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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

FABIAN RIVERA, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

METRO RF SERVICES, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No. CIVSB2121607

Honorable Tony Raphael
Department S36

CLASS ACTION

**DECLARATION OF HELENE MAYER IN
SUPPORT OF PLAINTIFF'S NOTICE OF
MOTION AND MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

[Notice of Motion and Motion for Preliminary
Approval of Class Action and PAGA Settlement;
Memorandum of Points and Authorities in Support
Thereof; Declaration of Proposed Class
Representative (Fabian Rivera); and [Proposed]
Order filed concurrently herewith]

Date: December 24, 2024
Time: 8:30 a.m.
Department: S36

Complaint Filed: July 26, 2021
Trial Date: None Set

DECLARATION OF HELENE MAYER

I, Helene Mayer, hereby declare as follows:

1. I am an attorney duly licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Fabian Rivera (“Plaintiff”) in the above-captioned action. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiff in connection with the resolution of above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

3. Edwin Aiwazian is a Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he

1 obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the
2 summer of 2000, he studied Legal Writing at Harvard University. From approximately September
3 2002 to approximately December 2002, he served as a Judicial Extern to the Honorable Kim
4 McLane Wardlaw of the United States Court of Appeals for the Ninth Circuit. From
5 approximately June 2002 to approximately August 2002, he served as a Judicial Extern to the
6 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
7 In December of 2004, he obtained a license to practice law from the California State Bar. For over
8 a decade, through his work at Lawyers *for* Justice, PC, he has almost exclusively focused on the
9 prosecution of consumer and employment class actions, involving wage-and-hour claims, race
10 discrimination, unfair business practices, or consumer fraud. Together with other attorneys at the
11 firm, and in many cases in conjunction with co-counsel, he has successfully litigated cases
12 involving the executive, administrative, and other overtime exemptions to the State of California
13 and federal overtime compensation requirements. Under his supervision, Lawyers *for* Justice, PC
14 has successfully obtained class certification by contested motion practice in approximately fifteen
15 (15) cases in the last decade, and litigated over 1,000 class action or representative action cases.

16 4. Arby Aiwarzian is a Shareholder of Lawyers *for* Justice, PC. He received his
17 Bachelor of Arts degree from University of California, Los Angeles and graduated magna cum
18 laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School. From
19 approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the
20 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
21 From approximately August 2008 to approximately December 2008 he served as a Judicial Extern
22 to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit.
23 He was admitted to practice law in California in 2010. He is admitted to practice before all courts
24 of the State of California and all United States District Courts in the State of California. He has
25 worked on many wage-and-hour class action and representative action cases, taking the lead in
26 taking and defending depositions, arguing motions, and attending mediations. He has played an
27 integral role in preparing matters for class certification, including, and not limited to, successful
28 certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No.

1 BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No.
2 BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No.
3 RG13680477). He has worked on over one hundred (100) class action or representative action
4 cases which have resulted in settlement.

5 5. Joanna Ghosh is a Senior Member of Lawyers for Justice, PC. She received a
6 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
7 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
8 Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010)
9 and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in
10 California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme
11 Court. She has taken and defended dozens of depositions and successfully handled motion practice
12 in class action cases regarding discovery (including and not limited to, regarding class contact
13 information), class certification (both contested class certification and stipulated class
14 certification), arbitration agreements, coordination, intervention. She has successfully handled
15 briefing and oral argument on appeal, and obtained notable decisions regarding the Private
16 Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v. Prudential*
17 *Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017),
18 cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019). She also
19 has extensive experience with class action and/or representative action settlements. Under her,
20 Edwin Aiwazian, and Arby Aiwazian's supervision, the firm has handled the class certification
21 and court approval process for hundreds of class action and/or representative action matters that
22 have successfully resolved. She is a member of the California Employment Lawyers Association.

23 6. I am a Member of Lawyers for Justice, PC. I received my Bachelor of Arts degree
24 from University of San Diego in 2017, and I earned my Juris Doctor degree from University of
25 San Diego School of Law in 2020. I was admitted to practice law in California in 2021. I am
26 admitted to practice before all courts of the State of California and all U.S. Federal District Courts
27 in the State of California. I have worked on wage-and-hour class action and PAGA representative
28 cases, and my work has included, *inter alia*, researching and drafting pleadings, administrative

1 notice exhaustion, drafting, negotiating, and finalizing stipulations and settlement agreements, and
2 making court appearances. Prior to working at Lawyers for Justice, PC, I worked at law firms
3 focused primarily on family law matters, including, *inter alia*, representing clients in divorce,
4 parentage, child custody, and domestic violence restraining order proceedings, researching and
5 drafting pleadings, negotiating and finalizing marital settlement agreements, engaging in motion
6 practice, and making court appearances.

7 **THE SETTLEMENT AND SUMMARY OF WORK PERFORMED**

8 7. Marked and attached hereto as “**EXHIBIT 1**” is a true and correct copy of the fully
9 executed Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,”
10 “Agreement,” or “Settlement Agreement”) entered into by and between Plaintiff Fabian Rivera,
11 individually and on behalf of all others similarly situated and other aggrieved employees, on the
12 one hand, and Defendant Metro R.F. Services, Inc. (“Defendant”), on the other hand (collectively,
13 the “Parties”). The Parties and their counsel have approved the proposed Notice of Class and
14 Representative Action Settlement (“Class Notice”), which is attached as “**EXHIBIT A**” to the
15 Proposed Order filed concurrently herewith, and respectfully request that the Court approve it as
16 well.

17 8. Based on information provided by Defendant, as of May 2024, the Class Members
18 are estimated to consist of approximately two hundred forty-two (242) individuals.

19 9. The effectiveness of Lawyers for Justice, PC (“Class Counsel”) in prosecuting this
20 matter has translated into tangible monetary benefits in the following respects: (1) Class Members,
21 the State of California, and PAGA Members recover over a reasonably short period of time as
22 opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result
23 that compares favorably with other similar complex wage-and-hour class action and/or
24 representative action settlements of this type, given the strengths and weaknesses of the case; and
25 (3) significant savings in attorneys’ fees and/or costs that would have only increased substantially
26 had the case progressed through certification, trial, and/or appeals.

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1 10. Class Counsel has litigated the case for over three (3) years and was actively
2 preparing the matter for class certification and trial. The Parties have engaged in extensive
3 settlement negotiations and participated in a formal, full-day mediation conducted by Hon. Patrick
4 J. Walsh (Ret.), a well-respected mediator experienced in mediating complex labor and
5 employment matters. Prior to and during the mediation and settlement discussions, the Parties
6 exchanged extensive information and engaged in discussions regarding their evaluations of the
7 case and various aspects of the case, including but not limited to, the risks and delays of further
8 litigation, the risks to the Parties of proceeding with class certification and/or representative
9 adjudication, the law relating to off-the-clock theory, meal and rest periods, PAGA representative
10 actions, and wage-and-hour law and enforcement, as well as the evidence produced and analyzed,
11 and the possibility of appeals, among other things. During all settlement discussions, the Parties
12 conducted their negotiations at arm's length in an adversarial position. Arriving at a settlement
13 that was acceptable to both Parties was not easy. Defendant and its counsel felt strongly about
14 their ability to prevail on the merits and at certification, and Plaintiff and Class Counsel believed
15 that they would be able to obtain class certification and prevail at trial. After conducting extensive
16 investigations, formal and informal discovery, exchange of information, and extensive settlement
17 negotiations, and with the aid of the mediator's evaluation, the Parties have agreed that the matter
18 is well-suited for settlement given the legal issues relating to Plaintiff's principal claims, as well
19 as the costs and risks to both sides that would attend further litigation. The Settlement is a fair,
20 reasonable, and adequate resolution of the Class Released Claims of Plaintiff and Settlement Class
21 Members, and of the PAGA Released Claims of the PAGA Members and the State of California,
22 against the Released Parties.

23 11. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength,
24 and scope of the claims, and were preparing the matter for class certification and trial. Class
25 Counsel conducted significant investigation and formal and informal discovery regarding the facts
26 of the cases, including and not limited to, the exchange, review, and analysis of a large volume of
27 documents and data obtained from Defendant, Plaintiff, and other sources. The volume of data and
28 documents that Class Counsel reviewed and analyzed included and was not limited to: Plaintiff's

1 employment records, a detailed set of Plaintiff's and other Class Members' time and pay data,
2 Employee Handbook, forms, procedures and policies, among other information and documents.
3 Class Counsel interviewed Plaintiff to gather facts and to identify potential witnesses. Counsel for
4 the Parties met and conferred on numerous occasions, e.g., to discuss issues relating to the
5 pleadings, discovery, and the production of documents and data prior to the mediation. Class
6 Counsel also drafted Plaintiff's mediation brief and prepared for and attended court proceedings,
7 settlement negotiations, and the mediation, among other tasks.

8 12. Counsel for the Parties have also invested time researching and investigating the
9 applicable law, which is constantly evolving as it relates to certification, representative PAGA
10 claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement,
11 Plaintiff's claims and damages, and Defendant's defenses thereto, as well as facts discovered.
12 Based on Class Counsel's analysis, the result achieved in this litigation is fair, adequate, and
13 reasonable.

14 13. The Settlement provides for a Maximum Settlement Amount of Four Hundred Fifty
15 Thousand Dollars and Zero Cents (\$450,000.00) on a non-reversionary basis. The Net Settlement
16 Amount is the Maximum Settlement Amount less the following amounts, subject to approval by
17 the Court: Enhancement Award, Settlement Administration Costs, PAGA Allocation, and
18 Attorneys' Fees and Costs. Assuming that the amounts allocated under the Settlement toward these
19 payments are awarded by the Court, the Net Settlement Amount that will be available for
20 distribution to the Settlement Class Members is currently estimated to be Two Hundred Fifteen
21 Thousand Dollars and Zero Cents (\$215,000.00). Additionally, 75% of the PAGA Allocation (i.e.,
22 the LWDA Payment), which is \$37,500.00, will be distributed to the Labor and Workforce
23 Development Agency ("LWDA") and 25% of the PAGA Allocation, which is \$12,500.00, will be
24 distributed to PAGA Members on a *pro rata* basis ("PAGA Member Amount"). The Net
25 Settlement Amount will be fully distributed in accordance with the terms of the Settlement and
26 there is no reversion to Defendant.

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1 14. The Parties have agreed to retain Simpluris, Inc. (“Simpluris” or “Settlement
2 Administrator”) to handle the notice and settlement administration process. The Parties
3 respectfully request that the Court appoint Simpluris to handle these procedures and serve as the
4 Settlement Administrator. Defendant will provide the Settlement Administrator with a list of Class
5 Members that Defendant will compile from their records, which will include each Class Member’s
6 last-known full name, mailing address, telephone number, Social Security Number, and number
7 of Workweeks during the Class Release Period and, as applicable, during the PAGA Release
8 Period. (“Class and PAGA Data List”). The Settlement Administrator will calculate each
9 Settlement Class Member’s estimated *pro rata* share of the Net Settlement Amount (“Individual
10 Settlement Share”) and each PAGA Member’s estimated *pro rata* share of the twenty-five percent
11 (25%) portion of the PAGA Allocation (“Individual PAGA Payment”). The Settlement
12 Administrator will be responsible for the following: printing, distributing, and tracking Notices
13 and other documents for this Settlement, calculating and distributing payments due under the
14 Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings,
15 withholdings, and remittances, providing necessary reports and declarations, and other duties and
16 responsibilities set forth herein to process the Settlement, and as requested by the Parties.
17 Settlement Administration Costs are currently estimated not to exceed Six Thousand Five Hundred
18 Dollars and Zero Cents (\$6,500.00) and will be paid out of the Maximum Settlement Amount,
19 subject to approval of the Court.

20 15. Based on investigation and information discovered, Class Counsel believes that
21 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
22 that Defendant, with respect to Plaintiff and the putative class members, *inter alia*, failed to
23 properly pay overtime and minimum wages, failed to provide compliant meal and rest periods and
24 to pay associated premium pay, failed to timely pay wages during employment and upon
25 termination of employment, failed to provide compliant wage statements, failed to maintain
26 requisite payroll records, and failed to reimburse necessary business expenses, and thereby
27 engaged in unfair business practices in violation of California Business and Professions Code
28 section 17200, *et seq.* and conduct giving rise to penalties recoverable under the Private Attorneys

1 General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiff also asserted that he
2 and other putative class members and aggrieved employees were expected to perform similar job
3 duties and were subject to the same or similar operations and employment policies, practices, and
4 procedures. Plaintiff also contends that Defendant's payroll and recordkeeping practices with
5 respect to Plaintiff, the Class Members, and PAGA Members were substantially the same during
6 the time period at issue. As a result of the alleged uniform practices, Plaintiff claims that he and
7 putative class members and aggrieved employees were uniformly not paid all compensation due
8 to them from Defendant during the time period at issue. Thus, in Class Counsel's view, it is clear
9 that the outcome of this litigation would be determined by Defendant's uniform operations and
10 employment practices, policies, and procedures that Plaintiff alleges applied across its hourly-paid
11 or non-exempt employees in California during the relevant time period.

12 16. Class Counsel is aware of the defenses and position of Defendant, but believes that
13 Plaintiff could potentially obtain class certification despite many obstacles. Class Counsel has also
14 taken into account the uncertainty and risk of the outcome of further litigation, and the difficulties
15 and delays inherent in such litigation, including those involved in class certification and/or
16 representative adjudication. Class Counsel further recognizes the burdens of proof necessary to
17 establish liability, Defendant's defenses, and the difficulties in establishing entitlement to
18 monetary recovery. Class Counsel have also considered the Parties' settlement discussions, as well
19 as the evaluations of the mediator, who is experienced and well-regarded in complex labor and
20 employment matters.

21 17. Defendant, on the other hand, denied and continues to deny any liability and
22 wrongdoing of any kind associated with the claims alleged in the lawsuit, and further denies that
23 the lawsuit is appropriate for class treatment or representative adjudication for any purpose other
24 than this Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides
25 have also had the opportunity to conduct investigations and gather documents and information
26 relating to Plaintiff's, Class Members', and PAGA Members' employment with Defendant, and
27 Defendant's operations and employment policies, practices, and procedures. Counsel for the
28 Parties also reviewed and analyzed a large volume of documents and data, including but not

1 limited to a detailed sampling of Class Members' and PAGA Members' time and pay information,
2 to determine the potential value and strength of the claims. The available information enabled
3 Class Counsel to assess the value of the class and PAGA claims and prepare violation, damages,
4 and penalties analyses and models. Accordingly, counsel for the Parties have conducted adequate
5 investigation and discovery to be sufficiently informed of the nature and extent of the class and
6 PAGA claims, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy,
7 and reasonableness. The Settlement takes into account the strengths and weaknesses of each side's
8 position and the uncertainty of how the case might have concluded at certification, trial, and/or
9 appeals.

10 18. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
11 in an amount of up to thirty-five percent (35%) of the Maximum Settlement Amount (i.e.,
12 \$157,000.00), and expenses and costs in an amount not to exceed Sixteen Thousand Dollars and
13 Zero Cents (\$16,000.00), which will be paid out of the Maximum Settlement Amount, subject to
14 approval by the Court. It should be noted that Class Counsel has borne all of the risks and costs of
15 litigation and will not receive any compensation until recovery is obtained.

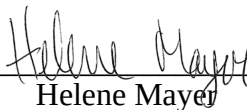
16 19. The Settlement Agreement provides for payment of up to Five Thousand Dollars
17 and Zero Cents (\$5,000.00) to Plaintiff as an Enhancement Award to be paid out of the Maximum
18 Settlement Amount subject to approval by the Court. Plaintiff spent considerable time and effort
19 to produce relevant documents and past employment records and to provide the facts and evidence
20 necessary to attempt to prove the allegations. Plaintiff was available whenever Class Counsel
21 needed him and actively tried to obtain information that would facilitate the prosecution of this
22 matter. Accordingly, it is appropriate and just for Plaintiff to receive an Enhancement Award, in
23 addition to his individual settlement payment, for services performed in this matter on behalf of
24 the Class, State of California, and PAGA Members.

25 20. On June 2, 2021, Plaintiff provided written notice to the LWDA by certified mail
26 and to Defendant of the specific provisions of the California Labor Code that Defendants are
27 alleged to have violated. A true and correct copy of the notice is attached hereto as "EXHIBIT
28 2."

21. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is in the best interest of Plaintiff, the Class, PAGA Members, and the State of California. Class Counsel further submits that the Settlement is within an acceptable range of recovery for this type of litigation given the strengths and weaknesses of the case, the inherent costs and risks of further litigation, and the costs and risks associated with class certification, representative adjudication, trial, and/or appeals.

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

Executed on this 30th day of October 2024, at Mooresville, North Carolina.



Helene Mayer

EXHIBIT 1

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

2 This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,”
3 “Agreement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Fabian
4 Rivera (“Plaintiff” or “Class Representative”), individually, on behalf of Class Members and on behalf
5 of the State of California with respect to PAGA Members, PAGA Members and Defendant Metro R.F.
6 Services, Inc. (“Defendant”) (collectively, Plaintiff and Defendant are referred to as the “Parties”).

7 This Settlement Agreement shall be binding on Plaintiff, Settlement Class Members (as defined
8 herein), the State of California as to the employment of PAGA Members (as defined herein) and on
9 Defendant, subject to the terms and conditions hereof and the approval of the Court.

10 **RECITALS**

11 1. On June 2, 2021, Plaintiff provided written notice by online submission to the Labor and
12 Workforce Development Agency (“LWDA”) and by certified mail to Defendant of the specific provisions
13 of the California Labor Code that were alleged to be violated (“LWDA Notice”).

14 2. On July 26, 2021, Plaintiff filed a Class Action Complaint for Damages (“Complaint”),
15 thereby commencing a putative class action entitled *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior
16 Court of California for the County of San Bernardino, Case No. CIVSB2121607 (the “*Rivera Class*
17 *Action*”) against Defendant. The Complaint alleges ten (10) causes of action against Defendant for
18 violations of the California Labor Code for failure to properly pay minimum and overtime wages, provide
19 compliant meal and rest periods and associated premium payments, timely pay wages during and after
20 employment and pay associated waiting-time penalties, provide compliant wage statements, maintain
21 complete and accurate payroll records, and reimburse necessary business-related expenses, and for
22 violations of California Business and Professions Code Section 17200 *et seq.* based on the aforementioned
23 California Labor Code violations, on behalf of himself and putative class members.

24 3. On August 10, 2021, Plaintiff filed his Complaint for Enforcement Under the Private
25 Attorneys General Act, California Labor Code § 2698, *Et. Seq.* (“PAGA”), thereby commencing a
26 representative action entitled *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior Court of California for
27 the County of San Bernardino, Case No. CIVSB2123539 (the “*Rivera PAGA Action*,” collectively with
28 the *Rivera Class Action*, the “*Actions*”) against Defendant, alleging a single cause of action for civil

penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code Section 2698, et seq., on behalf of the State of California with respect to aggrieved employees.

4. Defendant denies all material allegations set forth in the Actions and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Actions, Class Released Claims, and PAGA Released Claims.

5. Class Counsel in the Actions diligently investigated the claims against Defendant, including any and all applicable defenses and the applicable law, and through formal and informal discovery methods, obtained and reviewed extensive information, data, and documents to assess the claims and allegations.

6. On June 16, 2022 the Parties participated in mediation with the Honorable Patrick J. Walsh (Ret.) (the “Mediator”), a respected mediator of complex wage and hour actions. With the assistance of the Mediator and his evaluations, the Parties ultimately reached the settlement memorialized herein. The settlement discussions were conducted at arm’s-length, and the Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and total exposure in relation to the costs and risks associated with continued litigation of the Actions. Based on the documents produced, as well as Class Counsel’s own independent investigation and evaluation, Class Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members, State of California, and PAGA Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

7. The Parties expressly acknowledge that this Settlement Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Settlement Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

DEFINITIONS

8. The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1 a. “Attorneys’ Fees and Costs” means attorneys’ fees for Class Counsel’s litigation
2 and resolution of the Actions and all actual costs incurred and to be incurred by Class Counsel in the
3 Actions, as set forth in Paragraph 12 below.

4 b. “Class Counsel” means Edwin Aiwazian, Arby Aiwazian, Joanna Ghosh, and
5 Helene Mayer of Lawyers *for* Justice, P.C., counsel for Plaintiff, who will seek to be appointed counsel
6 for the Class.

7 c. “Class and PAGA Data and List” means a complete list of all Class Members
8 and PAGA Members that Defendant will diligently and in good faith compile from its records and
9 provide to the Settlement Administrator within twenty-one (21) calendar days after Preliminary
10 Approval. The Class and PAGA Data and List will be password protected and formatted in a readable
11 Microsoft Office Excel spreadsheet and will include each Class Member’s last-known full name,
12 mailing address, telephone number, Social Security Number, and number of Workweeks (as defined
13 below) during the Class Release Period and, as applicable, during the PAGA Release Period. The Class
14 and PAGA Data and List shall not be used for any other purpose other than to administer the Settlement.

15 d. “Class Member(s)” or “Class” mean all current and former hourly-paid or non-
16 exempt employees of Defendant in California at any time during the Class Release Period.

17 e. “Class Notice” means the Notice of Class and Representative Action Settlement,
18 substantially in the form attached as “**Exhibit A.**”

19 f. “Class Release Period” means the period from January 27, 2017 through March
20 12, 2023, subject to Paragraph 38 below.

21 g. “Class Representative” or “Plaintiff” means Fabian Rivera.

22 h. “Class Released Claims” means any and all claims, actions, or cause of action
23 alleged in the Complaint, arising during the Class Release Period, including and not limited to, for
24 failure to properly pay overtime, failure to pay minimum wages, failure to provide compliant meal
25 periods and associated premiums, failure to provide compliant rest periods and associated premiums,
26 failure to timely pay wages upon termination, during employment and associated waiting-time penalties,
27 failure to provide compliant wage statements, failure to keep requisite payroll records, failure to
28 reimburse necessary business expenses, in violation of California Labor Code sections 201, 202, 203,

204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders (including, inter alia, Wage Order Nos. 1-2001, 4-2001, 5-2001, and 7-2001), and violation of California Business and Professions Code section 17200 *et seq.* based on the aforementioned.

i. “Class Settlement” means the settlement and resolution of all Class Released Claims.

j. “Court” means the Superior Court of the State of California for the County of San Bernardino.

k. “Defendant” means Metro R.F. Services, Inc.

l. “Defendant’s Counsel” means Timothy Nelson of Medina McKelvey.

m. “Effective Date” shall mean the first court date after both of the following have occurred: (i) Final Approval of this settlement is granted by the Court, and (ii) judgment approving this settlement becomes Final, as defined below.

n. “Employer Taxes” means the employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares, which shall be paid by Defendant in addition to the Maximum Settlement Amount.

o. “Enhancement Award” means the amount to be paid to Plaintiff Fabian Rivera in recognition of his effort and work in prosecuting the Actions on behalf of Class Members and PAGA Members, as set forth in Paragraph 13 below.

p. “Final,” as used in the definition of Effective Date, shall mean the latest of: (i) if there is an appeal of the Court’s judgment, the date the judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review in the California Supreme Court; or (ii) if a petition for review is filed, the date of denial of the petition for review, or the date the judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal from the judgment.

q. “Final Approval” means the determination by the Court that the Settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

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1 r. “Final Approval Hearing” means the hearing at which the Court will consider and
2 determine whether the Settlement should be granted Final Approval.

3 s. “Maximum Settlement Amount” means the amount of Four Hundred Fifty
4 Thousand Dollars and Zero Cents (\$450,000.00) to be paid by Defendant in full resolution of all Class
5 Released Claims, PAGA Released Claims, and the Actions, which is inclusive of the Net Settlement
6 Amount, Attorneys’ Fees and Costs, Enhancement Award, PAGA Allocation, and Settlement
7 Administration Costs. Defendant shall pay the Employer Taxes in addition to the Maximum Settlement
8 Amount. The Maximum Settlement Amount is subject to increase, as provided in Paragraph 38 below.

9 t. “Individual PAGA Payment” means a PAGA Member’s *pro rata* share of the
10 PAGA Member Amount that a PAGA Member is eligible to receive for the PAGA Settlement, as
11 provided in Paragraph 17 below.

12 u. “Individual Settlement Payment” means the net payment of each Settlement Class
13 Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and
14 withholdings with respect to the wages portion of the Individual Settlement Share, as provided in
15 Paragraph 27 below.

16 v. “Individual Settlement Share” means the *pro rata* share of the Net Settlement
17 Amount that a Class Member may be eligible to receive for the Class Settlement, to be calculated in
18 accordance with Paragraph 16.

19 w. “LWDA Payment” means the seventy-five percent (75%) portion of the PAGA
20 Allocation, or Thirty Seven Thousand Five Hundred Dollars (\$37,500), that the Parties have agreed to
21 pay to the LWDA for the PAGA Settlement, as set forth in Paragraph 15.

22 x. “Net Settlement Amount” means the portion of the Maximum Settlement Amount
23 that is available for distribution to Settlement Class Members, which is the Maximum Settlement
24 Amount less the Court-approved Enhancement Award, Settlement Administration Costs, PAGA
25 Allocation, and Attorneys’ Fees and Costs.

26 y. “Notice of Objection” means a Class Member’s written objection, which must
27 include: (a) the case name and number of the Action(s); (b) the objector’s full name, signature, address,
28 telephone number, and last four (4) digits of his or her Social Security Number; (c) a written statement

of all grounds for the objection accompanied by any legal support for such objection; (d) copies of any papers, briefs, or other documents upon which the objection is based; and (e) be submitted by fax or mail to the Settlement Administrator at the specified address and/or facsimile number, postmarked or faxed on or before the Response Deadline.

z. “PAGA Allocation” means the allocation of Fifty Thousand Dollars (\$50,000) from the Maximum Settlement Amount for the settlement and resolution of the PAGA Released Claims. Pursuant to PAGA, seventy-five percent (75%) of the PAGA Allocation, or Thirty Seven Thousand Five Hundred Dollars (\$37,500) (i.e., the LWDA Payment), will be paid to the LWDA, and the remaining twenty-five percent (25%), or Twelve Thousand Five Hundred Dollars (\$12,500), will be distributed to PAGA Members on a *pro rata* basis based on their Workweeks during the PAGA Release Period.

aa. “PAGA Member(s)” means all current and former hourly-paid or non-exempt employees of Defendant who worked in California at any time during the PAGA Release Period.

bb. “PAGA Member Amount” means the twenty-five percent (25%) portion of the PAGA Allocation, or Twelve Thousand Five Hundred Dollars (\$12,500), to be distributed to PAGA Members on a *pro rata* basis based on their Workweeks during the PAGA Release Period.

cc. “PAGA Release Period” means the period from December 7, 2019 through March 12, 2023.

dd. “PAGA Released Claims” means any and all claims for civil penalties under the Private Attorneys General Act, California Labor Code Section 2698, *et seq.* that were alleged in the Complaint or that could have been alleged based upon the facts alleged in the Complaint and/or in the LWDA Notice, arising during the PAGA Release Period, for failure to properly pay overtime, failure to pay minimum wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages upon termination, during employment and associated waiting-time penalties, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in Violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders (including, inter alia, Wage Order Nos. 1-2001, 4-2001, 5-2001, and 7-2001).

1 ee. "PAGA Settlement" means the settlement and resolution of PAGA Released
2 Claims.

3 ff. "Parties" means Plaintiff and Defendant, collectively, and "Party" means either
4 Plaintiff or Defendant.

5 gg. "Preliminary Approval" means entry of the Court order granting preliminary
6 approval of the Settlement Agreement.

7 hh. "Released Parties" means Defendant and each and all of its past and present
8 parents, subsidiaries, affiliates, and divisions, and their shareholders, officers, directors, employees,
9 partners, attorneys, insurers and reinsurers, predecessors, successors, successors-in-interest, assigns,
10 accountants, auditors, consultants, legal representatives, and any individual or entity that could be
11 jointly or severally liable for any of the Class Released Claims and/or PAGA Released Claims.

12 ii. "Request for Exclusion" means a timely and valid letter submitted by a Class
13 Member indicating a request to be excluded from the Class Settlement. The Request for Exclusion
14 must: (a) contain the case name and number of the Action(s); (b) contain the full name, signature,
15 address, telephone numbers, and the last four (4) digits of the Social Security Number of the Class
16 Member requesting exclusion; (c) clearly state that the Class Member does not wish to be included in
17 the Class Settlement; and (d) be submitted by fax or mail to the Settlement Administrator at the specified
18 address and/or facsimile number, postmarked or faxed on or before the Response Deadline. The date
19 of the postmark on the return mailing envelope or fax-stamp on the submission will be the exclusive
20 means to determine whether a Request for Exclusion has been timely submitted. A Class Member who
21 does not request exclusion from the Class Settlement will be deemed a Settlement Class Member and
22 will be bound by Class Settlement if the Settlement is granted Final Approval by the Court. A Class
23 Member who submits a timely and valid Request for Exclusion will not be bound by the Class Settlement
24 and will not be issued an Individual Settlement Payment; however, if the Class Member is also a PAGA
25 Member, he or she will be bound to the PAGA Settlement and will still be issued an Individual PAGA
26 Payment, irrespective of whether they submit a Request for Exclusion.

27 jj. "Response Deadline" means the deadline by which Class Members must submit
28 a Request for Exclusion, Notice of Objection, and/or dispute of the Workweeks credited to them, which

1 shall be the date that is forty-five (45) calendar days from the initial mailing of the Notice by the
2 Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the
3 Response Deadline will be extended to the next day on which the U.S. Postal Service is open. In the
4 event that a Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall
5 be extended by fifteen (15) calendar days.

6 kk. "Settlement Administrator" means Simpluris, Inc. ("Simpluris") or any other
7 third-party class action settlement administrator agreed to by the Parties and approved by the Court for
8 purposes of administering this Settlement. The Parties and their counsel each represent that they do not
9 have any financial interest in the Settlement Administrator or otherwise have a relationship with the
10 Settlement Administrator that could create a conflict of interest.

11 ll. "Settlement Administration Costs" means the costs payable from the Maximum
12 Settlement Amount, subject to Court approval, to the Settlement Administrator for administering the
13 Settlement, as set forth in Paragraph 14 below.

14 mm. "Settlement Class Members" means all Class Members who do not submit a
15 timely and valid Request for Exclusion (collectively referred to as "Settlement Class").

16 nn. "Workweek(s)" means the number of weeks worked by Class Members during
17 the Class Release Period, which Defendant will calculate in a manner that credits one (1) Workweek for
18 any period of seven consecutive calendar days, beginning on Sunday at midnight and ending on Saturday
19 at 11:59:59 PM, during which a Class Member began at least one shift.

20 **CLASS CERTIFICATION**

21 9. For the purposes of this settlement only, the Parties stipulate to the certification of the
22 Class.

23 10. The Parties agree that certification for the purpose of settlement is not an admission that
24 certification is proper under Section 382 of the California Code of Civil Procedure. Should, for
25 whatever reason, the Court not grant Final Approval, the Parties' stipulation to class certification as part
26 of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be
27 admissible in connection with, the issue of whether or not certification would be inappropriate in a non-
28 settlement context.

1 **TERMS OF AGREEMENT**

2 NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set
3 forth herein, the Parties agree, subject to the Court's approval, as follows:

4 11. Funding and Disbursement of the Maximum Settlement Amount. Within fifteen (15)
5 calendar days after the Effective Date, the Settlement Administrator will provide the Parties with an
6 accounting of the amounts to be paid by Defendant pursuant to the terms of the Settlement Agreement.
7 Within thirty (30) calendar days of the Effective Date, or October 1, 2023, whichever occurs later,
8 Defendant will make a one-time deposit of the Maximum Settlement Amount plus an amount sufficient
9 for Employer Taxes into a settlement account to be established by the Settlement Administrator. Within
10 seven (7) calendar days of the funding of the Maximum Settlement Amount and an amount sufficient for
11 Employer Taxes, the Settlement Administrator will issue payments due under the Settlement and
12 approved by the Court, as follows: (a) Individual Settlement Payments to Settlement Class Members;
13 (b) Individual PAGA Payments to PAGA Members; (c) LWDA Payment to the Labor and Workforce
14 Development Agency; (d) Enhancement Award to Plaintiff; (e) Attorneys' Fees and Costs to Class
15 Counsel; and (f) Settlement Administration Costs to itself (the Settlement Administrator). The
16 Settlement Administrator will also undertake filings and remittances in connection with the employee's
17 share of taxes on the wages portion of Individual Settlement Shares and the Employer Taxes, that are
18 necessary for administration of the Settlement.

19 12. Attorneys' Fees and Costs. Class Counsel will request attorneys' fees of up to thirty-five
20 percent (35%) of the Maximum Settlement Amount (i.e., up to \$157,500.00 if the Maximum Settlement
21 Amount is \$450,000.00) and reimbursement of actual costs and expenses associated with Class
22 Counsel's litigation and settlement of the Action, in an amount not to exceed Sixteen Thousand Dollars
23 (\$16,000), both of which will be paid from the Maximum Settlement Amount subject to Court approval.
24 These amounts will cover any and all work performed and any and all costs incurred by Class Counsel
25 in connection with the litigation of the Actions, including without limitation all work performed and
26 costs incurred to date, and all work to be performed and all costs to be incurred in connection with
27 obtaining the Court's approval of this Settlement. Class Counsel shall be solely and legally responsible
28 for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts

received. With respect to the Attorneys' Fees and Costs to Class Counsel, the Settlement Administrator may purchase an annuity to utilize United States Treasuries and bonds or utilize other attorney fee deferral vehicles, for Class Counsel, and any additional expenses for doing so shall be paid separately by Class Counsel and shall not be included within the Settlement Administration Costs. Defendant and Defendant's Counsel shall not be liable for any expenses associated with the purchase or use of any attorney fee deferral vehicles for Class Counsel by the Settlement Administrator. Any portion of the Attorneys' Fees and Costs not awarded to Class Counsel shall be a part of the Net Settlement Amount for the benefit of Settlement Class Members.

13. Enhancement Award. In recognition of his efforts and work in prosecuting the Actions, Defendant agrees not to oppose or impede any application or motion for an Enhancement Award in an amount up to Five Thousand Dollars (\$5,000) to Plaintiff Fabian Rivera. The Enhancement Award, which will be paid from the Maximum Settlement Amount, subject to Court approval, will be in addition to any other payment Plaintiff may be eligible to receive under the Settlement, e.g., his Individual Settlement Payment and/or Individual PAGA Payment. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff for the Enhancement Award, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Plaintiff agrees to indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the Enhancement Award. Should the Court approve the Enhancement Award to Plaintiff in an amount that is less than that set forth above, the difference between the lesser amount approved by the Court and the amount allocated toward the Enhancement Award will be part of the Net Settlement Amount for the benefit of Settlement Class Members.

14. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Six Thousand Five Hundred Dollars (6,500). These costs, which will be paid from the Maximum Settlement Amount, subject to Court approval, will include, *inter alia*, printing, distributing, and tracking Notices and other documents for this Settlement, calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and

other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Maximum Settlement Amount, subject to Court approval. Any portion of the estimated, designated, and/or awarded Settlement Administration Costs which are not in fact awarded or required to fulfill payment to the Settlement Administrator to undertake the requirement settlement administration duties will be part of the Net Settlement Amount for the benefit of Settlement Class Members.

15. Labor and Workforce Development Agency Payment. Subject to Court approval, the Parties agree that the amount of Fifty Thousand Dollars (\$50,000) from the Maximum Settlement Amount will be allocated toward penalties under the Private Attorneys General, California Labor Code Section 2698, *et seq.* (i.e. the PAGA Allocation), of which seventy-five percent (75%), or \$37,500, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) or, \$12,500, will be distributed to PAGA Members (i.e., the PAGA Member Amount) on a *pro rata* basis, based on Workweeks during the PAGA Release Period (i.e., the Individual PAGA Payment).

16. Individual Settlement Share Calculations. Settlement Class Members' Individual Settlement Shares will be calculated and apportioned from the Net Settlement Amount based upon their number of Workweeks in the Class Release Period, as follows:

a. After Preliminary Approval of the Settlement, the Settlement Administrator will determine the Workweeks of each Class Member, divide the Net Settlement Amount by the Workweeks of all Class Members to yield the "Estimated Workweek Value," and multiply each Class Member's individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.

b. After Final Approval of the Settlement, the Settlement Administrator will divide the final Net Settlement Amount by the Workweeks of all Settlement Class Members to yield the "Final Workweek Value," and multiply each Settlement Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.

17. Individual PAGA Payment Calculations. The PAGA Member Amount will be divided by the total number of Workweeks worked by all PAGA Members during the PAGA Release Period to

produce a “Weekly PAGA Value.” The Weekly PAGA Value will be multiplied by the number of Workweeks attributable to the individual PAGA Member to derive his or her Individual PAGA Payment.

18. Settlement Awards Do Not Trigger Additional Benefits. All payments made under the Settlement shall be deemed to be paid to the payee solely in the year in which such payments actually are issued to the payee. It is expressly understood and agreed that payments made under this Settlement shall not in any way entitle Plaintiff, PAGA Members, or any Settlement Class Member to additional compensation or benefits under any new or additional compensation or benefits, or any bonus, contest or other compensation or benefit plan or agreement, nor will it entitle Plaintiff, PAGA Members, or any Settlement Class Member to any increased retirement, 401K benefits or matching benefits, or deferred compensation benefits (notwithstanding any contrary language or agreement in any benefit or compensation plan document).

19. Delivery of the Class and PAGA Data and List. Within twenty-one (21) calendar days of Preliminary Approval, Defendant will provide the Class and PAGA Data and List to the Settlement Administrator.

20. Notice by First Class U.S. Mail.

a. Within ten (10) business days after receiving the Class and PAGA Data and List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database, or any other similar services available, for information to update and correct for any known or identifiable address changes, and will mail a Class Notice in English (in the form attached as **Exhibit A** to this Settlement Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

b. With respect to Class Notices that are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Class Notice within five (5) calendar days.

21. Dispute Regarding Workweeks. Class Members and PAGA Members will have an opportunity to dispute the number of Workweeks credited to each of them for the Class Release Period and/or PAGA Release Period (if applicable), as reflected in their respective Class Notices. In order to

1 dispute Workweeks, Class Members and PAGA Members must submit a written letter to the Settlement
2 Administrator that: (a) contains the case name and number of the Action(s); (b) contains the full name,
3 signature, address, telephone number, and the last four (4) digits of the Social Security Number of the
4 disputing individual; (c) clearly states that the Class Member and/or PAGA Member disputes the
5 number of Workweeks credited to him or her and what he or she contends is the correct number to be
6 credited to him or her for the Class Release Period and/or PAGA Release Period; (d) includes
7 information and/or attaches documentation demonstrating that the number of Workweeks that he or she
8 contends should be credited to him or her are correct; and (e) is returned by fax or mail to the Settlement
9 Administrator at the specified address and/or facsimile number, postmarked or fax-stamped on or before
10 the Response Deadline. The date of the postmark on the return mailing envelope or fax-stamp on the
11 submission will be the exclusive means to determine whether a dispute has been timely submitted.
12 Absent information and/or documentation demonstrating that Defendant's records and data are
13 inaccurate as they pertain to the number of Workweeks to be credited to a disputing Class Member
14 and/or PAGA Member, Defendant's records will be presumed correct and determinative of the dispute.
15 However, if a Class Member and/or PAGA Member produces information and/or documents
16 demonstrating that Defendant's records and data are inaccurate as they pertain to the number of
17 Workweeks to be credited to a disputing Class Member and/or PAGA Member for the Class Release
18 Period and/or PAGA Release Period, the Settlement Administrator will evaluate the materials submitted
19 by the Class Member and/or PAGA Member and the Settlement Administrator will resolve and
20 determine the number of eligible Workweeks that the disputing Class Member and/or PAGA Member
21 should be credited with under the Settlement. The Settlement Administrator shall make an initial
22 determination on all Workweeks disputes, however, the Court shall have the right to review any decision
23 made by the Settlement Administrator on such disputes.

24 22. Settlement Checks. The Settlement Administrator will be responsible for undertaking
25 appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments by way
26 of check to the Settlement Class Members and the Individual PAGA Payments by way of check to the
27 PAGA Members in accordance with this Settlement Agreement. The Settlement Administrator may, at
28 its discretion, distribute the Individual Settlement Payment and Individual PAGA Payment by way of a

single check that combines both payments (if applicable). The Settlement Administrator shall perform a skip-trace search on any checks that are returned as undeliverable within ninety (90) days of the initial mailing, and perform a single re-mailing to any address located. Each Individual Settlement Payment and Individual PAGA Payment check will be valid and negotiable for one hundred and eighty (180) calendar days from the date the checks are issued, and thereafter, shall be cancelled. The Settlement Administrator shall transmit the funds represented by such cancelled checks to the California State Controller's Unclaimed Property Fund Division in the name of the Settlement Class Member or PAGA Member and in the respective amount of funds payable to them. The Settlement Administrator may, as necessary, undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that are necessitated due to the cancellation of any Individual Settlement Payment checks or Individual PAGA Payment checks. To the extent that the Settlement Administrator is able to obtain or receive the return or refund of the amounts that were transmitted to taxing authorities for the employer's and employees' share of taxes, contributions, and/or withholding associated with cancelled Individual Settlement Payments, all such amounts shall also be transmitted to the California State Controller's Unclaimed Property Fund Division. Settlement Class Members whose Individual Settlement Payment checks are cancelled and PAGA Members whose Individual PAGA Payment checks are cancelled, shall, nevertheless, be bound by this Settlement Agreement.

23. Procedure for Requesting Exclusion from the Class Settlement. Any Class Member wishing to be excluded from the Class Settlement must submit a written Request for Exclusion to the Settlement Administrator, by mail or fax, within the Response Deadline. The date of fax or the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted, and also identify the individuals who have submitted a timely and valid Request for Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing. Any Class Member who submits a Request for Exclusion is prohibited from making any objection to the Class Settlement. Any Class Member who submits a timely and valid Request for Exclusion will not be bound by the Class Settlement and will not be issued an Individual Settlement Payment. However, if the Class Member is also a PAGA

Member, he or she will be bound to the release of the PAGA Settlement and will still be issued an Individual PAGA Payment, irrespective of whether they submit a Request for Exclusion.

24. Procedures for Objecting to the Settlement. To object to the Class Settlement, Class Members who have not opted out of the Class Settlement (i.e., Settlement Class Members) must submit a timely and complete Notice of Objection to the Settlement Administrator, by fax or mail, on or before the Response Deadline. The Notice of Objection must be signed by the Settlement Class Member and contain all information required by this Settlement Agreement. The postmark or fax-stamp date will be deemed the exclusive means for determining that the Notice of Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement Agreement or appeal from the Final Approval Order and Judgment. Settlement Class Members may also present their objection orally at the Final Approval Hearing regardless of whether they submitted a Notice of Objection.

25. Reports By the Settlement Administrator Regarding Settlement Administration. The Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report which certify: (a) the number of Class Members who have submitted a dispute of Workweeks; (b) the number of Class Members who have submitted timely and valid Requests for Exclusion or timely and complete Notices of Objection; and (c) the number of undeliverable and re-mailed Notices. Additionally, the Settlement Administrator will provide to counsel for both Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement.

26. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

27. Treatment of Individual Payments. Each Individual Settlement Share will be allocated as follows: twenty percent (20%) as wages and eighty percent (80%) as penalties, interest, and non-wage damages. The portion allocated to wages will be reported on an IRS Form W-2 and the portion allocated to interest, penalties, and non-wage damages will be reported on an IRS Form-1099 by the

1 Settlement Administrator. The Settlement Administrator will withhold (and remit to the appropriate
2 taxing authorities) the employee's share of taxes and withholdings with respect to the wages portion of
3 the Individual Settlement Shares, and issue checks to Settlement Class Members for their Individual
4 Settlement Payment (i.e., payment of their Individual Settlement Share net of these taxes and
5 withholdings). The Settlement Administrator shall also remit the Employer Taxes to the appropriate
6 taxing authorities. Each Individual PAGA Payment will be allocated as one hundred percent (100%)
7 penalties and will be reported on an IRS Form-1099 (if applicable) by the Settlement Administrator.

8 28. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
9 will be responsible for issuing to Plaintiff, Settlement Class Members, PAGA Members, and Class
10 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to
11 this Settlement Agreement.

12 29. Tax Liability. Plaintiff, Class Counsel, Defendant, and Defendant's Counsel make no
13 representations or warranties as to the tax consequences, treatment, or legal effect of any payments made
14 under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to
15 constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied
16 on as such. Plaintiff, PAGA Members, and Settlement Class Members understand and agree that, except
17 for Defendant's payment of the Employer Taxes, Plaintiff, PAGA Members, and Settlement Class
18 Members will be solely responsible for correctly characterizing any compensation received under the
19 Settlement on his/her personal income tax returns and paying any and all taxes due for any and all
20 amounts paid to them under the Settlement.

21 30. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT (FOR
22 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS
23 SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
24 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS SETTLEMENT
25 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
26 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
27 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE
28 OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF

1 UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
2 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS,
3 HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING
4 TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
5 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE RECOMMENDATION
6 OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND
7 (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
8 ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY
9 BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO
10 ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
11 CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES
12 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
13 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
14 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
15 BY THIS SETTLEMENT AGREEMENT.

16 31. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
17 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause
19 of action or right herein released and discharged.

20 32. Release of Claims by Settlement Class Members and PAGA Members.

21 a. Class Settlement Release. Upon full funding of the Maximum Settlement Amount
22 and the Effective Date, Plaintiff and all Class Members who do not submit a timely and valid Request
23 for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally and forever
24 released, settled, compromised, relinquished, and discharged the Released Parties of all Class Released
25 Claims he or she may have or had, except that only those Settlement Class Members who cash or deposit
26 their Individual Settlement Payment check shall be deemed to opt-in to the Settlement and release of
27 Class Released Claims that arise under the Fair Labor Standards Act.

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1 b. PAGA Settlement Release. Upon full funding of the Maximum Settlement
2 Amount and the Effective Date, the State of California with respect to all PAGA Members, and all
3 PAGA Members, will be deemed to have fully, finally and forever released, settled, compromised,
4 relinquished, and discharged the Released Parties of all PAGA Released Claims.

5 33. General Release of Claims by Plaintiff. In addition, upon full funding of the Maximum
6 Settlement Amount and the Effective Date, Plaintiff will be deemed to have fully released and discharged
7 the Released Parties of and from all claims arising from his employment with Defendant, separation of
8 employment from Defendant, and any acts that have or could have been asserted in any legal action or
9 proceeding against Defendant, whether known or unknown, arising under any federal, state, or local law,
10 or statute, including, inter alia, those arising under the California Labor Code, Fair Labor Standards Act,
11 Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income
12 Security Act, National Labor Relations Act, California Corporations Code, California Business and
13 Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended),
14 and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination,
15 lost wages, benefits, other employment compensation, emotional distress, medical expenses, other
16 economic and non-economic damages, attorney fees, and costs, arising on or before the date of execution
17 of the Settlement Agreement. With respect to those claims released by Plaintiff in an individual capacity,
18 Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code
19 Section 1542, which provides:

20 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
21 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
22 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF
 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

23 Plaintiff understands and agrees that claims or facts in addition to or different from those which are now
24 known or believed by him to exist may hereafter be discovered. It is Plaintiff's intention to settle fully
25 and release all claims he now has against the Released Parties, whether known or unknown, suspected or
26 unsuspected. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for
27 workers' compensation benefits, claims for unemployment benefits, or other claims that may not be
28 released by law.

1 34. Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement.

2 Upon execution of this Settlement Agreement, Plaintiff shall promptly obtain a hearing date for
3 Plaintiff's Motion for Preliminary Approval of the Settlement, which Plaintiff and Class Counsel will
4 be responsible for drafting, and submit this Settlement Agreement to the Court in support of said motion.
5 Class Counsel will provide Defendant's Counsel a draft of the motion before filing it with the Court.
6 Defendant agrees not to oppose the motion. Said motion shall apply to the Court for the entry of an
7 order ("Preliminary Approval Order"):

- 8 a. Conditionally certifying the Class for settlement purposes only;
- 9 b. Granting Preliminary Approval of the Settlement;
- 10 c. Preliminarily appointing Plaintiff as representative of the Class;
- 11 d. Preliminarily appointing Class Counsel as counsel for the Class;
- 12 e. Approving, as to form and content, the mutually-agreed upon and proposed Class
13 Notice and directing its mailing to the Class by First Class U.S. Mail;
- 14 f. Approving the manner and method for Class Members to request exclusion from
15 the Class Settlement, object to the Class Settlement, and/or dispute Workweeks, as contained herein and
16 within the Class Notice; and
- 17 g. Scheduling a Final Approval Hearing at which the Court will determine whether
18 the Settlement should be finally approved as fair, reasonable, and adequate.

19 35. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After
20 the Response Deadline, and with the Court's permission, a Final Approval Hearing will be conducted
21 to determine whether Final Approval of the Settlement should be granted, along with the amounts
22 properly payable for (a) Individual Settlement Payments; (b) Individual PAGA Payments; (c) LWDA
23 Payment; (d) Attorneys' Fees and Costs; (e) Enhancement Award; and (f) Settlement Administration
24 Costs. The Final Approval Hearing will not be held earlier than thirty (30) calendar days after the
25 Response Deadline. Plaintiff and Class Counsel will be responsible for drafting the motion seeking Final
26 Approval of the Settlement. Class Counsel will provide Defendant's Counsel a draft of the motion before
27 filing it with the Court. By way of said motion, Plaintiff will apply for the entry of the mutually-agreed
28 upon proposed order and judgment ("Final Approval Order and Judgment"), which will provide for, in

substantial part, the following:

- a. Approval of the Settlement as fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- b. Certification of the Settlement Class;
- c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;
- d. Approval of the application for Enhancement Award to Plaintiff;
- e. Setting a date when the Settlement Administrator shall report to the Court the completion of the distribution process and the total amount that was actually paid to the Settlement Class Members and PAGA Members;
- f. Directing Defendant to fund all amounts due under the Settlement Agreement and ordered by the Court; and
- g. Entering judgment in the Action while maintaining continuing jurisdiction, in conformity with California Rules of Court 3.769 and the Settlement Agreement.

36. Termination or Revocation of Settlement. If five percent (5%) or more of the Class Members submit timely and valid Requests for Exclusion, Defendant may elect to rescind the Settlement Agreement by way of writing that is provided to Class Counsel and to the Settlement Administrator within ten (10) calendar days after the Settlement Administrator notifies the Parties of the total number of timely and valid Requests for Exclusion received by the Response Deadline. If the Settlement is terminated due to Defendant's exercise of this option, Defendant will be responsible for paying all Settlement Administration Costs incurred by the Settlement Administrator.

37. Effects of Termination of the Settlement. Termination of the Settlement Agreement (pursuant to Paragraph 34) shall have the following effects:

- a. The Settlement Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;
- b. In the event the Settlement Agreement is terminated, Defendant shall have no obligation to make any payments to any Party, Settlement Class Member, PAGA Member, or attorney, and all payments made up to the point of termination will be returned to Defendants, except that the terminating Party shall pay the Settlement Administrator for services rendered by the Settlement

1 Administrator up to the date the Settlement Administrator is notified that the Settlement has been
2 terminated;

3 c. The Preliminary Approval Order, Final Approval Order and Judgment, including
4 any order certifying the Class, shall be vacated;

5 d. The Settlement Agreement and all negotiations, statements and proceedings
6 relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored
7 to their respective positions in the Actions prior to the execution of the Settlement Agreement;

8 e. Neither this Settlement Agreement, nor any ancillary documents, actions,
9 statements or filings in furtherance of the Settlement (including all matters associated with the mediation)
10 shall be admissible or offered into evidence in the Actions or any other action for any purpose whatsoever.

11 f. Any documents generated to bring the Settlement into effect, will be null and
12 void, and any order or judgment entered by the Court in furtherance of this Settlement Agreement will
13 likewise be treated as void from the beginning.

14 38. Escalator Clause.

15 a. Defendant estimated that, there are approximately 350 Class Members who worked
16 at any time during the period of January 27, 2017 to June 16, 2022. If it is determined that the total number
17 of Class Members during the period referenced actually exceed this amount by more than ten percent
18 (10%) (i.e., the Class Members during the period referenced are actually more than 385), then the
19 Maximum Settlement Amount will increase on a proportional basis to the extent the threshold is exceeded
20 (e.g., if the number of the Class Members during the aforementioned time period is actually 11% more
21 than 350, i.e., increases by 11% to 389, the Maximum Settlement Amount will increase by one percent
22 (1%)).

23 b. Defendant represented that for the period of January 27, 2017 to June 16, 2022,
24 there were approximately 15,500 total Workweeks. If it is determined that the total number of Workweeks
25 during the period referenced actually exceed this amount by more than ten percent (10%) (i.e., the
26 Workweeks for the period referenced are actually more than 17,050), then the Maximum Settlement
27 Amount will increase on a proportional basis to the extent the threshold is exceeded (e.g., if the number
28 of Workweeks during the aforementioned time period is actually 11% more than 15,500, i.e., increases

by 11% to 17,205 Workweeks, the Maximum Settlement Amount will increase by one percent (1%)).

39. Continued Jurisdiction. After entry of judgment pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

40. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein.

41. Limitation on Publicity. Neither Plaintiff nor Class Counsel will make any public disclosure of the Settlement or discuss the Settlement with anyone other than those necessary to effectuate the filing of the Motion for Preliminary Approval, until after the Motion for Preliminary Approval is filed. Class Counsel will take all steps necessary to ensure Plaintiff is aware of, and will encourage him to adhere to, the restriction against any public disclosure of the Settlement until after the Motion for Preliminary Approval is filed. Prior to and following Preliminary Approval of the Settlement, neither Plaintiff nor Class Counsel will have any communications with any media other than to direct any media inquiries to the public records of the Actions on file with the Court. Prior to and following Preliminary Approval of the Settlement, neither Plaintiff nor Class Counsel will publicize the Settlement, including on social media. Class Counsel will take all steps necessary to ensure Plaintiff is aware of, and will encourage him to adhere to, the restriction against any media or social media comment on the Settlement or its terms. Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or promotional purposes. Nothing herein will restrict Class Counsel from including publicly available information regarding this Settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Furthermore, Plaintiff and Class Counsel will undertake any and all disclosures required to be made to the LWDA in conformity with PAGA.

42. Entire Agreement. Upon being fully-executed, this Settlement Agreement and any attached exhibits constitute the entirety of the Parties' settlement terms, and no other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties

expressly recognize California Civil Code § 1625 and California Code of Civil Procedure § 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary, or contradict the terms of this Settlement Agreement.

43. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Actions (including, and not limited to, the deadline to bring the Actions to trial under California Code of Civil Procedure section 583.310), except such proceedings necessary to implement and complete the Settlement Agreement, pending the Final Approval Hearing to be conducted by the Court.

44. Amendment. Prior to the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all of the Parties. After the filing of the motion for preliminary approval of the Settlement, the Parties may not amend or modify any provision of this Settlement Agreement except by written agreement signed by counsel for all of the Parties and subject to Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

45. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under state or federal law.

46. Signatories. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Settlement Agreement. The Class Notice will advise all Class Members of the binding nature of the Class Settlement as to the Settlement Class Members and the binding nature of the PAGA Settlement as to the PAGA Members,

1 and the release shall have the same force and effect as if this Settlement Agreement were executed by
2 each Settlement Class Member and PAGA Member.

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

5 48. California Law Governs. All terms of this Settlement Agreement and attached exhibits
6 hereto will be governed by and interpreted according to the laws of the State of California.

7 49. Execution and Counterparts. This Settlement Agreement is subject only to the execution
8 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
9 executed counterparts and each of them, including facsimile, electronic, and scanned copies of the
10 signature page, will be deemed to be one and the same instrument.

11 50. Acknowledgment that the Settlement is Fair and Reasonable. The Parties believe this
12 Settlement Agreement is a fair, adequate, and reasonable settlement of the Actions and have arrived at
13 this settlement after arm's-length negotiations and in the context of adversarial litigation, taking into
14 account all relevant factors, present and potential. The Parties further acknowledge that they are each
15 represented by competent counsel and that they have had an opportunity to consult with their counsel
16 regarding the fairness and reasonableness of this Settlement Agreement. In addition, if necessary to
17 obtain approval of the Settlement, the Mediator may execute a declaration supporting the Settlement
18 and the reasonableness of the Settlement and the Court may, in its discretion, contact the Mediator to
19 discuss the Settlement and whether or not the Settlement is objectively fair and reasonable.

20 51. Invalidity of Any Provision. Before declaring any provision of the Settlement Agreement
21 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
22 consistent with applicable precedents so as to find all provisions of this Settlement Agreement valid and
23 enforceable.

24 52. Plaintiff's Cooperation. Plaintiff agrees to sign this Settlement Agreement and, by
25 signing this Settlement Agreement, is hereby bound by the terms herein and agrees to fully cooperate
26 to implement the Settlement.

27 53. Non-Admission of Liability. The Parties enter into this Settlement Agreement to resolve
28 the dispute that has arisen between them and to avoid the burden, expense, and risk of continued

1 litigation. In entering into this Settlement Agreement, Defendant does not admit, and specifically
2 denies, that it has violated any state, federal, or local law; violated any regulations or guidelines
3 promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements;
4 breached any contract; violated or breached any duty; engaged in any misrepresentation or deception;
5 or engaged in any other unlawful conduct with respect to its employees. Neither this Settlement
6 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
7 construed as an admission or concession by Defendant of any such violations or failures to comply with
8 any applicable law. Except as necessary in a proceeding to enforce the terms of this Settlement
9 Agreement, this Settlement Agreement and its terms and provisions shall not be offered or received as
10 evidence in any action or proceeding to establish any liability or admission on the part of Defendant or
11 to establish the existence of any condition constituting a violation of, or a non-compliance with state,
12 federal, local or other applicable law.

13 54. Captions. The captions and paragraph numbers in this Settlement Agreement are inserted
14 for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
15 provisions of this Settlement Agreement.

16 55. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and
17 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
18 more strictly against one party than another merely by virtue of the fact that it may have been prepared
19 by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations
20 between the Parties, all Parties have contributed equally to the preparation of this Settlement Agreement.

21 56. Representation By Counsel. The Parties acknowledge that they have been represented
22 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
23 that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed
24 in full.

25 57. All Terms Subject to Court Approval. All amounts and procedures described in this
26 Settlement Agreement herein will be subject to Court approval.

27 58. Notices. All notices, demands, and other communications to be provided concerning this
28 Settlement Agreement shall be in writing and delivered by overnight mail at the addresses set forth

below, or such other addresses as either Party may designate in writing from time to time:

To Plaintiff and Class Counsel:

Arby Aiwarzian
Joanna Ghosh
Helene Mayer
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

To Defendant:

Brandon R. McKelvey
Timothy Nelson
Kyle W. Owen
MEDINA McKELVEY LLP
925 Highland Pointe Drive, Suite 300
Roseville, California 95678

59. Final Approval Order and Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Approval Order and Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Approval Order and Judgment on its website for sixty (60) calendar days. No individualized notice of the Final Approval Order and Judgment, to the Class, will be required.

60. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the Settlement, including and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

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1 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Class Action and PAGA Settlement and Release between Plaintiff and Defendant:
3 **IT IS SO AGREED.**

4
5
6 Dated: July 16, 2024, 2024

PLAINTIFF FABIAN RIVERA

Hinterex AssureSign® 669465c7-38e8-4a0b-b4ae-b1ae0128393_

Fabian Rivera, Plaintiff

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9
10 Dated: _____, 2024

DEFENDANT METRO R.F. SERVICES, INC.

Mehrzaad Ben Sarfehnia
Chief Executive Officer
On behalf of Metro R.F. Services, Inc.

11
12 **APPROVED AS TO FORM:**

LAWYERS *for* JUSTICE, PC

13
14
15 Dated: July 16, 2024



Arby Aiwazian
Joanna Ghosh
Helene Mayer
Attorneys for Plaintiff and Proposed Class Counsel

MEDINA McKELVEY LLP

16
17
18
19
20
21 Dated: _____, 2024

Brandon R. McKelvey
Timothy Nelson
Kyle W. Owen
Attorneys for Defendant

IT IS SO AGREED.

Dated: _____, 2024

Dated: July, 27, 2024

~~Mehrzad Ben Sarfehnia~~
~~Chief Executive Officer~~
~~On behalf of Metro R.F. Services, Inc.~~

Dated: _____, 2024

Dated: July 30, 2024

Brandon R. McKelvey /
Timothy Nelson
Kyle W. Owen
Attorneys for Defendant

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Fabian Rivera v. Metro R.F. Services, Inc.

Superior Court of California for the County of San Bernardino, Case No. CIVSB2121607

PLEASE READ THIS CLASS NOTICE CAREFULLY.

You have received this Class Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options, and how you can request to be excluded from the settlement, object to the settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class action settlement has been reached between Plaintiff Fabian Rivera ("Plaintiff" or "Class Representative") and Defendant Metro R.F. Services, Inc. ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the cases entitled *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior Court of California for the County of San Bernardino, Case No. CIVSB2121607 and *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior Court of California for the County of San Bernardino, Case No. CIVSB2123539 (collectively, the "Actions"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all current and former hourly-paid or non-exempt employees of Defendant in California at any time during the Class Release Period.

"Class Member" means a member of the Class.

"Class Release Period" means the time period from January 27, 2017 through [March 12, 2023, or another date if escalator clause is triggered per Paragraph 38].

"Class Settlement" means the settlement and resolution of all Class Release Claims (described in Section III.D below).

"PAGA Member(s)" means all current and former hourly-paid or non-exempt employees of Defendant who worked in California at any time during the PAGA Release Period.

"PAGA Settlement" means the settlement and resolution of PAGA Released Claims (described in Section III.D below).

"PAGA Release Period" means the period from December 7, 2019 through March 12, 2023.

II. BACKGROUND OF THE ACTION

On June 2, 2021, Plaintiff provided written notice by online submission to the Labor and Workforce Development Agency ("LWDA") and by certified mail to Defendant of the specific provisions of the California Labor Code that were alleged to be violated ("LWDA Notice"). On July 26, 2021, Plaintiff filed a Class Action Complaint for Damages ("Complaint") thereby commencing a putative class action entitled *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior Court of California for the County of San Bernardino, Case No. CIVSB2121607 (the "Rivera Class Action") against Defendant.

On August 10, 2021, Plaintiff filed his Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et. Seq. ("PAGA"), thereby commencing a representative action entitled *Fabian Rivera v. Metro R.F. Services, Inc.*, Superior Court of California for the County of San Bernardino, Case No. CIVSB2123539 (the "Rivera PAGA Action," collectively with the Rivera Class Action, the "Actions") against Defendant.

Plaintiff alleges a single cause of action for civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code Section 2698, et seq., on behalf of the State of California with respect to aggrieved employees.

Defendant denies all material allegations set forth in the Actions and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Actions, Class Released Claims, and PAGA Released Claims.

On June 16, 2022, the Parties participated in mediation with the Honorable Patrick J. Walsh (Ret.) (the “Mediator”). With the assistance of the Mediator and his evaluations, the Parties ultimately reached a settlement.

After investigation and analysis of the claims, the Parties engaged in good faith, arms-length negotiations, and as a result, the Parties reached a settlement. The Settlement is the result of an informed and detailed analysis of Defendant’s potential liability and total exposure in relation to the costs and risks associated with continued litigation of the Actions. Based on the documents produced, as well as Class Counsel’s own independent investigation and evaluation, Class Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members, State of California, and PAGA Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiff Fabian Rivera as representative of the Class (“Class Representative”), and the following counsel as counsel for the Class (“Class Counsel”):

Arby Aiwarzian, Esq.
Joanna Ghosh, Esq.
Helene Mayer, Esq.
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

If you are a Class Member, you need not take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Sections III and IV below. If you are a PAGA Member, you do not need to take any action to receive an Individual PAGA Payment.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Actions have merit or that Defendant has any liability to Plaintiff, Class Members, or PAGA Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of the Class Members and PAGA Members. The Court has made no ruling on the merits of the claims asserted in the Actions and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00) (the “Maximum Settlement Amount”). The portion of the Maximum Settlement Amount that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Maximum Settlement Amount, less the following payments which are subject to approval by the Court: (1) attorneys’ fees in an amount not to exceed 35% of the Maximum Settlement Amount (i.e., \$157,500.00) and reimbursement of litigation costs and expenses, in an amount not to exceed Sixteen Thousand Dollars (\$16,000.00) (“Attorneys’ Fees and Costs”) to Class Counsel; (2) Enhancement Award in an amount not to exceed Five Thousand Dollars (\$5,000.00) to Plaintiff for his services in the Actions; (3) Settlement Administration Costs in an amount not to exceed Six Thousand Five Hundred Dollars (\$6,500.00) to the Settlement

Administrator; and (4) the amount of Fifty Thousand Dollars (\$50,000) allocated toward civil penalties under the Private Attorneys General Act (“PAGA Allocation”). The PAGA Allocation will be distributed 75% (\$37,500.00) to the LWDA (“LWDA Payment”) and the remaining 25% (i.e., \$12,500.00) will be distributed to PAGA Members (“PAGA Member Amount”).

Class Members are entitled to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) based on the number of weeks worked by Class Members during the Class Release Period, which Defendant will calculate in a manner that credits one (1) Workweek for any period of seven consecutive calendar days, beginning on Sunday at midnight and ending on Saturday at 11:59:59 PM, during which a Class Member began at least one shift (“Workweeks”). The Settlement Administrator has determined the Workweeks of each Class Member, divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion (“Settlement Class Members”) will be issued their payment of their final Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share (the net payment is referred to as “Individual Settlement Payment”).

Each Individual Settlement Share will be allocated as twenty percent (20%) wages, which will be reported on an IRS Form W-2, and eighty percent (80%) penalties, interest, and non-wage damages, which will be reported on an IRS Form 1099. Each Individual Settlement Share shall be subject to reduction for the employee’s share of payroll taxes due on the wages portion of Individual Settlement Share (the net payment is referred to as the “Individual Settlement Payment”). The employer’s share of payroll taxes and contributions in connection with the wages portion of the Individual Settlement Shares (“Employer Taxes”) will be paid by Defendant separately and in addition to the Maximum Settlement Amount.

PAGA Members are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the PAGA Member Amount (“Individual PAGA Payment”), based on the number of Workweeks of each PAGA Member during the PAGA Period. The Settlement Administrator has divided the total number of Workweeks worked by all PAGA Members during the PAGA Release Period to produce a “Weekly PAGA Value” and multiplied by the number of Workweeks attributable to the individual PAGA Member to derive his or her Individual PAGA Payment (which is listed in Section III.C below).

Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, which will be reported on an IRS Form 1099 (if applicable).

If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members and Individual PAGA Payments will be mailed to PAGA Members at the address that is on file with the Settlement Administrator. **If the address to which this Class Notice was mailed is not correct, or if you move after you receive this Class Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to under the Settlement.**

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s records:

From January 27, 2017 through [March 12, 2023 or another date if escalator clause is triggered per Paragraph 38] (i.e., Class Period), you are credited as having worked [] Workweeks.

From December 7, 2019 through March 12, 2023 (i.e., PAGA Period), you are credited as having worked [] Workweeks.

If you wish to dispute the Workweeks credited to you, you must submit a written dispute that: (1) contains the case name and number of the Action(s) (*Fabian Rivera v. Metro R.F. Services, Inc.*, CIVSB2121607); (2) contains your full name, address, telephone number, signature, and last four digits of your Social Security number; (3) contain a statement setting forth the number of Workweeks during the Class Period and/or PAGA Period that you contend is correct and attach any relevant documentation in support thereof; and (d) is submitted to the Settlement Administrator by mail at the specified address listed in Section IV.B below, postmarked **no later than [Response Deadline]**.

C. Your Estimated Individual Settlement Share and Individual PAGA Payment

As explained above, your estimated Individual Settlement Share and/or Individual PAGA Payment is based on the number of Workweeks credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share.

Under the terms of the Settlement, your Individual PAGA Payment is estimated to be \$ [REDACTED].

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment (if applicable) reflected in this Class Notice is only an estimate. Your actual Individual Settlement Share and/or Individual PAGA Payment (if applicable) may be higher or lower. Payments will be distributed only after the Court grants final approval of the Settlement, and after the Settlement goes into effect.

D. Released Claims

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff and all Settlement Class Members waive, release, and discharge Released Parties of any and all Class Released Claims.

Upon the Effective Date and full funding of the Maximum Settlement Amount, Plaintiff, the State of California, and PAGA Members, waive, release and discharge Released Parties of any and all PAGA Released Claims.

“Class Released Claims” means any and all claims, actions, or cause of action alleged in the Complaint, arising during the Class Release Period, including and not limited to, for failure to properly pay overtime, failure to pay minimum wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages upon termination, during employment and associated waiting-time penalties, failure to provide compliant wage statements, failure to keep requisite payroll records, failure to reimburse necessary business expenses, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders (including, inter alia, Wage Order Nos. 1-2001, 4-2001, 5-2001, and 7-2001), and violation of California Business and Professions Code section 17200 et seq. based on the aforementioned.

“PAGA Released Claims” means any and all claims for civil penalties under the Private Attorneys General Act, California Labor Code Section 2698, et seq. that were alleged in the Complaint or that could have been alleged based upon the facts alleged in the Complaint and/or in the LWDA Notice, arising during the PAGA Release Period, for failure to properly pay overtime, failure to pay minimum wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages upon termination, during employment and associated waiting-time penalties, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in Violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders (including, inter alia, Wage Order Nos. 1-2001, 4-2001, 5-2001, and 7-2001).

“Released Parties” means Defendant and each and all of its past and present parents, subsidiaries, affiliates, and divisions, and their shareholders, officers, directors, employees, partners, attorneys, insurers and reinsurers, predecessors, successors, successors-in-interest, assigns, accountants, auditors, consultants, legal representatives, and any individual or entity that could be jointly or severally liable for any of the Class Released Claims and/or PAGA Released Claims.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to thirty five percent (35%) of the Maximum Settlement Amount (i.e., an amount of up to \$157,500.00) and reimbursement of litigation costs and expenses in an amount of up to Sixteen Thousand Dollars (\$16,000.00) (“Attorneys' Fees and Costs”), subject to approval by the Court. The Attorneys' Fees and Costs granted by the Court will be paid from the Maximum Settlement Amount. Class Counsel has been prosecuting the Actions on behalf of Plaintiff and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Five Thousand Dollars (\$5,000.00) (“Enhancement Award”), in recognition of his services in connection with the Actions. The Enhancement Award will be paid from the Maximum Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment (if applicable) that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Six Thousand Five Hundred Dollars (\$6,500.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion, Notices of Objection, and disputes regarding Workweeks, calculating Individual Settlement Shares and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Maximum Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Class Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Class Claims described in Section III.D above.

If you are a PAGA Member, you will automatically be included in the PAGA Settlement and issued your Individual PAGA Payment. This means you will be bound by the terms of the PAGA Settlement and any judgment that may be entered by the Court based thereon, and you will release the Released PAGA Claims described in Section III.D above.

Class Members and PAGA Members will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless they retain their own counsel, in which event they will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

If you do not wish to participate in the Class Settlement, you must seek exclusion from the Class Settlement by submitting a written request (“Request for Exclusion”), which must: (a) contain the case name and number of the Action(s) (*Fabian Rivera v. Metro R.F. Services, Inc.*, CIVSB2121607); (b) contain your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) clearly state that the Class Member does not wish to be included in the Class Settlement; and (d) be submitted by fax or mail to the Settlement Administrator, postmarked or faxed by **no later than [Response Deadline]** at the following address and/or facsimile number:

[Settlement Administrator]
[Address]
[Fax Number]

If the Court grants final approval of the Settlement, any Class Member who does submit a timely and validly Request for Exclusion will not be entitled to receive an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Class Members who do not submit a Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon. All PAGA Members will be bound to the PAGA Settlement (and the release of Released PAGA Claims described in Section III.D above) and will still be issued an Individual PAGA Payment, regardless of whether they submit a Request for Exclusion.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement as long as you have not submitted a Request for Exclusion, by submitting a written objection (“Notice of Objection”) to the Settlement Administrator or presenting your objection at the Final Approval Hearing.

A Notice of Objection must include: (a) the case name and number of the Action(s) (*Fabian Rivera v. Metro R.F. Services, Inc.*, CIVSB2121607); (b) your full name, signature, address, telephone number, and last four (4) digits of your Social Security number; (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) copies of any papers, briefs, or other documents upon which the objection is based; and (5) be submitted by fax or mail to the Settlement Administrator at the address listed in Section IV.B above, postmarked or faxed **no later than [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department S26 of the San Bernardino County Superior Court, located at San Bernardino Justice Center, 247 West Third Street, San Bernardino, California 92415, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys’ Fees Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

Please visit the Court’s website for the most up-to-date information regarding the impact of COVID-19 on the operations of the Court and any requirements that may apply for accessing Court facilities: <https://www.sb-court.org/>.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and documents filed in the Actions for a fee by visiting the civil clerk’s office, located at 247 West Third Street, San Bernardino, California 92415, during business hours, or by online by visiting the following website: <https://www-sb-court.org/divisions/civil-general-information/court-case-information-and-document-sales>, clicking “Accept (Civil/Appeals), clicking “Click here to access the Portal,” clicking “Smart Search,” and typing in the Court Case Number “CIVSB2121607.”

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT 2

LAWYERS FOR JUSTICE

June 2, 2021

BY ONLINE SUBMISSION

California Labor & Workforce Development Agency
PAGAfilings@dir.ca.gov

Re: METRO RF SERVICES, INC.

Dear Representative:

We have been retained to represent Fabian Rivera against Metro RF Services, Inc. (including any and all affiliates, subsidiaries, parents, directors, officers, and employees) (collectively referred to as "Metro RF Services") for violations of California wage-and-hour laws. Mr. Rivera seeks penalties for violations of the California Labor Code, which are recoverable under California Labor Code section 2698, et seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA") and all other remedies available under PAGA.

Mr. Rivera seeks these remedies on behalf of the State of California and "aggrieved employees," as defined herein. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Metro RF Services employed Mr. Rivera as an hourly-paid, non-exempt employee from approximately February 2020 to approximately July 2020, in the State of California.

The "aggrieved employees" that Mr. Rivera may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California, including, but not limited to all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California who earned shift differentials/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of pay used to calculate the overtime rate.

Based on the following facts and theories, Metro RF Services has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 4-2001, 7-2001, and 16-2001.

Metro RF Services required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Mr. Rivera and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Mr. Rivera and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each meal or rest period that is not provided. During the relevant time period, Metro RF Services required Mr. Rivera and other aggrieved employees to work during meal and rest periods and failed to compensate them properly for non-compliant meal and rest periods including, *inter alia*, short, late, interrupted, and missed meal and rest periods. Metro RF Services also required aggrieved employees to stay on work premises during rest periods.

California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' 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. During the relevant time period, Metro RF Services failed to pay Mr. Rivera and other aggrieved employees all wages due to them within any time period specified by California Labor Code sections 201 and 202, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, Metro RF Services failed to pay Mr. Rivera and other aggrieved employees all wages due to them within any time period specified by California Labor Code section 204, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, Metro RF Services did not provide Mr. Rivera and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from Metro RF Services were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include the total hours worked by Mr. Rivera and other aggrieved employees, including time spent working off-the-clock and during meal and rest periods as discussed above.

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Mr. Rivera and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Mr. Rivera and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Mr. Rivera and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Mr. Rivera and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, 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. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Metro RF Services failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Mr. Rivera and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

California Labor Code sections 1194, 1197, and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, Metro RF Services did not provide Mr. Rivera and other aggrieved employees with the minimum wages to which they were entitled for work performed "off-the-clock."

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, 7-2001, and 16-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Metro RF Services failed to pay Mr. Rivera and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Mr. Rivera and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Metro RF Services failed to pay Mr. Rivera and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Mr. Rivera and the other aggrieved employees

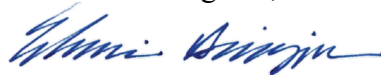
were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Rivera and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Metro RF Services.

Therefore, on behalf of all aggrieved employees, Mr. Rivera seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

With kind regards,

A handwritten signature in blue ink, appearing to read "Edwin Aiwazian".

Edwin Aiwazian, Esq.

Cc: (By U.S. Certified Mail / Return Receipt Requested)

Metro RF Services, Inc.
c/o Patrick George Nakamura
Agent for Services of Process
13745 Bright Water Circle
Eastvale, CA 92880