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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

CHRISTOPHER GONZALES, on behalf of himself and all those similarly situated, Plaintiffs, v. PRIME COMMUNICATIONS, L.P., and PRIME COMMS RETAIL, LLC, Defendants.	Case No. 23-CIV-03441 **DECLARATION OF MICHAEL PALITZ, ESQ. IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT** [Assigned for all purposes to The Honorable Nicole S. Healy, Dept. 28] Action Filed: July 26, 2023 Trial Date: None Set

1. I am a partner of the Shavitz Law Group, P.A. ("SLG"). SLG is a nine-attorney firm based in Boca Raton, Florida with an office in New York, New York, that focuses on representing workers as plaintiffs in employment-related matters, including claims based upon individual and class-wide violations of state and federal wage and hour laws.

2. I recently filed my application for *pro hac vice* admission to renew my prior admission which had expired due to a mistake in not paying the annual *pro hac* fee.

3. I submit this declaration in support of the Motion for Approval of PAGA Settlement. I have personal knowledge of the matters set forth herein and would so testify if called as a witness.

4. For the past 25 years, SLG has focused on representing workers in wage and hour matters. My background and those of other SLG employees who worked on this matter are detailed below.

5. After receiving my Juris Doctor degree, *cum laude*, from Pace Law School in 2010 where I served as the Editor-in-Chief of the Pace International Law Review, I was admitted to the New Jersey and New York Bars in June 2010 and September 2010, respectively. I am also admitted to this Court *pro hac vice* and the U.S. District Courts for the District of New Jersey, the Eastern District of New York, the Southern District of New York, the Northern District of New York, the Western District of New York, and the District of Colorado. I have presented before the Suffolk County Bar Association on FLSA issues. Since graduating from law school, I have focused my practice exclusively on workers' rights and litigating complex wage and hour class and collective actions throughout the country, including trying a Fair Labor Standards Act collective action arbitration to a verdict for employees. I graduated from the College of the Holy Cross in 2005 with a B.A. and majored in Economics and History.

6. Gregg Shavitz is the founding partner of SLG. Mr. Shavitz is a graduate of the

University of Miami School of Law with an undergraduate degree from Tufts University.

7. Mr. Shavitz is an experienced litigator, trial attorney, and member of the bar of the U.S. District Court for the Southern District of Florida and the Florida Bar since 1994, and is also admitted to U.S. District Courts for the Middle and Northern Districts of Florida, the District of Colorado, the United States Eleventh Circuit Court of Appeals, and United States Third Circuit Court of Appeals. Mr. Shavitz has lectured in the past at seminars sponsored by the Labor and Employment Section of the Florida Bar, and has spoken at the Labor and Employment Section Certification Review Seminar as well as the Academy of Florida Trial Lawyers Workhorse Seminars. Mr. Shavitz has been awarded Florida Trend Magazine's Legal Elite for various years including 2004, 2005, 2006, 2014, 2015, and 2020 in the area of Labor & Employment law; South Florida Legal Guide – Top Lawyer – Wage and Hour law – 2009-present; Top Lawyer Up and Comer – Wage and Hour law – 2004, 2006, and 2009; and South Florida Legal Guide – Top Lawyers List – 2009-present; among other awards and honors. Mr. Shavitz has also earned the distinction of Top Lawyer in Palm Beach Illustrated (2018, 2019, and 2020) and is a lifelong fellow of the Florida Bar Foundation. Mr. Shavitz has held the highest AV Peer Review Rating from LexisNexis Martindale-Hubbell for preeminent attorneys from 2000 to the present.

8. Attorney Tamra Givens joined SLG in 2019 and is a Senior Associate with the firm. She has been admitted to the Florida Bar since 2003. She obtained her undergraduate degree in Psychology from the University of Florida, with honors, in 2000, and earned her law degree from the University of Florida, cum laude, in 2003. During law school, Ms. Givens was a member of the Florida Law Review and completed an internship at the Florida Supreme Court where she served as an intern to Justice Harry Lee Anstead. Ms. Givens has been a member of the Florida bar since 2003, and is also admitted to practice in this Court and the U.S. District Courts for the Middle District of Florida, Southern District of Florida, District of Colorado and Eastern District of Michigan, and in the United States Court of Appeals for the Third, Ninth and Eleventh Circuits. Ms. Givens has dedicated her career to representing

employees and consumers in class litigation. Ms. Givens is a former law clerk to the Honorable James D. Whittemore, United States District Judge, United States District Court for the Middle District of Florida.

9. Serena Eifert is an experienced legal assistant at SLG. Ms. Eifert provides litigation support including case investigations, client intakes, and handling discovery matters and document productions.

10. SLG has significant experience prosecuting wage and hour cases, including class and collective actions. In recent years, the firm has served or been appointed as class counsel or co-class counsel in the following cases, among others:

Aboud v. Charles Schwab & Co., No. 14 Civ. 2712 (S.D.N.Y.);

Amador v. Morgan Stanley & Co, LLC, No. 11 Civ. 4326 (S.D.N.Y.);

Ayala v. GEICO, No. 18 Civ. 03583 (S.D.N.Y.);

Beckman v. KeyBank, N.A., No. 12 Civ. 7836 (S.D.N.Y.);

Blum, et al. v. Merrill Lynch & Co., Inc., No. 15 Civ. 1636 (S.D.N.Y.);

Calabresi v. TD Bank, N.A., No. 13 Civ. 0637 (E.D.N.Y.);

Capalupi v. People's United Financial, Inc., No. 15 Civ. 5247 (E.D.N.Y.);

Clem v. KeyBank, N.A., No. 13 Civ. 789 (S.D.N.Y.);

Heitzenrater v. OfficeMax, Inc., No. 12 Civ. 900S (W.D.N.Y.);

Hernandez v. Merrill Lynch & Co., Inc., No. 11 Civ. 8472 (S.D.N.Y.);

Hirst, et al. v. M&T Bank, et al., No. 511428/2015 (N.Y. Sup. Ct.);

Lauture v. A.C. Moore Arts & Crafts, Inc., No. 17-cv-10219 (D. Mass.);

Krokos v. Fresh Market, Inc., No. 16-cv-12082 (D. Mass.);

Kulauzovic v. Citibank, N.A., No. 507538/2018 (N.Y. Sup. Ct.);

*Palacio v. E*TRADE Fin. Corp*., No. 10 Civ. 4030 (S.D.N.Y);

Puglisi v. TD Bank, N.A., No. 13 Civ. 637 (E.D.N.Y.);

Reiburn v. Merrill Lynch & Co., Inc., No. 15 Civ. 2960 (S.D.N.Y.);

Robbins v. Abercrombie & Fitch Co., No. 15 Civ. 6187 (W.D.N.Y.);

Yuzary v. HSBC Bank USA, N.A., No. 12 Civ. 3693 (S.D.N.Y.);

Zeltser v. Merrill Lynch & Co., No. 13 Civ. 1531 (S.D.N.Y.);

Amaraut v. Sprint/United Management Company, No. 19-cv-411 (S.D. Cal.);

Besic v. Byline Bank, Inc., et al., No. 15 C 8003 (N.D. Ill.);

Biscoe-Grey v. Sears Holding Corp., No. 09-81408-Civ-Marra / Johnson (S.D. Fla.);

Briggs v. PNC Fin. Servs. Gr., No. 15 Civ. 10447 (N.D. Ill.);

Bucceri v. Cumberland Farms, Inc., No. 15-cv-13955 (D. Mass.);

Ciomcia v. Beall's Inc., Case No. 2:17-cv-14444 (S.D. Fla.);

Cerrone v. KB Home Florida, LLC et al., No. 07-14402-Civ (S.D. Fla.);

Danley v. Office Depot, Inc., et al., No. 9:14-cv-81469 (S.D. Fla.);

DeVries v. Morgan Stanley & Co. LLC, No. 12-CV-81223 (S.D. Fla.);

Fiore v. Goodyear Tire & Rubber Co., No. 2:09-CV-843-FtM-29SPC (M.D. Fla.);

Hosier v. Mattress Firm, Inc., No. 10 Civ. 294 (M.D. Fla.);

Juric v. Dick's Sporting Goods, Inc., No. 20-cv-651 (W.D. Pa.);

Kampfer v. Fifth Third Bank, No. 14-cv-02849 (N.D. Ohio);

Koszyk v. Country Fin., No. 16 Civ. 3571 (N.D. Ill.);

Magee v. Francesca's Holdings Corp., No. 1:17-cv-00565 (D.N.J.);

Martinez v. Mobilelink, No. 20-cv-01149 (S.D. Tex.);

McCue v. MB Fin., Inc., No. 15 Civ. 988 (N.D. Ill.);

Nash v. CVS Caremark Corp., No. 09 Civ. 79 (D.R.I.);

Prena v. BMO Financial Corp., et al., No. 1:14-cv-09175 (N.D. Ill.);

Przytula v. Bed Bath & Beyond, Inc., No. 17 Civ. 5124 (N.D. Ill.);

Raley v. Kohl's Corporation, et al., No. 8:09-cv-2340 (M.D. Fla.);

Roberts v. TJX Cos., No. 13 Civ. 13142 (D. Mass.);

Romero v. Florida Power & Light Company, No. 6:09-cv-1401-Orl-35 (M.D. Fla.);

Saliford v. Regions Financial Corp. et al., No. 10-610310-CIV (S.D. Fla.);

Simpkins v. Pulte Home Corp., No. 6:08-cv-00130 (M.D. Fla.);

Snodgrass v. Bob Evans Farms, Inc., No. 12-cv-768 (S.D. Ohio);

Stallard v. Fifth Third Bank, et al, No. 2:12-cv-01092 (W.D. Pa.);

Zolkos v. Scriptfleet, Inc., No. 12 Civ. 8230 (N.D. Ill.);

Waggoner v. U.S. Bancorp, No. 14-cv-1626 (N.D. Ohio);

Watson v. BMO Financial Corp., No. 15-cv-11881 (E.D. Ill.);

White v. Casey's General Stores, No. 2:18-cv-00072 (N.D. Ind.);

Wright v. Flagstar Bank FSB, No. 13 Civ. 15069 (E.D. Mich.)

PROCEDURAL HISTORY

11. On May 6, 2021, Zlatunich provided written notice by electronic submission to the California Labor and Workforce Development Agency ("LWDA") and by Certified U.S. Mail to Defendants, pursuant to California Labor Code § 2699.3, providing notice of the specific provisions of the California Labor Code which Plaintiff alleged Defendants violated, including the facts and theories to support the allegations. On July 26, 2023, Plaintiff Zlatunich filed a complaint under the California Private Attorneys General Act ("PAGA"), California Labor Code §§ 2698 *et seq*., seeking civil penalties for violations of the California Labor Code, on behalf of Plaintiff and all other individuals who are or have been employed as hourly store employees by Prime Communications, L.P. and Prime Comms Retail, LLC (together, "Prime") in California during the relevant time period.

12. The PAGA complaint was filed on behalf of Plaintiff and similarly situated hourly store

employees ("Aggrieved Employees") due to Prime's (1) failure to pay all wages and overtime wages due to hourly employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3) failure to provide meal and rest breaks, (4) failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, (5) failure to pay wages timely, (6) failure to pay all wages due to employees after termination of their employment, (7) failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, and (8) failure to reimburse for necessary business expenses. Plaintiff sought the associated PAGA penalties on behalf of himself and Aggrieved Employees.

13. Prime Communications L.P., and Prime Comms Retail, LLC ("Defendants") own and operate authorized AT&T retail stores nationwide. Retail employees are employed by Prime Comms Retail, LLC and work in the AT&T stores. Retail employees sell wireless phones, mobile phone service, home phone service, high-speed internet, wireless data plans and more. Defendants employed Plaintiff Trevor Zlatunich ("Zlatunich") from August 1, 2015 to June 22, 2022 at a retail location in Burlingame, California.

14. Defendants employed Plaintiff Christopher Gonzales ("Plaintiff") from November 2018 to May 2023 at a retail location in Yucca, California. On July 27, 2023, Plaintiff Gonzales provided written notice by electronic submission to the LWDA and by Certified U.S. Mail to Defendants, pursuant to California Labor Code § 2699.3, providing notice of the specific provisions of the California Labor Code which Plaintiff alleged Defendants violated, including the facts and theories to support the allegations.

15. On October 2, 2023, Prime answered the Complaint.

16. Per the Parties' November 16, 2023 Stipulation and Order, Plaintiff Christoper Gonzales ("Plaintiff") filed a First Amended Complaint on December 18, 2023 entitled *Trevor Zlatunich and*

Christopher Gonzales v. Prime Communications, L.P., and Prime Comms Retail, LLC. Case No. 23-CIV-03441 in San Mateo County Superior Court ("the Action"). The complaint alleged the same claims as the prior Complaint on July 26, 2023 but included the amended and supplemental PAGA notice.

17. On January 22, 2024, Prime answered the Amended Complaint.

18. On December 26, 2024, Plaintiff submitted an amended and supplemental PAGA Notice to the LWDA on behalf of Christpher Gonzales and Trevor Zlatunich.

19. During the course of this litigation, the parties were litigating numerous arbitration actions involving Prime's store employees including Plaintiff Zlatunich. The parties exchanged significant discovery during the arbitration matters including Prime's policies and procedures, electronic discovery, time and pay records, and had numerous depositions. During the course of discovery and continued efforts to meet and confer regarding discovery, Plaintiff's Counsel obtained data, information, and documents relating to the underlying alleged violations, including, but not limited to Plaintiff's employee files, Defendants' Employee Handbook, and Aggrieved Employees' data points so that Plaintiff could assess the number of alleged potential violations and value of the recoverable penalties, as well as evaluate the strengths and weaknesses of the claims.

20. Based on the data, information, and documents received, as well as thorough discussions with Defendants' counsel, Plaintiff's Counsel was able to (i) determine the total number of distinct individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period, (ii) identify the number of affected pay periods at issue among them, and (iii) construct a damages model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendants within the relevant statutory period. Defendants, however, disputed Plaintiff's claims and disputed both the existence of and extent of liability as alleged by Plaintiff, which allowed Plaintiff's Counsel to further assess the strength of Plaintiff's claims. Plaintiff's Counsel's experience in litigating similar representative wage and hour claims, the degree of investigation that was conducted here, and

the amount of data, information, and documents that was obtained, was sufficient to determine the potential value of the PAGA claims, and to evaluate the strength of these claims for purposes of settlement.

21. After Plaintiff Zlatunich's arbitration matter concluded, Plaintiff Zlatunich was dismissed from the case.

22. The Parties filed a Stipulation and Order to Amend Complaint pursuant to the agreement to settle on April 25, 2025 wherein the parties jointly sought an order from the court for leave to file a Second Amended Complaint. The Second Amended Complaint was deemed filed on April 25, 2025, Case No. 23-CIV-03441 entitled *Christoper Gonzales v. Prime Communications L.P., and Prime Comm Retail, LLC*. The SAC seeks PAGA penalties on behalf of Plaintiff and similarly situated hourly nonexempt store employees for Defendants' alleged: (1) failure to pay all wages and overtime wages due to hourly nonexempt employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3) failure to provide meal and rest breaks, (4) failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, (5) failure to pay wages timely, (6) failure to pay all wages due to employees after termination of their employment, (7) failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, (8) failure to reimburse for necessary business expenses, and (9) failure to provide suitable seating. The SAC alleged violations of Labor Code §§ 1194(a), 200, 1182.11, 1182.12, 1197, 1194(a), 1 194.2, 1194, 510(a), 226.7, 512, 226.7(b), 226(a), 226(e), 226, 1174(d), 1174.5, 1174, 204, 201, 202, 2802, 227.3, 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a), 1174, 1174.5, and the applicable Industrial Welfare Commission Wage Orders.

SETTLEMENT AND TERMS

23. The Parties reached an agreement to settle this Action. The Parties believe the PAGA

Settlement is fair, reasonable, and adequate. The Parties understand, acknowledge, and agree that the PAGA Settlement constitutes a compromise of Plaintiff's PAGA claims, and that it is the desire and intention of the Parties to effect a final and complete resolution of the Released Claims.

24. This settlement is for $439,500 and provides PAGA relief for approximately 2,375 Aggrieved Employees and 74,500 pay periods. The settlement amount for the PAGA penalties totals $274,175.33, seventy-five percent (75%) of which shall be paid to the State of California and twenty-five percent (25%) of which shall be distributed to the PAGA Settlement Class based on pay periods worked during the PAGA Settlement Period.

25. One-third of the settlement amount, $146,500, is for Plaintiffs' attorneys' fees. Plaintiffs' counsel also has costs of $3,824.67 for filing fees, state bar fees, and process server costs and those will be reimbursed from the total settlement amount. *See* Declaration of Michele Fisher at ¶ 8.

26. The settlement also covers up to $10,000 for the costs of settlement administration by Simpluris, Inc. If the costs to administer the settlement are less than $10,000, then the unused amounts will be reallocated to the PAGA penalties for the Aggrieved Employees. If the amount to administer the settlement is greater than $10,000, then Prime shall pay the additional costs.

27. Plaintiff Gonzales shall receive an enhancement/service award totaling $5,000 for his efforts to achieve this settlement for the Aggrieved Employees.

28. This is a fair and reasonable settlement which provides relief to all Aggrieved Employees without further litigation and a trial. Prime raised defenses including lack of employer knowledge of off-the-clock work, good faith defenses as to the steps the company took to comply with the law (including creating policies meant to ensure compliance with California Labor Laws and training of store employees and supervisors), and that the positions at issue are customer facing and the work does not reasonably permit suitable seating. These defenses presented risks to Plaintiff Gonzales and Aggrieved Employees. While Plaintiff maintains that his PAGA claims have merit, in reaching the

PAGA Settlement, Plaintiff and his counsel took into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal.

29. The PAGA penalties for failure to pay wages could equal $100 per pay period. With 74,500 pay periods at issue, potential damages are $7,450,000. However, such damages are rare in PAGA cases and would not be achievable here given the factual and legal disputes at issue as set forth in this motion. There are other claims at issue such as inaccurate wage statements but recent PAGA reform law limits stacking of such penalties which are derivative claims so those would not be recoverable.

ATTORNEYS' FEES AND COSTS

30. The time that SLG spent litigating this matter is considerable. As of January 19, 2026, SLG spent 157.50 hours and incurred $102,455.00 in total fees. Nichols Kaster PLLP spent 40.5 hours and incurred $20,455.50 in total fees. Declaration of Michele Fisher, Esq. at ¶ 7. SLG and Nichols Kaster PLLP collectively spent 198 hours and incurred $122,910.50 in total fees.

31. Plaintiffs' counsel can provide the attorney fee ledgers at the Court's request. If requested, Plaintiffs' counsel respectfully asks permission to submit those records under seal to protect attorney work product and attorney-client privilege.

32. The chart below contains a breakdown of hours worked by each SLG timekeeper:

Name	**Rate**	**Hours**	**Total**
Gregg I. Shavitz, Esq. Managing Partner 31 Years Experience	$750.00	13.3	$9,975

Michael J. Palitz, Esq. Partner 15 Years Experience	$650.00	141.7	$92,105
Serena Eifert Paralegal	$150.00	2.5	$375.00

SLG's rates have been regularly approved by courts. *E.g., White v. Casey's General Stores*, No. 2:18-cv-00072 (N.D. Ind.) (May 14, 2025 Order approving fees and rates); *Peterson v. Nelnet*, No. 17-cv-01064-NYW (D. Col. 2022) (Mr. Shavitz's rate was $750 per hour, Mr. Palitz's rate was $650.00 per hour, and Ms. Eifert's rate was $150.00 per hour); *Slaughter v. Sykes Enters,* 2019 U.S. Dist. LEXIS 21767, at *25-27 (D. Colo. Feb. 11, 2019) (five-year old case, Mr. Shavitz's rate was $700 per hour; other plaintiffs' counsel's rates were $950 and $700 per hour); *Amaraut v. Sprint/United Mgmt. Co*., No. 19 Civ. 411, 2021 U.S. Dist. LEXIS 147176, at *20-21 (S.D. Cal. Aug. 5, 2021) (three-year old case, approving wage and hour class and collective action settlement with plaintiffs' counsel's rates ranging from $600 to $1,005; Shavitz Law Group was plaintiffs' counsel and their rates were $700 (Mr. Shavitz), $625 (Mr. Palitz), $600 (Ms. Givens) and $150 (paralegal Ms. Eifert)).

33. SLG undertook this matter on a contingency basis in the face of significant risk. Cases of this type are, by their very nature, complicated, fact intensive, and time-consuming. SLG undertook this matter prepared to make this investment with the very real possibility of an unsuccessful outcome and no fee of any kind. SLG stood to gain nothing in the event the case was unsuccessful. SLG invested 157.50 hours of time, totaling $102,455 in fees, to litigate these claims. SLG also will incur approximately $1,230.61 in filing fees for filed and to be filed documents and California bar pro hac

fees. SLG knew in advance that there was a significant chance that SLG would recover nothing, even though SLG believed this was a meritorious case. In the view of Plaintiff's Counsel, the benefits conferred by the PAGA Settlement are fair and reasonable, and in the best interests of the State of California and the Aggrieved Employees in light of the risk, delay, and uncertainty of continued litigation and the substantial monetary benefits provided for by the PAGA Settlement.

34. Attached as Exhibit 1 is the parties' settlement agreement. A copy of this agreement was submitted to California Labor and Workforce Development Agency, along with information regarding the date and time of the August 12, 2026 settlement approval hearing.

35. Attached as Exhibit 2 are copies of the PAGA notices sent to the LWDA on May 6, 2021, July 27, 2023, and December 26, 2024.

36. Attached as Exhibit 3 is a proposed PAGA Notice of Settlement.

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

Dated: January 20, 2026

Respectfully submitted,

By: Michael Palitz

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EXHIBIT 1

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release ("Settlement Agreement" or "Settlement") is entered into by and between Christopher Gonzales ("Plaintiff"), individually and as a representative of the State of California and the Aggrieved Employees (as defined in Section 3(a)(4) below) and Prime Communications, L.P. and Prime Comms Retail, LLC (hereinafter "Defendant"), subject to approval by the Court. The term "Party" or "Parties" as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from approximately November 2018 to May 2023;

(b) On July 27, 2023, Shavitz Law Group, P.A. ("Plaintiff's Counsel"), submitted a letter on behalf of Plaintiff to the California Labor and Workforce Development Agency ("LWDA") and Defendant to notify the LWDA and Defendant pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq*. ("PAGA"), of Plaintiff's intent to seek civil penalties under PAGA for Defendant's alleged violations of California Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226(e), 226.3, 226.7, 248.5, 256, 510, 512, 558, 558.1, 1174, 1174,.5, 1194, 1194.2, 1197, 1197.1, 1198, 2699, 2802 , and the applicable Industrial Welfare Commission ("IWC") Wage Orders including *inter alia*, IWC Wage Orders 4-2001 and 5-2001, thereby initiating LWDA Case Number LWDA-CM-831430-21. On December 26, 2024, Plaintiff submitted an amended and supplemental PAGA Notice to the LWDA on behalf of Christpher Gonzales ("PAGA Notice") to notify the LWDA and Defendant pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq*. ("PAGA"), of Plaintiff's intent to seek civil penalties under PAGA for Defendant's alleged violations of California Labor Code sections §§ 201, 202, 203, 204, 210, 218.5, 218.6, 223, 225.5, 226, 226(e), 226.3, 226.7, 227.3, 248.5, 256, 510, 512, 558, 558.1, 1174, 1174,.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2699, 2800, and 2802 , and the applicable Industrial Welfare Commission ("IWC") Wage Orders including *inter alia*, IWC Wage Orders 4-2001 and 5-2001;

(c) On July 26, 2023, Plaintiff Trevor Zlatunich filed a Complaint for Enforcement Action Under the Private Attorneys General Act, California Labor Code §§ 2698 *Et Seq*. ("Operative Complaint"), commencing a representative action under PAGA against Defendant, entitled *Trevor Zlatunich v. Prime Communications, L.P., Prime Comms Retail, LLC.,* San Mateo County Superior Court Case No. 23-CIV-03441. The Second Amended Complaint was filed on April 25, 2025, Case No. 23-CIV-03441 entitled *Christoper Gonzales*[1] *v. Prime Communications L.P., and Prime Comm Retail, LLC*. The Operative Complaint asserts a single cause of action for civil penalties under PAGA for violations of California Labor Code §§ 1194(a), 200, 1182.11, 1182.12, 1197, 1194(a), 1 194.2, 1194, 510(a), 226.7, 512, 226.7(b), 226(a), 226(e), 226, 1174(d), 1174.5, 1174, 204, 201, 202, 2802, 227.3, 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a), 1174, 1174.5, and the applicable Industrial Welfare Commission Wage Orders. and the applicable IWC Wage Orders;

(d) The Parties reached an agreement to settle this Action in its entirety;

(e) The Parties to this Settlement Agreement, desiring to resolve and terminate all differences among themselves, have reached a settlement of the claims and liabilities arising out of the Action on the terms and subject to the conditions set forth herein, without Defendant and the Released Parties admitting to the validity of any of the facts alleged in the Action, but rather to avoid the uncertainty and expense of proceeding further. There has been no determination on the merits of the Action or the PAGA Notice.

[1] Former Plaintiff Trevor Zlatunich whose claims were submitted to arbitration resolved all claims in arbitration.

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind. The Parties acknowledge that the payment made pursuant to this Settlement Agreement represents a compromise settlement of disputed claims and that neither the contents of this Settlement Agreement, nor the fact of its execution, nor any fact, matter, or thing in any way related to or connected with the making and executing of this Settlement Agreement, is intended to, nor shall it be construed as, an admission of liability or obligation owed by Defendant and the Released Parties, which liability and obligation is expressly denied.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of Four Hundred Thirty-Nine Thousand Five Hundred Dollars and Zero Cents ($439,500.00) ("PAGA Settlement Amount") to resolve the Action and Released Claims (as defined in Section 6 below), which will be paid as follows:

(1) Attorneys' fees in the amount of one-third (1/3) of the PAGA Settlement Amount, which is One Hundred Forty-Six Thousand Five Hundred Dollars ($146,500.00), and reimbursement of litigation costs and expenses in the amount of up to Three Thousand, Eight Hundred and Twenty-Four Dollars and Sixty Seven Cents ($3,824.67) (collectively, "Attorneys' Fees and Costs") to Plaintiff's Counsel, which Defendant will not contest.

(2) Costs and expenses of administration of the Settlement up to the amount of Ten Thousand Dollars and Zero Cents ($10,000.000) ("Settlement Administration Costs") to Simpluris, Inc. ("Settlement Administrator"). If the Settlement Administration Costs exceed $10,000, Defendant shall pay any additional costs to the Settlement Administrator.

(3) A service award payment to Plaintiff Christopher Gonzales which is Five Thousand Dollars ($5,000.00).

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the PAGA Settlement Amount. The balance remaining after these deductions is referred to as the "Net Settlement Amount."

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA ("LWDA Payment"); and the remaining twenty-five percent (25%) will be distributed to all current and former hourly-paid and/or non-exempt employees who worked for Defendant within the State of California at any time during the PAGA Period ("Aggrieved Employees"). The period May 22, 2022 to November 30, 2025 is the "PAGA Period." The twenty-five percent (25%) portion of the Net Settlement Amount payable to the Aggrieved Employees is referred to as the "Employees' Portion."

(6) Defendant has represented that the Aggrieved Employees are estimated to consist of approximately 2,435 individuals who worked approximately 74,500 Pay Periods (as defined in Section 5(b) below) during the PAGA Period. If the actual number of Pay Periods is more than ten percent (10%) above 74,500, Plaintiff has the option to cancel this Settlement Agreement.

(b) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One hundred percent (100%) of the payments for Attorneys' Fees and Costs and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section

3(a) above will be treated and reported for tax purposes as non-wage payments and the Settlement Administrator will be responsible for issuing IRS Forms 1099, as required.

4. **Approval and Implementation of the PAGA Settlement**.

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel which the Parties have jointly prepared.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

5. **Payment of the PAGA Settlement Amount / Notice to Recipients**.

(a) Subject to Court approval of this Settlement Agreement, payment of the sums described in Section 3(a) above shall be made by Defendant by transmitting the PAGA Settlement Amount to a qualified settlement account established by the Settlement Administrator for administration of this Settlement, within thirty (30) calendar days of the Court's order granting approval of this Settlement Agreement. If the date by which payment by Defendant is due falls on a Saturday, Sunday, or legal holiday in the State of California, then the due date shall be extended to the next following day which is not a Saturday, Sunday, or legal holiday in the State of California.

(b) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Agreement (i.e., the Employees' Portion) based upon the number of pay periods they each worked during the PAGA Period ("Pay Period(s)"), which will be calculated by the Settlement Administrator by using the dates worked during the PAGA Period included in the Aggrieved Employees List, under the assumption of a Saturday to Friday bi-weekly pay period schedule. Each Aggrieved Employee who worked at least one day in a Pay Period will be credited with a Pay Period. Specifically, to calculate each Aggrieved Employee's share of the Employees' Portion ("Individual PAGA Payment"), the Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Pay Periods the Aggrieved Employee worked by the total aggregate number of Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees' Portion to arrive at each Aggrieved Employee's Individual PAGA Payment.

(1) One hundred percent (100%) of all Individual PAGA Payments are to be considered penalties and the Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees' Individual PAGA Payments will be reported on an IRS Form

1099, as required.

(c) The Settlement Administrator shall distribute each Individual PAGA Payment by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties in the following manner:

(1) No later than ten (10) calendar days after the Court's order granting approval of the Settlement, Defendant shall provide the Settlement Administrator with a list of all Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) last known telephone number; (iv) Social Security number; and (v) dates worked during the PAGA Period.

(2) The Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List.

(3) No later than ten (10) calendar days after the Settlement Administrator receives the Aggrieved Employees List and PAGA Settlement Amount, the Settlement Administrator shall mail the agreed-upon Cover Letter and Individual PAGA Payment checks (together, the "PAGA Settlement Package") to all Aggrieved Employees by First-Class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty (30) calendar days of the initial mailing, the Settlement Administrator shall promptly attempt to locate an alternative, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual PAGA Payment checks issued to Aggrieved Employees shall remain valid for one hundred eighty (180) calendar days, and thereafter, shall be canceled. Funds associated with such canceled checks shall be transmitted to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of their respective Individual PAGA Payment(s).

(5) No later than ten (10) calendar days after the Settlement Administrator receives the Aggrieved Employees List and PAGA Settlement Amount, the Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(6) No later than ten (10) calendar days after the Settlement Administrator receives the Aggrieved Employees List and PAGA Settlement Amount, the Settlement Administrator shall transmit the Attorneys' Fees and Costs to Plaintiff's Counsel.

(7) No later than ten (10) calendar days after the Settlement Administrator receives the Aggrieved Employees List and PAGA Settlement Amount, the Settlement Administrator shall transmit the Settlement Administration Costs to itself.

6. **Release of Claims by Plaintiff and the State of California with Respect to the Aggrieved Employees.**

Upon the full funding of the PAGA Settlement Amount, Plaintiff and the State of California with respect to Aggrieved Employees, will be deemed to have fully, finally, and forever released Defendant and its officers, directors, employees, and agents (collectively, the "Released Parties") from any and all claims, arising during the PAGA Period, for civil penalties under the Private Attorneys General Act of 2004, California Labor Code sections 2698 *et seq*., based only on the claims described in the PAGA Notice and only to the extent that they are alleged in the Operative Complaint, for Defendant's alleged: (1) failure to pay all wages and overtime wages due to hourly nonexempt employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3) failure to provide meal and rest breaks, (4) failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, (5) failure to pay wages timely, (6) failure to pay all wages due to employees after termination of their employment, (7) failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, (8) failure to reimburse for necessary business expenses, and (9) failure to provide suitable seating. The Operative Complaint alleges violations of Labor Code §§ 1194(a), 200, 1182.11, 1182.12, 1197, 1194(a), 1 194.2, 1194, 510(a), 226.7, 512, 226.7(b), 226(a), 226(e), 226, 1174(d), 1174.5, 1174, 204, 201, 202, 2802, 227.3, 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a), 1174, 1174.5, and the applicable Industrial Welfare Commission Wage Orders. ("Released Claims").

7. **Governing Law and Interpretation.** This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California.

8. **Entire Agreement**. This Settlement Agreement constitutes the entire agreement between these Parties with regard to the matters set forth herein. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto, and the Released Parties, and shall be fully enforceable against each of them, in accordance with its terms.

9. **Jurisdiction**. The Court shall retain jurisdiction over the Parties to enforce this Settlement Agreement until it has been fully performed pursuant to California Code of Civil Procedure, Section 664.6. All claims and actions under this Settlement Agreement, other than as provided in Section 13(d), shall be commenced in the Superior Court of the State of California, County of San Mateo.

10. **Confidentiality/Publicity.** Plaintiff and Plaintiff's Counsel agree that they will keep the terms of this Settlement confidential and not engage in publicity regarding the Action or the Settlement until Plaintiff has filed his motion for approval of the Settlement. Despite this provision, Plaintiff's Counsel can discuss the Settlement with the Court for purposes of approval and with Plaintiff. Nothing herein will restrict Plaintiff's Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Plaintiff's Counsel's qualifications and experience. Furthermore, Plaintiff and Plaintiff's Counsel will undertake any and all disclosures required to be made to the LWDA inconformity with PAGA.

11. **Non-Disparagement**. The Parties agree that they shall not disparage, defame, or injure the personal or professional reputation of any Party to this Settlement Agreement.

12. **Amendment.** This Settlement Agreement may not be modified, altered, or changed except in writing and signed by both Parties' counsel, subject to approval by the Court.

13. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including, but not limited to, with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel. In the event of vagueness, ambiguity, or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly.

(e) If Plaintiff or Defendant fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. This Settlement Agreement remains in full force and effect anyway.

HAVING ELECTED TO EXCECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

PLAINTIFF CHRISTOPHER GONZALES

Dated: 01/20/2026

Christopher Gonzales

Plaintiff Christopher Gonzales

DEFENDANT PRIME COMMUNICATIONS, L.P. AND PRIME COMMS RETAIL, LLC

Dated: 1/20/2026

Full Name: Austin J. Brayley

Title: Associate General Counsel
On behalf of Defendant

APPROVED AS TO FORM ONLY:

Dated: 01/20/2026

Michael Palitz

Attorneys for Plaintiff Christopher Gonzales

Dated: 01/20/2026

***Attorneys for* PRIME COMMUNICATIONS, L.P. AND PRIME COMMS RETAIL, LLC**

EXHIBIT 2

SHAVITZ
LAW GROUP, P.A.

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May 6, 2021

VIA ONLINE ELECTRONIC FILING
California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)
Prime Communications
12550 Reed Rd, Ste. 100
Sugar Land, Texas 77478

Dear Labor and Workforce Development Agency and Prime Communications:

Please be advised that Trevor Zlatunich ("Claimant") has retained our firm to represent him for claims against his employer Prime Communications ("the Company").

This letter serves as Claimant's written notice to the Labor and Workforce Development Agency ("LWDA") and the Company of the alleged Labor Code violations Claimant claims that the Company committed against him and all other aggrieved non-exempt employees in California. Claimant provides this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3.

The claims set forth in this PAGA notice include the failure to pay all wages and overtime wages due to non-exempt employees, failure to pay wages and penalties at the appropriate rate of pay, failure to provide meal and rest breaks, failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, failure to pay wages timely, waiting time penalties, failure to pay all wages due to employees after termination of their employment, failure to pay sick and vacation pay at the proper rate of pay, failure to comply with the laws set forth herein, failure to include commissions, bonuses, cash awards, taxable non-cash awards, failure to provide suitable seating, failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, failure to reimburse for all business expenses including the use of a cellular telephones for work purposes and mileage to travel to training, and the associated PAGA penalties.

Claimant desires to file a civil action to enforce his rights under the Labor Code and seek compensation accordingly. Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant also intends to represent all other current and former aggrieved non-exempt employees who performed work for the Company in California and who have suffered at least one of the wage and hour violations described herein during their employment.

FACTUAL BACKGROUND

Claimant worked for the Company as a non-exempt employee. During Claimant's employment, the Company required, permitted or otherwise suffered Claimant and other non-exempt employees to take less than the 30-minute meal period, or to work through them, and otherwise failed to provide the required meal periods to Claimant. The Company also failed to compensate Claimant and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a meal period was not provided. Similarly, the Company failed to provide rest periods to Claimant and other non-exempt employees as required under the Labor Code and then failed to provide Claimant and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a rest period was not provided.

In addition to not providing compliant meal and rest periods, the Company failed to compensate Claimant and other non-exempt employees for off-the-clock work at their regular rates of pay and failed to pay Claimant and other non-exempt employees for all the regular and overtime hours Claimant worked. Among other things, the Company failed to pay Claimant and other non-exempt employees overtime at one and one-half or double the regular rate of pay as provided by Labor Code; required, permitted or suffered Claimant and other non-exempt employees to work off the clock; required, permitted and suffered Claimant and other non-exempt employees to work through meal and rest breaks; miscalculated the regular rate of pay; illegally and inaccurately recorded time that Claimant and other non-exempt employees worked; and failed to properly maintain Claimant's and other non-exempt employees' records. Besides underpaying Claimant and other non-exempt employees, the Company also failed to pay Claimant and other non-exempt employees timely during Claimant's and other non-exempt employees' employment and failed to pay Claimant and other non-exempt employees timely upon termination.

The Company also failed to implement policies and procedures that would allow Claimant and other non-exempt employees to accrue and use paid sick days when permitted and failed to pay employees at the correct rate of pay for their sick days.

As a result of its illegal payroll policies and practices, the Company failed to maintain records as required under Labor Code, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; business expense reimbursements; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements. The Company likewise failed to furnish Claimant and other non-exempt employees with timely, accurate and itemized wage statements showing Claimant's and other non-exempt employees' gross wages earned, total hours worked, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect during each pay period, the corresponding number of hours worked at each hourly rate, and the correct regular rates of pay for overtime and sick pay.

Further, the Company failed to indemnify Claimant and other non-exempt employees for all business expenses incurred in direct consequence of the discharge of Claimant's and other non-exempt employees' duties, including but not limited to expenses for personal cell phone usage, mileage, and other employment-related expenses.

Due to the foregoing Labor Code violations, the Company denied Claimant and other aggrieved non-exempt employees certain rights afforded them under the California Labor Code and IWC Wage Orders. Claimant makes these claims against the Company on behalf of himself and all other aggrieved current and former non-exempt employees of the Company in California.

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND AUTHORIZE AND PERMIT REST PERIODS

(Labor Code sections 226.7, 512, 558, 1198 and the "Meal Periods" section of the Applicable IWC Wage Order)

Labor Code section 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission…" Labor Code section 226.7(c) states, "[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law… the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code section 512(a) states, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, 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 the employee." Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Rest Periods" section of the applicable IWC Wage Order states, "[e]very employer shall authorize and permit 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 or major fraction thereof." Furthermore, "[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Company failed to provide Claimant and other aggrieved non-exempt employees with the opportunity to take compliant meal and rest periods, as required by California law. Consequently, Claimant and other aggrieved non-exempt employees are entitled to receive one-hour of premium wages for each day a compliant meal and rest period was not provided. Claimant will pursue all available remedies for the Company's violations on behalf of Claimant and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum Wages" and "Hours and Days of Work" sections of the applicable IWC Wage Order)

Labor Code section 1197 states, "[t]he 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."

Labor Code section 1197.1 states, "[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 223 states, "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract." In addition, Labor Code section 225.5 provides that every person who unlawfully withholds wages due any employee in violation of Section 223 shall be subject to a civil penalty as follows: (a) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (b) 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.

Labor Code section 510 states, "[e]ight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." The "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

Labor Code section 1194(a) states, "…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 attorney's fees, and costs of suit." Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

As set forth above, the Company failed to pay Claimant and other aggrieved non-exempt employees all minimum, regular, and overtime wages, in violation of California law. The Companied also failed to pay Claimant and other aggrieved non-exempt employees statutorily set prevailing wages. Claimant will pursue all available remedies for the Company's violations on behalf of Claimant and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code sections 1174, 1174.5, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 1174 states, "[e]very person employing labor in this state shall… [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments."

The "Records" section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal period, total hours worked in the payroll period, and applicable rates of pay.

Labor Code section 1174.5 imposes a civil penalty of $500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of $100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

As set forth above, the Company failed to accurately record Claimant and other aggrieved non-exempt employees' applicable rates of pay, time records, and total hours worked in the payroll period. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code sections 226, 226.3, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: "(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, … (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, … (6) the inclusive dates of the period for which the employee is paid, … and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or $50 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of $4,000, and Claimants are entitled to an award of costs and reasonable attorney's fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of $250 per employee per violation of Labor Code section 226(a) in an initial citation and $1,000 per employee for each violation in a subsequent citation.

The "Records" section of the applicable IWC Wage Order states that, "[e]very employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item."

As set forth above, the Company failed to provide Claimant and other aggrieved non-exempt employees with accurate itemized wage statements because the wage statements did not show "piece rate" information, did not show the inclusive dates of the period for which the employee is paid, did not provide employees with one hour additional rate of regular pay for not taking compliant meal and/or rest breaks, showed incorrect hourly rates and number of hours worked, failed to show all business expense reimbursements, and failed to show the correct amount of gross and net wages earned. Claimant and other non-exempt employees will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved employees to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE
(Labor Code sections 201, 202, 203, 204, 210, 256, 1198, and the "Minimum Wages" section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, "[a]ll wages…earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Furthermore, Labor Code section 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Labor Code section 210 provides that, “every person who fails to pay the wages of an employee as provided in Section…204…shall be subject to a civil penalty” of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation. The “Minimum Wages” section of the applicable IWC Wage Order also states that “[e]very employer shall pay to each employee, 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.”

Labor Code section 201 states, in pertinent part, “[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code section 202 states, in pertinent part, “If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.”

Labor Code section 203(a) states, in pertinent part, “[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days.”

Labor Code section 256 states, in pertinent part, that the Labor Commissioner is empowered to “impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.”

As set forth above, the Company failed to pay Claimant and other aggrieved non-exempt employees all minimum, regular, and overtime wages or all meal and rest period premium wages that they were owed within the required time during their employment. As a result of the Company’s failure to comply with the aforementioned Labor Code provisions, the Company owes waiting time penalties as well as penalties for failing to timely pay earned wages. Claimant and other non-exempt employees will pursue all available remedies for the Company’s violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PROVIDE REQUIRED SICK LEAVE

(Labor Code sections 246, 248.6, and 558)

Labor Code section 246(a) entitles an employee who works “for the same employer for 30 or more days within a year from the commencement of employment” to paid sick days. Labor Code section 246(b)(1) states, “[a]n employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment . . . subject to the use and accrual limitations set forth in this section.” Pursuant to Labor Code section 246(c), an employee is “entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.”

Pursuant to Labor Code section 246(j), paid sick leave must carry over from year to year, but can be capped at no less than 48 hours.

As set forth above, the Company failed to provide Claimant and, on information and belief, other aggrieved non-exempt employees with the required amount of sick leave. Claimant and other non-exempt employees will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES
(Labor Code sections 2802 and 558.1)

Labor Code section 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

Labor Code section 2802(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation."

As set forth above, the Company failed to provide reimburse Claimant and, on information and belief, other aggrieved non-exempt employees for all necessary business expenses. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PROVIDE SUITABLE SEATING
(Wage Order 7 section 14)

Wage Order 7, section 14, provides that "[a]l working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats." Also, "[w]hen employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties."

As set forth above, the Company failed to provide Claimant and, on information and belief, other aggrieved non-exempt employees with suitable seats. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: "[f]or any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred ($100) for each underpaid employee for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Labor Code section 558.1(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." This includes the owners, officers, directors, or managing agents of the employer pursuant to Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: "(1) [f]or any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Company underpaid Claimant and other aggrieved non-exempt employees by failing to pay them all regular, minimum, and overtime wages owed, as well as all meal and rest period premium wages owed, as required under Labor Code sections 226.7, 510, 512, 1194, 1197, 1198, and the applicable sections of the applicable IWC Wage Order. As a result, the Company is liable for civil penalties under Labor Code sections 558 and 1197.1. Claimant will pursue all available remedies for the Company's violations on behalf of himself and other aggrieved non-exempt employees to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, and 2699, et seq.)

Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, and 2699, et seq., among others, give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Pursuant to Labor Code section 2699, *et seq.*, an aggrieved employee is entitled to 25% of the penalty assessment, which is $100 for the first violation and $200 for each subsequent violation, and 100% of the underpaid wages. Accordingly, the Company is liable for these items in addition to the unpaid wages. Claimant has already incurred actual damages, costs and attorney's fees and they will continue to incur costs as a result of the Company's unlawful actions. Claimant will pursue all available remedies, including those provided by PAGA, for these violations on behalf of himself and other aggrieved non-exempt employees.

Very truly yours,

Gregg I. Shavitz, Esq.

gshavitz@shavitzlaw.com

cc: Michael Palitz, Esq. (mpalitz@shavitzlaw.com)

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July 27, 2023

VIA ONLINE ELECTRONIC FILING
California Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

CERTIFIED MAIL (RETURN RECEIPT)
Prime Communications, LP
Prime Comms Retail, LLC
12550 Reed Rd, Ste. 100
Sugar Land, Texas 77478

Dear Labor and Workforce Development Agency and Prime Communications, LP and Prime Retail Comms, LLC:

On May 6, 2021, our firm provided written notice to the Labor and Workforce Development Agency ("LWDA") and Prime Communications, at the above referenced address, of alleged Labor Code violations committed against its employee Trevor Zlatunich ("Zlatunich") and all other aggrieved non-exempt employees in California in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3. With this letter we amend and supplement the May 6, 2021 written notice to add Christopher Gonzales ("Gonzales"), as a named aggrieved employee who experienced similar alleged violations as Zlatunich, and to clarify that Prime Communications includes Prime Communications, LP and Prime Comms Retail, LLC, who share the same corporate address to which the May 6, 2021 PAGA notice was sent certified mail, as employers of Zlatunich, Gonzales, and those employees similarly aggrieved.

This letter serves as Zlatunich's and Gonzales's ("Claimants") amended and supplemental written notice to LWDA and to Prime Communications, LP and Prime Comms Retail, LLC (the "Companies") of the alleged Labor Code violations Claimants claim that the Companies committed against them and all other aggrieved non-exempt employees in California. Claimants provide this amended notice in accordance with PAGA, Labor Code § 2699.3. This amended PAGA notice relates back to Zlatunich's May 6, 2021 PAGA notice.

The claims set forth in the May 6, 2021 PAGA notice and again in this amended PAGA notice include: the failure to pay all wages and overtime wages due to non-exempt employees, failure to pay wages and penalties at the appropriate rate of pay, failure to provide meal and rest breaks, failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, failure to pay wages timely, waiting time penalties, failure to pay all wages due to employees after termination of their employment, failure to pay sick and vacation pay at the proper rate of pay, failure to comply with the laws set forth herein, failure to include commissions, bonuses, cash awards, taxable non-cash awards, failure to provide suitable seating, failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, failure to reimburse for all business expenses including the use of a cellular telephones for work purposes and mileage to travel to training, and the associated PAGA penalties.

Claimants seek to file a civil action to enforce their rights under the Labor Code and seek compensation accordingly. Pursuant to Labor Code § 2699(a), and by way of this letter, Claimants also intend to represent all other current and former aggrieved non-exempt employees who performed work for the Companies in California and who have suffered at least one of the wage and hour violations described herein during their employment.

FACTUAL BACKGROUND

Claimants worked for the Companies as non-exempt employees. During Claimants' employment, the Companies required, permitted or otherwise suffered Claimants and other non-exempt employees to take less than the 30-minute meal period, or to work through them, and otherwise failed to provide the required meal periods to Claimants. The Companies also failed to compensate Claimants and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a meal period was not provided. Similarly, the Companies failed to provide rest periods to Claimants and other non-exempt employees as required under the Labor Code and then failed to provide Claimants and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a rest period was not provided.

In addition to not providing compliant meal and rest periods, the Companies failed to compensate Claimants and other non-exempt employees for off-the-clock work at their regular rates of pay and failed to pay Claimants and other non-exempt employees for all the regular and overtime hours Claimants worked. Among other things, the Companies failed to pay Claimants and other non-exempt employees overtime at one and one-half or double the regular rate of pay as provided by Labor Code; required, permitted or suffered Claimants and other non-exempt employees to work off the clock; required, permitted and suffered Claimants and other non-exempt employees to work through meal and rest breaks; miscalculated the regular rate of pay; illegally and inaccurately recorded time that Claimants and other non-exempt employees worked; and failed to properly maintain Claimants' and other non-exempt employees' records. Besides underpaying Claimants and other non-exempt employees, the Companies also failed to pay Claimants and other non-exempt employees timely during Claimants' and other non-exempt employees' employment and failed to pay Claimant Zlatunich and other non-exempt employees timely upon termination.

As a result of its illegal payroll policies and practices, the Companies failed to maintain records as required under Labor Code, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; business expense reimbursements; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements. The Companies likewise failed to furnish Claimants and other non-exempt employees with timely, accurate and itemized wage statements showing Claimants' and other non-exempt employees' gross wages earned, total hours worked, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect during each pay period, the corresponding number of hours worked at each hourly rate, and the correct regular rates of pay for overtime and sick pay.

Further, the Companies failed to indemnify Claimants and other non-exempt employees for all business expenses incurred in direct consequence of the discharge of Claimants' and other non-exempt employees' duties, including but not limited to expenses for personal cell phone usage, mileage, and other employment-related expenses.

Due to the foregoing Labor Code violations, the Companies denied Claimants and other aggrieved non-exempt employees certain rights afforded them under the California Labor Code and IWC Wage Orders. Claimants make these claims against the Companies on behalf of themselves and all other aggrieved current and former non-exempt employees of the Companies in California.

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND AUTHORIZE AND PERMIT REST PERIODS

(Labor Code sections 226.7, 512, 558, 1198 and the "Meal Periods" section of the Applicable IWC Wage Order)

Labor Code section 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission…" Labor Code section 226.7(c) states, "[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law… the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code section 512(a) states, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, 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 the employee." Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Rest Periods" section of the applicable IWC Wage Order states, "[e]very employer shall authorize and permit 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 or major fraction thereof." Furthermore, "[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Companies failed to provide Claimants and other aggrieved non-exempt employees with the opportunity to take compliant meal and rest periods, as required by California law. Consequently, Claimants and other aggrieved non-exempt employees are entitled to receive one-hour of premium wages for each day a compliant meal and rest period was not provided. Claimants will pursue all available remedies for the Companies violations on behalf of Claimants and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, and the "Minimum Wages" and "Hours and Days of Work" sections of the applicable IWC Wage Order)

Labor Code section 1197 states, "[t]he 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."

Labor Code section 1197.1 states, "[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 223 states, "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract." In addition, Labor Code section 225.5 provides that every person who unlawfully withholds wages due any employee in violation of Section 223 shall be subject to a civil penalty as follows: (a) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (b) 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.

Labor Code section 510 states, "[e]ight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." The "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

Labor Code section 1194(a) states, "…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 attorney's fees, and costs of suit." Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

As set forth above, the Companies failed to pay Claimants and other aggrieved non-exempt employees all minimum, regular, and overtime wages, in violation of California law. The Companies also failed to pay Claimants and other aggrieved non-exempt employees statutorily set prevailing wages. Claimants will pursue all available remedies for the Companies' violations on behalf of Claimants and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code sections 1174, 1174.5, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 1174 states, "[e]very person employing labor in this state shall… [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments."

The "Records" section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal period, total hours worked in the payroll period, and applicable rates of pay.

Labor Code section 1174.5 imposes a civil penalty of $500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of $100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

As set forth above, the Companies failed to accurately record Claimants and other aggrieved non-exempt employees' applicable rates of pay, time records, and total hours worked in the payroll period. Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS
(Labor Code sections 226, 226.3, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: "(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, … (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, … (6) the inclusive dates of the period for which the employee is paid, … and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or $50 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of $4,000, and Claimants are entitled to an award of costs and reasonable attorney's fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of $250 per employee per violation of Labor Code section 226(a) in an initial citation and $1,000 per employee for each violation in a subsequent citation.

The "Records" section of the applicable IWC Wage Order states that, "[e]very employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item."

As set forth above, the Companies failed to provide Claimants and other aggrieved non-exempt employees with accurate itemized wage statements because the wage statements did not show "piece rate" information, did not show the inclusive dates of the period for which the employee is paid, did not provide employees with one hour additional rate of regular pay for not taking compliant meal and/or rest breaks, showed incorrect hourly rates and number of hours worked, failed to show all business expense reimbursements, and failed to show the correct amount of gross and net wages earned. Claimants and other non-exempt employees will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved employees to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE

(Labor Code sections 201, 202, 203, 204, 210, 256, 1198, and the "Minimum Wages" section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, "[a]ll wages…earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Furthermore, Labor Code section 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Labor Code section 210 provides that, "every person who fails to pay the wages of an employee as provided in Section…204…shall be subject to a civil penalty" of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation. The "Minimum Wages" section of the applicable IWC Wage Order also states that "[e]very employer shall pay to each employee, 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."

Labor Code section 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code section 203(a) states, in pertinent part, "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Labor Code section 256 states, in pertinent part, that the Labor Commissioner is empowered to "impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203."

As set forth above, the Companies failed to pay Claimants and other aggrieved non-exempt employees all minimum, regular, and overtime wages or all meal and rest period premium wages that they were owed within the required time during their employment. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties as well as penalties for failing to timely pay earned wages. Claimants and other non-exempt employees will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES
(Labor Code sections 2802 and 558.1)

Labor Code section 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.

Labor Code section 2802(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation."

As set forth above, the Companies failed to provide reimburse Claimants and, on information and belief, other aggrieved non-exempt employees for all necessary business expenses. Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS
(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: "[f]or any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred ($100) for each underpaid employee for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Labor Code section 558.1(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." This includes the owners, officers, directors, or managing agents of the employer pursuant to Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: "(1) [f]or any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars

($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Companies underpaid Claimants and other aggrieved non-exempt employees by failing to pay them all regular, minimum, and overtime wages owed, as well as all meal and rest period premium wages owed, as required under Labor Code sections 226.7, 510, 512, 1194, 1197, 1198, and the applicable sections of the applicable IWC Wage Order. As a result, the Companies are liable for civil penalties under Labor Code sections 558 and 1197.1. Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

ATTORNEY'S FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, and 2699, et seq.)

Labor Code sections 210, 218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, and 2699, et seq., among others, give employees the right to recover in a civil action the unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorney's fees and costs.

Pursuant to Labor Code section 2699, *et seq*., an aggrieved employee is entitled to 25% of the penalty assessment, which is $100 for the first violation and $200 for each subsequent violation, and 100% of the underpaid wages. Accordingly, the Companies are liable for these items in addition to the unpaid wages. Claimants has already incurred actual damages, costs and attorney's fees and they will continue to incur costs as a result of the Companies' unlawful actions. Claimants will pursue all available remedies, including those provided by PAGA, for these violations on behalf of themselves and other aggrieved non-exempt employees.

Very truly yours,

Loren Donnell, Esq.
ldonnell@shavitzlaw.com

SHAVITZ law group

December 26, 2024

VIA ONLINE ELECTRONIC FILING

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

CERTIFIED MAIL (RETURN RECEIPT)

Prime Communications, LP
Prime Comms Retail, LLC
77 Sugar Creek Center Blvd., Suite 500
Sugar Land, Texas 77478

Dear Labor and Workforce Development Agency and Prime Communications, LP and Prime Comms Retail, LLC:

On May 6, 2021, our firm provided written notice to the Labor and Workforce Development Agency ("LWDA") and Prime Communications of alleged Labor Code violations committed against its employee Trevor Zlatunich ("Zlatunich") and all other aggrieved non-exempt employees in California in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2699.3. On July 27, 2023, our firm provided written notice of an amendment to the original letter, adding Christopher Gonzales ("Gonzales") as a named aggrieved employee who experienced similar alleged violations as Zlatunich, and to clarify that Prime Communications includes Prime Communications, LP and Prime Comms Retail, LLC, who share the same corporate address[1] to which the previous PAGA notice was sent certified mail, as employers of Zlatunich, Gonzales, and those employees similarly aggrieved.

This letter serves as Zlatunich's and Gonzales's ("Claimants") second amended and supplemental written notice to LWDA and to Prime Communications, LP and Prime Comms Retail, LLC (the "Companies") of the alleged Labor Code violations Claimants claim that the Companies committed against them and all other aggrieved non-exempt employees in California.

[1] The previous shared address was 12550 Reed Road, Suite 100, Sugar Land, Texas 77478. The new shared address is reflected above.

Claimants provide this amended notice in accordance with PAGA, Labor Code section 2699.3. This amended PAGA notice relates back to Zlatunich's May 6, 2021 PAGA notice.

The claims set forth in the May 6, 2021 PAGA notice and again in this amended PAGA notice include: the failure to pay all wages and overtime wages due to non-exempt employees, failure to pay wages and penalties at the appropriate rate of pay, failure to provide meal and rest breaks, failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, failure to pay wages timely, waiting time penalties, failure to pay all wages due to employees after termination of their employment, failure to pay sick and vacation pay at the proper rate of pay, failure to comply with the laws set forth herein, failure to include commissions, bonuses, cash awards, taxable non-cash awards, failure to provide suitable seating, failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, failure to reimburse for all business expenses including the use of a cellular telephones for work purposes and mileage to travel to training, and the associated PAGA penalties.

Claimants have previously filed a civil action styled *Zlatunich, et al. v. Prime Communication, L.P., et al.*, No. 23-CIV-03441 (Sup. Ct. San Mateo County) which remains pending and which action seeks to enforce their rights under the Labor Code and seeks compensation accordingly. Pursuant to Labor Code section 2699(a), and by way of this letter which adds additional claims, Claimants also intend to represent all other current and former aggrieved non-exempt employees who performed work for the Companies in California and who have suffered at least one of the wage and hour violations described herein during their employment.

FACTUAL BACKGROUND

Claimants worked for the Companies as non-exempt employees. During Claimants' employment, the Companies required, permitted or otherwise suffered Claimants and other non-exempt employees to take less than the 30-minute meal period, or to work through them, and otherwise failed to provide the required meal periods to Claimants. The Companies also failed to compensate Claimants and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a meal period was not provided. Similarly, the Companies failed to provide rest periods to Claimants and other non-exempt employees as required under the Labor Code and then failed to provide Claimants and other non-exempt employees with one additional hour of compensation at the proper regular rates of pay for each workday that a rest period was not provided.

In addition to not providing compliant meal and rest periods, the Companies failed to compensate Claimants and other non-exempt employees for off-the-clock work at their regular rates of pay and failed to pay Claimants and other non-exempt employees for all the regular and overtime hours Claimants worked. Among other things, the Companies failed to pay Claimants and other non-exempt employees overtime at one and one-half or double the regular rate of pay as provided by Labor Code; required, permitted or suffered Claimants and other non-exempt employees to work off the clock; required, permitted and suffered Claimants and other non-exempt employees to work through meal and rest breaks; miscalculated the regular rate of pay; illegally and inaccurately recorded time that Claimants and other non-exempt employees worked; and failed to properly maintain Claimants' and other non-exempt employees' records.

Besides underpaying Claimants and other non-exempt employees, the Companies also failed to pay Claimants and other non-exempt employees timely during Claimants' and other non-exempt employees' employment and failed to pay Claimant Zlatunich and other non-exempt employees timely upon termination, including but not limited to all accrued vacation pay.

As a result of its illegal payroll policies and practices, the Companies failed to maintain records as required under Labor Code, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; business expense reimbursements; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements. The Companies likewise failed to furnish Claimants and other non-exempt employees with timely, accurate and itemized wage statements showing Claimants' and other non-exempt employees' gross wages earned, total hours worked, all deductions made, net wages earned, the inclusive dates of the period for which the employee is paid, and all applicable hourly rates in effect during each pay period, the corresponding number of hours worked at each hourly rate, and the correct regular rates of pay for overtime and sick pay.

Further, the Companies failed to indemnify Claimants and other non-exempt employees for all business expenses incurred as a direct consequence of the discharge of Claimants' and other non-exempt employees' duties, including but not limited to expenses for personal cell phone usage, mileage, and other employment-related expenses.

Due to the foregoing Labor Code violations, the Companies denied Claimants and other aggrieved non-exempt employees certain rights afforded them under the California Labor Code and IWC Wage Orders. Claimants make these claims against the Companies on behalf of themselves and all other aggrieved current and former non-exempt employees of the Companies in California.

FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND AUTHORIZE AND PERMIT REST PERIODS

(Labor Code sections 226.7, 512, 558, 1198 and the "Meal Periods" section of the Applicable IWC Wage Order)

Labor Code section 226(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission . . . ." Labor Code section 226(c) states, "[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law . . . the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code section 512(a) states, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, 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 the employee." Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Rest Periods" section of the applicable IWC Wage Order states, "[e]very employer shall authorize and permit 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 or major fraction thereof." Furthermore, "[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Companies failed to provide Claimants and other aggrieved non-exempt employees with the opportunity to take compliant meal and rest periods, as required by California law. Consequently, Claimants and other aggrieved non-exempt employees are entitled to receive one-hour of premium wages for each day a compliant meal and rest period was not provided. Claimants will pursue all available remedies for the Companies' violations on behalf of Claimants and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES

(Labor Code sections 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, the "Minimum Wages" and "Hours and Days of Work" sections of the applicable IWC Wage Order, and IWC Wage Orders and California Code of Regulations, Title 8, section 11000 *et seq.*)

Labor Code section 1197 states, "[t]he 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."

Labor Code section 1197.1 states, "[a]ny employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203."

Labor Code section 1198 states, "[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

Labor Code section 223 states, "[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract." In addition, Labor Code section 225.5 provides that *every* person who unlawfully withholds wages due any employee in violation of Section 223 shall be subject to a civil penalty as follows: (a) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (b) 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.

Labor Code section 510 states, "[e]ight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee." The "Hours and Days of Work" and "Minimum Wages" sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 558 states, "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; and (3) Wages recovered pursuant to this section shall be paid to the affected employee."

Labor Code section 1194(a) states, ". . . any employee receiving less than the legal minimum wage or the legal overtime compensation applicable b 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 attorney's fees, and costs of suit." Liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

As set forth above, the Companies failed to pay Claimants and other aggrieved non-exempt employees all minimum, regular, and overtime wages, in violation of California law. The Companies also failed to pay Claimants and other aggrieved non-exempt employees statutorily set prevailing wages. Claimants will pursue all available remedies for the Companies' violations on behalf of Claimants and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO MAINTAIN ACCURATE RECORDS

(Labor Code sections 1174, 1174.5, 1175, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 1174 states, "[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments."

The "Records" section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period, meal period, total hours worked in the payroll period, and applicable rates of pay.

Labor Code section 1174.5 imposes a civil penalty of $500 for an employer's failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of $100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code section 2699 for a violation of Labor Code section 1174(d).

As set forth above, the Companies failed to accurately record Claimants and other aggrieved non-exempt employees' applicable rates of pay, time records, and total hours worked in the payroll period. Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Labor Code sections 221, 226, 226.3, 1198, and the "Records" section of the Applicable IWC Wage Order)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: "(1) gross wage earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, . . . (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, . . . (6) the inclusive dates of the period for which the employee is paid, . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or $50 for the initial pay period in which a violation occurs and $100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of $4,000, and Claimants are entitled to an award of costs and reasonable attorneys' fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of $250 per employee per violation of Labor Code section 226(a) in an initial citation and $1,000 per employee for each violation in a subsequent citation.

The "Records" section of the applicable IWC Wage Order states that, "[e]very employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item."

As set forth above, the Companies failed to provide Claimants and other aggrieved non-exempt employees with accurate itemized wage statements because the wage statements did not show "piece rate" information, did not show the inclusive dates of the period for which the employee is paid, did not provide employees with one hour additional rate of regular pay for not taking compliant meal and/or rest breaks, showed incorrect hourly rates and number of hours worked, failed to show all business expense reimbursements, and failed to show the correct amount of gross and net wages earned. Claimants and other non-exempt employees will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved employees to the extent allowed by law.

FAILURE TO TIMELY PAY ALL WAGES DUE

(Labor Code sections 201, 202, 203, 204, 210, 227.3, 256, 1198, 1199, and the "Minimum Wages" section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, "[a]II wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Furthermore, Labor Code section 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Labor Code section 210 provides that, "every person who fails to pay the wages of an employee as provided in Section . . . 204 . . . shall be subject to a civil penalty" of $100 for an initial violation and $200 plus 25% of the amount unlawfully withheld for a subsequent violation. The "Minimum Wages" section of the applicable IWC Wage Order also states that "[e]very employer shall pay to each employee, 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."

Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, the Companies failed to pay Claimants and other aggrieved employees all wages, including for uncompensated work, unpaid minimum wages, unpaid overtime premiums, unpaid commissions, and premium wages for failing to provide legally mandated meal and rest breaks. The company also made unlawful deductions from wages, failed to reimburse necessary business expenses, and failed to provide accurate itemized wage statements. The Companies' failure to comply with these provisions violated the protections afforded to employees under Labor Code section 224.

Labor Code section 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, the Companies failed to pay Claimants and other aggrieved employees all wages, including for uncompensated work, unpaid minimum wages, unpaid overtime premiums, unpaid commissions, and premium wages for failing to provide legally mandated meal and rest breaks. The Companies also made unlawful deductions from wages, failed to reimburse necessary business expenses, and failed to provide accurate itemized wage statements. These violations occurred within the time periods specified by Labor Code sections 201, 202, and 203, making the Companies liable under Labor Code section 203.

Labor Code section 256 states, in pertinent part, that the Labor Commissioner is empowered to "impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203."

Furthermore, the Companies violated the Labor Code by failing to properly pay all these wages owed throughout aggrieved employees' employment and following the end of these workers' employment with the Companies due to the above violations, due to late payment of final wages, and due to failure to pay vested vacation pay (in violation of Labor Code sections 201, 202, 203, 204, 227.3).

As set forth above, the Companies failed to pay Claimants and other aggrieved non-exempt employees all minimum, regular, and overtime wages or all meal and rest period premium wages that they were owed within the required time during their employment. As a result of the Companies' failure to comply with the aforementioned Labor Code provisions, the Companies owe waiting time penalties as well as penalties for failing to timely pay earned wages. Claimants and other non-exempt employees will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES

(Labor Code sections 2800, 2802 and 558.1)

Labor Code section 2802(a) states that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful."

Labor Code section 2802(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation."

As set forth above, the Companies failed to provide reimburse Claimants and, on information and belief, other aggrieved non-exempt employees for all necessary business expenses.

Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS

(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: "[f]or any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred ($100) for each underpaid employee for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages."

Labor Code section 558.1(a) states that "[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." This includes the owners, officers, directors, or managing agents of the employer pursuant to Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: "(1) [f]or any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which tile employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee."

As set forth above, the Companies underpaid Claimants and other aggrieved non-exempt employees by failing to pay them all regular, minimum, and overtime wages owed, as well as all meal and rest period premium wages owed, as required under Labor Code sections 226.7, 510, 512, 1194, 1197, 1198, and the applicable sections of the applicable IWC Wage Order. As a result, the Companies are liable for civil penalties under Labor Code sections 558 and 1197.1. Claimants will pursue all available remedies for the Companies' violations on behalf of themselves and other aggrieved non-exempt employees to the extent allowed by law.

ATTORNEYS' FEES, COSTS, INTEREST, LIQUIDATED DAMAGES, AND PENALTIES

(Labor Code sections 210, 218, 218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, 1199, 2699, *et seq.*, and California Code of Civil Procedure 1021.5)

Labor Code sections 210,218.5, 218.6, 225.5, 226(e), 248.5, 558, 1194, 1194.2, 1197.1, and 2699, *et seq.*, among others, give employees the right to recover in a civil action tile unpaid balance of the full amount of minimum wages, regular wages, overtime compensation, damages, liquidated damages and penalties, including interest thereon, as well as reasonable attorneys' fees and costs.

Pursuant to Labor Code section 2699, *et seq.*, an aggrieved employee is entitled to 25% of the penalty assessment, which is $100 for the first violation and $200 for each subsequent violation, and 100% of the underpaid wages. Accordingly, the Companies are liable for these items in addition to the unpaid wages. Claimants have already incurred actual damages, costs and attorneys' fees and they will continue to incur costs as a result of the Companies' unlawful actions. Claimants will pursue all available remedies, including those provided by PAGA, for these violations on behalf of themselves and other aggrieved non-exempt employees.

Respectfully submitted,

Michael Palitz

Michael Palitz, Esq.
mpalitz@shavitzlaw.com

EXHIBIT 3

NOTICE OF SETTLEMENT OF PAGA ACTION

Gonzales v. Prime Communications, L.P., et al.
Case No. 23-CIV-03441 (Sup. Ct. Cal., San Mateo County)

PLEASE READ THIS NOTICE CAREFULLY.
THIS NOTICE AFFECTS YOUR RIGHTS.

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1. Why You Are Receiving This Notice?

You are receiving this Notice because you were employed Prime Comms Retail, LLC ("Prime") in California during the time period of May 22, 2022 through November 30, 2025 (the "PAGA Period") and the parties contend you are an "aggrieved employee" within the meaning of the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698 *et seq*.

Employees who worked for Prime as an aggrieved employees during the PAGA Period in California are referred to as the PAGA Settlement Class.

This action is entitled *Gonzales v. Prime Communications, L.P., et al.*, Case No. 230CIV-03441 (Sup. Ct. Cal., San Mateo County).

2. The PAGA Action

Plaintiff Gonzales brought this representative action on behalf of the State of California and aggrieved employees against Prime Comms Retail, LLC and Prime Communications L.P. alleging violations of the California Labor Code, including but not limited to Prime's alleged: (1) failure to pay all wages and overtime wages due to hourly nonexempt employees, (2) failure to pay wages and penalties at the appropriate rate of pay, (3) failure to provide meal and rest breaks, (4) failure to keep accurate records and provide proper and accurate wage statements which include all time worked, accurate and lawful wage, sick, and overtime rates, and all other information as required by law, (5) failure to pay wages timely, (6) failure to pay all wages due to employees after termination of their employment, (7) failure to pay meal and rest break penalties and miscellaneous other payments at the proper rate of pay, (8) failure to reimburse for necessary business expenses, and (9) failure to provide suitable seating. The SAC alleged violations of Labor Code §§ 1194(a), 200, 1182.11, 1182.12, 1197, 1194(a), 1 194.2, 1194, 510(a), 226.7, 512, 226.7(b), 226(a), 226(e), 226, 1174(d), 1174.5, 1174, 204, 201, 202, 2802, 227.3, 1182.11, 1182.12, 1197, 510, 588, 1994, 1998, 512, 226(a), 1174, 1174.5, and the applicable Industrial Welfare Commission Wage Orders.

Defendant denies all allegations of wrongdoing and contends it complied with California law at all relevant times.

The parties dispute liability, coverage, and the amount of any civil penalties.

3. The Proposed Settlement

The parties have reached a settlement, which was approved by the Court.

The total settlement amount is $439,500.00 (“Gross Settlement Amount”).

The Gross Settlement Amount will be allocated as follows:

1. PAGA Penalties: $274,175.33 in PAGA penalties, seventy-five percent ($205,631.50) of which shall be paid to the California Labor and Workforce Development Agency (“LWDA”) as required by law and twenty-five percent ($68,543.83) of which shall be distributed to the PAGA Settlement Class based on pay periods worked during the PAGA Period.

2. Attorneys’ Fees of one-third of the Gross Settlement Amount ($146,500.00).

3. Litigation Costs of up to $3,824.67.

4. Settlement Administration costs in the amount of $10,000.00 for costs of settlement administration by Simpluris, Inc.

5. A service/general release payment to Plaintiff Gonzales totaling $5,000.00.

4. No Action Is Required

You do not need to do anything to participate in this settlement.

There is no claim form, and there is no right to opt out, because this is a representative PAGA action. You also may not object to the settlement.

A settlement payment will be mailed to your last known address.

It is your responsibility to keep your mailing address updated with the Settlement Administrator. You may update your address by sending an e-mail to [insert e-mail address] or calling the Settlement Administrator at [insert phone number].

5. Effect of Approval

This settlement resolves and releases all PAGA claims for civil penalties based on the alleged Labor Code violations set forth in Section 2, above, during the PAGA Period.

The settlement does not release any individual claims for damages or wages, if any, that are not recoverable under PAGA.

6. <u>Additional Information</u>

If you have questions about this Notice, you may contact counsel for Plaintiffs:

MATTHEW C. HELLAND, SBN 250451
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235 Montgomery St., Suite 810
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447 Madison Avenue, 6th Floor
New York, New York 10022
Telephone: 800-616-4000
Facsimile: 561-447-8831

You may also contact the Settlement Administrator Simpluris, Inc. at:

[insert contact information, e-mail address, and phone number]

Please do not contact the Court regarding this Notice.

BY ORDER OF THE COURT

The Honorable Nicole S. Healy, Superior Court of California, County of San Mateo