on behalf of Plaintiff and any and all persons who are or were employed by Defendants as non-exempt employees, however titled, in the State of California within four (4) years prior to the filing of the Complaint in this action until the resolution of this lawsuit and whose job duties did not consist of over 50% administrative, executive or professional duties (collectively referred to as the "Class" or "Class Members" or "Non-Exempt Employees"). This includes without limitation all HVAC employees, service technicians, repairers, installers, and other field employees.

2. During the "liability period," as defined as the applicable statute of limitations for each and every cause of action contained herein – i.e. Plaintiff's claims under the Unfair Competition Law is four (4) years; Plaintiff's claims for either unpaid wages or actual damages is three (3) years; and Plaintiff's claims for statutory penalties is one (1) year from the filing of this action through the present (referred to as "the liability period(s)") – Defendants consistently maintained and enforced against its Non-Exempt Employees unlawful practices and policies in violation of California state wage and hour laws, including failing to lawfully and accurately pay Plaintiff and Class Members for all hours worked, including minimum wages and overtime; failing to lawfully provide meal and rest periods; failing to pay one hour of pay at the employee's regular rate of pay when legally mandated meal or rest periods were not lawfully provided; failing to accurately pay overtime; failing to reimburse necessary expenses; failing to provide accurate itemized wage statements; and failing to keep accurate records. The liability period or relevant period is extended to the extent that the period is properly tolled by Emergency Rule 9.

3. Defendants implemented uniform policies and practices that deprived Plaintiff and Class Members of earned wages, including commissions, minimum wages; straight time wages; overtime wages; premium wages; failing to reimburse necessary expenses; and lawful meal and/or rest breaks.

4. Such actions and policies, as described above and further herein, were and continue to be in violation of the California Labor Code. Plaintiff, on behalf of himself and all Class members, bring this action pursuant to the California Labor Code, including sections 201, 202, 203, 204, 218.5, 218.6, 221-224, 226, 226.3, 226.7, 510, 512, 516, 558, 1174, 1194, 1194.2, 1195, 1197, 1198, 2802, applicable IWC California Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq.*, seeking unpaid wages, unpaid meal and rest period compensation, penalties, liquidated damages, and reasonable attorneys' fees and costs.

5. Plaintiff, on behalf of himself and others similarly situated, pursuant to Business and Professions Code sections 17200-17208, also seeks restitution from Defendants for their failure to pay to Plaintiffs and Class Members all of their wages, including overtime and premium wages.

JURISDICTION AND VENUE

6. This action is brought as a Class Action on behalf of Plaintiff and similarly situated employees of Defendants pursuant to California Code of Civ. Proc. Section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimum jurisdiction limits of the California Superior Court and will be established according to proof at trial.

7. This Court has jurisdiction over this action pursuant to the California Constitution Article VI §10, which grants the California Superior Court original jurisdiction in all causes except those given by statute to other courts. The statutes under which this action is brought do not give jurisdiction to any other court.

8. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203.

9. This Court has jurisdiction over Defendants because, upon information and belief, each Defendant is either a resident of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over them by the California Courts consistent with traditional notions of fair play and substantial justice. Defendants have done and are doing business throughout California.

10. The unlawful acts alleged herein have a direct effect on Plaintiff and the other similarly situated Non-Exempt Employees within Orange County and it is believed that Defendants

have employed over one hundred Class Members as Non-Exempt Employees throughout the state.

11. The California Superior Court also has jurisdiction in this matter because the individual claims of the Class Members described herein are presently believed to be under the seventy-five thousand dollar ($75,000.00) jurisdictional threshold for Federal Court and the aggregate potential damages and recovery by all of the claims of the Plaintiff's Class, including attorneys' fees, placed in controversy by Plaintiff's class-wide claims, is presently believed to be under the five million dollar ($5,000,000.00) threshold of the Class Action Fairness Act of 2005. Further, there is no federal question at issue, as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, the California Code of Civil Procedure, the California Civil Code, and the California Business and Professions Code.

12. Venue is proper in this Court because one or more of the Defendants reside, transact business, or have offices in this County, and the acts or omissions alleged herein took place in this County.

PARTIES

13. American Residential Services, LLC, is a Delaware corporation in good standing that is authorized to do business throughout the state. American Residential Services, LLC's headquarters are located at 965 Ridge Lake Blvd., Suite 201, Memphis, TN 38120.

14. American Residential Services, LLC operates in California from numerous locations providing heating, air conditioning, and plumbing services.

15. Plaintiff Gerardo Abundo is and during the liability period has been, a resident of Corona, California.

16. Plaintiff was employed by defendant during the liability period as a Service Technician in Irvine, CA.

17. Plaintiff and the members of the putative class were employed by Defendants as non-exempt employees in heating and air conditioning unit services or similar related positions, however titled, (the "Class Members" or "Non-Exempt Employees") during the liability period.

18. Whenever in this complaint reference is made to any act, deed, or conduct of Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through

one or more of Defendants' officers, directors, agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the ordinary business and affairs of Defendants.

19. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

20. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants as alleged herein.

21. Plaintiff is further informed and believes, and thereon alleges, that at all times material herein, each Defendant was completely dominated and controlled by its co-Defendants and each was the alter ego of the other. Whenever and wherever reference is made in this complaint to any conduct by Defendant or Defendants, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as Defendants in this complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in this complaint within the scope of their respective employments.

FACTUAL ALLEGATIONS

22. During the relevant time frame, Defendants compensated Plaintiff and the Non-Exempt Employees based upon an hourly wage, and some Non-Exempt Employees were also paid commissions or piece rates.

23. Plaintiff and the Class Members were, and at all times pertinent hereto, have been

non-exempt employees within the meaning of the California Labor Code, and the implementing rules and regulations of the IWC California Wage Orders. They are subject to the protections of the IWC Wage Orders and the Labor Code.

24. Plaintiff was employed as an hourly non-exempt employee in the position of Service Technician from May 2019 through March 2020. Plaintiff provided heating and air conditioning unit services in and around Orange County while based out of defendant's location in Irvine, California.

25. The members of the putative class provided heating and air conditioning unit services as employees of Defendant throughout the state of California during the liability period.

26. Plaintiff typically worked six days a week, averaging over 40 hours a week.

27. Plaintiff and Class Members were often required to remain "on call" for at least one 24 hour period every week.

28. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the requirements of California's wage and employment laws.

29. All Class Members, including Plaintiff, are similarly situated in that they are all subject to Defendants' uniform policies and systemic practices as specified herein.

30. Plaintiff and the Class Members were not properly compensated for all hours worked, in part because they were frequently required to work off the clock.

31. Plaintiff and Class Members were no paid for time spent "on call" but only for the time during which they were clocked in on a job.

32. In addition, the Class Members frequently worked in excess of eight (8) hours a day and/or over forty (40) hours in a workweek, but were not properly paid for such time at a rate of time and one-half the employee's regular rate of pay per hour. Plaintiff and the Class Members also often worked in excess of twelve (12) hours in one day and/or over eight (8) hours on the seventh day of the workweek, but were not properly paid for such time at a rate of two times the employee's regular rate of pay per hour.

33. Class Members were regularly required to work shifts in excess of five hours

without being provided a lawful meal period and over ten hours in a day without being provided a second lawful meal period as required by law.

34. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Defendants frequently failed to provide Plaintiff and the Class Members timely, legally complaint uninterrupted 30-minute meal periods on shifts over five hours as required by law.

35. On information and belief, Plaintiff and Class Members did not waive their rights to meal periods under the law.

36. Plaintiff and the Class Members were not provided with valid lawful on-duty meal periods.

37. Despite the above-mentioned meal period violations, Defendants failed to compensate Plaintiff, and on information and belief, failed to compensate Class Members, one additional hour of pay at their regular rate as required by California law when meal periods were not timely or lawfully provided in a compliant manner.

38. Plaintiff is informed and believes, and thereon alleges, that Defendants know, should know, knew, and/or should have known that Plaintiff and the other Class Members were entitled to receive premium wages based on their regular rate of pay under Labor Code §226.7 but were not receiving such compensation.

39. In addition, during the relevant time frame, Plaintiff and the Non-Exempt Employees were systematically not authorized and permitted to take one net ten-minute paid, rest period for every four hours worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.

40. Defendants maintained and enforced scheduling practices, policies, and imposed work demands that frequently required Plaintiff and Class Members to forego their lawful, paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such requisite rest periods were not timely authorized and permitted.

41. Moreover, Plaintiff and the Class Members were required to incur necessary expenses in the discharge of their duties, including without limitation drills, screwdrivers,

measuring tape, and gauges, but were not reimbursed for such necessary expenses.

42. Despite the above-mentioned rest period violations, Defendants did not compensate Plaintiff, and on information and belief, did not pay Class Members one additional hour of pay at their regular rate as required by California law, including Labor Code section 226.7 and the applicable IWC wage order, for each day on which lawful rest periods were not authorized and permitted.

43. Defendants also failed to provide accurate, lawful itemized wage statements to Plaintiff and the Class Members in part because of the above specified violations. In addition, upon information and belief, Defendants omitted an accurate itemization of total hours worked, the applicable hourly rates, the number of hours worked at each rate, commissions earned, the name and address of the legal entity that is the employer, gross pay and net pay figures from Plaintiff and the Class Members' wage statements. Such actions were and continue to be in violation of the California Labor Code and applicable IWC Wage Orders.

44. Employees were also not provided accurate itemized wage statements in indelible format, and such documents required by Labor Code 226 were not lawfully kept by Defendants.

45. Defendants have also made it difficult to determine applicable rates of pay, total hours worked, commission rates, and account with precision for the unlawfully withheld wages and deductions due to be paid to Non-exempt Employees, including Plaintiff, during the liability period because they did not implement and preserve a lawful record-keeping method to record all hours worked, meal periods, and non-provided rest and meal periods owed to employees as required for non-exempt employees by 29 U.S.C. section 211(c), California Labor Code section 226, and applicable California Wage Orders.

46. Plaintiff is informed and believes, and thereon alleges, that at all times herein mentioned, Defendants knew that at the time of termination of employment (or within 72 hours thereof for resignations without prior notice as the case may be) they had a duty to accurately compensate Plaintiffs and Class Members for all wages owed including minimum wages, straight time wages, overtime, meal and rest period premiums, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so

in part because of the above-specified violations.

47. Plaintiff and the Class Members are covered by applicable California IWC Wage Orders and corresponding applicable provisions of the California Code of Regulations, Title 8, section 11000 *et seq*.

CLASS ACTION ALLEGATIONS

48. Plaintiff brings this action on his own behalf, as well as on behalf of each and every other person similarly situated, and thus, seeks class certification under California Code of Civil Procedure §382.

49. All claims alleged herein arise under California law for which Plaintiff seeks relief as authorized by California law.

50. The **proposed class** is comprised of and defined as: All persons currently or formerly employed by Defendants as non-exempt employees, however titled, throughout the state of California within four (4) years prior to the filing of the Complaint in this action until the resolution of this lawsuit and whose job duties did not consist of over 50% administrative, executive or professional duties. (hereinafter collectively referred to as the "Class" or "Class Members").

51. Plaintiff also seeks to represent Subclasses included in the Plaintiff's Class, which are composed of Class Members satisfying the following definitions:

a. All Class Members who earned commissions or piece rates (collectively **"Commissioned Employee Subclass**");

b. All Class Members who were required to remain on-call (collectively **"On-Call Subclass**");

c. All Class Members who were not paid at least minimum wage for all hours worked (collectively **"Minimum Wage Subclass**");

d. All Class Members who were not accurately paid overtime for hours worked over eight in a day or over forty in a workweek **(collectively "Overtime Subclass**");

e. All Class Members who worked more than five (5) hours in a workday and were not provided with a timely, uninterrupted lawful meal period of net thirty (30) minutes, and

were not paid compensation of one hour premium wages at the employee's regular rate in lieu thereof (hereinafter collectively referred to as the "**First Meal Period Subclass**");

f. All Class Members who worked more than ten (10) hours in a workday and were not provided with a timely, uninterrupted lawful second meal period of net thirty (30) minutes, and were not paid compensation of one hour premium wages at the employee's regular rate in lieu thereof (hereinafter collectively referred to as the "**Second Meal Period Subclass**");

g. All Class Members who worked more than three and a half hours in a workday and were not authorized and permitted to take a lawful net 10-minute rest period for every four (4) hours or major fraction thereof worked per day and were not paid compensation of one hour premium wages at the employee's regular rate in lieu thereof (hereinafter collectively referred to as the "**Rest Period Subclass");**

h. All Class Members who did not receive all owed wages at the time of separation or within 72 hours in the case of resignation (hereinafter collectively referred to as the "**Waiting Time Subclass**");

i. All Class Members who were not provided with accurate and complete itemized wage statements (hereinafter collectively referred to as the "**Inaccurate Wage Statement Subclass**");

j. All Class Members who were employed by Defendants and subject to Defendant's Unfair Business Practices (hereinafter collectively referred to as the "**Unfair Business Practices Subclass**").

k. All Class Members who were not reimbursed for all necessary expenditures (collectively "**Indemnification Subclass**").

52. Plaintiff reserves the right, under Rule 3.765, California Rules of Court, to amend or modify the descriptions of the Class and Subclasses to provide greater specificity as appropriate, or if it should be deemed necessary by the Court or to further divide the Class Members into additional Subclasses or to limit the Subclasses to particular issues. Any reference herein to the Class Members or the Plaintiffs' Class includes the members of each of the Subclasses.

53. As set forth in further detail below, this action has been brought and may properly

be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation, and the proposed Class and Subclasses are easily ascertainable through Defendants' records.

a. Numerosity: The members of the Class and Subclasses are so numerous that joinder of all members of the Class and Subclasses would be unfeasible and impractical. The membership of the entire Class and Subclasses is unknown to Plaintiff at this time, however, the Class is estimated to be over a hundred individuals. Accounting for employee turnover during the relevant periods necessarily increases this number substantially. Plaintiff alleges Defendants' employment records would provide information as to the number and location of all Class Members. Joinder of all members of the proposed Class is not practicable.

b. The proposed class is easily ascertainable. The number and identity of the class members are determinable from Defendants' payroll records and time records for each class member.

c. Commonality: There are common questions of law and fact as to the Class and Subclasses that predominate over questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

1) Whether Defendants properly paid commissions or piece rates as required by law;

2) Whether Defendants properly paid rest periods and other non-productive time at the proper rate;

3) Whether Defendants were required to pay Class Members for on-call time;

4) Whether Defendants paid Class Members at least minimum wage for all hours worked;

5) Whether Defendants knew or should have known that Class Members were required to perform work off the clock;

6) Whether Defendants accurately calculated and paid all Class Members overtime premiums for the hours which Plaintiff and Class Members worked in excess of eight (8) hours per day and/or forty (40) hours per week;

7) Whether Defendants had a policy and practice of providing lawful, timely meal periods in accordance with Labor Code § 512, as well as the applicable Industrial Welfare Commission ("IWC") wage order;

8) Whether Defendants on-duty meal periods were lawful;

9) Whether Defendants had a policy and practice of complying with Labor Code section 226.7 and IWC Wage Order on each instance that a lawful meal period was not provided;

10) Whether Defendants failed to authorize and permit a lawful, net 10-minute rest period to the Class Members for every four (4) hours or major fraction thereof worked;

11) Whether Defendants had a policy and practice of complying with Labor Code section 226.7 and the IWC Wage Order on each instance that a lawful rest period was not provided;

12) Whether Defendants failed to timely pay all wages upon separation in accordance with Labor Code sections 201-202;

13) Whether Defendants failed to reimburse employees for necessary expenses in accordance with Labor Code section 2802;

14) Whether Defendants omitted required information from itemized wage statements;

15) Whether Defendants failed to maintain accurate records of Class Members' earned wages, work periods, meal periods and deductions;

16) Whether Defendants engaged in unfair competition in violation of section 17200 et seq. of the Business and Professions Code;

17) Whether Defendants' conduct was willful and/or reckless;

18) Whether Defendants failed to provide accurate itemized wage statements by failing to, among other violations, identify the total accurate number of hours worked, the applicable hourly rates, the number of hours worked at each rate, and commissions earned in violation of Labor Code § 226 and IWC Wage Order 7-2001; and

19) The appropriate amount of damages, restitution, and/or monetary penalties resulting from Defendants' violations of California law.

d. Typicality: Plaintiff is qualified to, and will fairly and adequately protect the interests of each member of the Class and Subclasses with whom he has a well-defined community of interest. Plaintiff's claims herein alleged are typical of those claims which could be alleged by any member of the Class and/or Subclasses, and the relief sought is typical of the relief which would be sought by each member of the Class and/or Subclasses in separate actions. All members of the Class and/or Subclasses have been similarly harmed by Defendants' failure to provide lawful meal and rest periods, failure to provide accurate wage statements, failure to timely pay wages at termination, failure to pay minimum wages, failure to reimburse necessary expenses, and failure to accurately pay all wages earned including all owed premium and overtime wages, all due to Defendants' policies and practices that affected each member of the Class and/or Subclasses similarly. Further, Defendants benefited from the same type of unfair and/or wrongful acts as to each member of the Class and/or Subclasses.

e. Adequacy: Plaintiff is qualified to, and will fairly and adequately protect the interests of each member of the Class and/or Subclasses with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that he has an obligation to make known to the Court any relationships, conflicts, or differences with any member of the Class and/or Subclasses, and no such relationships or conflicts are currently known to exist. Plaintiff's attorneys and the proposed counsel for the Class and Subclasses are versed in the rules governing class action discovery, certification, litigation, and settlement and experienced in handling such matters. Other former and current employees of Defendants may also serve as representatives of the Class and Subclasses if needed.

f. Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort, judicial resources, and expense, which would not be achieved with separate lawsuits. The prosecution of separate actions by individual members of the Class and/or Subclasses would create a risk of inconsistent and/or varying adjudications with respect to the individual members of the

Class and/or Subclasses, establishing incompatible standards of conduct for the Defendants, and resulting in the impairment of the rights of the members of the Class and/or Subclasses and the disposition of their interests through actions to which they were not parties. Thus, a class action is superior to other available means for the fair and efficient adjudication of this controversy because individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual Class Members. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants' unlawful policies and practices, including Defendants' failure to provide lawful meal and rest periods, failure to pay minimum wages, failure to provide accurate wage statements, failure to timely pay wages at termination, failure to reimburse necessary expenses, and failure to accurately pay all wages earned including all owed premium and overtime wages, all due to Defendants' policies and practices that affected each member of the Class and/or Subclasses similarly. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for both parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

g. Public Policy Considerations: Employers in the state of California violate employment and labor laws every day. However, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are fearful of bringing actions because they believe their former employers may damage their future endeavors through negative references and/or other means. The nature of this action allows for the protection of current and former employees' rights without fear of retaliation or damage. Additionally, the citizens of California have a significant interest in ensuring employers comply with California's labor laws and in ensuring those employers who do not are prevented from taking further advantage of their employees.

CLASS ACTION CLAIMS

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES OWED, INCLUDING OVERTIME

(By Plaintiff and the Minimum Wage and Overtime Subclasses Against Defendants)

54. Plaintiff incorporates by reference each and every paragraph above, and realleges each and every allegation contained above as though fully set forth herein.

55. At all times relevant, Labor Code §1194 provides that any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

56. Labor Code §1197 states: "The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful."

57. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

58. The IWC Wage Orders similarly require that employees be paid on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

59. At all times relevant, pursuant to Labor Code section 510, 1194, and the IWC wage orders applicable to Plaintiff's and the Class Members' employment by Defendants provided that employees working for more than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week. An employee who works more than twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a particular work week is entitled to overtime compensation at a rate of twice the regular rate of pay.

60. The IWC Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

61. At all times relevant, Plaintiff and Class Members consistently worked hours for which they were not paid because Plaintiff and the Class Members were required to work off the clock.

62. Plaintiff is informed and believes that Defendants and its managers were aware that Plaintiff and the Class Members were working off the clock and that they should have been paid for this time.

63. In addition, Plaintiff is informed and believes that Defendants failed to compensate employees for all overtime hours worked at the proper regular rate because Defendants failed to include all required forms of compensate in calculating the regular rate.

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64. In some instances, Plaintiff and the Class Members worked in excess of eight (8) hours in a day and/or forty (40) hours in a week, and on occasion over twelve hours in a day in a particular workweek without being paid all wages owed as required by law.

65. In addition, Plaintiff and Class Members were expected to be "on call" for 24 hour periods during certain weeks for which they were no paid "on call" wages.

66. Plaintiff and Class Members were not paid at least minimum wage for non-productive time including time spent "on call."

67. Upon information and belief, Defendants knew or should have known Plaintiffs and the Class Members were undercompensated.

68. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of wages owed violates the provisions of Labor Code §510, §1194, §1197, §1198, and the applicable IWC wage orders and is therefore unlawful.

69. Accordingly, Defendants owe Plaintiff and Class Members wages, including minimum wages and overtime wages, and have failed and refused, and continue to fail and refuse, to pay Plaintiffs and Class Members the wages owed.

70. Pursuant to Labor Code §1194, Plaintiffs and Class Members are entitled to recover their unpaid compensation, as well as interest, costs, and attorneys' fees.

71. In addition, pursuant to Labor Code §1194.2(a), Plaintiff and the Class Members

are entitled to "recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon."

72. Also, pursuant to Labor Code §1197.1, Plaintiff and the Class Members are entitled to claim all applicable civil penalties as a direct result of Defendants' policy and practice of paying a wage less than the minimum fixed by an order of the commission.

73. Accordingly, Plaintiff and Class Members are entitled to recover their unpaid wages, including minimum wages, overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE LAWFUL MEAL PERIODS

(By Plaintiff and the Meal Period Subclasses Against All Defendants)

74. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

75. Pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than five (5) hours without providing a meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee.

76. Similarly, pursuant to Labor Code § 512, no employer shall employ an employee for a work period of more than ten (10) hours without providing a second meal break of not less than thirty (30) minutes in which the employee is relieved of all of his or her duties. A second meal break may only be waived by mutual consent, and if the employee did not waive his or her first meal period, and the employee's work day will not exceed twelve hours.

77. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency Rule 9, Defendants failed to provide Plaintiff and Class Members timely and uninterrupted first meal periods of not less than thirty (30) minutes within the first five hours of a shift.

78. For the four (4) years preceding the filing of this lawsuit as tolled by Emergency

Rule 9, Defendants also failed to provide Plaintiff and Class Members timely and uninterrupted second meal periods of not less than thirty (30) minutes on shifts longer than ten hours.

79. Indeed, during the relevant time, as a consequence of Defendants' staffing and scheduling practices, lack of coverage, work demands, and Defendants' policies and practices, Plaintiff and the Class Members were not provided with legally required meal periods.

80. Upon information and belief, meal periods were automatically deducted from hours worked for purported meal periods regardless of whether such meal periods were, in fact, provided.

81. On information and belief, Plaintiff and Class Members did not waive their rights to meal periods under the law.

82. Plaintiff and the Class Members were not provided with valid lawful on-duty meal periods.

83. Plaintiff and the Class Members were not paid one hour of pay at their regular rate for each day that a first or second meal period was not lawfully provided.

84. As a proximate result of the aforementioned violations, Plaintiff and the Class Members have been damaged in an amount according to proof at time of trial.

85. Pursuant to Labor Code § 226.7, Plaintiff and Class Members are entitled to recover one (1) hour of premium pay at the regular rate for each day in which a meal period violation occurred. They are also entitled to recover reasonable attorneys' fees, cost, interest, and penalties as applicable.

86. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 218.6, 226.7, 512 and the applicable IWC Wage Orders, and Civil Code section 3287.

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE AND PERMIT LAWFUL REST PERIODS

(By Plaintiff and the Rest Period Subclass Against All Defendants)

87. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

88. Pursuant to the IWC wage orders applicable to Plaintiff's and Class Members' employment by Defendants, "Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period…. [The] authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours worked or major fraction thereof.… Authorized rest period time shall be counted as hours worked, for which there shall be no deduction from wages."

89. Labor Code §226.7(a) prohibits an employer from requiring any employee to work during any rest period mandated by an applicable order of the IWC.

90. Defendants were required to authorize and permit employees such as Plaintiff and Class Members to take rest periods during shifts in excess of 3.5 hours, based upon the total hours worked at a rate of ten (10) minutes net rest per four (4) hours worked, or major fraction thereof, with no deduction from wages.

91. Despite said requirements of the IWC wage orders applicable to Plaintiff's and Class Member's employment with Defendants, Defendants failed and refused to authorize and permit Plaintiff and Class Members to take lawful, net ten (10) minute rest periods for every four (4) hours worked, or major fraction thereof.

92. Defendants did not pay Plaintiff one additional hour of pay at his regular rate of pay for each day that a rest period violation occurred. On information and belief, the other members of the Class endured similar violations as a result of Defendants' rest period policies and practices and Defendant did not pay said Class Members premium pay as required by law.

93. By their failure to authorize and permit Plaintiff and the Class Members to take a lawful, net ten (10) minute rest period free from work duties every four (4) hours or major fraction thereof worked, including failure to provide two (2) total rest periods on six to ten hour shifts and

three (3) total ten (10) minute rest periods on days on which Plaintiff and the other Class Members work(ed) work a third rest period for shifts in excess of ten (10) hours, and by their failure to provide compensation for such unprovided rest periods as alleged herein, Defendants willfully violated the provisions of Labor Code sections 226.7 and the applicable IWC Wage Order(s).

94. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 218.6, 226.7, the applicable IWC Wage Orders, and Civil Code 3287.

FIFTH CAUSE OF ACTION
FAILURE TO TIMELY PAY WAGES DUE AND PAYABLE DURING EMPLOYMENT
(By Plaintiff and the Class Against All Defendants)

95. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

96. Labor Code section 204 requires that all wages are due and payable twice in each calendar month.

97. The wages required by Labor Code §§ 226.7, 510, 1194 and other sections became due and payable to each employee in each month that he or she was not provided with a meal period or rest period or paid minimum wage, straight or overtime wages, piece rate, or commissions to which he or she was entitled.

98. Defendants violated Labor Code § 204 by systematically refusing to pay wages due under the Labor Code.

99. Labor Code section 210 (a) provides that "In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follow:

(1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee.
(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

100. As a result of the unlawful acts of Defendants, Plaintiff and the Class he seeks to represent have been deprived of wages in amounts to be determined at trial, and are entitled to recovery of such amounts, penalties, plus interest thereon, attorneys fees, and costs, pursuant to Labor Code § 210, 218.5, 218.6, 510, 1194.

SIXTH CAUSE OF ACTION

FAILURE TO TIMELY PAY WAGES OWED AT SEPARATION

(By Plaintiff and the Waiting Time Subclass Against All Defendants)

101. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

102. Labor Code §§ 201 and 202 require Defendants to pay their employees all wages due within seventy-two (72) hours of separation of employment.

103. Section 203 of the Labor Code provides that if an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employee's wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

104. Plaintiff and Class Members are entitled to compensation for all forms of wages earned, including but not limited to minimum wages, overtime, and premium meal and rest period compensation, and commissions, but to date have not received such compensation, therefore entitling them to Labor Code § 203 penalties.

105. More than thirty (30) days have passed since affected Waiting Time Subclass Members have left Defendants' employ, and on information and belief, they have not received payment pursuant to Labor Code § 203.

106. Plaintiff and Waiting Time Subclass Members are thus entitled to 30 days' wages as a penalty under Labor Code § 203, together with interest thereon and attorneys' fees and costs.

SEVENTH CAUSE OF ACTION

KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS

By Plaintiff and Wage Statement Subclass Against Defendants

107. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

108. Labor Code section 226(a) reads in pertinent part: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee… (4) all deductions… (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during each the pay period and the corresponding number of hours worked at each hourly rate by the employee….".

109. Further, the IWC Wage Orders require in pertinent part: Every employer shall keep accurate information with respect to each employee including the following: (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals, and total daily hours worked shall also be recorded…(5) Total hours worked in the payroll period and applicable rates of pay…."

110. Labor Code section 1174 of the California also requires Defendants to maintain

and preserve, in a centralized location, among other items, records showing the names and addresses of all employees employed and payroll records showing the hours worked daily by, and the wages paid to, its employees. On information and belief and based thereon, Defendants have knowingly and intentionally failed to comply with Labor Code section 1174, including by implementing the policies and procedures and committing the violations alleged in the preceding causes of action and herein. Defendants' failure to comply with Labor Code section 1174 is unlawful pursuant to Labor Code section 1175.

111. Defendants have failed to record many of the items delineated in applicable Industrial Wage Orders and Labor Code section 226, and required under Labor Code section 1174, including by virtue of the fact that each wage statement which failed to accurately compensate Plaintiff and Class Members for all hours worked, for missed and non-provided meal and rest periods, all commissions earned, or which failed to include compensation for all minimum wages earned or overtime hours worked, was an inaccurate wage statement.

112. On information and belief, Defendants failed to implement and preserve a lawful record-keeping method to record all hours worked, meal periods, and non-provided meal and rest periods owed to employees, as required for Non-Exempt Employees under California Labor Code section 226 and applicable California Wage Orders. In order to determine if they had been paid the correct amount and rate for all hours worked, Plaintiff and Class Members have been, would have been, and are compelled to try to discover the required information missing from their wage statements and to perform complex calculations in light of the inaccuracies and incompleteness of the wage statements Defendants provided to them.

113. As a pattern and practice, in violation of Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and still do not furnish each of the members of the Wage Statement Class with an accurate itemized statement in writing accurately reflecting all of the required information. Specifically, Defendants have also omitted accurate itemizations of total hours worked, hourly wages paid, the name and address of the legal entity that is the employer, and gross pay from Plaintiff and the Class Members' wage statements. In addition, Defendants have failed to provide accurate itemized wage statements as a consequence of the above-specified

violations for failure to accurately pay all wages owed, accurately record all hours worked, and failure to pay meal and rest period premiums as required by law.

114. Moreover, upon information and belief, as a pattern and practice, in violation of Labor Code section 226(a) and the IWC Wage Orders, Defendants did not and do not maintain accurate records pertaining to the total hours worked for Defendants by the members of the Wage Statement Class, including but not limited to, beginning and ending of each work period, meal period and split shift interval, the total daily hours worked, and the total hours worked per pay period and applicable rates of pay.

115. Plaintiffs and the members of the Wage Statement Class have suffered injury as a result of Defendants' failure to maintain accurate records for the members of the Wage Statement Class in that the members of the Wage Statement Class were not timely provided written accurate itemized statements showing all requisite information, such that the members of the Wage Statement Class were misled by Defendants as to the correct information regarding various items, including but not limited to the identity of the employer, total hours worked by the employee, gross pay, net wages earned and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

116. Pursuant to Labor Code section 226, and in light of Defendants' violations addressed above, Plaintiff and the Wage Statement Class Members are each entitled to recover up to a maximum of $4,000.00, along with an award of costs and reasonable attorneys' fees.

EIGHTH CAUSE OF ACTION

VIOLATION OF THE UNFAIR COMPETITION LAW

By Plaintiff and Class Against All Defendants

117. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

118. Defendants' conduct, as alleged in this complaint, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff and Class Members, Defendants' competitors, and the general public. Plaintiff also seeks to enforce important rights affecting the public interest within the meaning of the California Code of Civil Procedure § 1021.5.

119. Defendants' policies, activities, and actions as alleged herein are violations of California law and constitute unlawful business acts and practices in violation of California Business and Professions Code §§ 17200, *et seq*.

120. A violation of California Business and Professions Code §§ 17200, *et seq*., may be predicated on the violation of any state or federal law.

121. The state law violations, including violations of the relevant IWC Wage Order, detailed herein above are the predicate violations for this cause of action. By way of example only, in the instant case Defendants' policy of failing to lawfully provide Plaintiff and the Class with timely meal and rest periods or pay one (1) hour of premium pay when a meal or rest period was not lawfully provided violates Labor Code § 512, and § 226.7, and the IWC Wage Orders. Defendants further violated the law through their policies of failing to reimburse expenses and failing to fully and accurately compensate Plaintiff and the Class Members for all hours worked, including minimum wages, commissions, and overtime as well as failing to provide accurate itemized wage statement as specified above.

122. Plaintiff and the Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein by the loss of money and/or property.

123. Pursuant to California Business and Professions Code §§ 17200, *et seq.*, Plaintiff and the Class Members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four (4) years prior to the filing of this complaint; an award of attorneys' fees pursuant to California Code of Civil Procedure §1021.5; interest; and an award of costs.

NINTH CAUSE OF ACTION

FAILURE TO REIMBURSE NECESSARY EXPENSES

By Plaintiff and Class Against All Defendants

124. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

125. Plaintiff repeats and incorporates herein by reference each and every allegation set forth above, as though fully set forth herein.

126. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Class Members for necessary expenditures incurred in direct consequence of the discharge of his or her duties.

127. Plaintiff and the members of the Indemnification Class were required to incur expenses in the performance of their assigned job duties. For example, Plaintiff and the Indemnification Class Members were required to incur numerous out of pocket expenses for equipment and items necessary to do their jobs, including without limitation, drills, screwdrivers, measuring tape, and gauges, in direct consequence of the discharge of their duties.

128. Upon information and belief, the Defendants did not reimburse Plaintiff or the Plaintiff's subclass for such expenses.

129. As a result of the unlawful acts of Defendants, Plaintiff and the Subclass Members have been deprived of un-reimbursed sums in amounts to be determined at trial, and are entitled to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant to Labor Code §2802.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff pray judgment against Defendants, as follows:

Class Certification

1. That this action be certified as a class action;
2. That Plaintiff be appointed as the representatives of the Class;
3. That Plaintiff be appointed as the representatives of the Subclasses; and
4. That counsel for Plaintiff be appointed as counsel for the Class and Subclasses.

On the First Cause of Action

(Failure to pay all wages owed, including overtime)

1. For the unpaid balance of the full amount of any overtime, minimum wages, and regular wages owed, as well as interest thereon,
2. Penalties according to statute,
3. Liquidated damages,
4. Reasonable attorneys' fees, and costs of suit;
5. For interest and

6. For such other and further relief as the Court deems proper.

On the Second Cause of Action

(Failure to Provide Lawful Meal Periods)

1. For one (1) hour of premium pay for each day in which a required meal period was not lawfully provided;

2. For reasonable attorneys' fees and costs pursuant to statute; and

3. For such other and further relief as the Court deems proper.

On the Third Cause of Action

(Failure to Authorize and Permit Lawful Rest Periods)

1. For one (1) hour of premium pay for each day in which a required rest period was not lawfully authorized and permitted; and

2. For reasonable attorneys' fees and costs pursuant to statute; and

3. For such other and further relief as the Court deems proper.

On the Fourth Cause of Action

(Failure to Timely Pay Wages Due and Payable During Employment)

1. For unpaid wages;

2. For penalties pursuant to Labor Code § 210 and 25% of the amount of wages unlawfully withheld;

3. For interest;

4. For reasonable attorneys' fees and costs pursuant to statute; and

5. For such other and further relief as the Court deems proper.

On the Fifth Cause of Action

(Failure to Timely Pay Wages At Separation)

1. For unpaid wages;

2. For penalties pursuant to Labor Code § 203;

3. For interest;

4. For reasonable attorneys' fees and costs pursuant to statute; and

5. For such other and further relief as the Court deems proper.

On the Sixth Cause of Action

(Failure to Provide Accurate Itemized Wage Statements)

1. For statutory penalties, including penalties pursuant to Labor Code section 226;

2. For reasonable attorneys' fees and costs; and

3. For such other and further relief as the Court deems proper;

On the Seventh Cause of Action

(Violation of the Unfair Competition Law)

1. That Defendants, jointly and/or severally, pay restitution and/or disgorgement of sums to Plaintiff and Class Members for the Defendants' past failure to pay commissions, overtime and regular wages, for Defendants' past failure to reimburse necessary expenses, and for premium wages for meal and rest periods that were not provided to Plaintiff and Class Members over the last four (4) years in an amount according to proof;

2. For reasonable attorneys' fees that Plaintiff and Class Members are entitled to recover under California Code of Civil Procedure § 1021.5 and Labor Code section 1194;

3. For pre-judgment interest on any unpaid overtime wages due from the day that such amounts were due;

4. For costs of suit incurred herein that Plaintiff and Class Members are entitled to recover under the Labor Code; and

5. For such other and further relief as the Court deems proper.

On the Eighth Cause of Action

(Failure to Reimburse Necessary Expenses)

1. For unreimbursed sums;

2. For reasonable attorneys' fees and costs pursuant to statute;

3. For interest; and

4. For such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff, on behalf of the Class and Subclasses, respectfully demand a jury trial in this matter.

Respectfully submitted,

JAMES HAWKINS APLC

Dated: March 19, 2021

James R. Hawkins, Esq.
Christina M. Lucio, Esq.

Attorneys for Plaintiff GERARDO ABUNDO, on behalf of himself and all others similarly situated

EXHIBIT 3

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PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Gerardo Abundo ("Plaintiff") and Defendant American Residential Services, LLC ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means Plaintiff's lawsuit seeking civil penalties under PAGA for wage and hour violations against Defendant captioned *Gerardo Abundo v. American Residential Services, LLC*, Orange County Superior Court Case No. 30-2021-01202607-CU-OE-CXC, filed on May 24, 2021.

1.2. "Administrator" means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Fund Value to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.

1.4. "Court" means the Superior Court of California, County of Orange.

1.5. "Defendant" means named Defendant American Residential Services, LLC.

1.6. "Defense Counsel" means Amanda C. Sommerfeld, Aileen Kim, and Samantha E. Dyar of Jones Day.

1.7. "Effective Date" means the later of: (i) the sixty-fifth (65) day after the Court enters a Judgment on its Order Approving the PAGA Settlement, provided no appeal has been initiated and no motion to vacate has been filed; or (ii) if such an appeal or motion to vacate is timely initiated, five (5) business days after final resolution of that appeal or motion (including any requests for rehearing or appeals, including petitions for certiorari), resulting in final judicial approval of the Settlement.

1.8. "Gross Fund Value" means $975,000 (Nine Hundred Seventy-Five Thousand Dollars) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Fund Value will be used to pay Individual PAGA Payments, the LWDA Payment, PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.

1.9. "Individual PAGA Payment" means the PAGA Member's pro rata share of 25% of the PAGA Fund Value calculated according to the number of PAGA Pay Periods the PAGA Member worked during the PAGA Period.

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1.10. "Judgment" means the judgment entered by the Court based upon the Approval Order.

1.11. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.12. "LWDA Payment" means the 75% of the PAGA Fund Value paid to the LWDA under Labor Code section 2699, subd. (i).

1.13. "Operative Complaint" refers to the First Amended Complaint filed in the Action on July 12, 2021.

1.14. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.15. "PAGA Counsel" means James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray of James Hawkins APLC, the attorneys representing Plaintiff in the Action.

1.16. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.17. "PAGA Fund Value" means the Gross Fund Value, less the following payments in the amounts approved by the Court: PAGA Representative Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.

1.18. "PAGA Member" means all current and former non-exempt employees who worked at American Residential Services, LLC in California during the PAGA Period.

1.19. "PAGA Member Address Search" means the Administrator's investigation and search for current PAGA Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with PAGA Members.

1.20. "PAGA Member Data" means PAGA Member identifying information in Defendant's possession including the PAGA Member's full name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.21. "PAGA Notice" means Plaintiff's respective letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.22. "PAGA Pay Period" means any Pay Period during which a PAGA Member worked for Defendant for at least one day during the PAGA Period.

1.23. "PAGA Period" means the period from March 19, 2020 to April 3, 2025.

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1.24. "PAGA Representative Service Payment" is the amount to be paid to Plaintiff for his service as PAGA Representative.

1.25. "Plaintiff" means Gerardo Abundo, the named Plaintiff in the Action.

1.26. "Approval Order" means the proposed Court Order Granting Approval of the PAGA Settlement.

1.27. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.28. "Released Parties" means: Defendant, its respective former and present parents, subsidiaries, affiliated corporations and entities, and each of its respective current, former, and future officers, directors, members, managers, employees, partners, shareholders, and any successors, assigns, or legal representatives.

1.29. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment. PAGA Members may not opt out of the Settlement.

2. RECITALS.

2.1. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on March 19, 2021.

2.2. On May 24, 2021, Plaintiff commenced this Action by filing a Complaint alleging a single cause of action against Defendant under PAGA. On July 12, 2021, Plaintiff filed a First Amended Complaint ("FAC") seeking civil penalties under PAGA for Defendant's alleged failure to: (1) pay all wages owed, including minimum wages and overtime; (2) provide lawful meal periods; (3) authorize and permit lawful rest periods; (4) timely pay wages due and payable during employment; (5) timely pay wages owed at separation; (6) comply with itemized employee wage statement provisions; (7) pay sick leave at the proper rate; and (8) reimburse business expenses. The FAC is the operative complaint in the Action (the "Operative Complaint").

2.3. Defendant filed an answer to the FAC on September 3, 2021. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.4. On June 27, 2022, the Parties participated in an all-day mediation presided over by Hon. William J. Cahill (Ret.). However, the mediation was not successful.

2.5 On July 7, 2022, Defendant filed a Motion to Compel Arbitration and Dismiss Plaintiff's Representative PAGA claims. Plaintiff filed his Opposition on August 25, 2022, and filed a demand for arbitration of his non-representative PAGA claims. Defendant filed its reply on August 31, 2022. The Court declined to dismiss the representative PAGA claims and stayed the matter pending arbitration of Plaintiff's non-representative claims on September 8, 2022.

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2.6. On February 14, 2024, the Parties participated in a second all-day mediation presided over by Hon. Steven J. Stone (Ret.), which led to this Agreement to settle the Action.

2.7. Prior to mediation, Plaintiff obtained, through informal discovery, PAGA Member information for the PAGA period, a sampling of time and wage records for the PAGA Members, Plaintiff's personnel file, and information regarding Defendant's policies and practices during the PAGA Period, to aid in preparation of Plaintiff's evaluation of the claims and formulation of a damages model.

3. MONETARY TERMS

3.1. Gross Fund Value. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay $975,000 and no more as the Gross Fund Value. Defendant has no obligation to pay the Gross Fund Value prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Fund Value without asking or requiring PAGA Members to submit any claim as a condition of payment. None of the Gross Fund Value will revert to Defendant.

3.2. Payments from the Gross Fund Value. The Administrator will make and deduct the following payments from the Gross Fund Value, in the amounts specified by the Court in the Approval Order:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% of the Gross Fund Value (estimated $341,250) and PAGA Counsel Litigation Expenses Payment of not more than $25,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the PAGA Fund Value. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To Plaintiff: A PAGA Representative Service Payment to Plaintiff of up to $10,000 in exchange for his service in the Action and the release of his individual claims stated in Paragraphs 5.1 and 5.1.1, subject to the approval of the Court. Defendant will not oppose Plaintiff's request for a PAGA Representative Service Payment that does not exceed this amount. The Administrator will issue an IRS Form 1099 to Plaintiff for the PAGA Representative Service Payment. If the Court approves a PAGA Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the PAGA Fund Value.

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3.2.3. To the Administrator: An Administration Expenses Payment not to exceed $9,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $9,000, the Administrator will allocate the remainder to the PAGA Fund Value.

3.2.4. To the LWDA and PAGA Members: PAGA Fund Value in the estimated amount of $594,750 to be paid from the Gross Fund Value, with 75% (estimated $446,062.50) allocated to the LWDA Payment and 25% (estimated $148,687.50) allocated to the Individual PAGA Payments. The Administrator will pay the Individual PAGA Payments using one or more IRS 1099 Forms.

3.3. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of the PAGA Fund Value (i.e., PAGA Fund Value less the LWDA Payment) by the total number of PAGA Period Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. PAGA Member Pay Periods. Based on a review of its records, Defendant estimates that the PAGA Members worked a total of 103,861 PAGA Pay Periods from March 19, 2020 through February 14, 2024.

4.2. PAGA Member Data. Within 30 days of the Effective Date, Defendant will deliver the PAGA Member Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect PAGA Member' privacy rights, the Administrator must maintain the PAGA Member Data in confidence, use the PAGA Member Data only for purposes of this Settlement and for no other purpose, and restrict access to the PAGA Member Data to Administrator employees who need access to the PAGA Member Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the PAGA Member Data omitted employee identifying information and to provide corrected or updated PAGA Member Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the PAGA Member Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted PAGA Member Data.

4.3. Funding of Gross Fund Value. Defendant shall fully fund the Gross Fund Value by transmitting the funds to the Administrator no later than 21 days after the Effective Date.

4.4. Payments from the Gross Fund Value. Within 21 days after Defendant funds the Gross Fund Value, the Administrator will calculate the Individual PAGA Payments and mail checks for all Individual PAGA Payments, the PAGA Representative Service Payment, the LWDA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and the PAGA

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Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the PAGA Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an PAGA Member Address Search for all PAGA Members whose checks are retuned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the PAGA Member Address Search. The Administrator need not take further steps to deliver checks to PAGA Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any PAGA Member whose original check was lost or misplaced, requested by the PAGA Member prior to the void date.

4.4.3. For any PAGA Member whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the PAGA Member.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the PAGA Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Fund Value, Plaintiffs, the LWDA, and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. In exchange for his Individual PAGA Payment, Plaintiff and his former and present spouse, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice and all PAGA claims that were, or reasonably could have been alleged based on facts ascertained during the Action and released under paragraphs 5.1.1 and 5.2 below ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiff's

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Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.2 Release by PAGA Members. All PAGA Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, rights, demands, liabilities, and causes of action for PAGA penalties for the PAGA Period, whether known or unknown, arising from and/or relating in any way to the claims pled in the Action (including in the Operative Complaint and the PAGA Notice or that could have been asserted based on the facts alleged in the Action, including, but not limited to, claims for civil penalties for: failure to fully and timely pay all wages due, during employment and at termination, whether that failure to pay all wages due was caused by inaccurate timekeeping, off-the-clock work, calculation of any wages due during employment or at termination, withholding of wages and/or unlawful deductions, unpaid meal and rest period premiums, on-call or reporting time practices (i.e., Cal. Lab. Code §§ 201-204, 210, 216, 221, 226.2, 223, 225.5, 226.7, 510, 558, 558.1, 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198); failure to provide meal and rest periods (i.e., Cal. Lab. Code §§ 512, 516, 558, 558.1); failure to reimburse all necessary business expenses (i.e., Cal. Lab. Code § 2802); failure to provide accurate wage statements and/or maintain records (i.e., Cal. Lab. Code §§ 226, 226.2, 226.3, 1174, 1174.5, 1198); failure to provide and/or correctly calculate sick leave (i.e., Cal. Lab. Code §§ 233, 246, 248.5, 248.6), and any PAGA violation of the applicable IWC California Wage Orders based on the foregoing claims.

5.3 Release by PAGA Counsel. PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) application or motion for approval of this Settlement; (ii) a draft proposed Order Granting Approval of PAGA Settlement; (iii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of PAGA Member Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with PAGA Members or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iv) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (v) all facts relevant to any actual or potential conflict of interest with PAGA Members and/or the Administrator. The Settlement, and all motion papers, will be submitted to the Labor and Workforce Development Agency at the same time it is submitted to the court.

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6.2 Timing. PAGA Counsel is responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator. PAGA Counsel is responsible for providing Defense Counsel a draft of the application or motion for approval of this Settlement and draft proposed Order Granting Approval of PAGA Settlement no later than one week before filing of the papers.

6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8. PAGA MEMBER SIZE ESTIMATES and ESCALATOR CLAUSE. Defendant represents that the PAGA Members worked approximately 103,861 Pay Periods between March 19, 2020, through February 14, 2024. If the PAGA Pay Periods exceed 110% of 103,861 (i.e., more than 114,247 PAGA Pay Periods), Defendant shall have the option to pay the pro-rata increase or have the PAGA Period expire as of that point in time and not incur any additional amounts.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction, pursuant to California Code of Civil Procedure

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§ 664.6, over the Parties, Actions, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the PAGA Fund Value.

10. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any mediation of the

Docusign Envelope ID: AB8DE309-4E82-469E-819D-06EB7A7FA753

Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6 No Tax Advice. Neither Plaintiffs, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Actions and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12 Use and Return of PAGA Member Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of PAGA Member Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of PAGA Member Data.

10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

Docusign Envelope ID: AB8DE309-4E82-469E-819D-06EB7A7FA753

10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff: James R. Hawkins, James Hawkins APLC, 9880 Research Drive, Suite 200, Irvine, CA 92618.

To Defendant: Amanda C. Sommerfeld, Jones Day, 555 South Flower Street, Fiftieth Floor Los Angeles, CA 90071.

10.16 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. Further, upon the execution of this Agreement, the Parties agree pursuant to California Code of Civil Procedure section 583.330, to extend the date to bring a case to trial under section 583.310 for the entire period of this settlement process.

[SIGNATURES ON NEXT PAGE]

Docusign Envelope ID: AB8DE309-4E82-469E-819D-06EB7A7FA753

Dated: 12/9/2024

PLAINTIFF GERARDO ABUNDO

DocuSigned by:
E939626B471C4B8...
Gerardo Abundo

Dated: 11/27/24

AMERICAN RESIDENTIAL SERVICES, LLC

Caroline Giovannetti
Signature

By: Caroline Giovannetti
Name

Its: VP & Deputy General Counsel
Title

APPROVED AS TO FORM

Dated: 12/11/2024

JONES DAY

Amanda C. Sommerfeld
Attorneys for Defendant American Residential Services, LLC

Dated: 12/09/2024

JAMES HAWKINS APLC

James R. Hawkins
Attorneys for Plaintiff Gerardo Abundo

EXHIBIT 4

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: **01/01/1900 to 11/19/2024**
Client: **EXPRES170 - Gerardo- Herrera Abundo**
Matter: **AMERRES003 - American Residential -PAGA- Gerardo Herrera Abundo v. ARS**

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
	Balance Forward:		$0.00						
05/26/2021	ONE	One Legal Services- Complaint, Summons, Civil Case Cover sheet- In#03311950	$1,492.00		Unbilled				
08/04/2021	ONE	One Legal Services- Notice of Acknowledgment- In#03452321	$14.67		Unbilled				
09/24/2021	ONE	One Legal Services-Joint Statement- In# 03558441	$14.67		Unbilled				
10/05/2021	CCL	Court Call - CCL Conf. , CMC , CML	$94.00		Unbilled				
10/06/2021	ONE	One Legal Services- Notice of Hearing- in#03582717	$14.67		Unbilled				
03/01/2022	ONE	One Legal Services- Case Management Statement - In# 03890939	$12.35		Unbilled				
03/11/2022	CRT	Court Documents - 03.11.22 needed to pull signed stip off docket	$7.78		Unbilled				
08/25/2022	ONE	One Legal Services - Declaration in support of opposition- In#04322180	$15.19		Unbilled				
02/10/2023	ONE	One Legal Services - Joint Statement- In#04747197	$15.65		Unbilled				
08/17/2023	ONE	One Legal Services - Joint Statement - In#05239348	$15.65		Unbilled				
05/22/2024	ONE	One Legal Services - Declaration in Support - In#06053670	$17.71		Unbilled				
05/22/2024	ONE	One Legal Services - Stipulation and Proposed Order- in#06057066	$20.59		Unbilled				
06/06/2024	ONE	One Legal Services - Motion for PAGA Approval, Declarations in support- In#06096122	$79.48		Unbilled				
10/23/2024	FIL	Filing Fee - Motion for PAGA Approval, Proof of Service, Order granting PAGA Approval, Decl of Admin re Disbursement	$120.21		Unbilled				
		Total:	$1,934.62	$0.00					
		Balance:	$1,934.62						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description		Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed- - - - - - - - - - - - - - - - - -			**$0.00**							
Total Fees Unbilled : - - - - - - - - - - - - - - - -			**$0.00**							
Total Fees Received : - - - - - - - - - - - - - - - -			**$0.00**							
Total Soft Cost Billed : - - - - - - - - - - - - - -			**$0.00**							
Total Soft Cost Unbilled : - - - - - - - - - - -			**$0.00**							
Total Soft Cost Received : - - - - - - - - - - -			**$0.00**							
Total Hard Cost Billed : - - - - - - - - - - - - -			**$0.00**							
Total Hard Cost Unbilled : - - - - - - - - - - -			**$1,934.62**							
Total Hard Cost Received : - - - - - - - - - - -			**$0.00**							
Total Taxes Billed : - - - - - - - - - - - - - - - -			**$0.00**							
Total Taxes Unbilled : - - - - - - - - - - - - - - -			**$0.00**							
Total Taxes Received : - - - - - - - - - - - - - - -			**$0.00**							
Total Late Charges Billed : - - - - - - - - -			**$0.00**							
Total Late Charges Unbilled: - - - - - - - -			**$0.00**							
Total Late Charges Received : - - - - - - - -			**$0.00**							
Trust Balance: - - - - - - - - - - - - - - - - - - -			**$0.00**							

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: **01/01/1900 to 11/19/2024**
Client: **EXPRES170 - Gerardo- Herrera Abundo**
Matter: **ARS001 - American Residential Services- Gerardo Herrera Abundo v. ARS**

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
	Balance Forward:		$0.00						
03/19/2021	POS	Postage - LWDA Letter	$6.99		Unbilled				
03/22/2021	ONE	One Legal Services- Complaint, Summons, Civil Case Cover Sheet- In#03179885	$1,492.00		Unbilled				
03/23/2021	ONE	One Legal Services- Peremptory Challenge- In#03181797	$14.67		Unbilled				
04/08/2021	FIL	Filing Fee - 03.19.2021 LWDA Filing	$75.00		Unbilled				
05/18/2021	FST	First Legal Network - Process , complaint and initial docs (2) IN#30159758	$568.14		Unbilled				
06/09/2021	CRT	Court Documents - 03.24.2021 Minute Order	$7.50		Unbilled				
07/15/2021	ONE	One Legal Services- Amended Complaint - In#03410155	$14.67		Unbilled				
08/05/2021	ONE	One Legal Services- Request for Dismissal- In# 03455520	$14.67		Unbilled				
08/10/2021	ONE	One Legal Services- Notice of Relief- In#03464191	$14.67		Unbilled				
03/18/2022	CPT	Class Action Administrators CK#9861 Belaire Notices (1/2 fee-JRH Portion)	$1,482.09		Unbilled				
06/17/2022	MED	Mediation Services- IN#6153178 CK#10049	$5,975.00		Unbilled				
04/05/2023	TRN	Transcript - CK#10737 IN#99976	($75.00)		Unbilled				
01/16/2024	MED	Mediation Services IN#6963180 CK#11454	$5,000.00		Unbilled				
02/09/2024	FED	FED EX - Crs to Mediator re Plaintiff's Confidential Mediation Brief	$74.61		Unbilled				
02/27/2024	EXA	Expert Analysis- IN#10673 CK#11555	$6,680.00		Unbilled				
		Total:	$21,345.01	$0.00					
		Balance:	$21,345.01						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description		Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed- - - - - - - - - - - - - - - - - -			**$0.00**							
Total Fees Unbilled : - - - - - - - - - - - - - - - -			**$0.00**							
Total Fees Received : - - - - - - - - - - - - - - - -			**$0.00**							
Total Soft Cost Billed : - - - - - - - - - - - - - -			**$0.00**							
Total Soft Cost Unbilled : - - - - - - - - - - -			**$0.00**							
Total Soft Cost Received : - - - - - - - - - - -			**$0.00**							
Total Hard Cost Billed : - - - - - - - - - - - - -			**$0.00**							
Total Hard Cost Unbilled : - - - - - - - - - - -			**$21,345.01**							
Total Hard Cost Received : - - - - - - - - - - -			**$0.00**							
Total Taxes Billed : - - - - - - - - - - - - - - - -			**$0.00**							
Total Taxes Unbilled : - - - - - - - - - - - - - - -			**$0.00**							
Total Taxes Received : - - - - - - - - - - - - - - -			**$0.00**							
Total Late Charges Billed : - - - - - - - - -			**$0.00**							
Total Late Charges Unbilled: - - - - - - - -			**$0.00**							
Total Late Charges Received : - - - - - - - -			**$0.00**							
Trust Balance: - - - - - - - - - - - - - - - - - - -			**$0.00**							

EXHIBIT 5

DEPOSIT REQUEST

Invoice Date
4/26/2022

Invoice Number
6153178

Bill To:
Mr. James Hawkins Esq.
James Hawkins, APLC
9880 Research Dr.
Suite 200
Irvine, CA 92618
US

Reference #:	**1100113674 - Rep# 1**
Billing Specialist:	**Kim, Joseph**
Email:	**josephkim@jamsadr.com**
Telephone:	
Employer ID:	**68-0542699**

RE: **Abundo, Gerardo vs. American Residential Servvices, LLC**
Representing: **Gerardo Abundo**

Neutral(s): **Hon. William Cahill, (Ret.)**
Hearing Type: **MEDIATION** SS

Date / Time	Description	Your Share
4/26/22	**Hon. William J Cahill (Ret.)** Deposit for services: To be applied to professional time (session time, pre and post session reading, research, preparation, conference calls, travel, etc.), expenses, and case management fees. Failure to pay the deposit by the due date may result in a delay in service or cancellation of the session. With the exception of non-refundable fees, (Please review the Neutral's fee schedule regarding case management fee and cancellation policies), any unused portion of this deposit will be refunded at the conclusion of the case.	$ 5,975.00

Total Billed:	$ 5,975.00
Total Payment:	$ 0
Balance:	$ 5,975.00

Invoice total is based on the fee split agreed upon by all parties. If the case cancels or continues, fees are due per our cancellation and continuance policy. Please make checks payable to JAMS, Inc. Payment is due upon receipt.

Click here to pay

Standard mail:
P.O. Box 845402
Los Angeles, CA 90084

Overnight mail:
18881 Von Karman Ave. Suite 350
Irvine, CA 92612

EXHIBIT 6

DEPOSIT REQUEST

Invoice Date
12/14/2023

Invoice Number
6963180

Bill To:
Ms. Christina Lucio Esq.
James Hawkins, APLC
9880 Research Dr.
Ste 200
Irvine, CA 92618
US

Reference #:	**1200061355 - Rep# 2**
Billing Specialist:	**Mindiola, Nicholaus**
Email:	**nmindiola@jamsadr.com**
Telephone:	**949-224-4626**
Employer ID:	**68-0542699**

RE: **Abundo, Gerardo vs. American Residential Services, LLC**
Representing: **Gerardo Abundo**

Neutral(s): **Hon. Steven Stone, (Ret.)**
Hearing Type: **MEDIATION** LB

Date / Time	Description	Your Share
12/14/23	**Hon. Steven J Stone (Ret.)** Deposit for services: To be applied to professional time (session time, pre and post session reading, research, preparation, conference calls, travel, etc.), expenses, and case management fees. Please review the Neutral's fee schedule regarding case management fee and cancellation policies. Supplemental deposit requests will be assessed as needed. Any unused portion of this deposit will be refunded at the conclusion of the case.	$ 5,000.00

Total Billed:	$ 5,000.00
Total Payment:	$ 0
Balance:	$ 5,000.00

Invoice total is based on the fee split agreed upon by all parties. If the case cancels or continues, fees are due per our cancellation and continuance policy. Please make checks payable to JAMS, Inc. Payment is due upon receipt.

Click here to pay

Standard mail:
P.O. Box 845402
Los Angeles, CA 90084

Overnight mail:
18881 Von Karman Ave. Suite 350
Irvine, CA 92612

DEPOSIT REQUEST

Invoice Date
12/14/2023

Invoice Number
6963182

Bill To:
Samantha Dyar
Jones Day
555 S. Flower St.
50th Floor
Los Angeles, CA 90071
US

Reference #:	**1200061355 - Rep# 5**
Billing Specialist:	**Mindiola, Nicholaus**
Email:	**nmindiola@jamsadr.com**
Telephone:	**949-224-4626**
Employer ID:	**68-0542699**

RE: **Abundo, Gerardo vs. American Residential Services, LLC**
Representing: **American Residential Services, LLC**

Neutral(s): **Hon. Steven Stone, (Ret.)**
Hearing Type: **MEDIATION** LB

Date / Time	Description	Your Share
12/14/23	**Hon. Steven J Stone (Ret.)** Deposit for services: To be applied to professional time (session time, pre and post session reading, research, preparation, conference calls, travel, etc.), expenses, and case management fees. Please review the Neutral's fee schedule regarding case management fee and cancellation policies. Supplemental deposit requests will be assessed as needed. Any unused portion of this deposit will be refunded at the conclusion of the case.	$ 5,000.00

Total Billed:	$ 5,000.00
Total Payment:	$ 0
Balance:	$ 5,000.00

Invoice total is based on the fee split agreed upon by all parties. If the case cancels or continues, fees are due per our cancellation and continuance policy. Please make checks payable to JAMS, Inc. Payment is due upon receipt.

Click here to pay

Standard mail:
P.O. Box 845402
Los Angeles, CA 90084

Overnight mail:
18881 Von Karman Ave. Suite 350
Irvine, CA 92612

EXHIBIT 7

Berger Consulting Group
P.O. Box 261954
Encino, CA 91426

DATE: 2/15/2024
INVOICE # 10673
FOR: *Abundo v American Residential*

Bill To:
James Hawkins, APLC

DESCRIPTION	AMOUNT
Abundo v American Residential (16.70 hours @ 400/hr Rate)	$ 6,680.00
TOTAL	**$ 6,680.00**

Please make all checks payable to: Berger Consulting Group, LLC
P.O. Box 261954
Encino, CA 91426

Thank you for your business.

INVOICE

EXHIBIT 8

ILYM | GROUP, Inc.
SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Abundo v. ARS

Wednesday, February 21, 2024

Requesting Attorneys Name: Mitchell J. Murray
E-Mail Address: mitchell@jameshawkinsaplc.com
ILYM Contact: Tony Rogers
E-Mail: trogers@ilymgroup.com
Contact Number: 626.831.0686

Assumtions: PAGA Settlement

ASSUMPTIONS	
Total Estimated # of Class Members	**1,760**
Estimated Percentage of Remails	**15%**
Certified Spanish Translation	**Yes**
Case Duration (Years)	**1**

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - *Import and Formatting of Data**	Hourly	$150.00	2	$300.00
Project Manager (Case notification and maintenance)	Hourly	$120.00	2	$240.00
NCOA	Flat Rate	$500.00	1	$500.00
Certified Spanish Translation	Flat Fee	$750.00	1	$750.00
Toll-Free Call Center	Flat Rate	$514.60	1	$514.60

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ $150.00 per hour.*

Subtotal **$2,304.60**

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	$150.00	3	$450.00
Account Reconciliation & Distribution Reporting	Hourly	$125.00	3	$375.00
Notice, Check, Stub & Release - (including 1099)	Per Check	$0.90	1,760	$1,584.00
USPS First Class 1oz Postage	Per Piece	$0.64	1,760	$1,126.40
Remails (Forward/Skip Trace Undeliverables)	Per Piece	$1.25	176	$220.00
Preparation of Taxes	Hourly	$150.00	3	$450.00
Annual Filing of Tax Return	Per Year	$1,500.00	1	$1,500.00

**Additional Bank fees may apply*

Subtotal **$5,705.40**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	$100.00	2	$200.00
Process Unclaimed Funds to the State	Flat Fee	$550.00	1	$550.00
Declaration	Hourly	$120.00	2	$240.00

Subtotal **$990.00**

Total Case Estimate: **$9,000.00**

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Clients instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT 9

Outlook

Thank you for your Other Response or Document Submission

From DIR PAGA Unit <no-reply@formassembly.com>
Date Tue 12/17/2024 11:54 AM
To Paul Brown <paul@jameshawkinsaplc.com>

12/17/2024 11:53:50 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 10

Outlook

Thank you for your Other Response or Document Submission

From DIR PAGA Unit <no-reply@formassembly.com>
Date Tue 12/17/2024 4:04 PM
To Paul Brown <paul@jameshawkinsaplc.com>

12/17/2024 04:03:43 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Other Response or Document Submission
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 11

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>
<<ADDRESS 1>>
<<ADDRESS 2>>

Re: PAGA Settlement Payment from *Abundo v. American Residential Services, LLC*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

The enclosed check is your share of a court-approved representative action settlement between Plaintiff Gerardo Abundo ("Plaintiff"), and Defendant American Residential Services, LLC ("Defendant") in the matter of *Abundo v. American Residential Services, LLC*, California Superior Court of Orange County, Case No. 2021-01202607 (the "Action"). By way of that lawsuit, Plaintiff asserted a claim brought pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq*. ("PAGA"). PAGA authorizes aggrieved employees to file lawsuits against their employers to recover civil penalties on behalf of the State of California and other aggrieved employees for Labor Code violations.

The Action was brought on a representative basis on behalf of the State of California and all persons employed by Defendants as non-exempt employees in the State of California, including, without limitation, all HVAC employees, service technicians, repairers, installers, other field employees, and/or customer service employees, who worked for Defendant at any time from March 19, 2020 to April 3, 2025. The Action alleged Defendant owed civil penalties under PAGA for violations of the California Labor Code, specifically alleging that Defendant failed to: (1) pay all wages owed; (2) provide lawful meal periods; (3) authorize and permit lawful rest periods; (4) timely pay wages due and payable during employment; (5) timely pay wages owed at separation; (6) comply with itemized employee wage statements; (7) pay sick leave at the proper rate; and (7) reimburse business expenses. Defendant denies it violated this, or any other provision of California law.

The Parties agreed to settle this matter, and the Court approved the settlement on [_____], 2025 and has determined that the settlement is fair, adequate, and reasonable. Under the settlement, Defendant will pay a total gross payment of $[_____] to settle the PAGA claim. After accounting for Plaintiff's attorneys' fees and reimbursement of litigation costs, administration of the settlement, and Plaintiff's representative service payment, the remaining sum is $[_____]. This sum, called the "PAGA Fund Value" will be divided pursuant to California law as follows: $[_____] (75%) to the State of California Labor Workforce Development Agency and $[_____] (25%) to all employees considered to be "PAGA Members" in this Action, to be shared on a proportionate basis based on the number of pay periods worked by each PAGA Member during that period. A PAGA Member is a non-exempt current or former employee of Defendant within the State of California from March 19, 2020 to April 3, 2025.

As a PAGA Member, you are covered by this settlement, which contains the following release of claims:

> All PAGA Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, rights, demands, liabilities, and causes of action for PAGA penalties for the PAGA Period, whether known or unknown, arising from and/or relating in any way to the claims pled in the Action (including in the Operative Complaint and the PAGA Notice or that could have been asserted based on the facts alleged in the Action, including, but not limited to, claims for civil penalties for: failure to fully and timely pay all wages due, during employment and at termination, whether that failure to pay all wages due was caused by inaccurate timekeeping, off-the-clock work, calculation of any wages due during employment or at termination, withholding of wages and/or unlawful deductions, unpaid meal and rest period premiums, on-call or reporting time practices (i.e., Cal. Lab. Code §§ 201-204, 210, 216, 221, 226.2, 223, 225.5, 226.7, 510, 558, 558.1, 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198); failure to provide meal and rest periods (i.e., Cal. Lab. Code §§ 512, 516, 558, 558.1); failure to reimburse all necessary business expenses (i.e., Cal. Lab. Code § 2802); failure to provide accurate wage statements and/or maintain records (i.e., Cal. Lab. Code §§ 226, 226.2, 226.3, 1174, 1174.5, 1198); failure to provide and/or correctly calculate sick leave (i.e., Cal. Lab. Code §§ 233, 246, 248.5, 248.6), and any PAGA violation of the applicable IWC California Wage Orders based on the foregoing claims.

The above release of claims means that you are not able to pursue a PAGA lawsuit against Defendant and the "Released Parties" based on such claims. The "Released Parties" refers to Defendant, its respective former and present parents, subsidiaries, affiliated corporations and entities, and each of its respective current, former, and future officers, directors, members, managers, employees, partners, shareholders, and any successors, assigns, or legal representatives. You may not opt-out of the settlement with respect to any PAGA claims.

The settlement is not an admission of wrongdoing by Defendant or an indication that any law was violated. Indeed, the Court has not ruled on the merits of the claim, and by approving the settlement, the Court is not suggesting which side would win or lose this case if it went to trial.

The enclosed check is your share of the settlement. The payment amount was calculated based on the number of pay periods you worked for Defendant as a PAGA Member between March 19, 2020 through April 3, 2025. This amount represents penalties and will be reported on an IRS Form 1099. Please note that no taxes were withheld from your payment, so it will be your responsibility to pay any taxes that may be due. You should consult with your own tax accountant with regard to any questions that you may have concerning any taxes that may be due. Your check is valid for 180 days from the date of mailing. After that date, you cannot cash the check and it will be null and void. Funds attributable to such uncashed checks will be sent to the California Controller's Unclaimed Property Fund in your name. You are bound by the

settlement and release of claims based on the Court's final judgment in this Action whether or not you cash or deposit the enclosed check.

If you have any questions or would like more information about the settlement or this lawsuit, you may contact the Settlement Administrator at ILYM Group, Inc., 2832 Walnut Ave. Suite C, Tustin, CA 92780, (888) 250-6810; you may contact class counsel at christina@jameshawkinsaplc.com; or you may access the court's docket at www.occourts.org/online-services/case-access through the case number 30-2021-01202607-CU-OE-CXC More information about the case can also be found on the Settlement Administrator's website at [_____].

Sincerely,

[Administrator]