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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

ISMAEL VIERA and ERIC DAVILA,
individually and on behalf of aggrieved
employees and the State of California,

Plaintiffs,

v.

CRANE ACQUISITION, INC., dba CRANE
PEST CONTROL, ROLLINS, INC., ORKIN,
LLC, and DOES 1-20, inclusive,

Defendants.

Case No. CGC-22-597870

**SUPPLEMENTAL DECLARATION OF
RACHEL BIEN IN SUPPORT OF
PLAINTIFFS' MOTION FOR APPROVAL
OF PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT**

Date: January 21, 2025

Time: 1:30 P.M.

Dept.: 305

Hon. Mary E. Wiss

1 I, Rachel Bien, hereby declare and state as follows:

2 1. I make this Supplemental Declaration of my own personal knowledge, and if called
3 to testify, I could and would testify completely to the matters stated herein.

4 2. I am an attorney duly licensed to practice law in the State of California. I am a
5 partner in the law firm of Olivier & Schreiber PC (“O&S”) and together with Rissell Law APC,
6 represent Plaintiffs Ismael Viera and Eric Davila in the above-captioned matter. I submit this
7 declaration in further support of Plaintiffs’ Unopposed Motion for Approval of PAGA Settlement.

8 3. As the Court noted in its Tentative Ruling (“Tentative”), the declaration of Melody
9 Rissell Leonard mistakenly stated that Plaintiff Ismael Viera filed his notice with the Labor
10 Workforce Development Agency on July 30, 2020, rather than on July 30, 2021. Attached as
11 **Exhibit A** are true and correct copies of the notices that Plaintiffs submitted to the Labor &
12 Workforce Development Agency on July 30, 2021 and April 10, 2024.

13 4. Defendants’ counsel, Ryan Wheeler, informed me on January 9, 2025 that as the
14 parent company of Crane and Orkin, Rollins is entirely funding the Settlement.

15 5. Based on updated data Defendants provided to us on December 27, 2024, the number
16 of PAGA Settlement Members who are eligible to receive a payment from the Settlement for the
17 allegedly unlawful non-compete provision is 3,521. The updated data reflects a total of 158,996
18 Eligible Pay Periods, *i.e.*, those pay periods for which a penalty is owed to PAGA Settlement
19 Members.

20 6. Of the 3,521 PAGA Settlement Members, 1,388 are eligible to receive a payment
21 from the Settlement for the allegedly unlawful pay card violation.

22 7. The plan of allocation calls for allocating the PAGA penalties for the non-compete
23 provision to PAGA Settlement Members on a basis proportional to the number of pay periods
24 worked, and to allocate an additional pro rata pay period violation to those PAGA Settlement
25 Members who were paid their final pay by pay card. (*See* Settlement Agreement, ¶ 4.6.)

26 8. The Tentative requested additional detail regarding the range of payments to PAGA
27 Settlement Members. (Tentative at 3.) The lowest payments will be \$2.77 for 17 PAGA Settlement
28

Members who each worked one Eligible Pay Period, and the highest payments will be \$295.99 for 624 PAGA Settlement Members who each worked for the duration of the PAGA Settlement Period, a period of approximately 53 months. The median payment is \$85.75 and the average payment is \$124.91.

9. The Tentative requested clarification as to the total Gross Settlement Amount as a result of the escalator clause in the Settlement Agreement. (Tentative at 3.) Although the updated data that Defendants provided added 206 PAGA Settlement Members, the number of Eligible Pay Periods did not increase by more than 10%, and thus, the escalator clause was not triggered. As a result, Defendants will not be required to pay more than the \$2.9 million Gross Settlement Amount.

10. The Tentative requested clarification as to a date certain for the end of the release period. (Tentative at 3-4). The Settlement Agreement states that PAGA Settlement Members will release claims within the PAGA Period, which is defined as ending on January 10, 2025, the original hearing date for the Motion for Approval to be heard. (*See* Settlement Agreement, ¶¶ 1.17, 5.1.)

11. If Plaintiffs had prevailed at trial and the Court had awarded the highest potential penalty of \$100 for each of the four pay card-related violations (Labor Code §§ 201/202, 212, 213, and 221), the 1,388 relevant PAGA Settlement Members would be entitled to \$100 each, totaling to \$138,300. This constitutes less than 1% of Plaintiffs' best possible recovery at trial, which they estimated to be approximately \$18 million. The proposed settlement therefore allocates approximately the same percentage of the fund to the alleged pay card violations, relative to the more extensive non-compete violations, *i.e.*, approximately 1% of the \$439,817.52 for PAGA Settlement Members will be allocated to those PAGA Settlement Members who were paid their final wages on a pay card. Based on this allocation, each PAGA Settlement Member who was paid their final wages on a pay card will receive the equivalent of one additional Eligible Pay Period, or \$2.77, on top of their award attributable to the non-compete violation.

12. The Tentative correctly notes that the information in my declaration submitted in support of the Motion regarding Hannah Shirey's work on the case erroneously references "appeals." In this case, Ms. Shirey performed legal research early in the matter before the complaint

1 was filed, drafted the complaint, drafted the initial PAGA notice, and drafted an initial set of
2 discovery requests.

3 13. This case presented significant risk as to both liability and penalties. In particular,
4 California courts have not squarely addressed whether non-competes that violate Section 16600 of
5 the Business & Professions Code also violate Labor Code § 432.5 giving rise to a PAGA violation,
6 but there are several unfavorable federal court decisions. This was the thrust of Defendants' Motion
7 *in Limine* No. 2, which argued that Plaintiffs could not establish a section 432.5 violation until
8 January 1, 2024, when Section 16600 was amended to expressly provide that non-competes are
9 unlawful and not merely void. If Defendants had prevailed on their argument, it would have
10 severely limited the liability period from more than four years (from July 30, 2020) to just the period
11 after January 1, 2024.

12 14. California courts have also not resolved how to award PAGA penalties for section
13 432.5 violations. Defendants argued that aggrieved employees are entitled to just one penalty for
14 the pay period in which they signed the non-compete, whereas Plaintiffs argued they are entitled to
15 a penalty for every pay period during which they were subject to the non-compete. Under
16 Defendants' theory, the best possible recovery that Plaintiffs could have achieved if they had
17 established liability under section 432.5 for the full liability period would have been \$352,100 (*i.e.*,
18 a one-time \$100 penalty for 3,521 employees). The proposed settlement, on the other hand, secures
19 far more—\$2.9 million, with over \$1.7 million allocated to the State and PAGA Settlement
20 Members.

21 15. My co-counsel and I repeatedly invited Defendants to discuss settlement at every
22 juncture—early in the litigation before substantial discovery was taken, after summary adjudication
23 was granted but before trial preparation had begun, and in the early stages of trial preparation before
24 it was completed. However, Defendants remained resistant to a negotiated resolution. For example,
25 after initially agreeing to an early mediation, Defendants cancelled at the last minute, and a second
26 mediation was cut short by Defendants even though Plaintiffs were willing to continue negotiating.
27 The parties then engaged in direct settlement negotiations just prior to trial, but Defendants cut
28

1 those off abruptly without explanation. Plaintiffs also attempted to resolve the case with Defendants
2 at a final settlement conference, but those efforts, too, were unsuccessful.

3 16. Each time we engaged in settlement negotiations, my co-counsel and I made
4 significant efforts to achieve a resolution and did the necessary preparatory work, including
5 performing damages calculations and/or preparing position statements, to engage in negotiations.
6 Despite our willingness to engage in settlement negotiations, it was only on the first day of trial,
7 after all of the trial preparation work was completed and we demonstrated that we would ably try
8 the case, that the parties were able to reach a reasonable settlement.

9 17. Defendants' discovery tactics also drove up my firm's fees and costs and those of
10 my co-counsel's firm. Defendants' discovery responses were almost always deficient and
11 frequently failed to provide any responses or documents at all—only objections. This required my
12 co-counsel and I to spend a great deal of time and effort meeting and conferring and documenting
13 the deficiencies before Defendants would agree to supplement their responses. It also required us
14 to file motions to compel, including a successful motion to compel further responses to Plaintiffs'
15 first set of discovery requests.

16 18. We also had to file an *ex parte* motion to compel on August 30, 2024, after
17 Defendants failed to produce updated employee data, deposition witnesses, and other discovery that
18 they had agreed to produce. The *ex parte* motion was time-consuming but necessitated by
19 Defendants' unreasonable foot-dragging and refusal to meet the commitments they had made.

20 19. Despite these challenges, my firm and my co-counsel's firm displayed great skill in
21 litigating this case. We obtained summary adjudication of the section 432.5 violation, working as
22 efficiently as possible under the circumstances to muster the documentary and testimonial evidence
23 they needed to prevail on the motion. Although the Court denied summary adjudication on the
24 alleged pay card violations, which also presented novel liability questions for which there was scant
25 authority, we mustered considerable evidence supporting those violations as well.

26 20. For example, my co-counsel and I successfully negotiated with the third-party pay
27 card issuer, Netspend, to provide information on pay card fees incurred by aggrieved employees
28

1 that Netspend initially refused to produce in response to Plaintiffs’ subpoenas. As a result of these
2 negotiations, Netspend also agreed to produce a corporate representative witness to respond to
3 questions about the fees at a deposition even though the company was outside the reach of the
4 Court’s subpoena power. These negotiations required several rounds of meet and confers, and
5 ultimately resulted in beneficial compromises that avoided motion practice and ensured that
6 Plaintiffs obtained the information they needed to prove the pay card violations at trial.

7 21. Attached as **Exhibit B** are true and correct copies of the Employment Agreements
8 signed by Plaintiffs Viera and Davila.

9 22. Attached as **Exhibit C** is a true and correct copy of a cost itemization for Rissell
10 Law, APC.

11 23. Attached as **Exhibit D** is a true and correct copy of a cost itemization for Olivier &
12 Schreiber PC.

13 24. Attached as **Exhibit E** is a true and correct copy of Plaintiffs’ Trial Brief, which was
14 filed on October 20, 2024.

15 25. Attached as **Exhibit F** is a true and correct copy of the First Amended Complaint,
16 which was filed on September 12, 2024.

17 26. My firm and my co-counsel’s firm do not have any relationship with Legal Aid At
18 Work (“LAAW”), the proposed Cy Pres Beneficiary, that would render it an inappropriate
19 beneficiary. Lawyers from my firm and Rissell Law have volunteered at the LAAW Workers Rights
20 clinic and Olivier & Schreiber has two cases in which LAAW serves as co-counsel. These cases
21 are: *Jane Doe v. DISA Global Solutions, Inc. et al.* (Case No. 2:24-cv-08380-MCS-PVC S.D.
22 Cal.), and *Alma Rossio Zamarripa Solorio and Melissa Viviana Covarrubias v. SBS Franchising,*
23 *LLC et al.* (Case No. 37-2024-00029829-CU-OE-CTL, San Diego Super. Ct.).

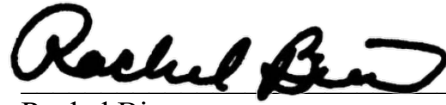
24 27. Attached as **Exhibit G** is a true and correct copy of the Declaration of Joan Graff,
25 President of Legal Aid At Work, dated January 7, 2025.

26 28. Attached as **Exhibit H** is a true and correct copy of the bid from the proposed
27 Settlement Administrator, Strategic Claims Services.

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

3 Executed on January 14, 2025 in Los Angeles, California.

4
5 **OLIVIER & SCHREIBER PC**

6 
7

Rachel Bien

8 *Attorneys for Plaintiffs and*
9 *Aggrieved Employees*

EXHIBIT A



Pleasanton:
4900 Hopyard Road, West Lobby, Suite 100
Pleasanton, California 94588
Mailing Address

Melody R. Rissell, Esq.*
Telephone: (415) 874-7288
Facsimile: (415) 874-7292
*Licensed in Nevada and California

San Francisco:
201 Spear Street Suite 1100
San Francisco, California 94105

July 30, 2021

NOTICE & PAYMENT VIA: ONLINE SUBMISSION

California Labor & Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

VIA: CERTIFIED U.S. MAIL (receipt acknowledgment with signature requested)

Crane Acquisitions, Inc.
2700 Geary Blvd.
San Francisco, CA 94118

Rollins, Inc.
2170 Piedmont Road NE
Atlanta, GA 30324

Orkin, LLC
2170 Piedmont Road NE
Atlanta, GA 30324

RE: PAGA NOTICE PURSUANT TO LABOR CODE SECTION 2699.3

To Whom It May Concern:

Our firms represent Ismael Viera, a former employee of Crane Acquisitions, Inc. d/b/a/ Crane Pest Control, Rollins, Inc., and Orkin, LLC (collectively, "Defendants"). Mr. Viera is informed and believes that Crane Acquisitions, Inc. does business as Crane Pest Control and does business as and/or jointly with Rollins, Inc., a Delaware Corporation with its principal place of business in Atlanta, Georgia. Crane Acquisition, Inc.'s Principal Office in California is located at 2700 Geary Boulevard San Francisco, CA 94118. Mr. Viera is informed and believes that Rollins, Inc. does business as and/or jointly with Orkin, LLC, a Delaware LLC.

Pursuant to the Private Attorneys General Act (“PAGA”), Labor Code section 2699.3, Mr. Viera hereby provides notice to the Labor and Workforce Development Agency and Defendants of the certain violations of the California Labor Code against Mr. Viera and all aggrieved employees. In particular, Mr. Viera alleges that Defendants have violated and continue to violate sections 201-04, 212-13, 223, 226, 227.3, 232.5, 432.5, 1174, and 1174.5 of the California Labor Code and related provisions of Wage Order 5-2001. These allegations are based upon the following facts:

Requiring an Employee to Agree to Unlawful Terms and Conditions of Employment

Mr. Viera worked for Defendants from October 2019 to August 2020 as a Commercial Initial Start Specialist. At the time Mr. Viera began his employment, Defendants required him to execute an employment agreement. That agreement included unlawful terms and conditions including, but not limited to: a non-competition clause, a fourteen (14) day notice requirement prior to resignation, and prohibitions against employee disclosure of working conditions. The employment agreement is a standardized agreement provided to Defendants’ employees on a non-negotiable basis throughout California. By requiring its employees to agree to unlawful terms and conditions of employment, Defendants violate Labor Code section 432.5. By requiring its employees refrain from disclosing working conditions, Defendants violate Labor Code section 232.5.

Failure to Pay Wages Via a Lawful Form of Payment

For the first several months of Mr. Viera’s employment, Defendants paid him by paper bank checks. Starting in or around February 2020, Defendants issued Plaintiff a Netspend payroll debit card, which replaced paper bank checks as Defendants’ method of hourly wage payment. Mr. Viera did not consent to receive his pay via payroll debit card, nor was he offered any alternative means to receive his wages. Using the Netspend payroll debit card was burdensome and costly for Mr. Viera. In order to access his wages using the Netspend payroll debit card, Mr. Viera incurred fees. By failing to pay wages via a lawful form of payment, Defendants violate Labor Code sections 212 and 213.

Failure to Provide Contractually Promised Pay

In order to access wages using the Netspend payroll debit card, Mr. Viera and all aggrieved employees incurred fees, thus reducing compensation below the compensation promised by Defendants. By paying its employees a lower wage than the wage designated by contract, Defendants violate Labor Code section 223.

Failure to Provide Accurate Wage Statements

Mr. Viera and all aggrieved employees did not receive accurate or itemized wage statements. In fact, Mr. Viera did not receive any pay statements from February 2020 until his termination in October 2020. In all likelihood, Mr. Viera was not the only employee who was not given pay statements. The wage statements provided to Mr. Viera prior to February 2020, and all aggrieved employees, failed to accurately list all employers (*i.e.*, Orkin), total hours worked,

overtime hours worked, overtime pay rates, and premium wages for denied lawful meal and rest periods. Counsel for Mr. Viera confirmed this upon receipt of Mr. Viera's personnel file from Rollins, Inc. Consequently, the wage statements failed to accurately reflect actual gross wages and actual net wages earned. Because of these inaccurate paystubs, Mr. Viera and aggrieved employees were never aware of what their true wages should have been and how they were calculated and suffered injury as a result. Defendants' conduct violates Labor Code sections 226 and 1174 and Wage Order 5-2001.

Failure to Comply with Semimonthly Payment of Wages

Mr. Viera and all aggrieved employees were not paid their wages within the time allowed by law. Labor performed between the 1st and 15th days of the month must be paid for between the 16th and 26th day of the month. Labor performed between the 16th and last day of the month must be paid for between the 1st and the 10th day of the following month. Labor Code section 204. Mr. Viera's wage payments were not made semi-monthly as required by section 204. Instead, payments were often late. Mr. Viera was told that the delayed payments were due to the procedure Defendants chose to follow, whereby Rollins, Inc. would mail Mr. Viera a payroll debit card (or "Netspend paycard") from Georgia to the San Francisco Crane Acquisitions, Inc. office. From there, someone at the San Francisco Crane Acquisitions, Inc. office would mail the card to Mr. Viera's home. This caused Mr. Viera to be paid late from February 2020, when he first began receiving payroll debit cards from Defendants, until his termination in October 2020. This conduct violates California Labor Code section 204.

Willful Failure to Pay All Wages Due Upon Separation

When employees are separated from employment with Defendants, Defendants are required to pay them all wages due. Defendants have willfully failed to pay Mr. Viera and all aggrieved employees who have separated the wages due, in violation of Labor Code sections 201-203 and 227.3. Specifically, Defendants willfully failed to promptly pay final vested vacation wages and all wages because Defendants delayed payments, as explained above, through their procedure of using Netspend payroll debit cards. Because of Defendants' conduct, each former employee for whom such wages were not paid is entitled to an additional payment of up to thirty days' wages under Labor Code section 203.

Failure to Keep Accurate Payroll Records

Based on Defendants' conduct as explained above, Defendants failed to keep accurate payroll records. Defendants are therefore jointly liable to Mr. Viera and all aggrieved employees for failing to maintain accurate payroll records in violation of Labor Code sections 1174 and 1174.5, and Wage Order No. 5-2001 § 7.

Conclusion

Mr. Viera is informed and believes that Defendants will continue to violate the Labor Code through conduct similar to the above allegations. Defendants are subject to penalties for all of the conduct outlined above.

We provide this notice to allow Mr. Viera to proceed with claims for civil penalties under PAGA on behalf of himself and all aggrieved employees if you decline to investigate and prosecute. If you elect not to investigate, please notify this office within the time period set forth in Labor Code § 2699.3(a) so that Mr. Viera can pursue the legal remedies provided by PAGA. Mr. Viera reserves the right to add to any filed lawsuit additional labor law violations committed against him and all aggrieved employees.

If you have any questions or concerns regarding the above, please do not hesitate to contact our offices. Thank you for your time and consideration of this matter.

Sincerely,



Rissell Law Firm
Melody R. Rissell, Esq.



Monique Olivier,
Olivier Schreiber & Chao LLP

7021 0950 0001 2847 5009

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☐ Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.55	
Total Postage and Fees	\$7.00	07/30/2021

Sent To Rollins, Inc.
Street and Apt. No., or PO Box No.
2170 Piedmont Rd NE
City, State, ZIP+4®
Atlanta, GA 30324

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See Reverse for Instructions

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☐ Return Receipt (electronic)	\$0.00	
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☐ Adult Signature Required	\$0.00	
☐ Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.55	
Total Postage and Fees	\$7.00	07/30/2021

Sent To Crane Acquisition, Inc.
Street and Apt. No., or PO Box No.
2700 Geary Blvd
City, State, ZIP+4®
San Francisco, CA 94118

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions



475 14th Street, Suite 250, Oakland, CA 94612 | main: 415 484 0980 | info@os-legal.com
www.os-legal.com

April 10, 2024

NOTICE & PAYMENT VIA: ONLINE SUBMISSION

California Labor & Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

VIA: CERTIFIED U.S. MAIL (receipt acknowledgment with signature requested)

Rollins, Inc.
2170 Piedmont Road NE
Atlanta, GA 30324

Orkin, LLC
2170 Piedmont Road NE
Atlanta, GA 30324

**RE: PAGA NOTICE PURSUANT TO LABOR CODE SECTION 2699.3;
Related Matter: LWDA-CM-839860-21**

Dear PAGA Administrator:

Our firms represent Eric Davila, who was employed by Rollins, Inc. and its subsidiary, Orkin, LLC (together, “Defendants”), as a route manager from February 17, 2022 through September 25, 2023 in San Jose, California. Pursuant to the Private Attorneys General Act (“PAGA”), Labor Code section 2699.3, Mr. Davila hereby provides notice to the Labor and Workforce Development Agency and Defendants of Defendants’ violations of the California Labor Code against Mr. Davila and aggrieved employees. In particular, Mr. Davila alleges that Defendants have violated and continue to violate Labor Code sections 201-202, 212-213, 221, and 432.5, as described below.

This notice is related to an earlier notice filed by Ismael Viera against Rollins, Inc., Orkin, LLC, and Crane Acquisition, Inc., alleging the same Labor Code violations on behalf of the same group of aggrieved employees. Mr. Viera filed a lawsuit after he filed his PAGA notice titled, *Viera v. Crane Acquisition, Inc., et al.*, Case No. CGC-22-597870, which is currently pending in San Francisco Superior Court. The allegations in this notice relate back to Mr. Viera’s original PAGA notice, LWDA-CM-839860-21, and are likewise based upon the following facts:

- Defendants violated Labor Code § 432.5 by requiring Mr. Davila and aggrieved employees to sign an Employment Agreement containing unlawful non-compete and non-solicitation terms. The Employment Agreement is a form contract that Defendants required Mr. Davila and aggrieved employees to sign upon hire.
- Defendants violated Labor Code § 213(d) by requiring Mr. Davila and aggrieved employees to be paid their final wages via a payroll debit card issued by a third-party vendor without first obtaining employees' consent to such form of payment. In addition, when using the pay card to access their wages, Mr. Davila and aggrieved employees incurred fees which reduced their wages and prevented Mr. Davila and aggrieved employees from receiving their wages in full, in violation of Labor Code §§ 201-202, 212(a)(1). The fees constitute unlawful deductions under Labor Code § 221. Mr. Davila and aggrieved employees also were not provided with payroll checks with their pay cards that listed the name and address of a bank or location in California where the checks could be cashed, in violation of Labor Code § 212(a)(1).

Mr. Davila is an aggrieved employee because he was subject to one or more of the violations above and was employed by Defendants.

We provide this notice to allow Mr. Davila to join Mr. Viera as a Plaintiff in the pending lawsuit, so that he can proceed with claims for civil penalties under PAGA on behalf of himself, all aggrieved employees, and the State of California if you decline to investigate and prosecute the claims. If you elect not to investigate, please notify us within the time period set forth in Labor Code § 2699.3(a) so that Mr. Davila can pursue the legal remedies provided by PAGA.

If you have any questions or concerns regarding the above, please do not hesitate to contact our offices. Thank you for your time and consideration of this matter.

Sincerely,



Rissell Law, APC
Melody Rissell Leonard



Olivier & Schreiber LLP
Rachel Bien

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Total Postage & Fees	\$
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Sent To Rollins, Inc.	
Street & Apt. No., or PO Box No. 2170 Piedmont Road NE	
City, State, ZIP+4 Atlanta, GA 30324	
PS Form 3800, July 2014 See Reverse for Instructions	

EXHIBIT B

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into on the date on the reverse side between ROLLINS, INC., a Delaware corporation, and its parents, subsidiaries, affiliates, successors and assigns (hereafter referred to as "the Company") and "the Employee."

WITNESSETH:

The Company is engaged in the pest control, bed bug control, exterminating, fumigating and termite control business. The Employee acknowledges that so long as the Company shall employ the Employee, the Employee shall have substantial and significant contact producing goodwill with, and will gain valuable and confidential information concerning, the Company's customers and prospective customers, such that irreparable injury to the Company would result should the Employee use said customer contact, goodwill, or information against the Company's best interests during his/her employment or after termination. The customers, clientele and accounts of the Company have been solicited by the Company through its sales representatives, marketing efforts and advertising media, and a valuable and extensive trade has been established thereby at great expense to the Company.

The Employee agrees that he/she has voluntarily entered into this Agreement with the Company, fully understands the terms and conditions hereof, and further acknowledges that the restrictions of this Agreement are reasonably necessary for the protection of the business and goodwill of the Company, and that the Company will sustain great and irreparable loss and damage if Employee should violate the covenants set forth in paragraph 5 below.

1. The Company hereby employs the Employee and agrees to compensate the employee in accordance with the compensation set forth in the Employee Profile maintained by the Company and the current Bonus Plan, if applicable, with the conditions and modifications found in the compensation plans of the Company now in effect as these may be applicable to the Employee's job position and functions within the Company. The Employee's compensation may be changed periodically in accordance with Bonus Plans and compensation plans which may be adopted by the Company from time to time in its discretion, but despite such changes all other provisions of this Agreement shall remain in full force and effect.

2. (a) When any customer or account serviced by the Employee hereunder makes payment in advance of any sums due under a pest control contract, it is expressly understood that the Employee's entitlement to any commission may be computed (at the option of the Company) and paid to him/her on a monthly pro-rata basis, said pro-rata commission payments being then confined to only those months when the account is actually serviced by the Employee. The Employee understands and agrees that the provisions of this paragraph are meant to apply only in the event that the job position and functions of the Employee authorize the sale and/or servicing of pest control accounts and the payment of a commission thereon to the Employee.

(b) It is agreed and understood that if a pest control contract, sold by the Employee hereunder, is cancelled prior to the expiration date of the initial term of the contract, and the Company fails to receive all sums due thereunder, the Employee (whether or not in the active employ of the Company) shall refund an amount in commission proportionate to the amount due and uncollected by the Company.

(c) On contracts sold by the Employee that are serviced by the termite department, the Company shall be obligated to pay commissions only on sums actually paid to and collected by the Company during the period of Employee's employment. It is further agreed and understood that if a contract, serviced by the termite department and financed through Rollins Acceptance Corporation, is not paid in full by the customer and a portion or all of it is either allowed or charged to bad debt, the Employee (whether or not in the active employ of the Company) agrees to refund to the Company an amount in commission proportionate to the amount uncollected by the Company.

(d) In the event the Company, in the exercise of its reasonable judgment, determines to refund any customer payment made under a contract sold or serviced by the Employee, or in the event of such refund is made pursuant to the request or order of any tribunal or agents thereof, the Employee agrees to refund to the Company all related commissions.

(e) The provisions in Paragraph 2 are not intended to confer upon the Employee entitlement to the sale of contracts other than as contemplated by Paragraph 1, or the payment of additional compensation to that contemplated in Paragraph 1. In the event that there is any conflict or inconsistency between the provisions of this Paragraph 2 and those of Paragraph 1 above, the provisions of said Paragraph 1 shall control.

3. The Employee hereby grants to the Company the right and authority to withhold any sums of money due the Employee and to apply the same to any indebtedness of the Employee owing to the Company.

4. The Employee does understand and agree that all funds received by him/her on behalf of the Company shall be held in trust, and he/she shall keep a true and accurate account of the collections received by him/her from customers of the Company and shall turn in and account for any and all funds collected. The Employee shall be responsible for any and all technical data, books, equipment, chemicals, customer lists, customer treatment specifications, pricing information or other property of the Company which may come into his/her possession by reason of his/her employment. In the event this employment is terminated for any reason whatsoever, the Employee shall immediately turn in to the Company and account for all such equipment and property and shall be entitled, at such termination, only to such sums of money as may be due to him/her under the provisions herein.

5. The Employee hereby expressly covenants and agrees that he/she will not, during the term of his/her employment for any reason whatsoever, directly or indirectly, engage in any competitive pest control, bed bug control, exterminating, fumigating, termite control, wildlife control, or lawn care business on behalf of himself/herself or another business entity, in a capacity identical with or substantially similar to the capacity in which he/she was employed with the Company. The Employee further agrees that he/she will not, during the term of his/her employment and for a period of eighteen (18) months immediately following the termination of his/her employment, for any reason whatsoever, directly or indirectly, for himself/herself or on behalf of, or in conjunction with, any other person, firm, company, partnership or corporation:

(a) Call upon any customer or customers of the Company with whom he/she had contact, whether directly or in a supervisory capacity during his/her employment with the Company, while using the Company's confidential information (as defined in Paragraph 7 below), in order to solicit or sell any pest control, exterminating, fumigating, termite control, wildlife control or lawn care service for the eradication or control of, without limitation, rats, mice, roaches, bugs, vermin, termites, beetles or other insects, rodents, wildlife and birds.

(b) Directly or indirectly, alone or in any capacity, solicit or in any manner attempt to solicit or induce any person or persons employed by the Company, or any parent, subsidiary, affiliate or successor corporation, to leave such employment or to breach his/her employment agreement with the Company.

EXHIBIT 2

Witness: Firth

Date: 6/26/23

Certified Reporter: PT CSR #5229

ROLLINS_000085

6. The Company and the Employee agree that the prohibitions contained in Paragraph 5 or any of its subparagraphs are severable, and the unenforceability of any specific covenant shall not affect the validity of any other covenant set forth therein.

7. (a) The Employee understands and agrees that the nature of the Company's business, customer names, customer lists, pricing information, treatment specifications, treatment protocols and frequency, information with respect to the personnel, the methods and systems used by the Company in conducting its business, pricing policies, training and education received by the Employee, technical bulletins of the Company, manuals, profit and loss information and other related internal business information are all of a confidential nature and are valuable assets of the Company. Employee acknowledges that he/she is required to maintain the security and confidentiality of Company information and data that resides within the Company's systems, equipment and IT network. Employee agrees that, upon termination of employment, he/she will return to the Company all such confidential information and documents, including electronic data and files, referred to in the preceding sentence and will not make copies of such materials, will not furnish such information or materials to anyone other than those within the Company authorized to receive such information, and, for a period of three (3) years after Employee's termination, will not use or divulge such material and information. This provision shall not affect the prohibition on Employee's use or disclosure of Company's trade secrets, which is of indefinite duration, and which Employee agrees that he/she will not use or disclose, at any time, in an effort to solicit any customer of the Company with whom he/she had contact, whether directly or in a supervisory capacity during his/her employment, in order to solicit or sell any pest control, exterminating, fumigating, termite control, wildlife control or lawn care service for the eradication or control of, without limitation, rats, mice, roaches, bugs, vermin, termites, beetles or other insects, rodents, wildlife and birds.

(b) The Company and the Employee understand and agree that employment may be terminated by either party upon the giving of fourteen (14) days notice to the other. Said employment may also be terminated at the sole and exclusive option of the Company upon the payment to the Employee of a sum equal to one-sixth (1/6) the total base salary (but no commissions), or draw, paid to the Employee during the three (3) complete calendar months immediately preceding the date of termination of employment, and the payment of said sum to the Employee shall be in lieu of, and satisfaction of, any notice requirement whatsoever. Provided, however, that the Company, at any time, may terminate said employment, at its option and without notice or payment of any terminal compensation, if the Employee shall conduct himself/herself in such a manner as to injure or endanger the reputation of the Company, become involved in any offense involving moral turpitude, violate an established company policy, unsatisfactorily perform his/her job duties, fail to faithfully perform his/her duties in a manner in keeping with this Agreement and the rules and regulations of the Company, or fail to comply with the Company's procedures for ensuring strict compliance with these requirements. Such terminations shall be without prejudice to the Company's rights and remedies by virtue of the terms and conditions of this Agreement. No provision of this Agreement or of any policies, manuals or handbooks of the Company shall be construed as giving the Employee the right to be retained in the employment of the Company for any period of time, as his/her employment is strictly at will.

8. The Company and Employee agree and understand that these covenants on the part of the Employee shall be construed as an agreement independent of any other provision in this Agreement and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of said covenants. The Company and the Employee further agree that the provisions contained in this Agreement, including but not limited to the prohibitions contained in Paragraph 5 or any of its subparagraphs, are severable, and the invalidity or unenforceability of any specific covenant shall not affect the validity of any other covenant set forth herein. Further, the Company and the Employee specifically agree that the provisions contained in Paragraph 5 or any of its subparagraphs are intended and shall be deemed to be enforceable to the fullest extent of the applicable law, and that in the event a court of competent jurisdiction determines that any such provision is excessively broad as to time, geography, scope, activity or subject so as to be unenforceable under applicable law, such provision or provisions shall be construed by the appropriate judicial body by limiting and reducing it or them, so as to be enforceable to the maximum extent compatible with the applicable law as it shall then exist.

9. The provisions of this agreement shall extend to the successors, surviving corporations and assigns of the Company and to any purchaser of substantially all of the assets and business of the Company. The term "Company" shall be deemed to include any corporation, a majority of stock of which is owned by the Company.

10. This contract includes the entire agreement of the parties. No alteration, modification, or change of this agreement whatsoever, including any alleged inducement made to the Employee to enter into this agreement, shall be claimed unless in writing and executed on behalf of the Company by an authorized Company representative and the Employee.

11. All of the rights of the Company and the Employee hereunder shall be cumulative and not alternative, but a waiver of indulgence on the part of the Company or the Employee of any rights and entitlements hereunder shall not be construed as a waiver of any other rights and entitlements hereunder by either the Company or the Employee. No notice shall be required by the Company to enforce strict adherence to all terms of this Agreement.

12. The Employee understands and agrees that a violation of this Agreement by the Employee would cause irreparable harm and damage to the Company. The Employee further acknowledges that should he/she breach this Agreement, the Company is entitled to enforcement of this Agreement by injunction, as well as entitled to recover money damages for the loss sustained and the profit of which the Company has been deprived. In the event the Company institutes legal proceedings to enforce this Agreement, the Company is entitled to recover all costs and expenses, including reasonable attorney fees, associated with successfully enforcing this Agreement through trial and any subsequent appeal.

13. THE EMPLOYEE HEREBY ACKNOWLEDGES HAVING READ THE ENTIRE CONTENTS OF THIS AGREEMENT BEFORE SIGNING HIS/HER NAME BELOW, AND THAT HE/SHE HAS RECEIVED A COPY THEREOF FOR HIS/HER OWN USE. IN WITNESS WHEREOF, the Company and the Employee have executed this Employment Agreement, the Company acting through its duly authorized agents.

COMPANY: Crane Acquisition, Inc.

By: Sue L. Nguyen
Electronically Signed By

Title: Region Manager

Date: 10/20/2019

Manager Handwritten Signature:

X. Q. Ward 10/21/19

EMPLOYEE: Ismael Joshua Viera

Ismael Joshua Viera
Electronically Signed By

Employee's Signature

Comm Initial Service...

Position

Date: 10/20/2019

Employee Handwritten Signature:

[Signature] 10/20/2019

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into on the date on the reverse side between ROLLINS, INC., a Delaware corporation, and its parents, subsidiaries, affiliates, successors and assigns (hereafter referred to as "the Company") and "the Employee."

WITNESSETH:

The Company is engaged in the pest control, bed bug control, exterminating, fumigating and termite control business. The Employee acknowledges that so long as the Company shall employ the Employee, the Employee shall have substantial and significant contact producing goodwill with, and will gain valuable and confidential information concerning, the Company's customers and prospective customers, such that irreparable injury to the Company would result should the Employee use said customer contact, goodwill, or information against the Company's best interests during his/her employment or after termination. The customers, clientele and accounts of the Company have been solicited by the Company through its sales representatives, marketing efforts and advertising media, and a valuable and extensive trade has been established thereby at great expense to the Company.

The Employee agrees that he/she has voluntarily entered into this Agreement with the Company, fully understands the terms and conditions hereof, and further acknowledges that the restrictions of this Agreement are reasonably necessary for the protection of the business and goodwill of the Company, and that the Company will sustain great and irreparable loss and damage if Employee should violate the covenants set forth in paragraph 5 below.

1. The Company hereby employs the Employee and agrees to compensate the employee in accordance with the compensation set forth in the Employee Profile maintained by the Company and the current Bonus Plan, if applicable, with the conditions and modifications found in the compensation plans of the Company now in effect as these may be applicable to the Employee's job position and functions within the Company. The Employee's compensation may be changed periodically in accordance with Bonus Plans and compensation plans which may be adopted by the Company from time to time in its discretion, but despite such changes all other provisions of this Agreement shall remain in full force and effect.

2. (a) When any customer or account serviced by the Employee hereunder makes payment in advance of any sums due under a pest control contract, it is expressly understood that the Employee's entitlement to any commission may be computed (at the option of the Company) and paid to him/her on a monthly pro-rata basis, said pro-rata commission payments being then confined to only those months when the account is actually serviced by the Employee. The Employee understands and agrees that the provisions of this paragraph are meant to apply only in the event that the job position and functions of the Employee authorize the sale and/or servicing of pest control accounts and the payment of a commission thereon to the Employee.

(b) It is agreed and understood that if a pest control contract, sold by the Employee hereunder, is cancelled prior to the expiration date of the initial term of the contract, and the Company fails to receive all sums due thereunder, the Employee (whether or not in the active employ of the Company) shall refund an amount in commission proportionate to the amount due and uncollected by the Company.

(c) On contracts sold by the Employee that are serviced by the termite department, the Company shall be obligated to pay commissions only on sums actually paid to and collected by the Company during the period of Employee's employment. It is further agreed and understood that if a contract, serviced by the termite department and financed through Rollins Acceptance Corporation, is not paid in full by the customer and a portion or all of it is either allowed or charged to bad debt, the Employee (whether or not in the active employ of the Company) agrees to refund to the Company an amount in commission proportionate to the amount uncollected by the Company.

(d) In the event the Company, in the exercise of its reasonable judgment, determines to refund any customer payment made under a contract sold or serviced by the Employee, or in the event of such refund is made pursuant to the request or order of any tribunal or agents thereof, the Employee agrees to refund to the Company all related commissions.

(e) The provisions in Paragraph 2 are not intended to confer upon the Employee entitlement to the sale of contracts other than as contemplated by Paragraph 1, or the payment of additional compensation to that contemplated in Paragraph 1. In the event that there is any conflict or inconsistency between the provisions of this Paragraph 2 and those of Paragraph 1 above, the provisions of said Paragraph 1 shall control.

3. The Employee hereby grants to the Company the right and authority to withhold any sums of money due the Employee and to apply the same to any indebtedness of the Employee owing to the Company.

4. The Employee does understand and agree that all funds received by him/her on behalf of the Company shall be held in trust, and he/she shall keep a true and accurate account of the collections received by him/her from customers of the Company and shall turn in and account for any and all funds collected. The Employee shall be responsible for any and all technical data, books, equipment, chemicals, customer lists, customer treatment specifications, pricing information or other property of the Company which may come into his/her possession by reason of his/her employment. In the event this employment is terminated for any reason whatsoever, the Employee shall immediately turn in to the Company and account for all such equipment and property and shall be entitled, at such termination, only to such sums of money as may be due to him/her under the provisions herein.

5. The Employee hereby expressly covenants and agrees that he/she will not, during the term of his/her employment for any reason whatsoever, directly or indirectly, engage in any competitive pest control, bed bug control, exterminating, fumigating, termite control, wildlife control, or lawn care business on behalf of himself/herself or another business entity, in a capacity identical with or substantially similar to the capacity in which he/she was employed with the Company. The Employee further agrees that he/she will not, during the term of his/her employment and for a period of eighteen (18) months immediately following the termination of his/her employment, for any reason whatsoever, directly or indirectly, for himself/herself or on behalf of, or in conjunction with, any other person, firm, company, partnership or corporation:

(a) Call upon any customer or customers of the Company with whom he/she had contact, whether directly or in a supervisory capacity during his/her employment with the Company, while using the Company's confidential information (as defined in Paragraph 7 below), in order to solicit or sell any pest control, exterminating, fumigating, termite control, wildlife control or lawn care service for the eradication or control of, without limitation, rats, mice, roaches, bugs, vermin, termites, beetles or other insects, rodents, wildlife and birds.

(b) Directly or indirectly, alone or in any capacity, solicit or in any manner attempt to solicit or induce any person or persons employed by the Company, or any parent, subsidiary, affiliate or successor corporation, to leave such employment or to breach his/her employment agreement with the Company.

6. The Company and the Employee agree that the prohibitions contained in Paragraph 5 or any of its subparagraphs are severable, and the unenforceability of any specific covenant shall not affect the validity of any other covenant set forth therein.

7. (a) The Employee understands and agrees that the nature of the Company's business, customer names, customer lists, pricing information, treatment specifications, treatment protocols and frequency, information with respect to the personnel, the methods and systems used by the Company in conducting its business, pricing policies, training and education received by the Employee, technical bulletins of the Company, manuals, profit and loss information and other related internal business information are all of a confidential nature and are valuable assets of the Company. Employee acknowledges that he/she is required to maintain the security and confidentiality of Company information and data that resides within the Company's systems, equipment and IT network. Employee agrees that, upon termination of employment, he/she will return to the Company all such confidential information and documents, including electronic data and files, referred to in the preceding sentence and will not make copies of such materials, will not furnish such information or materials to anyone other than those within the Company authorized to receive such information, and, for a period of three (3) years after Employee's termination, will not use or divulge such material and information. This provision shall not affect the prohibition on Employee's use or disclosure of Company's trade secrets, which is of indefinite duration, and which Employee agrees that he/she will not use or disclose, at any time, in an effort to solicit any customer of the Company with whom he/she had contact, whether directly or in a supervisory capacity during his/her employment, in order to solicit or sell any pest control, exterminating, fumigating, termite control, wildlife control or lawn care service for the eradication or control of, without limitation, rats, mice, roaches, bugs, vermin, termites, beetles or other insects, rodents, wildlife and birds.

(b) The Company and the Employee understand and agree that employment may be terminated by either party upon the giving of fourteen (14) days notice to the other. Said employment may also be terminated at the sole and exclusive option of the Company upon the payment to the Employee of a sum equal to one-sixth (1/6) the total base salary (but no commissions), or draw, paid to the Employee during the three (3) complete calendar months immediately preceding the date of termination of employment, and the payment of said sum to the Employee shall be in lieu of, and satisfaction of, any notice requirement whatsoever. Provided, however, that the Company, at any time, may terminate said employment, at its option and without notice or payment of any terminal compensation, if the Employee shall conduct himself/herself in such a manner as to injure or endanger the reputation of the Company, become involved in any offense involving moral turpitude, violate an established company policy, unsatisfactorily perform his/her job duties, fail to faithfully perform his/her duties in a manner in keeping with this Agreement and the rules and regulations of the Company, or fail to comply with the Company's procedures for ensuring strict compliance with these requirements. Such terminations shall be without prejudice to the Company's rights and remedies by virtue of the terms and conditions of this Agreement. No provision of this Agreement or of any policies, manuals or handbooks of the Company shall be construed as giving the Employee the right to be retained in the employment of the Company for any period of time, as his/her employment is strictly at will.

8. The Company and Employee agree and understand that these covenants on the part of the Employee shall be construed as an agreement independent of any other provision in this Agreement and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of said covenants. The Company and the Employee further agree that the provisions contained in this Agreement, including but not limited to the prohibitions contained in Paragraph 5 or any of its subparagraphs, are severable, and the invalidity or unenforceability of any specific covenant shall not affect the validity of any other covenant set forth herein. Further, the Company and the Employee specifically agree that the provisions contained in Paragraph 5 or any of its subparagraphs are intended and shall be deemed to be enforceable to the fullest extent of the applicable law, and that in the event a court of competent jurisdiction determines that any such provision is excessively broad as to time, geography, scope, activity or subject so as to be unenforceable under applicable law, such provision or provisions shall be construed by the appropriate judicial body by limiting and reducing it or them, so as to be enforceable to the maximum extent compatible with the applicable law as it shall then exist.

9. The provisions of this agreement shall extend to the successors, surviving corporations and assigns of the Company and to any purchaser of substantially all of the assets and business of the Company. The term "Company" shall be deemed to include any corporation, a majority of stock of which is owned by the Company.

10. This contract includes the entire agreement of the parties. No alteration, modification, or change of this agreement whatsoever, including any alleged inducement made to the Employee to enter into this agreement, shall be claimed unless in writing and executed on behalf of the Company by an authorized Company representative and the Employee.

11. All of the rights of the Company and the Employee hereunder shall be cumulative and not alternative, but a waiver of indulgence on the part of the Company or the Employee of any rights and entitlements hereunder shall not be construed as a waiver of any other rights and entitlements hereunder by either the Company or the Employee. No notice shall be required by the Company to enforce strict adherence to all terms of this Agreement.

12. The Employee understands and agrees that a violation of this Agreement by the Employee would cause irreparable harm and damage to the Company. The Employee further acknowledges that should he/she breach this Agreement, the Company is entitled to enforcement of this Agreement by injunction, as well as entitled to recover money damages for the loss sustained and the profit of which the Company has been deprived. In the event the Company institutes legal proceedings to enforce this Agreement, the Company is entitled to recover all costs and expenses, including reasonable attorney fees, associated with successfully enforcing this Agreement through trial and any subsequent appeal.

13. THE EMPLOYEE HEREBY ACKNOWLEDGES HAVING READ THE ENTIRE CONTENTS OF THIS AGREEMENT BEFORE SIGNING HIS/HER NAME BELOW, AND THAT HE/SHE HAS RECEIVED A COPY THEREOF FOR HIS/HER OWN USE. IN WITNESS WHEREOF, the Company and the Employee have executed this Employment Agreement, the Company acting through its duly authorized agents.

COMPANY: Orkin LLC

By: Electronically Signed By
Juan Carlos Solorio

Title: Branch Manager

Date: 2/17/2022

EMPLOYEE: Eric Anthony Davila

Electronically Signed By
Eric Anthony Davila

Employee's Signature
Comm Initial Service...

Position

Date: 2/17/2022

EXHIBIT C

RISSELL LAW, APC

Melody Rissell Leonard, Esq.*

Jessica Juarez, Esq. °

Patricia A. Pangelinan, Esq. °

201 Spear Street Suite 1100
San Francisco, California 94105

Telephone: (415) 874-7288

Facsimile: (415) 874-7292

WWW.RISELLLAWFIRM.COM

*Also Licensed in Nevada
° Of Counsel

January 13, 2025

Itemized Costs:

Date Cost Incurred	Amount	Reason for Cost
07/30/2021	\$19.35	Certified Mail to 3 Defendants
07/30/2021	\$75.00	LWDA Case Submission
06/08/2022	\$90.00	Contract Paralegal Service
06/16/2022	\$9.55	Court eFiling – Case Management Statement
06/16/2022	\$40.00	Courtesy Copy Delivery – Case Management Statement
07/07/2022	\$9.55	Court eFiling – Case Management Statement
10/03/2022	\$71.80	Court eFiling – Motion to Compel
10/03/2022	\$7.00	Court eService – Motion to Compel
10/27/2022	\$9.55	Court eFiling – Reply re Motion to Compel
10/27/2022	\$9.00	Court eService – Reply
11/02/2022	\$71.80	Court eFiling – Amendment to Complaint
11/02/2022	\$7.00	Court eService – Amendment to Complaint
03/09/2023	\$9.55	Court eFiling – Joint Separate Statement
03/29/2023	\$110.56	Service of Process - Netspend
06/15/2023	\$873.50	Court Reporter Fee – Kanetha Stephens
06/26/2023	\$735.50	Court Reporter Fee – Michael Firth
8/29/2024	\$564.61	IRS 2023 mileage (65.5 cents per mile) fees 862 miles roundtrip Dublin, CA to Oakland CA for Ismael Viera's Deposition
10/22/2023	\$30.44	Court eFiling – Stipulation and Order
10/31/2023	\$71.64	Court eFiling – Ex Parte Application
11/01/2023	\$72.00	Courtcall Appearance – Ex Parte Hearing
11/01/2023	\$128.75	Courtesy Copy Delivery – Ex Parte Application
11/09/2023	\$9.84	Court eFiling – Stipulation and Order
02/21/2024	\$9.84	Court eFiling – Notice of Entry of Order
02/24/2024	\$5,000	Mediation Fee
03/21/2024	\$1.00	LASC Search – Rollins Cases
03/21/2024	\$1.00	LASC Search – Orkin Cases

03/21/2024	\$7.50	OC Superior Court – Rollins Complaint Research
03/29/2024	\$128.75	Service of Process – Deposition Subpoena Netspend
07/10/2024	\$345.00	Videography Fee – PMQ James Lyle
07/29/2024	\$10.00	Riverside Superior Court – Document Research Complaint - Burke
08/07/2024	\$97.98	Flight – Trial Preparation
08/08/2024	\$41.54	IRS 2024 mileage (67 cents per mile) fees 62 miles roundtrip Dublin, CA to Oakland CA for Trial Prep
08/09/2024	\$41.54	IRS 2024 mileage (67 cents per mile) fees 62 miles roundtrip Dublin, CA to Oakland CA for Trial Prep
08/09/2024	\$103.98	Flight – Trial Preparation
Throughout Representation	\$500	Legal Research Costs
10/13/2024	\$359	Flight up to Bay Area for trial prep on 10/13/24
10/17/2024	\$1,677.10	Hotel costs for 10/14/24-10/17/24
10/18/2024	\$44.71	Uber Costs
10/19/2024	\$27.00	Bart Costs
10/20/2024	\$40.00	Ace Parking Oakland
10/20/2024	\$41.54	IRS 2024 mileage (67 cents per mile) fees 41 miles Dublin, CA to Oakland CA for Trial Prep, to San Francisco for trial on 10/21/24
10/21/2024	\$855.75	James Lyle Deposition Transcript
10/22/24	\$376.15	Hotel Cost for 10/20/24 stay
10/22/2024	\$319	Flight Home
Total Costs Advanced by Firm Throughout Representation	\$ 13,054.37	

EXHIBIT D

Olivier & Schreiber PC

Transaction Report

All Dates

187 - Viera

Date	Name	Memo/Description	Debit
08/10/2021	Thomson West	Westlaw: Research Material	7.28
02/04/2022	One Legal	187 - Viera: Complaint Filing Fee	460.19
02/11/2022	One Legal	187 - Viera: POS	12.35
02/23/2022	Ace Attorney Services	187 - Viera: ACE Service Complaint Personal Delivery	155.35
03/01/2022	Deadlines	Deadlines.com fee	15.00
03/31/2022	Deadlines	Deadlines.com fee	15.00
04/26/2022	One Legal	187 - Viera: One Legal E-Service Stipulation Filing	12.87
05/03/2022	Deadlines	Deadlines.com fee	15.00
05/31/2022	One Legal	187 - Viera: One Legal Filing Notice of Change of Address and POS	12.87
06/03/2022	Deadlines	Deadlines.com fee	15.00
07/05/2022	Deadlines	Deadlines.com fee	15.00
08/01/2022	Deadlines	Deadlines.com fee	15.00
08/10/2022	One Legal	187 - Viera: One Legal Change of Address Filing	12.87
09/06/2022	Deadlines	Deadlines.com fee	15.00
09/13/2022	JAMS	187 - Viera: JAMS Initial Non-Refundable Fee	475.00
09/19/2022	Fed Ex	187 - Viera: Shipping of Crane Binders	36.71
10/03/2022	Deadlines	Deadlines.com fee	15.00
10/27/2022	One Legal	187 - Viera: OneLegal Filing of Notice	12.87
11/01/2022	Deadlines	Deadlines.com fee	15.00
12/05/2022	Deadlines	Deadlines.com fee	15.00
01/03/2023	Deadlines	Deadlines.com fee	15.00
02/03/2023	Deadlines	Deadlines.com fee	15.00
02/09/2023	One Legal	187 - Viera: OneLegal Joint CMC	84.42
03/02/2023	One Legal	187 - Viera: One Legal CMC Statement	13.33
03/03/2023	Deadlines	Deadlines.com fee	15.00
04/04/2023	Deadlines	187 - Viera	15.00
05/04/2023	Deadlines	Deadlines.com fee	15.00
06/06/2023	Deadlines	Deadlines.com fee	15.00
07/05/2023	Deadlines	Deadlines.com fee	15.00
08/02/2023	Deadlines	Deadlines.com fee	15.00
08/07/2023	Fed Ex	187 - Viera: Depo binder mailed to R. Bien	39.32
09/05/2023	Deadlines	Viera v. Crane Pest Control (187)	15.00
10/03/2023	One Legal	187 - Viera: One Legal Notice of Change of Address for R. Bien	13.33
10/04/2023	Deadlines	Deadlines.com fee	15.00
11/06/2023	Deadlines	Deadlines.com fee	20.00
11/20/2023	USPS	187 - Viera: USPS - Conditionally Sealed Documents Mailed to Court	10.40
11/23/2023	One Legal	187 - Viera: One Legal Motion for Summary Judgment	13.33

11/27/2023	One Legal	187 - Viera: Notice of Motion, Motion for Summary Judgment/Summary Adjudication, Separate Statement of Facts	528.08
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			\$ 68,178.57
			\$ 68,178.57

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TOTAL

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EXHIBIT E

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

ISMAEL VIERA and ERIC DAVILA,
individually and on behalf of aggrieved
employees and the State of California,

Plaintiff,

v.

CRANE ACQUISITION, INC., dba CRANE
PEST CONTROL, ROLLINS, INC., ORKIN,
LLC, and DOES 1-20, inclusive,

Defendants.

Case No. CGC-22-597870

**PLAINTIFFS' TRIAL BRIEF FOR
TRIAL OF PAGA CLAIMS**

Date: October 21, 2024
Time: 9:30 a.m.
Courtroom: 206

Action Filed: January 27, 2022
Trial Date: October 21, 2024

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1 **I. INTRODUCTION**

2 This action comes before the Court for a bench trial of Plaintiffs’ claims under the Private
3 Attorneys General Act (“PAGA”), Labor Code §§ 2698 *et seq.* Plaintiffs Ismael Viera and Eric
4 Davila, former pest control workers, filed this representative action under PAGA against their
5 employers, Defendants Rollins, Inc. (“Rollins”), Orkin, LLC (“Orkin”), and Crane Acquisitions,
6 Inc. (“Crane”) (collectively, “Defendants”). In an attempt to become the dominant force in the
7 California pest control market, Defendants have engaged in a scheme to interfere with its
8 workers’ rights to compete in the marketplace by subjecting them to onerous – and illegal – non-
9 compete and non-solicitation terms in Rollins’ boilerplate Employment Agreement. Additionally,
10 Defendants have, without required consent, paid workers separated from employment via debit
11 pay cards that impose fees that deplete their income and other obstacles that make it difficult, if
12 not impossible, for employees to obtain their wages in full.

13 Plaintiffs seek relief under PAGA on behalf of the State of California and all employees
14 who worked for Rollins’ wholly-owned Crane and Orkin pest control brands in California at any
15 time from July 30, 2020 to the present. The Legislature enacted PAGA for the “sole purpose” of
16 increasing the limited capability of the State of California to enforce violations of the Labor
17 Code.¹ The statute authorizes “aggrieved employees” to file lawsuits on behalf of the State and to
18 recover civil penalties for violations. (Lab. Code § 2699.)

19 The Court already ruled in a February 21, 2024 summary adjudication decision² that the
20 Employment Agreement’s non-compete and non-solicitation terms (the “Non-Compete”) are
21 illegal under Business and Professions Code § 16600, which prohibits contracts “by which
22 anyone is restrained from engaging in a lawful profession, trade, or business of any kind,” and as
23 such, violate Labor Code § 432.5, which precludes employers from requiring employees to agree
24

25 ¹ *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 86. The recent PAGA
26 amendments effected by Assembly Bill No. 2288 and Senate Bill No. 92, both signed into law on
27 July 1, 2024, only apply to PAGA notices and any resulting PAGA actions filed on or after June
28 19, 2024. Therefore, they do not apply to this action. All citations to PAGA statute are to the
version in effect from June 27, 2016, to June 30, 2024.

² A copy of the Court’s summary adjudication decision is attached hereto as **Exhibit 1**.

1 to conditions of employment that are prohibited by law.³ The Court ruled that Crane is liable as a
2 matter of law under PAGA and reserved for trial the factual question of whether Rollins and
3 Orkin are also liable as joint employers.⁴ Because the Court has already found that the Non-
4 Compete is illegal and violates Labor Code § 432.5, that issue is settled, and Defendants cannot
5 relitigate it at trial. Accordingly, with respect to the section 432.5 violation, the triable issues are
6 limited to: (a) Rollins' and Orkin's liability with Crane as employers; and (b) the amount of
7 penalties owed. The facts will show that both Rollins and Orkin employed Plaintiffs and all
8 aggrieved employees. Notably, Plaintiff Davila, who became a plaintiff after the Court found
9 Crane liable for the Non-Compete, worked at an Orkin branch in California and was subject to the
10 same Non-Compete in the same Employment Agreement, which Rollins requires across all of its
11 brands.

12 With regard to the forced pay card claim, the facts at trial will show that Defendants fail to
13 obtain employees' consent to this form of payment, which Labor Code § 213(d) requires,⁵ and
14 that the pay cards impose fees and other obstacles that prevent employees from receiving their
15 wages in full in violation of Labor Code § 212. As a result, Defendants also violate Labor Code
16 §§ 201-202 because employees are not timely paid all of their wages owed at the time of
17 separation, and § 221 because the fees that employees incur to access their wages constitute
18 unlawful deductions.

19 Defendants' liability for its widespread, longstanding violations of the Labor Code
20 exceeds \$17 million in penalties, of which 75 percent is payable to the State's Labor and
21 Workforce Development Agency ("LWDA") and 25 percent is payable to all aggrieved
22 employees affected by the violations.⁶ PAGA sets forth default civil penalties calculated to

23 ³ *Id.* at 3.

24 ⁴ *Id.* at 3-4.

25 ⁵ Ex. A to Plaintiff's Request for Judicial Notice ("RJN") filed concurrently with Plaintiff's
26 Motion for Summary Adjudication on November 21, 2023. Opinion letters "constitute a body of
27 experience and informed judgment to which courts and litigants may properly resort for
28 guidance." (*Brinker Restaurant Corp. v. Super. Ct.* (2012) 53 Cal.4th 1004, 1029 n.11 [internal
quotation marks omitted].)

⁶ In addition to civil penalties, PAGA allows for an award reasonable attorneys' fees and
expenses. (Lab. Code § 2699(g)(1).)

1 punish Defendants for wrongdoing and deter future violations. The Court may award a lower
2 amount than the maximum penalty only if the maximum penalty would be unjust, arbitrary,
3 oppressive, or confiscatory. There is no basis for a reduction in PAGA penalties here. The
4 applicable legal standards—including California’s long-standing public policy against non-
5 competes—are well established and Defendants’ defiance of them, including after the Court ruled
6 that the Non-Compete is illegal, justifies the prescribed penalties in this case.

7 **II. RELEVANT FACTUAL BACKGROUND**

8 **A. Plaintiffs Are “Aggrieved Employees” Under PAGA.**

9 PAGA deputizes private attorneys to enforce California’s labor laws and to sue on their
10 own behalf, on behalf of other aggrieved employees, and on behalf of the State of California.
11 (Lab. Code §§ 2698, *et seq.*) To have standing, a plaintiff must be an “aggrieved employee,” *i.e.*,
12 he or she must: (1) have been employed by the alleged violator, and (2) have been subject to one
13 or more of the alleged violations. (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104,
14 1114.) An employee who meets the standing requirements and who seeks PAGA penalties must
15 notify the LWDA and the employer of the specific Labor Code provisions that the employer
16 allegedly violated. (*Kim, supra*, 9 Cal.5th at p. 81 [citing Lab. Code § 2699.3, subd. (a)(2)].)

17 Plaintiffs Viera and Davila are aggrieved employees who were employed by Defendants
18 and subject to all of the unlawful policies challenged here. Plaintiff Viera provided the requisite
19 notice to the LWDA and Defendants on July 30, 2021, and an amended notice adding Plaintiff
20 Davila on April 10, 2024. The aggrieved employees are all employees who work or worked for
21 Rollins through its brands Crane and/or Orkin in California from July 30, 2020 to the present.

22 **B. The Court Has Already Ruled that the Employment Agreement’s Non-Compete Is Illegal.**

23
24 The Court granted summary adjudication, finding that the Non-Compete in Viera’s
25 Employment Agreement violates the law. Critically, the Non-Compete, contained in Rollins’
26 form Employment Agreement that it uses across all of its brands, applies to all aggrieved
27 employees and has been used throughout the relevant PAGA period. The Agreement states that it
28

1 is “made and entered into . . . between Rollins, Inc. . . . and its parents, subsidiaries, affiliates,
2 successors and assigns (hereafter referred to as “the Company”) and ‘the Employee.’”⁷ The Non-
3 Compete prohibits employees from providing pest control services to Defendants’ current or
4 former customers and from soliciting Defendants’ employees for a period of 18 months after their
5 employment ends.⁸ As the Court found, the clauses are so broad as to place virtually no limit on
6 Defendants’ right to preclude employees from performing pest control work for their prior
7 customers.

8 Specifically, the Court held:

9 The clauses here prevented plaintiffs from rendering services to former
10 customers while using confidential information for a period of 18 months.
(PUMF 48.) Confidential information was defined to include customer names,
11 pest treatment history, any training and education received, etc. (PUMF 45, 48,
49.) Given the broad list of confidential information, these clauses would be
12 triggered practically any time an employee serviced a former customer. Thus,
these clauses impermissibly restrained [Plaintiff’s] ability to solicit or render
13 services to defendants’ customer, in violation of [Business and Professions
Code] section 16600. Even if a trade secret exception to section 16600 applied,
14 the broadly worded clauses prohibited use of information that was neither
confidential nor a trade secret. For instance, employees could not even use their
15 training and education when contacting customers. (Ex. P. at ROLLINS_000086;
Morlife, Inc. v. Perry (1997) 56 Cal.App.4th 1514, 1519 [recognizing right to use
16 general knowledge and experience gained in former employment].) Thus, the
non-compete and non-solicitation violated section 16600 as a matter of law. ***The***
17 ***court grants summary adjudication as to defendant Crane’s violation of Labor***
Code section 432.5.⁹

18 The evidence will show that the Court’s ruling has not deterred Defendants from using
19 and enforcing the Non-Compete. Defendants continue to subject workers to the same Non-
20 Compete. In fact, four months *after* the Court ruled that the Non-Compete is unlawful, Orkin filed
21 a lawsuit against a former employee accusing him of violating the Non-Compete.¹⁰ Defendants
22 not only impose the Non-Compete on all of their employees for the duration of their employment,

23 _____
24 ⁷ Ex. P, at ROLLINS_000085. The Employment Agreement is attached as Exhibit P to the
Declaration of Rachel Bien in Support of Plaintiff’s Motion for Summary Adjudication (“Bien
25 Decl.”). Unless otherwise specified, all exhibits are attached to the Bien Decl., which was filed
with the Court on November 21, 2023.

26 ⁸ *Id.*, at ROLLINS_000086.

27 ⁹ Ex. 1, at 3 (emphasis added).

28 ¹⁰ See Complaint, *Orkin Services of California, Inc. v. Burke et al.*, Riverside Superior Court,
Case No. CVPS2404175. [Orkin Services of California, Inc. is a wholly-owned subsidiary of
Defendant Orkin, LLC.]

1 but Defendants also send cease and desist letters, signed by Rollins' legal department, to former
2 employees whom Defendants claim are "actively soliciting Orkin customers on behalf of your
3 new employer," and threaten to take legal action against these workers.¹¹

4 **C. Defendants Fail to Obtain Employees' Consent to Be Paid Their Final Wages**
5 **on a Pay Card that Subjects Them to Fees.**

6 The evidence will show that, throughout the relevant period, Defendants forced workers to
7 be paid their final wages on a pay card issued by Netspend, a pre-paid debit card and financial
8 services company. Defendants have no process in place to obtain employees' consent to be paid
9 their final wages on a pay card. Rather, "these funds are issued by pay card automatically without
10 the receiving employee specifically opting in."¹²

11 These issued pay cards present multiple obstacles to workers' receiving their full and
12 timely pay. First, the evidence will show that the pay cards are subject to a lengthy list of fees and
13 surcharges.¹³ Plaintiffs' transaction histories show that they each incurred fees when they
14 attempted to withdraw their wages. Netspend's records will demonstrate that thousands of dollars
15 in fees were deducted from employees' final pay when they used their pay cards, and that the
16 majority of employees incurred fees.

17 Second, the evidence will also show that Defendants take a blind eye to fees incurred by
18 their employees and know little about the pay cards and how to use them. Defendants' corporate
19 representative, Rollins' Director of Payroll, Kanetha Stephens, acknowledged that employees had
20 complained about incurring fees but that neither she nor anyone on her team had ever conducted
21 research to determine how employees could avoid incurring fees when accessing their wages.
22 Defendants do not instruct their employees how to avoid incurring fees but instead outsource this
23 responsibility to Netspend, a self-interested debit card provider that benefits from the fees.

24 **D. Defendants Jointly Employ Plaintiffs and Aggrieved Employees.**

25 Rollins is the parent company of Orkin, Crane, and several other pest control brands that
26 Rollins acquired over the course of many years. Rollins holds itself out to the public and its

27 ¹¹ See, e.g., Ex. Q, at ROLLINS_00188.

28 ¹² Ex. R, at Special Interrogatory Supplemental Response Nos. 8, 12-13.

¹³ Ex. T, at ROLLINS_000110-111.

1 shareholders as a global company that provides pest control services through its brands, including
2 the Orkin and Crane brands that operate in California. Orkin—the first brand that Rollins
3 acquired in 1964—is fully integrated into Rollins’ management structure and serves as an
4 intermediary between Rollins’ corporate office and its Orkin and Crane branch locations in
5 California. Together, Rollins and Orkin employ all employees for the Crane and Orkin brands,
6 including Plaintiffs and all aggrieved employees. Rollins controls business operations and
7 employment policies from the top, Orkin supports the implementation of those policies at the
8 divisional level, and both Orkin and Crane manage and assign workers to perform pest control
9 work at branches in California. Plaintiffs Viera and Davila worked at two of these branches in
10 California.

11 The evidence will show that each Defendant controls key aspects of the employment
12 relationship with Plaintiffs and aggrieved employees. Rollins establishes the employment policies
13 and procedures that apply to aggrieved employees at Orkin and Crane, including imposing both
14 the Non-Compete and the pay cards. All employees use Rollins’ timekeeping system, are subject
15 to Rollins’ employee policies, interface with Rollins’ human resources personnel, and are paid
16 from a Rollins’ bank account.¹⁴

17 Orkin enforces and implements Rollins’ policies and procedures at Orkin and Crane
18 branches. In California, these Orkin managers work in the “Pacific Division,” which oversees
19 Crane and all Orkin residential pest control branches, and in the “Commercial Division,” which
20 oversees all Orkin commercial pest control branches. Crane and Orkin personnel in California
21 report up to Rollins through Orkin Divisional managers, who report to Orkin’s President, who
22 then reports to Rollins’ CEO.

23 The evidence will show that Rollins represents, in its SEC filings, on its website, and in its
24 policies and procedures, including its “Field Employee Handbook,”¹⁵ that the employees at Orkin
25 and Crane are Rollins’ employees. The Handbook announces, “Welcome to Rollins,”¹⁶ and tells

26 ¹⁴ See Ex. B (“Intercompany Administrative Shared Services Agreement”), at ORKIN_000003,
27 ¶¶ 2.1, 2.2 & ORKIN_000011, at Ex. B (listing “Administrative Services” performed by Rollins).

¹⁵ Ex. A, at ROLLINS_000025-81.

28 ¹⁶ *Id.*, ROLLINS_000025.

1 new hires at the brands that they “are now a part of the Rollins team” and that the “key to
2 [Rollins’] success as a Company and maintaining our status as the ‘World’s Best Service
3 Company’ is hiring and retaining good employees.”¹⁷ The Handbook’s policies and procedures
4 apply to all employees, including Standards of Conduct and actions that are subject to immediate
5 termination,¹⁸ Standards of Personal Appearance,¹⁹ time-keeping procedures,²⁰ and many
6 others.²¹

7 **III. ARGUMENT**

8 **A. Defendants Are Liable under PAGA for Subjecting Workers to an Unlawful 9 Non-Compete.**

10 As explained above, the Court has already concluded that Defendants’ Non-Compete
11 violates Business and Professions Code § 16600 and Labor Code § 432.5 and that Crane is liable
12 for penalties under PAGA. The Court found that the Non-Compete “impermissibly restrained”
13 the ability to compete in the marketplace in violation of California law. Because the same Non-
14 Compete applies to all aggrieved employees, the remaining question is whether Defendants Orkin
15 and Rollins are also liable with Crane as joint employers. Because Orkin employed Plaintiff
16 Davila, and because the evidence will show that Rollins and Orkin are joint employers of Viera
17 and all aggrieved employees, Plaintiffs will prevail on this issue.

18 **B. Defendants Are Liable under PAGA for Forcing Workers to Accept their 19 Final Pay on Pay Cards that Deprive Workers of Access to their Full and 20 Timely Wages.**

21 Plaintiffs will also prevail on their pay card claim because it is unlawful to force workers
22 to accept their final pay on pay cards, and unlawful to use pay cards that contain significant
23 obstacles to receiving timely and complete pay. First, Labor Code § 213(d) requires the
24 employee’s consent before funds are deposited into an account from which a bank then issues pay
via a pay card.²² As the Division of Labor Standards Enforcement (“DLSE”) explained in an

25 ¹⁷ Ex. A, at ROLLINS_000027.

26 ¹⁸ *Id.*, ROLLINS_000034-36.

27 ¹⁹ *Id.*, ROLLINS_000042-43.

28 ²⁰ *Id.*, ROLLINS_000046.

²¹ *Id.*, ROLLINS_000031-69.

²² Labor Code § 213(d) permits direct deposits “provided that the employee has voluntarily

1 opinion letter, “[e]mployee choice is thus *a fundamental condition* for payment methods utilizing
2 direct deposits [including pay cards] under California wage payment laws.” (DLSE Opinion
3 Letter, July 7, 2008, at p. 6 [emphasis added].)²³ Consequently, an employee’s receipt of a pay
4 card must be “optional,” and the employee must “voluntarily and specifically authorize” that
5 funds be directly deposited into an account that then issues a pay card in order to comply with
6 Section § 213(d). (*Id.*; see *Johnson v. Sunrise Senior Living Mgmt., Inc.* (C.D. Cal., May 5, 2016,
7 No. CV1600443BRORAOX) [2016 WL 8929249], at *11 [“the voluntariness requirement is
8 vital.”].)

9 The evidence will show that Defendants do not obtain employees’ consent to be paid their
10 final wages on a pay card. Rather, according to their interrogatory response: “these funds are
11 issued by pay card automatically without the receiving employee specifically opting in.”²⁴ Thus,
12 because employees do not “voluntarily and specifically authorize” Defendants to pay them via
13 pay card, Defendants’ conduct violates Section 213(d).²⁵ Defendants are therefore liable for civil
14 penalties under Labor Code § 2699(f)(2).

15 Second, Defendants’ forced pay cards violate Labor Code § 212(a)(1), because they
16 impose fees and other “conditions or obstacles which interfere with or prevent an employee from
17 promptly receiving their due wages *in full*.” (DLSE Opinion Letter, July 7, 2008, at pp. 7-8
18 [further explaining that pay card fees “could impermissibly interfere with an employee’s receipt
19 of paid wages” by charging fees against “the same account in which wages are deposited.”]; see,
20 e.g., *Johnson, supra*, 2016 WL 8929249 at *9.) The evidence will show that workers cannot
21 readily access their wages in full but instead are faced with myriad obstacles to receiving their
22 pay without fees.²⁶ The evidence will show that the majority of workers paid by pay card incurred

23 authorized that deposit.” (Lab. Code § 213(d).)

24 ²³ RJN, Ex. A.

25 ²⁴ Ex. R, at Special Interrogatory Supplemental Response Nos. 8, 12-13.

26 ²⁵ RJN, Ex. A, at p. 6; see also *Holak v. Kmart Corp.* (E.D. Cal., Dec. 12, 2012, No. 1:12-CV-
00304 AWI) [2012 WL 6202298], at *6 [payroll debit card program must be “represented as an
27 alternative for wage payment for which [employees’] participation is optional”].)

28 ²⁶ See, e.g., Ex. O, at CRANE_0000084-95 [cardholder agreement with multiple terms that fails
to explain how to avoid fees when using pay card].

1 fees when trying to access their pay.²⁷ Defendants are therefore liable under section 212(a)(1) and
2 owe civil penalties under Labor Code § 225.5. (*Solis v. Regis Corp.* (2007) 612 F.Supp.2d 1085,
3 1087-88.)

4 Third, by forcing workers to accept pay cards and then incur fees, Defendants have also
5 violated Labor Code §§ 201-202, which requires employers to timely pay all wages due upon an
6 employee's separation from employment, and section 221, which prevents employers from
7 making unlawful deductions from employees' wages. Because Defendants' use of pay cards
8 deprived workers from obtaining their wages in full, Defendants are also liable for civil penalties
9 for these violations under section 2699(f)(2).

10 **C. Rollins and Orkin Are Liable as Employers for Violations of the Labor Code.**

11 1. Rollins and Orkin Are Employers Under Multiple Alternative Tests Set
12 Forth in *Martinez v. Combs*.

13 Defendants Rollins and Orkin seek to avoid liability by asserting that they did not jointly
14 employ Plaintiffs and aggrieved employees. This defense will fail. First, the addition of Plaintiff
15 Davila, who worked directly for Orkin, moots Orkin's joint employer defense. Second, the
16 evidence will demonstrate that Rollins and Orkin employed all aggrieved employees at Crane and
17 Orkin.

18 California law has long recognized that an employee may have more than one employer.
19 "Multiple entities may be employers where they 'control different aspects of the employment
20 relationship.'" (*Castaneda v. Ensign Grp., Inc.* (2014) 229 Cal.App.4th 1015, 1019 [quoting
21 *Martinez v. Combs* (2010) 49 Cal.4th 35, 76].) In *Martinez*, the California Supreme Court held
22 that the applicable wage order of the Industrial Welfare Commission ("IWC") defines who is
23 liable as a joint employer for violations of the Labor Code.²⁸ (*Martinez, supra*, 49 Cal.4th at p.

24
25 ²⁷ See Ex. S ("Netspend Corporation's Supplemental Objections and Responses to Deposition
Subpoena for Production of Business Records") at p. 7.

26 ²⁸ Although *Martinez* involved alleged minimum wage violations under Labor Code § 1194,
27 California courts have applied the *Martinez* definition of employment to causes of action arising
28 under other sections of the Labor Code as well. (See, e.g., *Futrell v. Payday Cal., Inc.* (2010) 190
Cal.App.4th 1419, 1430; *Taylor v. Waddell & Reed Inc.* (S.D. Cal., Feb. 1, 2013, 09-CV-02909
AJB WVG) [2013 WL 435907], at *3.)

1 64.) An entity is liable as a “joint employer” if it: (1) exercises control over the employee’s
2 wages, hours or working conditions; *or* (2) allows the employee to suffer work or permits the
3 employee to work; *or* (3) engages the employee, creating a common law employment
4 relationship.²⁹ (*Id.*) Rollins and Orkin fall within these alternative definitions of “joint employer”
5 under *Martinez*.

6 First, Rollins and Orkin exercise control over the wages, hours and working conditions of
7 all Crane and Orkin employees in California. An entity need not “‘directly hire, fire or supervise’
8 the employees.” (*Castaneda, supra*, 229 Cal.App.4th at 1019 [quoting *Guerrero v. Superior*
9 *Court* (2013) 213 Cal.App.4th 912, 950].) The focus is on the extent to which the entity retains
10 the right to exercise control, directly or indirectly, over the business operations and the
11 employees. (*Id.* at pp. 1019-20.)³⁰ Relevant factors include whether the entity has ownership or
12 financial control, and whether the entities share corporate headquarters, recruit employees or
13 handle issues of employee discipline for one another, issue paychecks to one another’s
14 employees, or provide support services such as training, human resources or technology
15 infrastructure. (See, e.g., *Martinez, supra*, 49 Cal.4th at pp. 70-77; *Castaneda, supra*, 229
16 Cal.App.4th at pp. 1020-23.)

17 Here, the evidence will show that Rollins developed and caused to be implemented the
18 very Non-Compete term the Court has already found unlawful. In addition, the evidence will
19 show that Rollins and Orkin develop and implement all employee policies, monitor employee
20 hours, and are responsible for paying and disciplining all Crane and Orkin employees in
21 California. The evidence will show that Rollins, in particular, is at the core of the very conduct
22 alleged to be unlawful in this action, and that Orkin’s management team oversees and implements

23 ²⁹ The applicable IWC wage order here is Wage Order No. 5, which regulates wages, hours and
24 working conditions in the “Public Housekeeping Industry,” including pest control businesses. (Cal.
25 Code Regs., tit. 8, § 11050.) Because Wage Order No. 5 uses identical language to define the terms
26 “employ” and “employer” as the applicable Wage Order No. 14 in *Martinez*, the California
27 Supreme Court’s three alternative definitions of employment articulated in *Martinez* are equally
28 applicable to the relationship between Plaintiffs, aggrieved employees, and Defendants.

³⁰ See also *Medina v. Equilon Enterprises LLC* (2021) 68 Cal.App.5th 868, 879 [“If the putative
joint employer instead exercises enough control over the intermediary entity to indirectly dictate
the wages, hours, or working conditions of the employee, that is a sufficient showing of joint
employment.”].

1 Rollins’ policies. Rollins and Orkin are therefore joint employers under this prong. (*Martinez*,
2 *supra*, 49 Cal.4th at p. 59; *Guerrero, supra*, 213 Cal.App.4th at pp. 949-50 [finding joint
3 employer relationship where, *inter alia*, entities shared responsibility over “power of the purse”].)

4 Second, Rollins and Orkin are employers under *Martinez*’s “suffer or permit” test. This
5 second definition of “joint employer” in *Martinez* focuses on the employer’s knowledge of the
6 working arrangement and power to cause an employee to work or prevent an employee from
7 working. (*Martinez, supra*, 49 Cal.4th at p. 69.) Rollins clearly has knowledge of and the power
8 to cause or prevent the aggrieved employees to work—it developed and entered into Employment
9 Agreements with each of them. And, for the same reasons described above, Orkin’s involvement
10 in implementing employment policies and providing support for the working arrangements of
11 Orkin and Crane branch employees satisfies this second definition of joint employer.

12 Third, Rollins and Orkin are employers under *Martinez*’s third definition, which
13 incorporates California’s common law test for determining an employment relationship, i.e.,
14 whether the entity “has the right to control the manner and means of accomplishing the result
15 desired.” (*S.G. Borello & Sons, Inc. v. Dep’t of Indus. Relations* (1989) 48 Cal.3d 341, 350.)
16 Written agreements are a “**significant factor**” in assessing the right to control. (*Tieberg v.*
17 *Unemployment Ins. App. Bd.* (1970) 2 Cal.3d 943, 952.) Again, Rollins and Orkin impose the
18 Employment Agreements on all Crane and Orkin employees that purport to control the terms and
19 conditions of their work, including the unlawful Non-Compete.³¹ There is no doubt that everyone
20 who signs an Employment Agreement is a Rollins and Orkin employee. A host of other
21 documents and policies to be introduced at trial confirm this conclusion.

22 Thus, under each of the alternative *Martinez* tests, Rollins and Orkin jointly employ Crane
23 and Orkin employees in California.

24 2. Rollins and Orkin Are Employers Under the Integrated-Enterprise Test.

25 In the specific context of a parent-subsidary relationship, courts also look to and apply the
26 integrated-enterprise test to assess whether a parent company is liable as an employer for the acts

27 _____
28 ³¹ Ex. P, at ROLLINS_000085.

1 of its subsidiaries. (*Laird v. Capital Cities/ABC, Inc.* (1998) 68 Cal.App.4th 727, 737.)³² This test
2 demonstrates yet another way, in addition to *Martinez*, Plaintiffs will demonstrate that Rollins and
3 Orkin are equally liable for the claims in this case. The factors courts consider are: (1)
4 interrelation of operations, (2) common management, (3) centralized control of labor relations,
5 and (4) common ownership or financial control. (*Id.*) A plaintiff need not establish all four
6 factors. (*Torres-Negron v. Merck & Co.* (1st Cir. 2007) 488 F.3d 34, 42.)

7 Here, Orkin and Crane are wholly-owned subsidiaries of Rollins, establishing common
8 ownership.³³ The evidence will show that Rollins consistently represents itself to the public as a
9 pest control services company that operates through its “family of leading brands,” including
10 Crane and “the world renowned Orkin.” Rollins reports the financials of Orkin, Crane, and its
11 other brands in its annual reports, publicly filed with the Securities and Exchange Commission.³⁴
12 In its 2023 Form 10-K, Rollins reported that it had more than 19,000 employees (including the
13 employees of Orkin and Crane),³⁵ and that it has control over the strategic objectives, operations,
14 and employees across 700 branch offices, including Orkin and Crane.³⁶ Rollins develops,
15 manages, and controls centralized operations across its brands, demonstrating its tight control
16 over all Crane and Orkin operations.³⁷

17 Rollins’ corporate structure also demonstrates common management. Crane and Orkin
18 branches report up to Orkin’s divisional leadership team which, in turn, reports up to Orkin and
19 Rollins’ corporate officers at their shared corporate headquarters in Atlanta, Georgia. Rollins
20 exerts centralized control of labor relations by overseeing the implementation of employment
21 policies and procedures, relying on Orkin’s divisional management to implement its policies in

22
23 ³² The doctrine originated in federal labor law and has been described as “a sort of labor-specific
24 veil-piercing test.” (*Pearson v. Component Tech. Corp.* (3d Cir. 2001) 247 F.3d 471, 485-86.)
25 The test has since been applied by courts adjudicating employment claims, including wage
26 claims. (See, e.g., *Maddock v. KB Homes, Inc.* (C.D. Cal. 2007) 631 F.Supp.2d 1226, 1238;
27 *Laird, supra*, 68 Cal.App.4th at 738.)

28 ³³ Ex. A, at ROLLINS_000029.

³⁴ See, e.g., Rollins, Inc. 2023 Form 10-K, available at <https://www.rollins.com/sec-filings/annual-reports/#document-2526-0000084839-24-000025-1>, at pp. 38-42.

³⁵ *Id.* at p. 6.

³⁶ *Id.* at p. 20.

³⁷ *Id.* at pp. 3-8.

1 the “Pacific Division” and “Commercial Division” in California. Rollins controls policies
2 regarding employee training, safety, benefits, hours, pay, discipline, and human resources
3 generally.³⁸

4 The evidence at trial will demonstrate that all Defendants function as an integrated
5 enterprise, jointly employ Plaintiffs and all aggrieved employees, and are liable for the Labor
6 Code violations here. (See, e.g., *Kang v. U. Lim America, Inc.* (9th Cir. 2001) 296 F.3d 810, 815-
7 16; *Sandoval v. Am. Bldg. Maint. Indus., Inc.* (8th Cir. 2009) 578 F.3d 787, 797-800.)

8 **D. Defendants Owe Civil Penalties for Violations of the Labor Code.**

9 Civil penalties under PAGA are recoverable for Defendants’ violations from July 30, 2020
10 to the present (one year prior to the date Plaintiff Viera submitted his statutorily required PAGA
11 notice to the LWDA).³⁹ (Lab. Code § 2699.3(d).) The amount of the civil penalty is determined
12 by statute and depends upon the type of violation and the number of violations. (Lab. Code §
13 2699(f).) If a civil penalty is specified in the predicate provision of the Labor Code, PAGA
14 directs the Court to use that penalty. Otherwise, the default penalties set forth in Labor Code §
15 2966(f) apply. Plaintiffs will present their penalty calculations through their expert, David
16 Breshears.

17 For Plaintiffs’ Non-Compete Claim, i.e., violation of Labor Code § 432.5, the default
18 penalties set forth in § 2699(f) apply: “one hundred dollars (\$100) for each aggrieved employee
19 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
20 employee per pay period for each subsequent violation.” Because employees are bound by the
21 terms of their employment agreement for the duration of their employment, the penalties are
22 assessed for each employee for each pay period of employment.

23 Plaintiffs’ forced pay card claim involves violations of Labor Code §§ 201-202, 212-213
24 and 221. For violations of Labor Code §§ 201-202, 213, and 221, the default penalties in Labor

25 ³⁸ Ex. A, at ROLLINS_000025-81.

26 ³⁹ Both Viera’s PAGA notice and Davila’s PAGA notice assert all claims against all three
27 Defendants. In addition, Davila’s claims relate back to the filing of the original complaint because
28 they “rest on the same general set of facts, involve the same injury, and refer to the same
instrumentality as the claims.” (*Hutcheson v. Super. Ct.* (2022) 74 Cal.App.5th 932, 945.) It is
undisputed that Defendants had notice of these claims as of June 30, 2021.

1 Code § 2699(f) apply: \$100 for each aggrieved employee per pay period for the initial violation;
2 and \$200 for each aggrieved employee per pay period for each subsequent violation. For
3 violations of Labor Code § 212, the penalties are set forth in § 225.5 and are the same as the
4 penalties in § 2699(f): \$100 for each failure to pay each aggrieved employee for the initial
5 violation; and \$200 for each failure to pay each aggrieved employee for each subsequent
6 violation.

7 Plaintiffs will present evidence at trial of the number of aggrieved employees, the number
8 of pay periods, the applicable statutory rate, and the aggregate amount of PAGA penalties owed
9 for Defendants' violations of the Labor Code. If a violation is proven, a civil penalty is
10 mandatory. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1211, disapproved of
11 on other grounds by *Cohen v. Superior Ct. of Los Angeles Cnty.* (2024) 102 Cal.App.5th 706.)
12 PAGA's default civil penalties are calculated to punish the employer for wrongdoing and to deter
13 future violations. (*Adolph, supra*, 14 Cal.5th at p. 1117.) Consequently, a court may award a
14 lesser amount than the maximum civil penalty only if the maximum penalty would result in an
15 award that is "unjust, arbitrary and oppressive, or confiscatory." (Lab. Code § 2699(e)(2).) (See
16 also *Amaral, supra*, 163 Cal.App.4th at p. 1213 [judicial discretion to reduce penalties must be
17 exercised within the confines of the statute that grants the discretion].)

18 The evidence will demonstrate that the maximum civil penalty should apply here. Indeed,
19 even though the Court determined the Employment Agreement contained illegal terms,
20 Defendants have continued to maintain the same agreement as to current employees, have filed a
21 lawsuit against at least one former employee based on those illegal terms,⁴⁰ and continued to have
22 new employees sign the illegal Employment Agreement until late August 2024. In fact, the new
23 policy Defendants adopted in late August on the eve of trial appears to have non-compete and
24 non-solicitation provisions that are similar to the Non-Compete term that the Court held is illegal.
25 Defendants' conduct proves their flagrant disregard for California law. No discretionary reduction
26 of penalties is warranted here. The Court should award the maximum penalty amount.

27 ⁴⁰ *Orkin Services of California, Inc. v. Burke et al.*, Riverside Superior Court, Case No.
28 CVPS2404175.

1
2 **III. CONCLUSION**

3 For the foregoing reasons, Plaintiffs respectfully request that the Court hold Defendants
4 liable for violating Labor Code §§ 201-202, 212, 213, and 432.5 and grant relief as follows: an
5 award of maximum civil penalties pursuant to the PAGA statute; entry of an order declaring and
6 enjoying Defendants from continuing to violate the Labor Code provisions set forth herein; and
7 an award of reasonable attorneys' fees and expenses to Plaintiffs' counsel pursuant to Labor Code
8 § 2699(g)(1) and Code of Civil Procedure § 2021.5.

9
10
11 Dated: October 20, 2024

12 By: _____



13 Rachel Bien
14 *Attorneys for Plaintiffs*
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EXHIBIT F

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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF SAN FRANCISCO**
19

20 ISMAEL VIERA and ERIC DAVILA,
21 individually and on behalf of aggrieved
employees and the State of California,

22 Plaintiffs,

23 v.

24 CRANE ACQUISITION, INC., dba CRANE
25 PEST CONTROL, ROLLINS, INC., ORKIN,
LLC, and DOES 1-20, inclusive,

26 Defendants.
27
28

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
09/12/2024
Clerk of the Court
BY: WILLIAM TRUPEK
Deputy Clerk

Case No. CGC-22-597870

**FIRST AMENDED COMPLAINT FOR
VIOLATIONS OF THE PRIVATE
ATTORNEYS GENERAL ACT OF
2004 (LABOR CODE SECTION 2698,
ET SEQ.)**

INTRODUCTION

1. Plaintiffs Ismael Viera and Eric Davila (“Plaintiffs”) bring this action on behalf of themselves, the State of California, and all aggrieved employees of Crane Acquisition, Inc., dba Crane Pest Control; Rollins, Inc.; and Orkin, LLC (collectively “Defendants” or “Crane”) pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698, *et seq.*, for Defendants’ violations of the California Labor Code, including their unlawful policy or practice of requiring their employees to sign a form Employment Agreement containing an unlawful non-compete and non-solicitation term and to be paid their final wages via a payroll debit card, which is subject to certain fees and therefore reduces employees’ compensation below the compensation promised by Defendants.

2. California has a history of creating and enforcing strong wage protections for California workers. These protections are codified in the California Labor Code and the Industrial Welfare Commission’s Orders (“IWC Wage Orders”).

3. The Labor Code, in various sections, including sections 212 and 213, prohibits an employer or its agents from imposing conditions or obstacles that would interfere with an employee’s access to the prompt receipt of justly due wages, paid in full.

4. IWC Wage Order 5-2001 also sets forth protections applicable in the public housekeeping industry, which applies to the pest control industry and is relevant here.

5. Plaintiffs and aggrieved employees are current and former employees of Defendants in California who worked from July 30, 2020 through the final disposition of this action.

6. As set forth in more detail below, Plaintiffs and all aggrieved employees were subject to Defendants’ violations of the California Labor Code and IWC Wage Orders, including Defendants’ policy and practice of requiring their employees to be paid their final wages upon separation or termination via payroll debit cards, which caused employees to incur fees and unreasonable obstacles to access their wages and resulted in Defendants failing to pay Plaintiffs and all aggrieved employees their justly earned wages in full. Additionally, Plaintiffs and

1 aggrieved employees have been subject to Defendants' policy of requiring employees to agree to
2 unlawful terms and conditions of employment, including an agreement not to engage in any
3 competitive pest control work on their own behalf or on behalf of another company or solicit any
4 customers of Defendants after their employment with Defendants ended.

5 7. Plaintiffs seek, on behalf of themselves, all aggrieved employees, and the State of
6 California, PAGA civil penalties based on the violations set forth in this Complaint and attorneys'
7 fees and costs through a representative action.

8 **PARTIES**

9 8. Plaintiff Viera is a resident of Pittsburg, Contra Costa County, California. In
10 October 2019, Plaintiff Viera began working for Defendants as an Initial Start Specialist based
11 out of Crane Pest Control's office located at 2700 Geary Boulevard, San Francisco, CA 94118.
12 Plaintiff Viera brings this action on behalf of the State of California and all aggrieved employees.

13 9. Plaintiff Davila is a resident of Dublin, Alameda County, California. In February
14 2022, Plaintiff Davila began working for Defendants as an Initial Start Specialist based out of
15 Orkin, LLC's office located at 2151 O'Toole Ave., San Jose, CA 95131. Plaintiff Davila brings
16 this action on behalf of the State of California and all aggrieved employees.

17 10. Upon information and belief, Crane Acquisition, Inc. does business as Crane Pest
18 Control and does business as and/or jointly with Rollins, Inc., a Delaware Corporation with its
19 principal place of business in Atlanta, Georgia. Crane Acquisition, Inc.'s home office in
20 California is located at 2700 Geary Boulevard San Francisco, CA 94118. Plaintiffs are informed
21 and believe that Rollins, Inc. does business as, or jointly with, Orkin, LLC, a Delaware Limited
22 Liability Company.

23 11. At all times relevant, Defendants maintained offices and conducted business in the
24 County of San Francisco in the State of California.

25 12. Does 1 through 20, inclusive, are sued pursuant to California Code of Civil
26 Procedure section 474. Plaintiffs are ignorant of the true names or capacities of these defendants,
27 and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint
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1 to allege their true names and capacities when ascertained. Plaintiff is informed and believes that
2 each of the fictitiously-named Doe defendants, including any such defendants that may be the
3 agents, representatives, parents or subsidiary corporations of the named defendants, is responsible
4 in some manner for the occurrences, events, transactions, and injuries alleged herein and that the
5 harm suffered by Plaintiffs and current and former aggrieved employees were proximately caused
6 by them in addition to Defendants.

7 13. Plaintiffs are informed and believe and thereon allege that each of the Defendants,
8 including the Doe defendants, acted in concert with each and every other Defendant, intended to
9 and did participate in the events, acts, practices and courses of conduct alleged herein, and was a
10 proximate cause of damage and injury thereby to Plaintiffs as alleged herein.

11 14. Plaintiffs are informed and believe and thereon allege that with respect to the
12 employment policies at issue in this case, Defendants and each of the DOE defendants
13 participated in a single integrated or joint enterprise.

14 15. Plaintiffs are informed and believe and thereon allege that at all times herein
15 Defendants and each of the DOE defendants were Plaintiffs' and aggrieved employees'
16 employer(s), and/or agents, servants, employees, partners, joint venturers, alter egos, aiders and
17 abettors, and/or co-conspirators of one or more of their co-Defendants, and, in committing the
18 acts alleged herein, were acting within the course and scope of said agency, employment,
19 partnership, joint venture, and/or conspiracy, or were aiding and abetting their co-defendants.
20 Plaintiffs are informed and believe and thereon allege Defendants and each of the DOE
21 Defendants are legally responsible for all of the unlawful conduct, policies, practices, acts and
22 omissions as described in this Complaint.

23 16. At all material times, Defendants employed Plaintiffs and aggrieved employees or
24 acted on behalf of Plaintiffs' and aggrieved employees' employer, within the meaning of
25 California Labor Code sections 558 and 558.1.

26 **JURISDICTION AND VENUE**

27 17. This case is properly before this Court because it involves issues of state law, and
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1 all Defendants maintain offices and/or do business in San Francisco County. The Court has
2 jurisdiction pursuant to Labor Code section 2699.3 and Civil Code section 395.

3 18. Venue is proper in the Superior Court of San Francisco County because
4 Defendants maintain offices and do business in this County, and the acts and omissions alleged
5 herein took place in this County.

6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 19. As to penalty claims under PAGA, on July 30, 2021, Plaintiff Viera, via counsel,
8 filed the statutorily required notice with the Labor Workforce Development Agency (“LWDA”),
9 indicating that he intended to pursue labor code claims against Defendants.

10 20. Plaintiff Viera, via counsel, sent a copy of the July 30, 2021 notice to Defendants
11 via certified mail.

12 21. The LWDA did not serve Plaintiff Viera with a notice of its intent to assume
13 jurisdiction over the applicable penalty claims during the relevant period and did not provide
14 notice as set forth in Labor Code section 2699.3(a)(2)(A).

15 22. Therefore, Plaintiff Viera has exhausted the administrative requirements as
16 required under the PAGA.

17 23. On April 10, 2024, Plaintiff Viera filed an amended notice with the LWDA that
18 added Plaintiff Davila as another PAGA representative. A copy of the amended notice was sent to
19 Defendants on April 10, 2024 via certified mail. The LWDA did not serve Plaintiff Viera or
20 Davila with notice of its intent to assume jurisdiction over the applicable penalty claims during
21 the relevant period with respect to the amended notice and did not provide notice as set forth in
22 Labor Code section 2699.3(a)(2)(A). Therefore, Plaintiffs have exhausted administrative
23 requirements under PAGA with respect to the amended PAGA notice.

24 24. The Causes of Action alleged in this Complaint are appropriately suited for a
25 Representative Action under the PAGA because:

- 26 a. The action involves allegations of violations of provisions of the California Labor
27 Code that provide for a civil penalty to be assessed and collected by the LWDA or
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any departments, divisions, commissions, boards, agencies or employees;

b. Plaintiffs are “aggrieved employees” because they were employed by the alleged violators and had one or more of the alleged violations committed against them; and

c. Plaintiffs have satisfied the procedural requirements of Labor Code section 2699.3, as set forth above.

25. As a result of the acts alleged above, Plaintiffs seek to recover PAGA penalties for violations of Labor Code sections 212-213, 221, 223, 227.3, and 432.5.

FACTUAL ALLEGATIONS

26. Defendants own and operate several pest control businesses or “brands” throughout California. Defendants’ general business activities involve, *inter alia*, pest control, bed bug control, extermination, fumigation, and termite control in residential and commercial spaces. Defendants’ employees, including Plaintiffs and all aggrieved employees, perform various functions either in support of or directly involved in pest control.

27. On information and belief, current and former employees of Defendants were subject to Labor Code violations by Defendants, specifically by Defendants’ violations of Labor Code sections 212-213, 221, 223, 227.3, and 432.5.

28. For example, as Defendants’ employee, Plaintiffs were involved in the assessment of and treatment of pest issues in commercial and residential spaces. Plaintiffs visited worksites and locations throughout the Bay Area and provided extermination and pest prevention services.

29. On October 16, 2019, Plaintiff Viera was hired as a full-time hourly employee based out of Crane Acquisition, Inc.’s office location in San Francisco, California.

30. On February 17, 2022, Plaintiff Davila was hired as a full-time hourly employee based out of Orkin, LLC’s office location in North San Jose, California.

31. At the time Plaintiffs began their employment, Defendants required them to execute an Employment Agreement. The Employment Agreement is a standardized agreement provided to Defendants’ employees on a non-negotiable basis throughout California.

1 32. The Employment Agreement includes an unlawful non-competition and non-
2 solicitation clause.

3 33. Plaintiffs were paid on an hourly and/or piece rate basis as a non-exempt
4 employees during their employment with Defendants.

5 34. Between October 2019 and January 2020, Defendants paid Plaintiff Viera by paper
6 bank checks which were mailed to Defendant Crane Acquisition, Inc. from Rollins, Inc. in
7 Atlanta, Georgia to Crane's office in San Francisco, CA. From there, Crane either required
8 Plaintiff Viera to pick up his check in person or mailed the check to his home via U.S. mail.

9 35. Starting in or around February 2020, Defendants issued Plaintiff Viera a payroll
10 debit card, which replaced paper bank checks as Defendants' method of hourly wage payment.
11 Plaintiff Viera did not consent to receive his pay via payroll debit card, nor was he offered any
12 alternative means to receive his wages. In fact, Plaintiff Viera protested receiving payment via the
13 payroll debit card and requested that his wages continue to be delivered to him via physical check.
14 He was informed that they payroll debit card was the only way he could receive his wages.

15 36. Upon Plaintiff Viera's termination, he was paid his final wages via a payroll debit
16 card. Plaintiff Viera was not offered any other form of payment for his final wages.

17 37. Upon Plaintiff Davila's resignation, he was paid his final wages via a payroll debit
18 card. Plaintiff Davila was not offered any other form of payment for his final wages.

19 38. Typically, employers who use payroll debit cards deposit employee payroll by
20 direct deposit into individual employee accounts at an FDIC-member bank. Each employee is
21 then given a bank card connected to their account. On payday, employees have access to their
22 wages by using the card at an ATM or a point-of-sale.

23 39. Labor Code Section 212 requires that employers pay wages using forms of
24 payment that are "negotiable and payable in cash, on demand, without discount, at some
25 established place of business in the state, the name and address of which must appear on the
26 instrument and at the time of its issuance and for a reasonable time thereafter, which must be at
27 least 30 days, the maker or drawer has sufficient funds in, or credit, arrangement, or
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1 understanding with the drawee for its payment.”

2 40. Labor Code Section 213 authorizes an employer to deposit wages due in an
3 account at any bank, savings and loan association, or credit union of the employee’s choice with a
4 place of business in the state.

5 41. Upon information and belief, a user of a payroll debit card may incur various fees.

6 42. When Plaintiff Viera attempted to access his earned wages, including his final
7 wages upon termination, through his payroll debit card, he incurred fees. For example, in August
8 2020, he incurred \$10.50 in fees.

9 43. Plaintiff Viera did not voluntarily sign up or agree to receive his wages through the
10 payroll debit card—instead he protested and requested that he be able to continue to receive his
11 wages by physical check.

12 44. Plaintiff Davila also attempted to withdraw his final wages upon his separation
13 from an “Allpoint ATM” without incurring a fee. However, he was unable to withdraw the full
14 amount of his wages without incurring a fee, which reduced his final wages.

15 45. Plaintiff Davila did not voluntarily agree or consent to receiving his final wages
16 via a payroll debit card. He was not provided with the option to receive his final wages by another
17 method of payment.

18 46. Upon information and belief, Defendants also required other aggrieved employees
19 to receive their final wages through a payroll debit card without obtaining their consent.

20 47. Using the payroll debit card was burdensome and costly for Plaintiffs.

21 48. Plaintiffs were charged fees for withdrawing their wages using the debit card.

22 49. Upon information and belief, Defendants also paid and continue to pay other
23 aggrieved employees who separate from employment their final pay on a debit card. Upon
24 information and belief, Defendants selected this method of payment without obtaining
25 employees’ consent to use of such method.

26 50. Defendants failed to promptly pay Plaintiff and all aggrieved employees who were
27 separated from employment with Defendants all wages owed as required under Labor Code
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1 sections 201-203, including vested vacation wages as required under Labor Code section 227.3.

2 **CAUSE OF ACTION**

3 **Private Attorneys General Act, Labor Code § 2698 *et seq.***
4 **On Behalf of the State of California, Plaintiff, and All Aggrieved Employees**

5 51. Plaintiffs incorporate by reference as though fully set forth herein the preceding
6 paragraphs of this Complaint.

7 52. Plaintiffs are “aggrieved employees,” as that term is defined in Labor Code section
8 2699(a), and Plaintiffs therefore bring this action on behalf of themselves, all aggrieved employees,
9 and the State of California.

10 53. Pursuant to Labor Code section 2699.3(a), prior to filing this Complaint, on July 30,
11 2021 and again on April 10, 2024, Plaintiffs gave written notice by certified mail, return receipt
12 requested, to Defendants and online to the LWDA of the factual and legal bases for the Labor Code
13 violations alleged in this Complaint. The LWDA did not take action within the relevant period
14 related to the violations alleged. Therefore, Plaintiffs have exhausted their administrative remedies
15 and are entitled to proceed as a private attorneys general on behalf of themselves and all current
16 and former aggrieved employees of Defendants in California.

17 54. Defendants violated the California Labor Code by committing the acts described
18 above, specifically by:

- 19 a. Requiring employees to agree to an unlawful non-compete and non-solicitation
20 clause in their Employment Agreements, in violation of Labor Code section 432.5;
- 21 b. Failing to pay wages via a lawful form of payment, as required by Labor Code
22 sections 212 and 213;
- 23 c. Paying a lower wage than the wage designated by contract, in violation of Labor
24 Code section 223;
- 25 d. Unlawfully deducting amounts from employees’ final wages when employees
26 were required to pay fees to access their wages in violation of Labor Code section
27 221; and
- 28 e. Failing to timely pay all wages due upon termination or separation as required

1 under Labor Code sections 201-203, including vested vacation wages, in violation
2 of Labor Code section 227.3.

3 55. Plaintiffs allege that all of Defendants' employees in the State of California were
4 subject to one of more of the Labor Code violations suffered by Plaintiffs and described herein.

5 56. Plaintiffs, on behalf of themselves and all aggrieved employees, request civil
6 penalties against Defendants for violations of the Labor Code above, as provided under the
7 applicable sections or alternatively under Labor Code sections 225.5, 2699(f) and 2699.5, plus
8 reasonable attorneys' fees and costs, as provided under Labor Code section 2699(g)(1), in
9 amounts to be proved at trial.

10 57. Pursuant to Labor Code section 2699(i), 25% of all civil penalties recovered
11 pursuant to this cause of action shall be payable to Plaintiff and all aggrieved employees, and
12 75% of the civil penalties recovered pursuant to this cause of action shall be payable to the
13 LWDA for enforcement of labor laws and education of employers and employees about their
14 rights and responsibilities under the Labor Code.

15 58. Defendants are liable for these civil penalties, and for reasonable attorneys' fees
16 and costs under California Labor Code section 2699 *et seq.* Enforcement of statutory provisions
17 to protect workers and to ensure proper and prompt payment of wages is a fundamental public
18 interest. Plaintiffs' successful enforcement of important rights affecting the public interest will
19 confer a significant benefit upon the general public. Private enforcement of these rights is
20 necessary, as no public agency has pursued enforcement. Plaintiffs are incurring a financial
21 burden in pursuing this action, and it would be against the interest of justice to require the
22 payment of attorneys' fees and costs from any recovery obtained, pursuant to, *inter alia*, Labor
23 Code section 2699.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiffs pray for the following relief for themselves and on behalf of all
26 aggrieved employees and the State of California:

27 i. An award of civil penalties pursuant to the PAGA in an amount according to
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1 proof, with 75% of the penalties to be remitted to the LWDA and 25% of the penalties to be
2 remitted to Plaintiffs and the aggrieved employees;

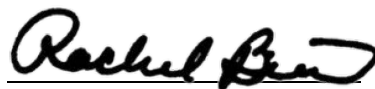
3 ii. Entry of an injunction enjoining Defendants from continuing to violate the
4 California Labor Code provisions and IWC Wage Order provisions set forth herein;

5 iii. An award of reasonable attorneys' fees and expenses pursuant to Labor Code
6 section 2699(g)(1) and Code of Civil Procedure § 1021.5; and

7 iv. Any other relief the Court deems just and proper.

8 Dated: September 12, 2024

Respectfully submitted,

9
10 By: 
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27 *Employees*
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EXHIBIT G

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

ISMAEL VIERA and ERIC DAVILA,
individually and on behalf of aggrieved
employees and the State of California,

Plaintiffs,

v.

CRANE ACQUISITION, INC., dba CRANE
PEST CONTROL, ROLLINS, INC., ORKIN,
LLC, and DOES 1-20, inclusive,

Defendants.

Case No. CGC-22-597870

**DECLARATION OF JOAN GRAFF IN
SUPPORT OF PLAINTIFFS' MOTION
FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT
SETTLEMENT**

Dept.: 305

Hon. Mary E. Wiss

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I, **Joan Graff**, declare as follows:

1. The facts set forth in this declaration are true and correct and are known to me personally except those matters stated on information and belief. If called as a witness, I could and would testify competently thereto under oath.
2. I am an attorney licensed to practice before the courts of the State of California.
3. Since 1981, I have served as President of Legal Aid at Work (“LAAW”), formerly known as the Legal Aid Society-Employment Law Center.
4. LAAW was founded in 1916 as the Legal Aid Society of San Francisco and is a nonprofit organization providing civil legal services to the *indigent* consistent with California Code of Civil Procedure 384. For over 100 years, LAAW has provided continuous service with the aim of offering free and high-quality legal assistance to those who are unable to afford legal representation. For more than five decades, LAAW has primarily devoted its resources to protecting the workplace rights of California’s low-wage workers. LAAW’s nonprofit status and work providing services to the indigent make it an appropriate designee of *cy pres* funds. LAAW is a CCP § 384 organization as described more specifically below.
5. As a nonprofit organization, LAAW funds its programs and projects from a diverse base of support: (a) donations from individuals, law firms, and businesses; (b) foundation and government grants; (c) allocations of monies from the Legal Services Trust Fund; and (d) *cy pres* distributions.
6. LAAW addresses the full range of employment issues that low-wage workers confront through the following seven programs: (a) Community Legal Services; (b) Disability Rights; (c) Gender and LGBT Equity; (d) National Origin and Immigrants’ Rights; (e) Racial Economic Equity; (f) Wage Protection; and (g) Work and Family.
7. The core of LAAW’s work is providing free legal services to low-wage workers with employment law claims. It litigates cases that address an array of issues important to low-

1 wage workers, including (a) violations of wage-and-hour laws; (b) workplace retaliation;
2 (c) discrimination on account of race, national origin, disability, sex, gender identity, sexual
3 orientation, immigration status and language proficiency; (d) harassment; and (e) failure to
4 comply with equal pay laws and family medical leave laws. Whether in state or federal
5 court, at the trial level or on appeal, nearly all of LAAW's cases impact the law and industry
6 practices, raise community awareness, and change the course the clients' lives.

7 8. Since 1970, LAAW has defined its mission and devoted its practice to representing low-
8 wage workers in enforcing the full range of their employment rights. I am informed and
9 believe that LAAW is one of very few legal services nonprofits in the country that has this
10 singular purpose.

11 9. With 22 attorneys, LAAW provides services to low-wage workers statewide and, in select
12 instances, nationwide. LAAW's clients work in sectors in which low-wage work
13 predominates, including caregiving, construction, hospitality, landscaping, retail, and
14 transportation, as well as domestic, food, and janitorial services. Many of LAAW's clients
15 are immigrants, and a significant number of them are monolingual Spanish, Mandarin, or
16 Cantonese speakers or have limited English proficiency.

17 10. A sampling of wage-and-hour cases LAAW has litigated include the following actions:

18 a. An action on behalf of a group of roughly 370 campaign workers who were
19 misclassified as independent contractors by a campaign operator working on the
20 2019 campaign sponsored by Juul Labs, Inc. to allow for the sale of vaping products
21 in San Francisco. After defeating a motion to compel arbitration and a motion to
22 dismiss the claims against Juul Labs, Inc., Legal Aid at Work, with its co-counsel
23 Leonard Carder, secured a settlement of \$1.75 million by Juul and the other
24 defendants that was approved by the Northern District of California.

25 b. An action on behalf of a group of 23 Filipino workers who were subjected to forced
26 labor in 2012 while working at a hospitality complex in rural Oklahoma. These
27 workers were brought to the United States on H2B visas, and incurred significant
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1 debt as part of the visa process. Before coming to the United States, the workers
2 were promised free housing, free meals, reimbursement of visa costs, and a fixed
3 wage. Once they arrived in Oklahoma, they were paid extremely low wages below
4 the amount promised, and were not provided housing, food or other benefits
5 promised by the contract. In 2021, Legal Aid at Work won a motion for class
6 certification, allowing for this case to proceed on a class-wide basis. In 2022, Legal
7 Aid at Work won a motion for sanctions related to Defendants' failure to produce
8 complete discovery in the matter.

- 9 c. An action on behalf of roughly 350 kitchen workers at the Burma Superstar, Burma
10 Love, and B star restaurants in San Francisco, Oakland and Alameda. The workers
11 alleged that the chain failed to pay minimum and overtime wages, split shift
12 premiums, and sick leave, did not provide adequate meal and rest breaks, and
13 unlawfully retaliated against employees. In 2020, the class settled the claims for
14 \$1.3 million.

15 11. In addition to litigating cases, LAAW represents clients in administrative proceedings
16 before state agencies including the California Labor Commissioner ("Labor
17 Commissioner") and the California Unemployment Insurance Appeals Board ("CUIAB").

18 12. LAAW has represented clients in wage-and-hour and anti-retaliation enforcement
19 proceedings, including:

- 20 a. Three Latino construction workers who were denied any overtime pay, despite
21 working at least 52 hours most weeks for several years on major building projects
22 in San Francisco. After the workers were laid off at the start of the pandemic,
23 LAAW helped them bring claims to recover their wages. LAAW secured a
24 settlement of approximately \$51,500 for these clients, recovering all of their
25 overtime wages and the vast majority of penalties owed.
- 26 b. A Latino day laborer in Sonoma County who was owed several weeks of wages.
27 When he asked his employer to pay him what was owed, the employer threatened
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1 to call Immigration and Customs Enforcement. We helped this worker to file a
2 wage claim, a bond claim, and a retaliation claim. In response to our efforts to help
3 this worker enforce his rights, the employer made death threats against our client.
4 We amended our retaliation claim to include these threats, and won a judgment of
5 approximately \$90,000. We recovered this judgment in full through a lien that the
6 Labor Commissioner's office placed on the employer's property, less than a year
7 after the threats were made.

- 8 c. Three Latina women who worked for a housecleaning company and were paid a
9 fixed daily salary amount that did not compensate them for the considerable
10 overtime hours they had to work to clean all the houses that the employer scheduled
11 them to clean. The workers also had to work non-stop, without breaks, and their
12 only opportunity to eat during the workday was while driving between assigned
13 houses. LAAW represented the workers at a California Labor Commissioner
14 settlement conference and secured a settlement of \$25,000 for the three workers.
- 15 d. A Chinese-American worker who worked for several years as an on-site property
16 manager in a residential apartment building in San Francisco, and was paid an
17 extremely low monthly salary, far below the minimum wage. He also was not paid
18 at all for six months of work. After a dispute with his employer, the client was fired
19 and at the same time forced to move out of his home; when he was not able to move
20 immediately, the building owners filed a lawsuit against him for trespass and
21 damages. LAAW helped the worker file a claim for unpaid wages with the
22 California Labor Commissioner, and represented the worker throughout the Labor
23 Commissioner process. LAAW also took the lead in coordinating with outside
24 attorneys representing the worker and his family in the housing lawsuit, and in a
25 complex negotiation with multiple employer entities. We were able to secure a
26 settlement in which our client received \$25,000 and the dismissal of the lawsuit
27 against him.

1 e. Approximately 25 employees of a Burger King franchise in San Francisco who
2 reported a wide array of systemic legal violations—including failure to pay for all
3 hours worked, overtime, meal, and rest violations—to both the California Labor
4 Commissioner’s Bureau of Field Enforcement and the City of San Francisco’s
5 Office of Labor Standards Enforcement. LAAW has represented workers in
6 interviews with state and local investigators, and provided legal support to
7 Trabajadores Unidos Workers United, a worker center that has organized workers
8 and developed a coordinated, worker-led campaign around the case. The dual
9 government investigations have so far resulted in both a citation and subsequent
10 settlement with the City of San Francisco for over \$800,000, covering unpaid health
11 care expenditures for 235 employees; and the state’s \$2.2 million citation against
12 the Burger King franchise, which includes unpaid wages and related penalties for
13 230 employees. In 2022, the citation was upheld on appeal before the Labor
14 Commissioner’s office.

15 13. The Wage Protection Program also represents clients at conferences and hearings before
16 the Labor Commissioner. From 2018 through 2022, the Wage Protection Program
17 represented 136 workers before the Labor Commissioner’s Wage Adjudication Unit,
18 securing \$1,007,045.17 in settlements and \$1,383,414.95 in Labor Commissioner awards
19 for wages owed, penalties, and other available relief.

20 14. Additionally, LAAW’s Community Legal Services Program provides advice and
21 counseling to low-wage workers on the full range of employment law issues they face
22 through twelve statewide Workers’ Rights Clinic locations: Antioch, Berkeley, East Palo
23 Alto, Fresno, Los Angeles, Ontario, Sacramento, San Bernardino, San Diego, San
24 Francisco, Santa Ana, and Watsonville. The Community Legal Services Program
25 volunteers also respond to calls on the Clinic’s toll-free hotline that makes LAAW’s
26 services accessible to low-wage workers in more remote areas that are beyond the reach of
27 Clinic sites.

- 1 15. From 2019 through 2023, LAAW’s clinics and helplines assisted approximately 16,658
2 low-wage workers from all 52 counties throughout California.
- 3 16. LAAW also represents workers with unemployment insurance claims at the California
4 Unemployment Insurance Appeals Board. From 2018 through 2022, LAAW represented
5 73 clients in administrative appeals from denials of unemployment benefits with a 93%
6 success rate in overturning denials and securing benefits or reversing overpayments.
- 7 17. LAAW is committed to serving those whose primary language is not English. LAAW
8 employs multiple bilingual attorneys and other staff who are fluent in English and Spanish,
9 and a language coordinator who is fluent in Mandarin and Cantonese. The language
10 coordinator also ensures that interpreters are available when LAAW lacks in-house
11 language capacity. LAAW also publishes translated versions of its fact sheets and other
12 legal information on its website in Spanish and Chinese. These tools enhance the reach of
13 LAAW to workers around the state.
- 14 18. As part of LAAW’s statewide activities, its staff engages in extensive outreach, education,
15 and training initiatives to inform low-wage workers and their communities, grassroots
16 advocates, and nonprofits organizations—legal and non-legal—about workplace rights. In
17 particular, LAAW:
- 18 a. Writes a regular employment rights column in the weekly Northern
19 and Southern California editions of *Sing Tao*, a Chinese newspaper with wide
20 circulation in the community;
 - 21 b. Conducts trainings for domestic violence survivors and service
22 providers about employment law protections available to survivors;
 - 23 c. Provides periodic trainings at the University of California, San
24 Francisco Medical Center for cancer patients and their caregivers; and
 - 25 d. Provides trainings in collaboration with Swords to Plowshares
26 focused on women veterans and employment.
- 27
28

1 19. To extend its expertise beyond its doors, LAAW composes and distributes a wide range of
2 self-help and informational materials. These include: 100+ topic-specific “Your Legal
3 Rights” fact sheets which are drafted in plain language and nearly all are translated into
4 Chinese and Spanish for use by workers and advocates; the Employment Law Manual, a
5 complete compendium of California employment laws used as a basic resource and
6 reference tool by students, attorneys and nonprofit organizations around the state; and a
7 website providing workplace know-your-rights information.

8 20. LAAW also offers its expertise to other nonprofit organizations—legal and non-legal. For
9 example, as part of the Coalition of Low-Wage and Immigrant Worker Advocates, LAAW
10 participates in an annual conference, monthly conference calls, and regular meetings with
11 administrative agencies such as the Labor Commissioner and the CUIAB. In addition,
12 LAAW is a leading member of the statewide Work and Family Coalition, a member of the
13 nationwide Freedom Network, the largest coalition working to ensure that trafficked
14 persons have access to justice, safety, and the San Francisco’s Mayor’s Anti-Human
15 Trafficking Taskforce. Finally, LAAW works closely with the Inland Empire Fair Chance
16 Coalition- providing its members with advice on several Fair Chance cases filed at the
17 California Department of Fair Employment and Housing and hosting several trainings with
18 the Coalition.

19 21. Actively participating as *amicus curiae* is an integral part of LAAW’s statewide efforts to
20 protect the rights of low-wage workers and advance their interests in key appellate court
21 cases. These cases include *Kirola v. City and County of San Francisco* (Case No. 14-
22 17521); *Turman v. Koji’s Japan Inc.* (Case No. G051871); *Sonic-Calabasas v. Moreno*
23 (Case No. S174475) (*Sonic II*); *Harris v. City of Santa Monica* (Case No. S181004);
24 *Dedinas v. Superior Court, County of Los Angeles* (Case No. S182827); *Paratransit, Inc.,*
25 *v. Medeiros* (Case No. 204221); *Wills v. Superior Court, County of Orange* (Case No.
26 G043054); *Law School Admissions Council v. State of California* (Case No. C073187);
27 *Oman, et al. v. Delta Air Lines, Inc.*, Case No. S248726 (Cal. Supreme Court, February
28

2019); *Skidgel v. California Unemployment Insurance Appeals Board*, Case No. S250149 (Cal. Supreme Court, April 2019); and *Naranjo v. Spectrum Security Services*, Case No. S258966 (Cal. Supreme Court, March 2022).

22. The breadth of LAAW's work throughout California is enhanced immeasurably by *cy pres* awards. They have assumed an increasingly important place among its revenue sources. Consistent with the claims of employment class actions these funds are used to protect the workplace rights of low-wage workers by helping LAAW to maintain programs and undertake initiatives in response to urgent community needs. *Cy pres* awards have also enabled us to serve the community of low-wage workers in many specific ways, including: (a) a training video for student volunteers on how to conduct a client interview in the Workers' Rights Clinic; (b) translation of fact sheets into Chinese and Spanish; and (c) the design and implementation of an online registration system for the more than 100 attorney volunteers who participate annually as supervisors with the Workers' Rights Clinic sites statewide.

23. If awarded *cy pres* monies in this case the funds will be used to advance the underlying purpose of the plaintiffs and class members by using the tools and strategies set forth in this declaration to protect, enforce and strengthen the rights of workers to be paid the monies they rightfully earn.

//

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed on this 7th day of January, 2025 at San Francisco, California.



Joan Graff

EXHIBIT H

**STRATEGIC CLAIMS SERVICES
225 STATE ROAD
MEDIA, PA 19063
610-298-1193**

January 10, 2025

Monique Olivier, Esquire
Oliverier Schreiber & Chao LLP
475 14th Street, Suite 250
Oakland, CA 94612

Re: Viera v Crane Pest Control PAGA Settlement

Dear Monique:

Enclosed please find a proposal on which Strategic Claims Services (SCS) would provide administrative services in the above-referenced matter. Our services will include:

- Set up a toll-free number for Class Members to call.
- Set up a database with names, addresses, etc. of all Class Members.
- NCOA update.
- Bank set-up and other bank matters.
- Allocation of Net Settlement Fund to approximately 3,600 PAGA settlement recipients.
- Calculation, verification and payouts to approximately 3,600 PAGA settlement recipients.
- Issue 1099 forms for counsel and recipients of PAGA payments as required by law.
- Update and maintain a database to include updated contact information as provided from phone calls, emails, skip tracing, forwarding mail and other sources.
- Handle and track all phone calls related to this settlement.
- Remail undeliverable payments with forwarding address.
- Perform skip tracing searches for updated addresses and remail payments.

- Answer and maintain files of all incoming correspondence.
- Perform an IRS TIN verification and obtain corrected TINS.
- Update database to include changes to names and addresses.
- Provide periodic status reports. Provide information and compile reports upon request by counsel and/or the Court.
- Provide affidavits on administrative procedures performed, if required.
- Calculation and verification of each class member's payout amount.
- SCS will not be sending outstanding check letters for uncashed checks.
- Compliance with IRS 468 regulations for Qualified Settlement Funds and preparation and filing of 1120 SF income tax return.

Attached as Exhibit A is an estimate of our fees and out-of-pocket expenses totaling \$14,391 for performing the above tasks. SCS will cap its fees and expenses at \$14,500.

Please review the attached proposal and contact me if there are any questions or comments you may have. We appreciate this opportunity to be of service and look forward to working on this project with you.

Sincerely,

Paul Mulholland

Paul Mulholland

EXHIBIT A

	<u>Assumptions</u>
Number of Class Members	3,600
Undeliverable mailings 5%	180
SERVICE	\$
Set-up charge (no website)	\$1,500
Pro-rata calculation Distribution charge (letter with check, includes postage and 1099 Misc form)	\$9,360
Outstanding check letters	N/A
skip tracing and re-mailing of checks	\$531
One year of tax returns for Qualified Settlement Funds	\$2,500
TIN Verification, NCOA charges and other out-of-pocket expenses	\$500
Total Fees and Expenses	\$14,391
<u>Bid</u>	<u>\$14,391</u>
<u>Cap</u>	<u>\$14,500</u>