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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE**

MAYRA CORTEZ individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

v.

BARKSDALE, INC., a Delaware
Corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 21STCV29193

Honorable Carolyn B. Kuhl
Department 12

CLASS ACTION

**DECLARATION OF YASMIN HOSSEINI
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 6,, 2022
Time: 10:30 a.m.
Department: 12

Complaint Filed: August 9, 2021
Trial Date: None Set

DECLARATION OF YASMIN HOSSEINI

I, Yasmin Hosseini, hereby declare as follows:

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

EXPERIENCE AND ADEQUACY OF LAWYERS *for* JUSTICE, PC

2. Since October 2008, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, the firm is attorney of record in over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. The firm has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California. Below is a summary of the experience and qualifications of the attorneys at Lawyers *for* Justice, PC who most recently and primarily have been responsible for the representation of Plaintiff in connection with the resolution of above-captioned matter. Additional attorney and non-attorney staff have also worked on the above-captioned matter.

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

1 Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA
2 Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University.
3 From approximately September 2002 to approximately December 2002, he served as a Judicial
4 Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the
5 Ninth Circuit. From approximately June 2002 to approximately August 2002, he served as a
6 Judicial Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second
7 Appellate District. In December of 2004, he obtained a license to practice law from the California
8 State Bar. From approximately December 2004 to approximately August 2008, he was employed
9 by Girardi & Keese. At Girardi & Keese, his practice focused on class actions and other complex
10 cases involving toxic torts and products liability. In addition, he gained substantial experience on
11 cases involving insurance bad faith, premises liability, and medical negligence. While employed
12 by Girardi & Keese, he argued approximately one hundred (100) motions, took or defended
13 approximately one hundred fifty (150) depositions, and prepared dozens of expert witnesses for
14 deposition or trial. Since in or around October of 2008, through his work at Lawyers *for* Justice,
15 PC, he has almost exclusively focused on the prosecution of consumer and employment class
16 actions, involving wage-and-hour claims, race discrimination, unfair business practices, or
17 consumer fraud. While employed by Lawyers *for* Justice PC, he has argued over one hundred
18 (100) motions, taken or defended over one hundred fifty (150) depositions, prepared dozens of
19 expert witnesses for deposition or trial, and attended over one hundred seventy-five (175)
20 mediations. Together with other attorneys at the firm, and in many cases in conjunction with co-
21 counsel, he has successfully litigated cases involving the executive, administrative, and other
22 overtime exemptions to the State of California and federal overtime compensation requirements.
23 Under his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by
24 contested motion practice in approximately fifteen (15) cases in the last decade, and litigated over
25 1,000 class action or representative action cases.

26 4. Arby Aiwarzian is a Member and Shareholder of Lawyers *for* Justice, PC. He
27 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
28 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.

1 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to the
2 Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate District.
3 From approximately August 2008 to approximately December 2008 he served as a Judicial Extern
4 to the Honorable Kim McLane Wardlaw of the United State Court of Appeals for the Ninth Circuit.
5 He was admitted to practice law in California in 2010. He is admitted to practice before all courts
6 of the State of California and all United States District Courts in the State of California. He has
7 worked on many wage-and-hour class action and representative action cases, taking the lead in
8 taking and defending depositions, arguing motions, and attending mediations. He has played an
9 integral role in preparing matters for class certification, including and not limited to, successful
10 certification of a class in *Upson v. Sur La Table* (Los Angeles County Superior Court Case No.
11 BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No.
12 BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No.
13 RG13680477). He has worked on over one hundred (100) class action or representative action
14 cases which have resulted in settlement, including and not limited to those listed in paragraph 7
15 herein.

16 5. Joanna Ghosh is a Senior Member of Lawyers for Justice, PC. She received a
17 Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of
18 Science degree from the London School of Economics in 2007, and a Juris Doctor degree from
19 Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010)
20 and in New York (since 2013) and is also admitted to practice in all U.S. District Courts in
21 California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme
22 Court. She has taken and defended dozens of depositions and successfully handled motion practice
23 in class action cases regarding discovery (including and not limited to, regarding class contact
24 information), class certification (both contested class certification and stipulated class
25 certification), arbitration agreements, coordination, intervention. She has successfully handled
26 briefing and oral argument on appeal, and obtained notable decisions regarding the Private
27 Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v. Prudential*
28 *Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017),

cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019). She also has extensive experience with class action and/or representative action settlements. Under her, Edwin Aiwarzian, and Arby Aiwarzian’s supervision, the firm has handled the class certification and court approval process for hundreds of class action and/or representative action matters that have successfully resolved. She is a member of the California Employment Lawyers Association.

6. I am a Member of Lawyers *for* Justice, PC. I received my Bachelor of Arts degree from University of California, Santa Barbara in 2013 and earned my Juris Doctor degree from Pepperdine University School of Law in 2017. I was admitted to practice law in California in 2019. I am admitted to practice before all courts of the State of California and all federal district courts in the State of California. I have worked on many wage and hour class action and PAGA representative matters, and my work has included, *inter alia*, researching and drafting pleadings, administrative notice exhaustion, drafting, negotiating, and finalizing stipulations and settlement agreements, engaging in motion practice, claims evaluation and analysis, and making court appearances. Prior to working at Lawyers *for* Justice, PC, I represented filmmakers and talent, negotiating and structuring various types of agreements on their behalf. I am a member of the California Employment Lawyers Association, Beverly Hills Bar Association, and Iranian American Bar Association.

**EXAMPLES OF RESULTS IN WAGE-AND-HOUR CLASS ACTION AND
REPRESENTATIVE ACTION CASES**

7. What follows are just a few examples of the type of results Lawyers *for* Justice, PC (“LFJ”) has achieved on behalf of its clients:

a) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a major property management company involving allegations of misclassification of various “manager” positions. On September 20, 2010, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC400414.

b) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class action against a national retailer of household items involving allegations of

1 misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court
2 granted final approval of the class action settlement. The Los Angeles County Superior Court
3 Case Number is BC413498.

4 c) LFJ, in association with co-counsel therein, represented the plaintiffs in a
5 wage-and-hour class action against a national property management company involving
6 allegations of misclassification of the “Property Manager” position. On May 23, 2012, the court
7 granted final approval of the class action settlement. The Los Angeles County Superior Court
8 Case Number is BC430918.

9 d) LFJ, in association with co-counsel therein, represented the plaintiffs in a
10 wage-and-hour class action against a national retailer involving allegations of misclassification of
11 the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class
12 certification. On August 26, 2013, the court granted final approval of the class action settlement.
13 The Los Angeles County Superior Court Case Number is BC424012.

14 e) LFJ, in association with co-counsel therein, represented the plaintiff in a
15 wage-and-hour class and PAGA representative action against a bank, involving allegations of
16 misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court
17 granted final approval of the class and PAGA representative action settlement. The Kern County
18 Superior Court Case Number is S-1500-CV-273194-LHB.

19 f) LFJ, in association with co-counsel therein, represented the plaintiff in a
20 wage-and-hour class and PAGA representative action against a national wholesale distributor of
21 plumbing and builder supplies, involving allegations of misclassification of multiple salaried
22 “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA
23 representative action settlement. The Sacramento County Superior Court Case Number is 34-
24 2012-00136285.

25 g) LFJ, in association with co-counsel therein, represented the plaintiff in a
26 wage-and-hour class action against a multinational corporation that provides global workplace
27 solutions, involving allegations of misclassification of the “Operations Manager” position. On
28

1 September 16, 2014, the court granted plaintiff's motion for class certification. The Los Angeles
2 County Superior Court Case Number is BC478769.

3 h) LFJ, in association with co-counsel therein, represented the plaintiff in a
4 wage-and-hour class and PAGA representative action against a national retailer of household
5 items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted
6 final approval of the class and PAGA representative action settlement. The San Francisco County
7 Superior Court Case Number is CGC-13-532344.

8 i) LFJ, in association with co-counsel therein, represented the plaintiff in a
9 wage-and-hour class and PAGA action involving allegations of misclassification of the salaried
10 residential "Property Manager" position. On September 17, 2015, the court granted plaintiff's
11 motion for class certification. On October 20, 2017, the court granted final approval of the class
12 and PAGA representative action settlement. The Los Angeles County Superior Court Case
13 Number is BC474784.

14 j) LFJ, in association with co-counsel therein, represented the plaintiffs in a
15 wage-and-hour class and PAGA representative action against a national retailer of upscale
16 hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court
17 granted final approval of the class and PAGA representative action settlement. The Los Angeles
18 County Superior Court Case Numbers are BC516795 and JCCP4794, and the Judicial Council
19 Coordination Proceeding Number is 4794.

20 k) LFJ, in association with co-counsel therein, represented the plaintiffs in a
21 wage-and-hour class action against a national retailer of apparel and fashion accessories, on behalf
22 of non-exempt employees. On August 5, 2016, the court granted final approval of the class action
23 settlement. The Los Angeles County Superior Court Case Number is BC488069.

24 l) LFJ, in association with co-counsel therein, represented the plaintiffs in a
25 wage-and-hour class action against a national retailer of apparel, accessories, and home products,
26 involving allegations of misclassification of the "Department Manager" position. On August 12,
27 2016, the court granted the plaintiffs' motion for class certification in part and certified a class. On
28

1 August 6, 2019, the court granted final approval of the class action settlement. The Alameda
2 County Superior Court Case Number is RG13680477.

3 m) LFJ represented the plaintiff in a PAGA representative action against a real
4 estate and property management company, on behalf of non-exempt employees. On November 4,
5 2016, the court granted approval of the PAGA representative action settlement. The Orange
6 County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

7 n) LFJ, in association with co-counsel therein, represented the plaintiffs in a
8 wage-and-hour class and PAGA representative action against a full-service bank, on behalf of non-
9 exempt employees. On November 18, 2016, the court granted final approval of the class and
10 PAGA representative action settlement. The San Francisco County Superior Court Case Number
11 is CJC-13-004839 and the Judicial Council Coordination Proceeding Number is 4839.

12 o) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
13 representative action against a foodservice distributor, on behalf of non-exempt employees. On
14 January 26, 2017, the court granted final approval of the class and PAGA representative action
15 settlement. The San Bernardino County Superior Court Case Number is CIVDS1507260.

16 p) LFJ, on behalf of the plaintiff and respondent in a PAGA representative
17 action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the
18 employer's motion to compel arbitration, which resulted in a published opinion by the California
19 Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply* (Cal.
20 App. 4th Dist., Mar. 7, 2017) 9 Cal.App.5th 439, review denied, cert. denied (U.S. Supreme Court
21 Docket No. 17-254). The Riverside County Superior Court Case Numbers are RIC1503952 and
22 RICJCCP5046, and the Judicial Council Coordination Proceeding Number is 5046.

23 q) LFJ, in association with co-counsel therein, represented the plaintiffs in a
24 wage-and-hour class and PAGA representative action against a consumer packaging company, on
25 behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class
26 and PAGA representative action settlement. The Los Angeles County Superior Court Case
27 Number is BC590429.

1 r) LFJ, in association with co-counsel therein, represented the plaintiffs in a
2 wage-and-hour class and PAGA representative action against a manufacturer of food service
3 industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final
4 approval of the class and PAGA representative action settlement. The Orange County Superior
5 Court Case Number is 30-2015-00810013-CU-OE-CXC.

6 s) LFJ in association with co-counsel, represented the plaintiffs in a wage-and-
7 hour class and PAGA representative action against a lumber and hardware company on behalf of
8 non-exempt employees. On April 26, 2017, the court granted final approval of the class and PAGA
9 representative action settlement. The Orange County Superior Court Case Number is 30-2014-
10 00747750-CU-OE-CXC.

11 t) LFJ represented the plaintiff in a wage-and-hour class and PAGA
12 representative action against a property management company, on behalf of non-exempt
13 employees. On June 14, 2017, the court granted final approval of the class and PAGA
14 representative action settlement. The Los Angeles County Superior Court Case Number is
15 BC586234.

16 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
17 representative action against a food company on behalf of non-exempt employees. On June 30,
18 2017, the court granted final approval of the class and PAGA representative action settlement. The
19 Sacramento County Superior Court Case Number is 34-2015-00175871.

20 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
21 representative action against a chocolate company on behalf of non-exempt employees. On July
22 19, 2017, the court granted final approval of the class and PAGA representative action settlement.
23 The Alameda County Superior Court Case Number is RG15764300.

24 w) LFJ firm represented the plaintiff in a PAGA representative action, against
25 the parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
26 October 18, 2017, the court granted approval of the PAGA representative action settlement. The
27 Los Angeles County Superior Court Case Number is BC569664.
28

1 x) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
2 representative action against a manufacturer of plastic containers on behalf of non-exempt
3 employees. On October 31, 2017, the court granted final approval of the class and PAGA
4 representative action settlement. The Los Angeles County Superior Court Case Number is
5 BC577233.

6 y) LFJ, in association with co-counsel therein, represented the plaintiffs in a
7 wage-and-hour class and PAGA representative action against a bank on behalf of non-exempt
8 employees. On December 11, 2017, the court granted final approval of the class and PAGA
9 representative action settlement. The Los Angeles County Superior Court Case Number is
10 BC569646.

11 z) LFJ, in association with co-counsel therein, represented the plaintiffs in a
12 wage-and-hour class and PAGA representative action against a property management company
13 on behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court granted final
14 approval of the class and PAGA representative action settlement. The Los Angeles County
15 Superior Court Case Number is JCCP4819 and the Judicial Council Coordination Proceeding
16 Number is 4819.

17 aa) LFJ, in association with co-counsel therein, represented the plaintiffs in a
18 wage-and-hour class and PAGA representative action against a global provider of flexible office
19 space solutions. On February 15, 2018, the court granted final approval of the class and PAGA
20 representative action settlement. The Los Angeles County Superior Court Case Number is
21 BC498401.

22 bb) LFJ, in association with co-counsel therein, represents the plaintiff in a
23 wage-and-hour class action against a container manufacturer, on behalf of non-exempt employees.
24 On October 15, 2018, the court granted the plaintiff's motion for class certification. The Tulare
25 County Superior Court Case Number is VCU264528.

26 cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
27 representative action against a behavioral health service provider on behalf of non-exempt
28 employees. On November 13, 2018, the court granted final approval of the class and PAGA

1 representative action settlement. The Alameda County Superior Court Case Number is
2 RG16811450.

3 dd) LFJ, in association with co-counsel therein, represented the plaintiff in a
4 PAGA representative action against a global provider of products and services to the energy
5 industry, on behalf of hourly-paid and non-exempt employees. On November 19, 2018, the court
6 granted approval of the PAGA representative action settlement. The Kern County Superior Court
7 Case Number is S-1500-CV-280215-SDC.

8 ee) LFJ, in association with co-counsel therein, represents the plaintiff in a
9 wage-and-hour class action against a parking company on behalf of non-exempt employees. On
10 September 3, 2019, the court granted the plaintiff's motion for class certification and certified a
11 class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial
12 Council Coordination Proceeding Number is 4886.

13 ff) LFJ, in association with co-counsel therein, represents the plaintiffs in a
14 wage-and-hour class and representative action against a bank on behalf of non-exempt employees.
15 On September 27, 2019, the court granted the plaintiffs' motion for class certification in part and
16 certified a class. The Alameda County Superior Court Case Number is RG15757606 and the
17 Judicial Council Coordination Proceeding Number is 4921.

18 gg) LFJ, in association with co-counsel therein, represented the plaintiffs in a
19 wage-and-hour class and PAGA representative action against a national retailer of apparel and
20 fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted
21 the plaintiffs' motion for class certification in part and certified a class. On May 14, 2021, the
22 court granted final approval of the class and PAGA representative action settlement. The
23 Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

24 hh) LFJ, in association with co-counsel therein, on behalf of the plaintiff and
25 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
26 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
27 notable decision from the California Supreme Court clarifying the law and finding, in part, that
28 employer arbitration agreements are unenforceable where they block a PAGA claim from

1 proceeding, *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court
2 granted approval of the PAGA representative action settlement. The San Diego County Superior
3 Court Case Number is 34-2015-00175330.

4 ii) LFJ, in association with co-counsel therein, represents the plaintiff in a
5 wage-and-hour class and PAGA representative action against a medical equipment supplier on
6 behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion
7 for class certification and certified a class. The San Bernardino County Superior Court Case
8 Number is CIVDS1505744.

9 jj) LFJ, in association with co-counsel therein, represents the plaintiff in a
10 wage-and-hour class and PAGA representative action against a large national drug testing
11 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
12 plaintiff's motion for class certification and certified a class. The San Diego County Superior
13 Court Case Number is 37-2018-00019611-CU-OE-CTL.

14 kk) LFJ, in association with co-counsel therein, represents the plaintiffs in a
15 wage-and-hour class and PAGA representative action against a national retailer of sportswear,
16 footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the
17 court granted in part the plaintiff's motion for class certification and certified a class. The
18 Riverside County Superior Court Case Numbers are RIC1507504 and RICJCCP4930, and the
19 Judicial Council Coordination Proceeding Number is 4930.

20 ll) LFJ, in association with co-counsel therein, represents the plaintiffs in a
21 wage-and-hour class action against manufacturer and supplier of power products and services on
22 behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion
23 for class certification and certified a class. The San Diego County Superior Court Case Number is
24 37-2015-00025968-CU-OE-CTL.

25 mm) LFJ represents the plaintiff in a wage-and-hour class action against a
26 nutritional products manufacturer on behalf of non-exempt production line employees. On
27 December 13, 2021, the court granted the plaintiff's motion for class certification in part and
28 certified a class. The Solano County Superior Court Case Number is FCS051001.

nn) LFJ represents the plaintiff in a wage-and-hour class action against an iconic lifestyle accessories brand and retailer on behalf of non-exempt employees. On March 15, 2022, the court granted the plaintiff's motion for class certification in part and certified a class. The San Francisco Superior Court Case Number is CGC-16-550794.

BASIC INFORMATION ABOUT THE CASE AND REACHING THE SETTLEMENT

8. Marked and attached hereto as "**EXHIBIT 1**" is the Class Action and PAGA Settlement Agreement ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff, on the one hand, and Barksdale, Inc. ("Defendant"), on the other hand (collectively, the "Parties"). The Parties used the Los Angeles Superior Court's [Model] Class Action Settlement Agreement and Class Notice ("Model Agreement") as a template for the negotiation of the Settlement Agreement. A redline version of the Model Agreement as compared to the finalized Settlement Agreement is attached hereto as "**EXHIBIT 2.**" The Parties and their counsel have approved the proposed Notice of Class Action Settlement ("Class Notice"), which is attached to the Settlement Agreement as "**EXHIBIT A**" and respectfully request that the Court approve it as well. The Parties have also agreed to the form and content of the proposed First Amended Consolidated Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, Cal. Labor Code § 2698, Et Seq. ("First Amended Complaint" or "Operative Complaint"), which is attached as "Exhibit A" to the [Proposed] Order Granting Approval of Class Action Settlement, filed concurrently herewith. Class Counsel respectfully requests the Court grant leave to file the First Amended Complaint so that the terms of the Settlement Agreement and in the intent of the Parties may be effectuated.

9. Based on information provided by Defendant, as of May 31, 2022, the Class is estimated to consist of approximately two hundred and forty-eight (248) individuals.

10. The effectiveness of Lawyers for Justice, PC ("Class Counsel") in prosecuting this matter has translated into tangible monetary benefits in the following respects: (1) Class Members, Aggrieved Employees, and the State of California recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result that compares favorably with other complex wage and hour class and/or representative

1 action settlements of similar type given the strengths and weaknesses of the case; and (3)
2 significant savings in attorneys' fees and/or costs that would have only increased significantly had
3 the case progressed through certification, trial, and/or appeals.

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

26 12. Prior to reaching the Settlement, Class Counsel investigated the veracity, strength,
27 and scope of the claims, and was preparing the action for class certification and trial. Class
28 Counsel conducted significant investigation and informal discovery regarding the facts of the case,

1 including and not limited to, the exchange, review, and analysis of a large volume of documents
2 and data obtained from Defendant, Plaintiff, and other sources. The volume of data and documents
3 that Class Counsel reviewed and analyzed included and was not limited to: employment records
4 of Plaintiff and other Class Members, a detailed sampling of Class Members' time and pay data,
5 new hire information checklists, financial information (including but not limited to pay statements
6 and earning statements), company policy acknowledgements (including but not limited to,
7 Acknowledgment of Appropriate Use of Information Technology, Control Products Policy
8 regarding Access & Disclosure of Electronic Mail Acknowledgement, Annual Statement of
9 Compliance with Conflicts of Interest Policy Acknowledgement, Protective Eye Equipment Policy
10 Acknowledgment, Intellectual Property Acknowledgement and Agreement, Acknowledgement of
11 Policy, Receipt of Consideration and Agreement to Comply, Personal Conduct Working Together
12 Golden Rule Acknowledgment, Non Discrimination and Non Harassment Policy
13 Acknowledgement, and Acknowledgement Regarding Protection of Trade Secrets), internal
14 memoranda, job descriptions, new hire orientation documents, Defendants' operations and
15 employment practices, forms, procedures, and policies (including but not limited to, Standard
16 Operating Procedures, eMail Use Policy, Internet Use Policy, Password Policy, Social Media
17 Policy, Protective Eye Wear Policy, Conflicts of Interest Policy, Non Discrimination and Non
18 Harassment Policy, Policy Regarding Protection of Trade Secrets, Employees Dress Code Policy),
19 among other information and documents. Class Counsel interviewed Plaintiff and other Class
20 Members to gather facts and circumstances surrounding Plaintiff and putative class members'
21 employment. Counsel for the Parties also met and conferred on numerous occasions, e.g., to
22 discuss issues relating to the pleadings, discovery, and the production of documents and data prior
23 to the mediation. Class Counsel also drafted pleadings and the mediation brief, and prepared for
24 and attended court proceedings, mediation, and settlement negotiations, among other tasks.

25 13. Counsel for the Parties have also invested time researching and investigating the
26 applicable law, which is constantly evolving as it relates to certification, representative PAGA
27 claims, off-the-clock theory, meal and rest periods, wage-and-hour law and enforcement,
28 Plaintiff's claims and damages, and Defendant's defenses thereto, as well as facts discovered.

1 Based on Class Counsel's analysis, the result achieved in this litigation is fair, adequate, and
2 reasonable.

3 14. The Settlement provides for a Gross Settlement Amount of One Million Two
4 Hundred Thousand Dollars and No Cents (\$1,200,000.00), subject to increase. The Net Settlement
5 Fund is the Gross Settlement Amount less the following amounts subject to approval by the Court:
6 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative
7 Service Payment, Administration Costs, and the PAGA Penalties. Assuming that the amounts
8 allocated under the Settlement toward these payments are awarded by the Court, the Net
9 Settlement Amount that will be available for distribution to Settlement Class Members is currently
10 estimated to be Five Hundred Thirty Thousand Dollars and Zero Cents (\$530,000.00).
11 Additionally, 25% of the PAGA Penalties, which is \$50,000 out of \$200,000, will be distributed
12 to Aggrieved Employees on a *pro rata* basis. The Net Settlement Amount will be fully distributed
13 in accordance with the terms of the Settlement and there is no reversion to Defendant.

14 15. The Parties have agreed to retain Phoenix Settlement Administrators ("Phoenix" or
15 "Settlement Administrator") to handle the notice and settlement administration process. The
16 Parties respectfully request that the Court appoint Phoenix to handle these procedures and serve
17 as the Settlement Administrator. Defendant will provide the Settlement Administrator with a list
18 of Class Members that Defendant will compile from its records, which will include each Class
19 Member's (1) full name, (2) last-known mailing address, (3) Social Security Number, and (4)
20 hire and termination dates reflecting the number of Class Period Workweeks and PAGA Pay
21 Periods ("Class Data"), and the Settlement Administrator will calculate each Class Member's *pro*
22 *rata* share of the Net Settlement Amount ("Individual Settlement Share") and each Aggrieved
23 Employees' estimated share of the 25% of the PAGA Penalties ("Individual PAGA Payment").
24 The Settlement Administrator will also receive opt-outs, objections, and disputes regarding
25 Workweeks and/or PAGA Pay Periods; provide necessary reports and declarations; calculate,
26 subtract, and transmit necessary taxes and withholdings; prepare and submit informational and
27 other tax filings and documents; issue and transmit all payments provided for by the Settlement,
28 including and not limited to, mailing payments to Class Members; and perform any other usual

1 and customary duties for administering a class action settlement. Administration Costs are
2 currently estimated not to exceed Ten Thousand Dollars (\$10,000.00) and will be paid out of the
3 Gross Settlement Amount, subject to approval of the Court. Class Counsel represents that they and
4 Plaintiff have no interest or relationship, financial or otherwise, with the Administrator other than
5 a professional relationship arising out of prior experiences administering settlement.

6 16. Based on investigation and information discovered, Class Counsel believes that
7 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
8 that Defendant, with respect to Plaintiff, Class Members, and Aggrieved Employees *inter alia*,
9 failed to properly pay overtime and minimum wages, failed to provide compliant meal and rest
10 periods and to pay associated premium pay, failed to timely pay wages during employment and
11 upon termination of employment, failed to provide compliant wage statements, failed to maintain
12 requisite payroll records, and failed to reimburse necessary business expenses, and thereby
13 engaged in unfair business practices and conduct giving rise to civil penalties recoverable under
14 the Private Attorneys General Act of 2004 (California Labor Code sections 2698, et seq.). Plaintiff
15 also asserted that Class Members and Aggrieved Employees were expected to perform similar job
16 duties and were subject to the same or similar operations and employment policies, practices, and
17 procedures. Additionally, Plaintiff asserted that Defendant's recordkeeping practices with respect
18 to Plaintiff, Class Members, and Aggrieved Employees were substantially the same during the
19 time period at issue. As a result of said alleged uniform practices, Plaintiff claims that Class
20 Members were not paid all of the compensation that was owed to them by Defendant. Thus, in
21 Class Counsel's view, it is clear that the outcome of this litigation would be determined by
22 Defendant's uniform operations and employment practices, policies, and procedures that Plaintiff
23 alleges applied across Defendant's hourly-paid or non-exempt employees in California during the
24 relevant time period.

25 17. Class Counsel is aware of the defenses and position of Defendant, but believes that
26 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff and Class
27 Counsel have also taken into account the uncertainty and risk of the outcome of further litigation,
28 and the difficulties and delays inherent in such litigation, including those involved in class

1 certification and/or representative adjudication. Plaintiff and Class Counsel further recognize the
2 burdens of proof necessary to establish liability for the claims asserted in the lawsuit, Defendant's
3 defenses, and the difficulties in establishing entitlement to monetary recovery. Plaintiff and Class
4 Counsel have also considered the Parties' settlement discussions, as well as the evaluations of the
5 mediator, who is experienced and well-regarded in complex labor and employment matters.

6 18. Defendant, on the other hand, denied and continues to deny any liability and
7 wrongdoing of any kind associated with the allegations in the lawsuit, and further denies that the
8 lawsuit is appropriate for class treatment or representative adjudication for any purpose other than
9 the Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides have
10 also had the opportunity to conduct investigations and gather documents and information relating
11 to Plaintiff's and Class Members' employment with Defendant, and Defendant's operations and
12 employment policies, practices, and procedures. The Parties also reviewed and analyzed a volume
13 of documents and data, including but not limited to a detailed sampling of Class Members' time
14 and pay information, to determine the potential value and strength of the claims. The available
15 information enabled Class Counsel to assess and value the class and PAGA claims and prepare
16 violation, damages, and penalties analyses and models. Accordingly, the Parties have conducted
17 adequate investigation and discovery to be sufficiently informed of the nature and extent of the
18 class and PAGA claims, and to enable both sides to fully evaluate the Settlement for its fairness,
19 adequacy, and reasonableness. The Settlement takes into account the strengths and weaknesses of
20 each side's position and the uncertainty of how the case might have concluded at certification,
21 trial, and/or appeals.

22 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
23 in an amount of up to thirty-five percent (35%) of the Gross Settlement Amount
24 (i.e., \$420,000.00) and expenses and costs in an amount not to exceed Thirty Thousand Dollars
25 (\$30,000.00), which will be paid out of the Gross Settlement Amount subject to approval by the
26 Court. It should be noted that Class Counsel has borne all of the risks and costs of litigation and
27 will not receive any compensation until recovery is obtained.

28 20. The Settlement Agreement provides for payment of up to Ten Thousand Hundred

1 Dollars (\$10,000.00) to Plaintiff as a Class Representative Service Payment, to be paid out of the
2 Gross Settlement Amount subject to approval by the Court. Plaintiff spent considerable time and
3 effort to produce relevant documents and past employment records and to provide the facts and
4 evidence necessary to attempt to prove the allegations. Plaintiff was available whenever Class
5 Counsel needed Plaintiff, and actively tried to obtain information that would facilitate the pursuit
6 of the class and PAGA claims. Accordingly, it is appropriate and just for Plaintiff to receive a
7 Class Representative Service Payment, in addition to an individual settlement payment, for
8 services performed in the matter on behalf of the Class, Aggrieved Employees, and State of
9 California.

10 **ESTIMATE OF THE VALUE OF THE CLAIMS**

11 21. Plaintiff's action alleges that Defendant has violated the California Labor Code and
12 Industrial Welfare Commission Wage Orders by engaging in a uniform policy and systematic
13 scheme of wage abuse against Plaintiff and the putative class members, including *inter alia*, failing
14 to properly compensate overtime and minimum wages, failing to provide compliant meal and rest
15 periods and associated premium pay, failing to timely pay wages during employment, failing to
16 timely pay wages upon termination and associated waiting-time penalties, failing to provide
17 compliant wage statements, failing to maintain requisite payroll records, and failing to reimburse
18 necessary business expenses. Plaintiff further contend that Defendant's aforementioned conduct
19 constitutes unfair business practices (under the California Business and Professions Code ("UCL"))
20 and gives rise to civil penalties recoverable under PAGA.

21 22. Based on data provided by Defendant, the total number of putative class members
22 during the period from August 9, 2017 to May 31, 2022 ("relevant time period") was estimated to
23 be approximately two hundred forty-eight (248) individuals who worked a total of 32,115
24 workweeks with an average hourly rate of pay of twenty-one (\$21.00).

25 23. Plaintiff contended that Defendant required putative class members to perform work
26 before clocking-in and after clocking-out of their scheduled shifts and during meal and rest
27 periods. Plaintiff contended that Defendant discouraged the recordation of overtime hours and
28 required putative class members to perform work off-the-clock. Plaintiff contended that

Defendant failed to include non-discretionary bonuses and incentives in the calculation of the regular rate when paying overtime wages. Plaintiff also contended that meal and rest periods were regularly missed, later, shortened, and/or interrupted, that putative class members were required to remain on premises during rest breaks, readily available to assist with work tasks, and that Defendant failed to properly pay premiums for all non-compliant meal and rest periods. Additionally, Plaintiff alleged that Defendant intentionally and willfully failed to pay Plaintiff and putative class members all wages due to them while they were employed by Defendant, within the time period permissible under California law, and that Defendant failed to pay all wages due upon termination, within the time period permissible under California law, thereby triggering waiting-time penalties under California Labor Code section 203. Plaintiff contended that, based on the violations described herein, the wage statements provided by Defendant and the payroll records kept by Defendant were inaccurate. Finally, Plaintiff contended that Defendant failed to reimburse Plaintiff and the other putative class members for necessary business expenses, including, but not limited to, the costs associated with the purchase of N-95 masks, sanitizing wipes, and hand sanitizers to perform their work duties.

24. Class Counsel considered defense arguments, e.g., that the employer's practices, policies, and procedures complied with the law, that Defendant paid putative class members over the California minimum wage for all hours worked, that Defendant correctly paid overtime for all overtime hours worked, that no waiting-time penalties were due because waiting-time penalties only arise from "willful" failure to pay wages due and owing at the time of termination or resignation, that Plaintiff and putative class members suffered no actual injury from the alleged wage statement violations and that this alleged violation and the alleged recordkeeping violation are entirely derivative of the other causes of action, and that a policy and practice of reimbursing employees for necessary business-related expenses exists. Class Counsel also considered the likelihood of Plaintiff's success in establishing that any of provisions of the California Labor Code, on which the civil penalties under PAGA and the UCL claim are predicated, were violated and that such violations were injurious and/or warranted imposition of civil penalties. Class Counsel also considered that trial courts have wide discretion when assessing penalties under PAGA, and

1 that it could be determined that individual liability issues predominate (e.g., due to purported
2 variation in shifts, locations, job duties, and other circumstances which could raise individualized
3 questions of fact) and could pose challenges to certification, manageability, and the merits of
4 Plaintiff's claims.

5 25. Class Counsel considered information obtained through investigations and from
6 Plaintiff, as well as class data and information obtained from Defendant and other sources, and
7 created violation, damages, and penalties valuations and models prior to reaching the Settlement.
8 Based thereon, Plaintiff calculated the potential value of the claims. However, the potential value
9 of each claim assumed an exposure based on the case having been certified and Plaintiff having
10 proven all elements of the claims and entitlement to monetary recovery, despite risks associated
11 with obtaining and maintaining certification, demonstrating manageability, and establishing
12 liability and any underlying California Labor Code violations and damages, and significant
13 additional costs that would have to be incurred in order to certify the case and establish liability
14 and damages. Plaintiff also faced the risk of the Court finding that individualized issues
15 predominate, such that the action is not suitable for class treatment and representative adjudication.
16 While Class Counsel disagreed with defense arguments and factual contentions, Plaintiff's
17 recognized the circumstances and realities of the case, applicable case law and regulations, the
18 costs and expenses of further litigation and certification, and risks to recovery, and applied
19 appropriate discounts for them. Class Counsel calculated the potential and realistic values of the
20 claims as follows:

- 21 a. Failure to Pay Overtime Wages: The potential value of this claim was estimated to
22 be \$2,023,245.00 (32,115 workweeks x 2 hours of unpaid overtime wages x
23 overtime hourly rate of \$31.50, which is based on the average hourly rate of \$21.00).
24 At this juncture, a discount of 40% was applied to account for the risks associated
25 with obtaining and maintaining class certification (bringing the value of this claim
26 closer to \$1,213,947.00), a discount of 60% was applied to account for the risks
27 associated with succeeding on the merits and establishing liability (bringing the
28 value of this claim closer to \$485,578.80), and a discount of 70% was applied to

account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$145,673.64).

b. Failure to Pay Minimum Wages: The potential value of this claim was estimated to be \$674,415.00 (32,115 workweeks x 1 hour of unpaid minimum wages x average hourly rate of \$21.00). At this juncture, a discount of 40% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$404,649.00, a discount of 60% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$161,859.60), and a discount of 70% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$48,557.88).

c. Failure to Provide Compliant Meal Periods and Associated Premiums: The potential value of this claim was estimated to be \$1,348,830.00 (32,115 workweeks x 2 meal period premium x average hourly rate of \$21.00). At this juncture, a discount of 40% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$809,298.00), a discount of 60% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$323,719.20), and a discount of 70% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$97,115.76).

d. Failure to Provide Compliant Rest Periods and Associated Premiums: The potential value of this claim was estimated to be \$674,415.00 (32,115 workweeks x 1 rest period premium x average hourly rate of \$21.00). At this juncture, a discount of 40% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$404,649.00), a discount of 70% was applied to account for the risks associated with succeeding on the merits

and establishing liability (bringing the value of this claim closer to \$121,394.70), and a discount of 70% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$36,418.41).

e. Failure to Timely Pay Wages During Employment: The value of this claim is considered as a part of the valuation of the PAGA claim contained *infra*.

f. Failure to Timely Pay Wages After Termination (and Waiting-Time Penalties): Based on information and data provided by Defendant, it was estimated that approximately fifty-eight (58) putative class members had been terminated during the three-year statute of limitations (i.e., from August 9, 2018 to February 12, 2022). Assuming that these individuals were not timely paid all wages due to them upon termination, the potential value of waiting-time penalties was estimated to be \$292,320.00 collectively (58 individuals x [30 days x hourly rate of \$21.00 x 8 hours]), or approximately \$5,040.00 per individual. At this juncture, a discount of 40% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$175,392.00), a discount of 70% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim closer to \$52,617.60), and a discount of 60% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of this claim closer to \$21,047.04).

g. Failure to Provide Compliant Wage Statements: The potential value of this claim was calculated to be \$647,600.00 ([190 initial violations x \$50 statutory penalty] + [6,381 subsequent violations x \$100 statutory penalty]). At this juncture, a discount of 40% was applied to account for the risks associated with obtaining and maintaining class certification (bringing the value of this claim closer to \$388,560.00), a discount of 60% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of this claim

1 closer to \$155,424.00), and a discount of 70% was applied to account for the risks
2 associated with proving the extent of damages and obtaining an award thereof
3 (bringing the value of this claim closer to \$46,627.20).

4 h. Failure to Maintain Payroll Records: Arguably, civil penalties would only be
5 recoverable by the Labor Commissioner, therefore, the value of this claim is
6 considered as a part of the valuation of the PAGA claim contained *infra*.

7 i. Failure to Reimburse Necessary Business Expenses: The potential value of this
8 claim was estimated to be \$192,690.00(32,115 workweeks x \$6 unreimbursed
9 business expenses). At this juncture, a discount of 40% was applied to account for
10 the risks associated with obtaining and maintaining class certification (bringing the
11 value of this claim closer to \$115,614.00), a discount of 60% was applied to account
12 for the risks associated with succeeding on the merits and establishing liability
13 (bringing the value of this claim closer to \$46,245.60), and a discount of 50% was
14 applied to account for the risks associated with proving the extent of damages and
15 obtaining an award thereof (bringing the value of this claim closer to \$23,122.80).

16 j. PAGA Penalties: The amount of civil penalties at issue, which the Court could
17 determine whether or not to assess and whether or not to reduce based on the facts
18 and circumstances of the case (to avoid an award that is unjust, arbitrary and
19 oppressive, or confiscatory, pursuant to California Labor Code section 2699(e)(2)),
20 were estimated to be approximately \$370,500.00 (190 aggrieved employees
21 estimated to have worked during one-year statutory period x \$1,950 civil penalties).
22 At this juncture, a discount of 25% was applied to account for the risks associated
23 with demonstrating manageability (bringing the value of this claim closer to
24 \$277,875.00), a discount of 30% was applied to account for the risks associated with
25 succeeding on the merits and establishing liability (bringing the value of this claim
26 closer to \$194,512.50), and a discount of 50% was applied to account for the risks
27 associated with the Court's discretion to reduce civil penalties and obtaining an
28 award of civil penalties (bringing the value of this claim closer to \$97,256.25).

26. The foregoing discussion confirms that the amount of the Settlement is adequate in light of Plaintiff's allegations and causes of action, the evidence at issue with respect to those allegations and causes of action, and legal and factual arguments and circumstances which pose challenges to certification, manageability, merits, and monetary recovery. The conclusion to be drawn from the foregoing analysis is that neither class certification, manageability, liability, nor the ability to adjudicate and/or recover monetary relief on a class-wide or representative basis is clear-cut, which is why the Parties elected to settle this matter. Class Counsel also recognized that additional discounts could be made to the risk-adjusted value to account for the costs and expenses associated with further litigation and the present value of obtaining a settlement now as opposed to monetary recovery, if any, that may be obtained in the future after further litigation. Class Counsel recognized the circumstances and realities of the case, applicable case law and regulations, and risks to recovery and applied appropriate discounts.

LWDA SUBMISSION

27. On July 20, 2021, Plaintiff submitted a letter to the Labor and Workforce Development Agency ("LWDA"), by online submission, and to Defendant, by U.S. Certified Mail, of her intent to seek civil penalties under PAGA and of the specific provisions of the California Labor Code and IWC Wage Orders that Defendant allegedly violated. A true and correct copy of Plaintiff's July 20, 2021 letter pursuant to PAGA, is attached hereto as "EXHIBIT 3." The Settlement Agreement and Operative Complaint are being submitted to the LWDA concurrently with this filing.

OVERLAPPING ACTIONS

28. I am not aware of any actions pending against Defendant (whether individual, class, or PAGA, including PAGA actions in the pre-filing LWDA stage) asserting overlapping or similar wage and hour claims.

CY PRES RECIPIENT

29. I made reasonable inquiry of Plaintiff and other members at Lawyers for Justice, PC, and to the best of my knowledge, neither I, Plaintiff, nor other members at Lawyers for Justice, PC have any relationship with the proposed *cy pres* recipient, Legal Aid Foundation of Los

Angeles.

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

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

Executed on this 30 day of September 2022, at Glendale, California.



Yasmin Hosseini

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Mayra Cortez (“Plaintiff”) and Defendant Barksdale, Inc. (“Defendant”) in the lawsuits entitled *Mayra Cortez v. Barksdale, Inc.*, Los Angeles Superior Court Case No. 21STCV29193 (the “Class Action”) and *Mayra Cortez v. Barksdale, Inc.*, Los Angeles Superior Court Case No. 21STCV35127 (the “PAGA Action”) (collectively, the “Litigation”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.2. “Administration Costs” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Parties and approved by the Court in connection with Preliminary Approval of the Settlement.
- 1.3. “Aggrieved Employee” means all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California at any time during the PAGA Period.
- 1.4. “Class” or “Class Member(s)” mean all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California at any time during the Class Period.
- 1.5. “Class Counsel” means Edwin Aiwasian, Arby Aiwasian, Joanna Ghosh, and Yasmin Hosseini of Lawyers *for* Justice, PC and all the lawyers of this firm acting on behalf of Plaintiff and the Class.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reasonable attorneys’ fees and reimbursement of expenses, respectively, incurred to prosecute the Litigation.
- 1.7. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s full name, last-known mailing address, Social Security number, and hire and termination dates reflecting the number of Class Period Workweeks and PAGA Pay Periods.
- 1.8. “Class Member Address Search” means the Administrator’s investigation and search for Class Members’ current mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database and direct contact by the Administrator with Class Members.
- 1.9. “Class Notice” means the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as “**Exhibit A**” and incorporated by

reference into this Agreement.

- 1.10. “Class Period” means the period from August 9, 2017 to May 31, 2022.
- 1.11. “Class Representative” or “Plaintiff” mean Mayra Cortez.
- 1.12. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Litigation and providing services in support of the Litigation.
- 1.13. “Class Settlement” means the settlement and resolution of the Released Class Claims.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “Defendant” means Barksdale, Inc.
- 1.16. “Defense Counsel” means Robert S. Blumberg and Tony P. Zhao of Littler Mendelson, P.C.
- 1.17. “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.19. “Final Approval Hearing” means the hearing at which the Court will consider and determine whether the Settlement should be granted Final Approval.
- 1.20. “Gross Settlement Amount” means One Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.000) which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Settlement Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the Administrator’s Costs.
- 1.21. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.22. “Individual Settlement Payment” means the net payment of each Participating Class Member’s Individual Settlement Share, after reduction for the employee’s share of

taxes and withholdings with respect to the portion of the Individual Settlement Share allocated as wages, as provided in Paragraph 3.2.5 below.

- 1.23. “Individual Settlement Share” means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Settlement Agreement, to be calculated in accordance with Paragraph 3.2.5.
- 1.24. “Litigation” means (1) Plaintiff’s class action lawsuit alleging wage and hour violations against Defendant captioned *Mayra Cortez v. Barksdale, Inc.*, initiated on August 9, 2021, Los Angeles Superior Court Case No. 21STCV29193 and (2) Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Mayra Cortez v. Barksdale, Inc.*, initiated on September 23, 2021, Los Angeles Superior Court Case No. 21STCV35127.
- 1.25. “LWDA” means the California Labor and Workforce Development Agency.
- 1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Costs. The remainder is to be paid to Participating Class Members as Individual Settlement Payments.
- 1.28. “Non-Participating Class Member” means any Class Member who opts out of the Class Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.29. “Operative Complaint” means the First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, et seq., encompassing Plaintiff’s Class and PAGA claims filed in conjunction with this Settlement Agreement and attached as “**Exhibit B**” hereto.
- 1.30. “PAGA Pay Periods” means the number of weeks each Aggrieved Employee worked for Defendant as an hourly-paid or non-exempt employee within California during the PAGA Period, which information will be provided to the Settlement Administrator by Defendant. PAGA Pay Periods are calculated by the Settlement Administrator, based on each Aggrieved Employees’ employment for five (5) or more calendar days during a pay period based on hire and termination dates, as follows: if an Aggrieved Employee’s hire date was within the PAGA Period and was on Monday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period); if an Aggrieved Employee’s termination date was within the PAGA Period and was on a Friday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period). If an Aggrieved Employee’s hire and/or termination date falls outside of the PAGA Period, the start and/or end dates of the PAGA Period (i.e., July 20, 2020 and/or May 31, 2022) shall be deemed the start and/or end dates for that Aggrieved Employee.

- 1.31. “PAGA Period” means the period from July 20, 2020 to May 31, 2022.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means Plaintiff’s July 20, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties, in the amount of \$200,000.00, to be paid from the Gross Settlement Amount, allocated as 25% to the Aggrieved Employees (\$50,000.00) and 75% to the LWDA (\$150,000.00) in settlement of PAGA claims.
- 1.35. “PAGA Settlement” means the settlement and resolution of the Released PAGA Claims.
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class Settlement.
- 1.37. “Plaintiff” means Mayra Cortez, the named plaintiff in the Litigation.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.40. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.41. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.42. “Released Parties” means Defendant and its divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, clients, customers, suppliers, and vendors.
- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member, in accordance with the requirements set forth in Paragraph 7.5.1 below.
- 1.44. “Response Deadline” means sixty (60) calendar days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) email or mail Requests for Exclusion from the Class Settlement, or (b) email or mail his or her Objection to the Class Settlement. The Response Deadline shall be extended by fourteen (14) calendar days for those Class

Members to whom Class Notices are resent after having been returned undeliverable to the Administrator.

- 1.45. “Workweeks” means the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee within California during the Class Period, which information will be provided to the Settlement Administrator by Defendant. Workweeks are calculated by the Settlement Administrator, based on each Class Members’ employment for three (3) or more calendar days during a workweek based on hire and termination dates, as follows: if a Class Member’s hire date was within the Class Period and was on Monday, Tuesday, or Wednesday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek); if a Class Member’s termination date was within the Class Period and was on a Wednesday, Thursday, or Friday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek). If a Class Member’s hire and/or termination date falls outside of the Class Period, the start and/or end dates of the Class Period (i.e., August 9, 2017 and/or May 31, 2022) shall be deemed the start and/or end dates for that Class Member.

2. **RECITALS.**

- 2.1. On August 9, 2021, Plaintiff commenced the class action lawsuit entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV29193 (i.e., Class Action), by filing the Class Action Complaint for Damages, which alleged ten causes of action against Defendant for: (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods and associated premiums pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods and associated premiums pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to timely pay wages during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226 and the IWC Wage Orders; (8) failure to keep complete or accurate payroll records pursuant to California Labor Code section 1174(d) and the IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, *et seq.*
- 2.2. On July 20, 2021, Plaintiff provided written notice to the LWDA and to Defendant of the specific provisions of the California Labor Code that Defendant allegedly violated (i.e., PAGA Notice). Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice. On September 23, 2021, Plaintiff commenced the PAGA action entitled *Mayra Cortez v. Barksdale, Inc.*, in the Superior Court of California for the County of Los Angeles, Case

No. 21STCV35127 (i.e., PAGA Action), by filing a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq., alleging one cause of action against Defendant for civil penalties under California Labor Code § 2698, *et seq.* For the purposes of effectuating this Settlement, the Parties will stipulate that Plaintiff shall file a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Class Action, consolidating the Class Action and PAGA Action (i.e., Operative Complaint).

- 2.3. Defendant has denied the allegations in the Class Action and PAGA Action, and denies all material allegations set forth in the Operative Complaint, and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Litigation, Released Class Claims, and Released PAGA Claims.
- 2.4. On May 17, 2022, the Parties participated in an all-day mediation presided over by Mark S. Rudy, Esq. Although the parties did not reach a resolution during the mediation, the Mediator presented a “Mediator’s Proposal” at the conclusion of mediation, which both parties accepted, and which led to this Agreement to settle the Litigation.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, a random sampling of Class Members’ time and pay records, as well as information and documents concerning the claims set forth in the Litigation, including but not limited to, Defendant’s employee handbook and relevant wage and hour policies, datapoints, including and not limited to, information regarding the number of Class Members and Aggrieved Employees, the number of workweeks worked by the Class Members, the number of pay periods worked by the Aggrieved Employees, and the average rate of pay of the Class Members. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.6. The Court has not yet granted class certification, as the Parties agreed to mediate prior to the filing of any motion to determine whether a class should be certified.
- 2.7. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$1,200,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Settlement Shares. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any

claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than Ten Thousand Dollars and Zero Cents (\$10,000.00) (in addition to any Individual Settlement Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed to Participating Class Members. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which is currently estimated to be Four Hundred Twenty Thousand Dollars and Zero Cents (\$420,000.00) and a Class Counsel Litigation Expenses Payment of not more than Thirty Thousand Dollars and Zero Cents (\$30,000.00). Defendant will not oppose requests for these payments. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the Litigation, including without limitation all work performed to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of the Settlement, as well as any objections raised, and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. With respect to the Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment, the Settlement Administrator may purchase annuities to utilize United States Treasuries and bonds or other attorney fee deferral vehicles, for Class Counsel. Any additional expenses for the use of attorney fee deferral vehicles shall be paid separately by Class Counsel and shall not be included in the Administration Costs. Any portion of the Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment not awarded to Class Counsel shall be part of the Net Settlement Amount to be distributed to Participating Class Members.

3.2.3. To the Administrator: The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments

under the Settlement, which is currently estimated not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00). To the extent actual Administration Costs are greater than the estimated amount stated herein, such excess amount will be disclosed to the Court and deducted from the Gross Settlement Amount, subject to approval by the Court. Any portion of the estimated, designated, and/or awarded Administration Costs which are not in fact required to fulfill payment to the Administrator to undertake the required settlement administration duties will become part of the Net Settlement Amount to be distributed to Participating Class Members.

3.2.4. PAGA Penalties: Subject to approval by the Court, the Parties agree that the amount of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) from the Gross Settlement Amount will be allocated toward penalties under PAGA (“PAGA Penalties”), of which seventy-five percent (75%), or \$150,000, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) or, \$50,000, will be distributed to Aggrieved Employees on a *pro rata* basis, based on PAGA Pay Periods during the PAGA Period (i.e., Individual PAGA Payment).

3.2.5. Individual Settlement Share Calculations: Individual Settlement Shares will be calculated and apportioned from the Net Settlement Amount based on the Class Members’ Workweeks, as follows:

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

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

3.2.6. Individual PAGA Payment Calculations: Individual PAGA Payments will be calculated and apportioned from the 25% share of the PAGA Penalties based on the Aggrieved Employees’ PAGA Pay Periods, as follows: The Administrator will divide the 25% portion of the PAGA Penalties attributed to Aggrieved Employees, i.e. \$50,000.00, by the PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period resulting in the PAGA Pay Period Value and then multiplying the PAGA Pay Period Value by the number of PAGA Pay Periods worked by each individual Aggrieved Employee during the PAGA Period.

3.2.7. Tax Allocation of Individual Settlement Payments and Individual PAGA Payments. Twenty percent (20%) of each Participating Class Member’s Individual Settlement Payment will be allocated to settlement of wage claims (the “Wage Portion”). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Eighty percent (80%) of each Participating Class Member’s Individual Settlement Payment will be allocated to settlement of claims for penalties, interest, and non-wage damages (the “Non-Wage Portion”). The

Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Settlement Payment. Any payment for an Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, will not be subject to taxes or withholdings, and will be reported on an IRS Form-1099, if necessary. The Administrator will have the option to pay the Individual Settlement Payment and Individual PAGA Payment by way of a single check.

- 3.2.8. Effect of Non-Participating Class Members on Calculation of Individual Settlement Payments. Non-Participating Class Members will not receive any Individual Settlement Payments. The Administrator will retain amounts equal to their Individual Settlement Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Workweeks and PAGA Pay Periods. Based on a review of its records, during the period from August 9, 2017 to February 12, 2022, Defendant estimates there were 241 Class Members who collectively worked a total of 30,634 Workweeks, and during the period from July 20, 2020 to February 12, 2022, there were 181 Aggrieved Employees who worked a total of 5,425 PAGA Pay Periods.
- 4.2. Class Data. Not later than fourteen (14) calendar days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Notwithstanding this provision, Class Counsel shall also receive redacted Class Data that shall only disclose an identification number attributed to each Class Member and their associated Workweeks during the Class Period and each Aggrieved Employee and their associated PAGA Pay Periods during the PAGA Period. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than fourteen (14) calendar days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Settlement Payments, all Individual PAGA Payments, the LWDA

Payment, the Administration Costs, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Settlement Payments and Individual PAGA Payments.

- 4.4.1. The Administrator will issue checks for the Individual Settlement Payments and/or Individual PAGA Payments and send them to the Class Members and/or Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (180) calendar days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Settlement Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Settlement Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid Foundation of Los Angeles, a nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) (the "Cy Pres Recipient"). The Parties, Class Counsel, and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.
- 4.4.4. The payment of Individual Settlement Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members or Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.
5. **RELEASES OF CLAIMS.** Upon the Effective Date and full funding of the Gross Settlement Amount (including all employer payroll taxes owed on the Wage Portion of the Individual Settlement Payments), Plaintiff, all Participating Class Members (i.e., Class Members who do not submit a valid and timely Request for Exclusion), and Aggrieved Employees will release

claims against all Released Parties as follows:

- 5.1. General Release of Claims by Plaintiff. Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of and from all claims arising from her employment with Defendant, separation of employment from Defendant, whether known or unknown, arising under any federal or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

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

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

- 5.2. Released Class Claims by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint and ascertained in the course of the Litigation, including, any and all claims, actions, and causes of action, arising during the Class Period, for: (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor

Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to maintain adequate payroll records pursuant to California Labor Code section 1174(d) and 1174.5 and the IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, *et seq.* Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- 5.3. Released PAGA Claims by Aggrieved Employees: The State of California and all Aggrieved Employees, including Non-Participating Class Members who are Aggrieved Employees, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, in the Operative Complaint, PAGA Complaint, the PAGA Notice, and ascertained in the course of the Litigation for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and IWC Wage Orders 1-2001, 4-2001, and 16-2001.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

- 6.1. Defendant's Declaration in Support of Preliminary Approval. Within fourteen (14) calendar days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2. Plaintiff's Responsibilities. Within thirty (30) calendar days of the full execution of this Agreement, Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of

insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and/or the proposed *Cy Pres*; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, the Administrator, and/or the proposed *Cy Pres*; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vii) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (viii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the *Cy Pres* Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ninety (90) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1. Selection of Administrator. The Parties have jointly selected and will ask the Court to appoint Phoenix Settlement Administrators ("PSA") to serve as the Administrator and to perform all duties specified in this Agreement in exchange for payment of Administration Costs. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall take steps to establish a case-specific Employer Identification Number, if necessary, for purposes of calculating

payroll tax withholdings and providing reports state and federal tax authorities.

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

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as “**Exhibit A**”. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Settlement Payment and/or Individual PAGA Payment payable to the Class Member and/or Aggrieved Employee, and the number of Workweeks and/or PAGA Pay Periods (used to calculate these amounts). Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members’ written objections to the Class Settlement, disputes regarding Workweeks and/or Pay Periods, and Requests for Exclusion from the Class Settlement will be extended an additional fourteen (14) calendar days beyond the sixty (60) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the

Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion from the Class Settlement (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by email or mail, a signed written Request for Exclusion not later than the Response Deadline. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Class Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely emailed or postmarked by the Response Deadline. Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.

7.5.2. The Administrator may not reject a Request for Exclusion from the Class Settlement as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3. Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement are deemed to be Participating Class Members under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' release of Released Class Claims under Paragraph 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Class Settlement.

7.5.4. Class Members who submit a valid and timely Request for Exclusion from the Class Settlement are Non-Participating Class Members and shall not receive Individual Settlement Payments or have the right to object to the Class Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are also Aggrieved Employees are deemed to release the Released PAGA Claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member and Aggrieved Employee shall have until the Response Deadline to challenge the number of Class Workweeks and/or PAGA Pay Periods (if any) allocated to the Class Member and/or Aggrieved Employee in the Class Notice. The Class Member may challenge the allocation by

communicating with the Administrator via email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Class Settlement.

7.7.1. Only Participating Class Members may object to the Class Settlement and/or this Agreement, including contesting the fairness of the Class Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by email or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline.

7.7.3. Non-Participating Class Members have no right to object to the Class Settlement.

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will post information of interest to Class Members including the date, time, and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment on a portion of its website. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for

Exclusion from the Class Settlement (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion from the Class Settlement; (c) copies of all Requests for Exclusion from the Class Settlement submitted (whether valid or invalid).

- 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion from the Class Settlement (whether valid or invalid) received, objections to the Class Settlement received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Settlement Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4. Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5. Administrator’s Declaration. Not later than fourteen (14) calendar days before the date by which Class Counsel is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the Class Settlement it received (both valid or invalid), the number of written objections to the Class Settlement and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6. Final Report by Settlement Administrator. Within ten (10) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

- 8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendant estimates that: (1) during the period from August 9, 2017 to February 12, 2022 there were 241 Class Members and 30,634 total Workweeks, and (2) during the period from July 20, 2020 to February 12, 2022 there were 181 Aggrieved Employees who worked 5,425 PAGA Pay Periods. Defendant will provide a declaration verifying these representations. Should the Parties, or the Settlement Administrator, determine that these representations regarding the scope of the class in existence as of February 12, 2022 was inaccurate by more than ten percent (10%), the Gross Settlement Amount shall increase proportionately by the amount in excess of ten percent (10%), based upon the increased number of pay periods or Class Members, with the greater increase controlling. If it is determined that the total number of Workweeks during the represented period actually exceeds 30,634 by more than ten percent (10%), then the Gross Settlement Amount will be increased on a proportional basis by the same number of percentage points above ten percent (10%) (e.g., if the number of Workweeks during the represented period actually exceeds 30,634 by 11% to 34,004 Workweeks, the Gross Settlement Amount will increase by 1%).
- 9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion from the Class Settlement identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Costs incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
- 10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Class Counsel will file in Court, a motion for final approval of the Settlement that includes a request for approval of the Settlement, a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Class Counsel shall provide drafts of these documents to Defense Counsel not later than five (5) calendar days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1. Response to Objections to the Class Settlement. Each Party retains the right to respond to any objection to the Class Settlement raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Costs shall not

constitute a material modification to the Agreement within the meaning of this paragraph.

10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Litigation, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment as set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Costs reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. **ADDITIONAL PROVISIONS.**

12.1. No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Litigation have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Litigation have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final

Approval, or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Litigation, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Litigation will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed with the Court, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Class Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things,

modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained or contemplated in this Agreement may be modified by agreement of counsel for the Parties in writing without approval by the Court if the Parties agree and cause exists for such modification.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Litigation and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14. Use and Return of Class Data. To the extent that Class Data provided to Class Counsel by the Settlement Administrator in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) calendar days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from Defendant

unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data. Notwithstanding this provision, Class Counsel is entitled to retain an archival copy of all pleadings, motion papers, deposition transcripts, hearing transcripts, legal memoranda, correspondence, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Class Data.

12.15. Neutral Employment Reference. Although Plaintiff is currently employed by Defendant, in the event of a separation of employment from Defendant, Defendant agrees that it will adopt a neutral reporting policy regarding any future employment references related to Plaintiff. In the event that any potential or future employers of Plaintiff request a reference regarding Defendant's employment of Plaintiff, Defendant shall only provide the requested Plaintiff's dates of employment and job titles during employment. Defendant shall not refer to the Litigation or this Settlement.

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

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

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

To Plaintiff and Class Counsel:

Edwin Aiwarzian, Esq.
Arby Aiwarzian, Esq.
Joanna Ghosh, Esq.
Yasmin Hosseini, Esq.
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203

To Defendant:

Robert S. Blumberg
Tony P. Zhao
LITTLER MENDELSON, P.C.
2049 Century Park East, Fifth Floor
Los Angeles, California 90067

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

12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 the date to bring a case to trial under CCP section 583.310 shall be extended for the entire period of this settlement process.

IT IS SO AGREED.

Dated: 09/28/2022

PLAINTIFF MAYRA CORTEZ
Electronically Signed 2022-09-28 22:17:05 UTC - 108.216.176.2337

Nintex AssureSign® 20232ed0-8420-45ba-8ab7-af1e018b29e1
Mayra Cortez, Plaintiff

DEFENDANT BARKSDALE, INC.

Dated: _____

Full Name: _____

Title: _____

On behalf of Barksdale, Inc.

APPROVED AS TO FORM ONLY:

Dated: 9/28/2022

By: 
Edwin Aiwanian, Esq.
LAWYERS for JUSTICE, PC

Attorneys for Plaintiff Mayra Cortez and Proposed Class Counsel

Dated: _____

By: _____
Robert S. Blumberg
Tony P. Zhao
LITTLER MENDELSON, P.C.

Attorneys for Defendant Barksdale, Inc.

12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 the date to bring a case to trial under CCP section 583.310 shall be extended for the entire period of this settlement process.

IT IS SO AGREED.

PLAINTIFF MAYRA CORTEZ

Dated: _____

Mayra Cortez, Plaintiff

DEFENDANT BARKSDALE, INC.

Dated: 9/29/22



Full Name: Marie Dhaine
Title: V.P. Human Resources
On behalf of Barksdale, Inc.

APPROVED AS TO FORM ONLY:

Dated: _____

By: _____
Edwin Aiwarzian, Esq.
LAWYERS for JUSTICE, PC

Attorneys for Plaintiff Mayra Cortez and Proposed Class Counsel

Dated: September 30, 2022

By: 

Robert S. Blumberg
Tony P. Zhao
LITTLER MENDELSON, P.C.

Attorneys for Defendant Barksdale, Inc.

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR FINAL COURT APPROVAL**

Cortez v. Barksdale, Inc., Case No. 21STCV29193

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Barksdale, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by employee Mayra Cortez (“Plaintiff”) and seeks payment of (1) unpaid wages, unreimbursed business expenses, restitution, statutory penalties, interest, and attorneys’ fees and costs for a class of all non-exempt or hourly-paid employees (“Class Members”) who worked for Defendant during the Class Period (August 9, 2017 to May 31, 2022); and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all non-exempt or hourly-paid employees who worked for Defendant during the PAGA Period (July 20, 2020 to May 31, 2022) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Settlement Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Settlement Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked [REDACTED] Workweeks** during the Class Period and **you worked [REDACTED] PAGA Pay Periods** during the PAGA Period. If you believe that you worked more Workweeks during the Class Period or PAGA Pay Periods during the PAGA Period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Settlement Payment. As a Participating Class Member, though, you will give up your right to assert Released Class Claims. If you are an Aggrieved Employee, you will automatically be bound to the PAGA Settlement and issued your Individual PAGA Payment.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out)

by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Class Settlement, you will not receive an Individual Settlement Payment. You will, however, preserve your right to personally pursue Released Class Claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Settlement Payment and/or an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the Released Class Claims and/or Released PAGA Claims against Defendant that are covered by this Settlement.
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [REDACTED]	If you do not want to fully participate in the proposed Class Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Settlement Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out ("Participating Class Members") can object to the Class Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [REDACTED] on [REDACTED] at [REDACTED]. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Class Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges	The amount of your Individual Settlement Payment and Individual PAGA Payment (if any) depend on how many Workweeks and/or PAGA Pay Periods you were determined to have worked, as follows: PAGA Pay Periods are calculated by the Settlement Administrator, based

Must be Submitted by	on each Aggrieved Employees' employment for five (5) or more calendar days during a pay period based on hire and termination dates, as follows: if an Aggrieved Employee's hire date was within the PAGA Period and was on Monday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period); if an Aggrieved Employee's termination date was within the PAGA Period and was on a Friday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period). If an Aggrieved Employee's hire and/or termination date falls outside of the PAGA Period, the start and/or end dates of the PAGA Period (i.e., July 20, 2020 and/or May 31, 2022) shall be deemed the start and/or end dates for that Aggrieved Employee. Workweeks are calculated by the Settlement Administrator, based on each Class Members' employment for three (3) or more calendar days during a workweek based on hire and termination dates , as follows: if a Class Member's hire date was within the Class Period and was on Monday, Tuesday, or Wednesday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek); if a Class Member's termination date was within the Class Period and was on a Wednesday, Thursday, or Friday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek). If a Class Member's hire and/or termination date falls outside of the Class Period, the start and/or end dates of the Class Period (i.e., August 9, 2017 and/or May 31, 2022) shall be deemed the start and/or end dates for that Class Member. The number Workweeks and number of PAGA Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.
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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a current employee of Defendant. On August 9, 2021, Plaintiff commenced the class action lawsuit entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV29193 (i.e., Class Action) and on September 23, 2021, Plaintiff commenced the PAGA action entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV35127 (i.e., PAGA Action) (together with the Class Action, “Action”). On [date], Plaintiff file a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Class Action, consolidating the Class Action and PAGA Action (i.e., Operative Complaint). The Action accuses Defendant of violating California labor laws by failing to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide complaint wage statements, keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business & Professions Code section 17200, *et seq.* Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”). Plaintiff is represented by attorneys in the Action:

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

(“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$1,200,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Settlement Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$420,000.00 (35% of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$30,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Settlement Payment and any Individual PAGA Payment as a Class Member and Aggrieved Employee.
 - C. Up to \$10,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$200,000.00 for PAGA Penalties, allocated as 75% to be paid to the LWDA and 25% to be paid to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.
3. Net Settlement Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, Administrator will distribute the rest of the Gross Settlement (the "Net Settlement Amount") by making Individual Settlement Payments to Participating Class Members based on their Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Settlement Payment to taxable wages ("Wage Portion") and 80% to penalties, interest, and non-wage damages ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Settlement Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are

responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Settlement Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization or foundation ("Cy Pres").
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [60 Day Response Deadline], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion from the Class Settlement by the [60 Day Response Deadline] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Class Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Settlement Payments, but will preserve their rights to personally pursue Released Class Claims against Defendant.

You cannot opt-out of the PAGA Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert Released PAGA Claims against Defendant.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the "Administrator"), to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion from the Class Settlement. The Administrator will also decide disputes regarding Workweeks and/or PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release of Released Class Claims. Upon the Effective Date and full funding of the Gross Settlement Amount (including all employer payroll taxes owed on the Wage Portion of the Individual Settlement Payments), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or Released Parties for Released Class Claims.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Defendant and its divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries,

assigns, subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, clients, customers, suppliers, and vendors (“Released Parties”) from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action during the Class Period for (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226 and the IWC Wage Orders; (8) failure to maintain adequate payroll records pursuant to California Labor Code section 1174 and IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, *et seq.* (“Released Class Claims”). Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ Release of Released PAGA Claims. Upon the Effective Date and full funding of the Gross Settlement Amount (including all employer payroll taxes owed on the Wage Portion of the Individual Settlement Payments), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Class Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Released Parties based on the facts alleged in the Action during the PAGA Period and resolved by this Settlement. The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice and ascertained in the course of the Action for alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 1-2001, 4-2001, and 16-2001 (“Released PAGA Claims”).

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Settlement Payments. The Administrator will divide the final Net Settlement Amount by the Workweeks of all Participating Class Members to yield the “Final Workweek Value,” and multiply each Participating Class Member’s individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.

2. Individual PAGA Payments. The Administrator will divide the 25% portion of the PAGA Penalties attributed to Aggrieved Employees, i.e., \$50,000.00, by the PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period resulting in the PAGA Pay Period Value and then multiplying the PAGA Pay Period Value by the number of PAGA Pay Periods worked by each individual Aggrieved Employee during the PAGA Period.
3. Workweek/Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until **[60-Day Response Deadline]** to dispute the number of Workweeks and/or Pay Periods credited to you. You can submit your dispute by signing and sending a letter to the Administrator via mail or email. Section 9 of this Notice has the Administrator's contact information.

You need to support your dispute by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Workweeks and/or PAGA Pay Periods based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or PAGA Pay Period disputes based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Settlement Payment and the Individual PAGA Payment.
2. Aggrieved Employees. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every individual who is eligible to receive payment under the PAGA Settlement as an Aggrieved Employee.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Class Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Cortez v. Barksdale, Inc.*, Case No. 21STCV29193, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by **[60 Day Response Deadline]**, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE CLASS SETTLEMENT?

Only Participating Class Members have the right to object to the Class Settlement. Before deciding

whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least sixteen (16) court days before the [Date of Final Approval Hearing] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website (url) or the Court's website for a fee at <https://www.lacourt.org/casesummary/ui/>.

A Participating Class Member who disagrees with the Class Settlement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Class Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [60-Day Response Deadline].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Cortez v. Barksdale, Inc.*, Case No. 21STCV29193 and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object to the Class Settlement (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but do not have to, attend the Final Approval Hearing on [Date] at [Time] in Department 12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors to the Class Settlement, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website (url) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at (url). You can also telephone or send an email to the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV29193. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800. You may also telephone Class Counsel at the phone number provided in Section 1 above.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN
INFORMATION ABOUT THE SETTLEMENT.**

Settlement Administrator:

Phoenix Settlement Administrators

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

EXHIBIT B

Edwin Aiwarzian (SBN 232943)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES—SPRING STREET COURTHOUSE

MAYRA CORTEZ, individually, and on
behalf of other members of the general public
similarly situated, and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

BARKSDALE, INC., an unknown business
entity; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 21STCV29193

Honorable Carolyn B. Kuhl
Department 12

**[PROPOSED] FIRST AMENDED
CONSOLIDATED CLASS ACTION
COMPLAINT FOR DAMAGES AND
ENFORCEMENT UNDER THE PRIVATE
ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE § 2698, ET
SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code

§§ 2800 and 2802 (Unreimbursed Business Expenses);
(10) Violation of California Business & Professions Code §§ 17200, et seq.;
(11) Violation of California Labor Code §§ 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff MAYRA CORTEZ (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of Los Angeles.

PARTIES

5. Plaintiff is an individual residing in the State of California.

6. Defendant BARKSDALE, INC., at all times herein mentioned, was and is, an employer whose employees are engaged throughout the State of California, including the County of Los Angeles.

7. At all relevant times, Defendant BARKSDALE, INC., was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants BARKSDALE, INC., and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

9. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

10. Defendant BARKSDALE, INC., and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

11. Plaintiff further alleges that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff, the other class members, and the other Aggrieved Employees, so as to make each of

said Defendants employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

12. Plaintiff brings this action on her own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

13. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from August 9, 2017 to final judgment and who reside in California.

(Subclass A) All class members who were subject to Defendants' practice of rounding time recorded for purposes of calculating compensation for time worked or for calculating meal periods.

(Subclass B) All class members who were required by Defendant to stay on the work premises during rest breaks.

14. Plaintiff reserves the right to establish other subclasses as appropriate.

15. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff at this time; however, the class is estimated to be greater than three-hundred twenty-five (325) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' employment records.

b. Typicality: Plaintiff's claims are typical of all other class members' as demonstrated herein. Plaintiff will fairly and adequately protect the interests of the other class members with whom she has a well-defined community of interest.

c. Adequacy: Plaintiff will fairly and adequately protect the interests of each

class member, with whom she has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no interest that is antagonistic to the other class members. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and during the pendency of this action will continue to incur, costs and attorneys' fees, that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

- d. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this litigation because individual joinder of all class members is impractical.
- e. Public Policy Considerations: Certification of this lawsuit as a class action will advance public policy objectives. Employers of this great state violate employment and labor laws every day. Current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. However, class actions provide the class members who are not named in the complaint anonymity that allows for the vindication of their rights.

16. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members. The following common questions of law or fact, among others, exist as to the members of the class:

- a. Whether Defendants' failure to pay wages, without abatement or reduction, in accordance with the California Labor Code, was willful;
- b. Whether Defendants' had a corporate policy and practice of failing to pay their hourly-paid or non-exempt employees within the State of California for all hours worked and missed (short, late, interrupted, and/or missed altogether) meal periods and rest breaks in violation of California law;
- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day, over forty (40) hours per week, and/or

1 six (6) days per workweek and failed to pay the legally required overtime
2 compensation to Plaintiff and the other class members;

3 d. Whether Defendants deprived Plaintiff and the other class members of
4 meal and/or rest periods or required Plaintiff and the other class members
5 to work during meal and/or rest periods without compensation;

6 e. Whether Defendants failed to pay minimum wages to Plaintiff and the
7 other class members for all hours worked;

8 f. Whether Defendants failed to pay all wages due to Plaintiff and the other
9 class members within the required time upon their discharge or
10 resignation;

11 g. Whether Defendants failed to timely pay all wages due to Plaintiff and the
12 other class members during their employment;

13 h. Whether Defendants complied with wage reporting as required by the
14 California Labor Code; including, *inter alia*, section 226;

15 i. Whether Defendants kept complete and accurate payroll records as
16 required by the California Labor Code, including, *inter alia*, section
17 1174(d);

18 j. Whether Defendants failed to reimburse Plaintiff and the other class
19 members for necessary business-related expenses and costs;

20 k. Whether Defendants' conduct was willful or reckless;

21 l. Whether Defendants engaged in unfair business practices in violation of
22 California Business & Professions Code section 17200, et seq.;

23 m. The appropriate amount of damages, restitution, and/or monetary penalties
24 resulting from Defendants' violation of California law; and

25 n. Whether Plaintiff and the other class members are entitled to
26 compensatory damages pursuant to the California Labor Code.

27 ///

28 ///

PAGA ALLEGATIONS

17. At all times herein set forth, PAGA was applicable to Plaintiff's employment by Defendants.

18. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

19. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

20. Plaintiff was employed by Defendants and the alleged violation was committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

21. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the Labor & Workforce Development Agency (hereinafter "LWDA") and by U.S. Certified Mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

b. The LWDA shall provide notice (hereinafter "LWDA Notice") to the employer and the aggrieved employee by certified mail that it does not

1 intend to investigate the alleged violation within sixty (60) calendar days
2 of the postmark date of the Employee's Notice. Upon receipt of the
3 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
4 (65) calendar days of the postmark date of the Employee's Notice, the
5 aggrieved employee may commence a civil action pursuant to California
6 Labor Code section 2699 to recover civil penalties in addition to any other
7 penalties to which the employee may be entitled.

8 22. On July 20, 2021, Plaintiff provided written notice by online submission to the
9 LWDA and by U.S. Certified Mail to Defendant BARKSDALE, INC. of the specific provisions
10 of the California Labor Code alleged to have been violated, including the facts and theories to
11 support the alleged violations. Plaintiff has not received an LWDA Notice within sixty-five
12 (65) calendar days of the date of Plaintiff's notice.

13 23. Therefore, Plaintiff has satisfied the administrative prerequisites under California
14 Labor Code section 2699.3(a) to recover civil penalties against Defendants for violations of
15 California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558,
16 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage
17 Orders including *inter alia*, Wage Orders 1-2001, 4-2001, and 16-2001.

18 **GENERAL ALLEGATIONS**

19 24. At all relevant times set forth herein, Defendants employed Plaintiff and other
20 persons as hourly-paid or non-exempt employees within the State of California, including the
21 County of Los Angeles.

22 25. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
23 exempt employee, from approximately April 2014 through approximately the current date, in
24 the State of California, County of Los Angeles.

25 26. Defendants hired Plaintiff and the other class members, classified them as hourly-
26 paid or non-exempt employees, and failed to compensate them for all hours worked and missed,
27 short, late, and/or interrupted meal periods and/or rest breaks.

28 27. Defendants had the authority to hire and terminate Plaintiff and the other class

members, to set work rules and conditions governing Plaintiff's and the other class members' employment, and to supervise their daily employment activities.

28. Defendants exercised sufficient authority over the terms and conditions of Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff and the other class members.

29. Defendants directly hired and paid wages and benefits to Plaintiff and the other class members.

30. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

31. Plaintiff and the other class members worked over eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) days in a workweek during their employment with Defendants.

32. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, *inter alia*, failing to pay them for all hours worked and missed meal periods and rest breaks in violation of California law.

33. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and the other class members were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked. The deficiencies include, *inter alia*, requiring Plaintiff and the other class members to perform work overtime off-the-clock, the failure to include earned commissions, non-discretionary forms of pay such as awards and bonuses, and/or monetary and non-monetary incentives, to calculate the regular rate of pay used to calculate the overtime rate.

34. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide Plaintiff and the other class members all required rest and meal periods during the relevant time period as required under the Industrial Welfare Commission Wage Orders and

1 thus they are entitled to any and all applicable premium wages. Defendants' failure included,
2 inter alia, failing to provide uninterrupted ten (10) minute rest periods and timely, uninterrupted
3 thirty (30) minute meal periods to Plaintiff and the other class members. Plaintiff and the other
4 class members were required to perform work during meal periods and rest periods, and
5 Defendants incentivized Plaintiff and the other class members to forego statutorily required meal
6 periods and rest periods..

7 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control
9 over Plaintiff and the other class members' activities, failed to permit Plaintiff and the other
10 class members a reasonable opportunity to take, and impeded or discouraged them from taking
11 thirty (30) minute uninterrupted meal breaks no later than the end of their fifth hour of work for
12 shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal
13 breaks no later than their tenth hour of work for shifts lasting more than ten (10) hours.

14 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that Plaintiff and the other class members were entitled to receive
16 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
17 member's regular rate of pay when a meal period was missed, and they did not receive all meal
18 periods or payment of one additional hour of pay at Plaintiff's and the other class member's
19 regular rate of pay when a meal period was missed, short, late, and/or interrupted.

20 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 failed to provide, authorize, and permit Plaintiff and the other class members to take full,
22 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6) hour
23 and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten (10)
24 hours, and failed to make a good faith effort to authorize, permit, and provide such rest breaks
25 in the middle of each work period. Defendants also required Plaintiff and other putative class
26 members to remain on the premises during rest periods.

27 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 knew or should have known that Plaintiff and the other class members were entitled to receive

1 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
2 member's regular rate of pay when a rest period was missed, short, late, and/or interrupted, and
3 they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and
4 the other class members' regular rate of pay when a rest period was missed, short, late, and/or
5 interrupted.

6 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 knew or should have known that Plaintiff and the other class members were entitled to receive
8 at least minimum wages for compensation and that they were not receiving at least minimum
9 wages for all hours worked.

10 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that Plaintiff and the other class members were entitled to receive
12 all wages owed to them upon discharge or resignation, including earned but unpaid overtime
13 wages, minimum wages and meal and rest period premiums, and they did not, in fact, receive all
14 such wages owed to them at the time of their discharge or resignation.

15 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and the other class members were entitled to receive
17 all wages owed to them during their employment. Plaintiff and the other class members did not
18 receive payment of all wages, including overtime and minimum wages and meal and rest period
19 premiums, within any time permissible under California Labor Code section 204.

20 42. Plaintiff is informed and believes, and based thereon alleges, that Defendants
21 knew or should have known that Plaintiff and the other class members were entitled to receive
22 complete and accurate wage statements in accordance with California law, but, in fact, they did
23 not receive complete and accurate wage statements from Defendants. The deficiencies included,
24 *inter alia*, the failure to include the total number of hours worked by Plaintiff and the other class
25 members.

26 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 knew or should have known that Defendants had to keep complete and accurate payroll records
28 for Plaintiff and the other class members in accordance with California law, but, in fact, did not

1 keep complete and accurate payroll records.

2 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 knew or should have known that Plaintiff and the other class members were entitled to
4 reimbursement for necessary business-related expenses.

5 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knew or should have known that they had a duty to compensate Plaintiff and the other class
7 members pursuant to California law, and that Defendants had the financial ability to pay such
8 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely represented
9 to Plaintiff and the other class members that they were properly denied wages, all in order to
10 increase Defendants' profits.

11 46. During the relevant time period, Defendants failed to pay overtime wages to
12 Plaintiff and the other class members for all overtime hours worked. Plaintiff and the other class
13 members did not receive overtime compensation at one-and one-half time the regular rate for all
14 hours spent performing job duties in excess of eight (8) hours per day, forty (40) hours per week,
15 and/or for the first eight (8) hours worked on the seventh day of work in a workweek without
16 overtime compensation for all overtime hours worked.

17 47. During the relevant time period, Defendants failed to provide all requisite
18 uninterrupted meal and rest periods to Plaintiff and the other class members.

19 48. During the relevant time period, Defendants failed to pay Plaintiff and the other
20 class members at least minimum wages for all hours worked.

21 49. During the relevant time period, Defendants failed to pay Plaintiff and the other
22 class members all wages owed to them upon discharge or resignation.

23 50. During the relevant time period, Defendants failed to pay Plaintiff and the other
24 class members all wages within any time permissible under California law, including, *inter alia*,
25 California Labor Code section 204.

26 51. During the relevant time period, Defendants failed to provide complete or
27 accurate wage statements to Plaintiff and the other class members.

28 52. During the relevant time period, Defendants failed to keep complete or accurate

1 payroll records for Plaintiff and the other class members.

2 53. During the relevant time period, Defendants failed to reimburse Plaintiff and the
3 other class members for all necessary business-related expenses and costs.

4 54. During the relevant time period, Defendants failed to properly compensate
5 Plaintiff and the other class members pursuant to California law in order to increase Defendants'
6 profits.

7 55. California Labor Code section 218 states that nothing in Article 1 of the Labor
8 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due
9 to him [or her] under this article."

10 **FIRST CAUSE OF ACTION**

11 **(Violation of California Labor Code §§ 510 and 1198)**

12 **(Against BARKSDALE, INC., and DOES 1 through 100)**

13 56. Plaintiff incorporates by reference the allegations contained in Paragraphs 1
14 through 55, and each and every part thereof with the same force and effect as though fully set
15 forth herein.

16 57. California Labor Code section 1198 and the applicable Industrial Welfare
17 Commission ("IWC") Wage Order provide that it is unlawful to employ persons without
18 compensating them at a rate of pay either time-and-one-half or two-times that person's regular
19 rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

20 58. Specifically, the applicable IWC Wage Order provides that Defendants are and
21 were required to pay Plaintiff and the other class members employed by Defendants, and
22 working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more
23 than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours worked
24 in excess of eight (8) hours in a day or more than forty (40) hours in a week, or the first eight (8)
25 hours worked on the seventh day of the work in a workweek.

26 59. The applicable IWC Wage Order further provides that Defendants are and were
27 required to pay Plaintiff and the other class members overtime compensation at a rate of two
28 times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

60. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work.

61. During the relevant time period, Plaintiff and the other class members worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week, and/or for the first eight (8) hours worked on the seventh day.

62. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and the other class members.

63. Defendants' failure to pay Plaintiff and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

64. Pursuant to California Labor Code section 1194, Plaintiff and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against BARKSDALE, INC., and DOES 1 through 100)

65. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 64, and each and every part thereof with the same force and effect as though fully set forth herein.

66. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff's and the other class members' employment by Defendants.

67. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

68. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

69. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

70. During the relevant time period, Plaintiff and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

71. During the relevant time period, Plaintiff's and other class members' meal periods were missed, shortened, late, and/or were interrupted because Defendants required them to perform and complete work duties, even when it resulted in missed, shortened, late, or interrupted meal periods. Meal periods were regularly interrupted due to Defendants' policy that paycheck and time record issues be discussed with Human Resources only off the clock or during rest breaks. Due to constant and consistent errors on employee time and wage records, employees regularly sought meeting with Human Resources regarding these issues. Further, meal breaks were regularly cut short because employees were required to complete work tasks prior to taking their meal breaks.

72. As a result, Defendants failed to relieve Plaintiff and the other class members of all duties, failed to relinquish control over Plaintiff's and the other class members' activities,

1 failed to permit Plaintiff and the other class members a reasonable opportunity to take, and
2 impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no later
3 than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to take
4 second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work for
5 shifts lasting more than ten (10) hours

6 73. During the relevant time period, Plaintiff and the other class members who were
7 scheduled to work for a period of time in excess of six (6) hours were required to work for
8 periods longer than five (5) hours without an uninterrupted meal period of not less than thirty
9 (30) minutes and/or rest period.

10 74. During the relevant time period, Defendants intentionally and willfully required
11 Plaintiff and the other class members to work during meal periods and failed to compensate
12 Plaintiff and the other class members the full meal period premium for work performed during
13 meal periods.

14 75. During the relevant time period, Defendants failed to pay Plaintiff and the other
15 class members the full meal period premium due pursuant to California Labor Code section
16 226.7.

17 76. Defendants' conduct violates applicable IWC Wage Order and California Labor
18 Code sections 226.7 and 512(a).

19 77. Pursuant to applicable IWC Wage Order and California Labor Code section
20 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
21 additional hour of pay at the employee's regular rate of compensation for each work day that the
22 meal or rest period is not provided.

23 **THIRD CAUSE OF ACTION**

24 **(Violation of California Labor Code § 226.7)**

25 **(Against BARKSDALE, INC., and DOES 1 through 100)**

26 78. Plaintiff incorporates by reference the allegations contained in paragraphs 1
27 through 77, and each and every part thereof with the same force and effect as though fully set
28 forth herein.

79. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff's and the other class members' employment by Defendants.

80. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

81. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

82. During the relevant time period, Defendants required Plaintiff and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

83. During the relevant time period, Defendants willfully required Plaintiff and the other class members to work during rest periods and failed to pay Plaintiff and the other class members the full rest period premium for work performed during rest periods.

84. During the relevant time period, Defendants failed to pay Plaintiff and the other class members the full rest period premium due pursuant to California Labor Code section 226.7.

85. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

86. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

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FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against BARKSDALE, INC., and DOES 1 through 100)

87. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 86, and each and every part thereof with the same force and effect as though fully set forth herein.

88. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

89. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*, Defendants' effective payment of zero dollars per hour for hours Plaintiff and the other class members worked off-the-clock performing work duties.

90. Defendants' failure to pay Plaintiff and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

91. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

92. Pursuant to California Labor Code section 1194.2, Plaintiff and the other class members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

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FIFTH CAUSE OF ACTION

(Violation of California Labor Code §§ 201 and 202)

(Against BARKSDALE, INC., and DOES 1 through 100)

93. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 92, and each and every part thereof with the same force and effect as though fully set forth herein.

94. At all relevant times herein set forth, California Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

95. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members who are no longer employed by Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ. Plaintiff and other class members were not paid at the time of their discharge wages earned and unpaid throughout their employment, including but not limited to, minimum wages for time worked off-the-clock to perform work duties, for meal and rest period premium payments.

96. Defendants' failure to pay Plaintiff and the other class members who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code sections 201 and 202.

97. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

98. Plaintiff and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against BARKSDALE, INC., and DOES 1 through 100)

99. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 98, and each and every part thereof with the same force and effect as though fully set forth herein.

100. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed.

101. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

102. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

103. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff and the other class members all wages due to them, within any time period permissible under California Labor Code section 204.

104. Plaintiff and the other class members are entitled to recover all remedies available for violations of California Labor Code section 204.

SEVENTH CAUSE OF ACTION

(Violation of California Labor Code § 226(a))

(Against BARKSDALE, INC., and DOES 1 through 100)

105. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 104, and each and every part thereof with the same force and effect as though fully set forth herein.

106. At all material times set forth herein, California Labor Code section 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

107. Defendants have intentionally and willfully failed to provide Plaintiff and the other class members with complete and accurate wage statements. The deficiencies include, but are not limited to: the failure to include the total number of hours worked by Plaintiff and the other class members.

108. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

109. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a).

110. Plaintiff and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

111. Plaintiff and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against BARKSDALE, INC., and DOES 1 through 100)

112. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 111, and each and every part thereof with the same force and effect as though fully set forth herein.

113. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years.

114. Defendants have intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiff and the other class members.

115. As a result of Defendants' violation of California Labor Code section 1174(d), Plaintiff and the other class members have suffered injury and damage to their statutorily-protected rights.

116. More specifically, Plaintiff and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 1174(d) because they were denied both their legal right and protected interest, in having available, accurate and complete payroll records pursuant to California Labor Code section 1174(d).

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NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2800 and 2802)

(Against BARKSDALE, INC., and DOES 1 through 100)

117. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 116, and each and every part thereof with the same force and effect as though fully set forth herein.

118. Pursuant to California Labor Code sections 2800 and 2802, an employer must reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer.

119. Plaintiff and the other class members incurred necessary business-related expenses and costs that were not fully reimbursed by Defendants.

120. Defendants have intentionally and willfully failed to reimburse Plaintiff and the other class members for all necessary business-related expenses and costs.

121. Plaintiff and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against BARKSDALE, INC., and DOES 1 through 100)

122. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 121, and each and every part thereof with the same force and effect as though fully set forth herein.

123. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

124. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

125. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the other class members violate California Labor Code sections 201, 202 and 204. Defendants also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

126. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

127. Plaintiff and the other class members have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

128. Pursuant to California Business & Professions Code sections 17200, et seq., Plaintiff and the other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years preceding the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

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ELEVENTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2698, *et seq.*)

(Against BARKSDALE, INC., and DOES 1 through 100)

129. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 128, and each and every part thereof with the same force and effect as though fully set forth herein.

130. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

131. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

132. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

Failure to Pay Overtime

133. Defendants’ failure to pay legally required overtime wages to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 510 and 1198.

Failure to Provide Meal Periods

134. Defendants’ failure to provide legally required meal periods to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

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Failure to Provide Rest Periods

135. Defendants' failure to provide legally required rest periods to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

136. Defendants' failure to pay legally required minimum wages to Plaintiff and the other Aggrieved Employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

137. Defendants' failure to timely pay wages to Plaintiff and the other Aggrieved Employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

138. Defendants' failure to timely pay wages to Plaintiff and the other Aggrieved Employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

139. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other Aggrieved Employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

140. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other Aggrieved Employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

141. Defendants' failure to reimburse Plaintiff and the other Aggrieved Employees for necessary business-related expenses and costs in accordance with California Labor Code

sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

142. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all Aggrieved Employees, requests and is entitled to recover from Defendants and each of them, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all penalties pursuant to PAGA against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010 et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and
- d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

143. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

144. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and

costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, prays for relief and judgment against Defendants, jointly and severally, as follows:

Class Certification

1. That this action be certified as a class action as to the first ten causes of action;
2. That Plaintiff be appointed as the representative of the Class as to the first ten causes of action;
3. That counsel for Plaintiff be appointed as Class Counsel; and
4. That Defendants provide to Class Counsel immediately the names and most current/last known contact information (address, e-mail and telephone numbers) of all class members.

As to the First Cause of Action

5. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all overtime wages due to Plaintiff and the other class members;
6. For general unpaid wages at overtime wage rates and such general and special damages as may be appropriate;
7. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;
8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to

California Labor Code section 1194; and

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff and the other class members;

11. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff and the other class members;

18. That the Court make an award to Plaintiff and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were

1 due; and

2 22. For such other and further relief as the Court may deem just and proper.

3 **As to the Fourth Cause of Action**

4 23. That the Court declare, adjudge and decree that Defendants violated California
5 Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to
6 Plaintiff and the other class members;

7 24. For general unpaid wages and such general and special damages as may be
8 appropriate;

9 25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for
10 Plaintiff and the other class members in the amount as may be established according to proof at
11 trial;

12 26. For pre-judgment interest on any unpaid compensation from the date such
13 amounts were due;

14 27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
15 California Labor Code section 1194(a);

16 28. For liquidated damages pursuant to California Labor Code section 1194.2; and

17 29. For such other and further relief as the Court may deem just and proper.

18 **As to the Fifth Cause of Action**

19 30. That the Court declare, adjudge and decree that Defendants violated California
20 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
21 time of termination of the employment of Plaintiff and the other class members no longer
22 employed by Defendants;

23 31. For all actual, consequential, and incidental losses and damages, according to
24 proof;

25 32. For statutory wage penalties pursuant to California Labor Code section 203 for
26 Plaintiff and the other class members who have left Defendants' employ;

27 33. For pre-judgment interest on any unpaid compensation from the date such
28 amounts were due; and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

///

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

49. For actual, consequential and incidental losses and damages, according to proof;

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

54. For restitution of unpaid wages to Plaintiff and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

58. For such other and further relief as the Court may deem just and proper.

As to the Eleventh Cause of Action

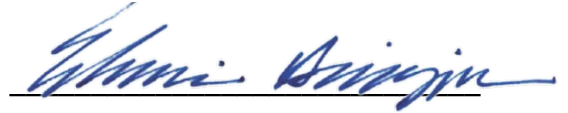
59. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and (g), costs/expenses, and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802; and

60. For such other and further relief as the Court may deem just and proper.

Dated: September 30, 2022

LAWYERS *for* JUSTICE, PC

By:



Edwin Aiwanian
Attorneys for Plaintiff

EXHIBIT 2

~~[MODEL]~~ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT ~~AND~~ CLASS NOTICEⁱ

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff _____ Plaintiff Mayra Cortez (“Plaintiff”) and defendant XYZ

_____ (“XYZ”). Defendant Barksdale, Inc.
 (“Defendant”) in the lawsuits entitled Mayra Cortez v. Barksdale, Inc., Los Angeles Superior Court Case No. 21STCV29193 (the “Class Action”) and Mayra Cortez v. Barksdale, Inc., Los Angeles Superior Court Case No. 21STCV35127 (the “PAGA Action”) (collectively, the “Litigation”). The Agreement refers to Plaintiff and XYZ Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

~~1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against XYZ captioned _____ initiated on _____ and pending in Superior Court of the State of California, County of Los Angeles.~~

~~1.2.~~ 1.1. “Administrator” means _____ Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.

~~1.3.~~ 1.2. _____ “Administration Expenses Payment Costs” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Parties and approved by the Court in connection with Preliminary Approval of the Settlement.

~~1.4.~~ 1.3. _____ “Aggrieved Employee” means [e.g., a person employed by XYZ in California all current and classified as a _____ former hourly-paid or non-exempt employees who worked for XYZ Defendant in the State of California at any time during the PAGA Period].

~~1.5.~~ 1.4. “Class” ~~means [define class e.g., all persons employed by XYZ in California or “Class Member(s)” mean all current and classified as _____ former hourly-paid or non-exempt employees who worked for XYZ Defendant in the State of California at any time during the Class Period].~~

1.6. “Class Counsel” means _____.

1.5. “Class Counsel” means Edwin Aiwasian, Arby Aiwasian, Joanna Ghosh, and Yasmin Hosseini of Lawyers for Justice, PC and all the lawyers of this firm acting on behalf of Plaintiff and the Class.

~~1.7.~~ 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”

mean the amounts allocated to Class Counsel for ~~reimbursement of~~ reasonable attorneys' fees and reimbursement of expenses, respectively, incurred to prosecute the ActionLitigation.

~~1.8.1.7.~~ "Class Data" means Class Member identifying information in XYZ'sDefendant's possession including the Class Member's full name, last-known mailing address, Social Security number, ~~and~~ and hire and termination dates reflecting the number of Class Period Workweeks and PAGA Pay Periods.

~~1.9.~~ "Class Member" or "Settlement Class Member" means a member of the Class, as either ~~a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).~~

~~1.10.1.8.~~ "Class Member Address Search" means the Administrator's investigation and search for Class Members' current ~~Class Member~~ mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, ~~skip traces,~~ and direct contact by the Administrator with Class Members.

~~1.11.~~ "Class Notice" means the ~~COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL~~ Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, to be

~~1.12.1.9.~~ mailed to Class Members in English ~~[with a and~~ Spanish ~~translation, if applicable]~~ in the form, without material variation, attached as "Exhibit A" and incorporated by reference into this Agreement.

~~1.13.1.10.~~ "Class Period" means the period from August 9, 2017 to May 31, 2022.

~~1.14.1.11.~~ "Class Representative" ~~means the named or "Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative"~~ mean Mayra Cortez.

~~1.15.1.12.~~ "Class Representative Service Payment" means the payment to the Class Representative for initiating the ActionLitigation and providing services in support of the ActionLitigation.

~~1.13.~~ "Class Settlement" means the settlement and resolution of the Released Class Claims.

~~1.16.1.14.~~ "Court" means the Superior Court of California, County of Los Angeles.

~~1.17.1.15.~~ "XYZ" ~~means named~~ "Defendant" means Barksdale, Inc.

~~1.18.1.16.~~ "Defense Counsel" means Robert S. Blumberg and Tony P. Zhao of Littler

Mendelson, P.C.

~~1.19.~~1.17. “Effective Date” means the date by when both of the following have occurred:

(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

~~1.20.~~1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.

~~1.21.~~1.19. “Final Approval Hearing” means the ~~Court’s hearing on the Motion forat which the Court will consider and determine whether the Settlement should be granted~~ Final Approval ~~of the Settlement.~~

~~1.22.~~ “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

~~1.23.~~ ~~1.20.~~ “Gross Settlement Amount” means \$ ~~One Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.000)~~ which is the total amount ~~XYZ~~Defendant agrees to pay under the Settlement except as provided in Paragraph ~~98~~ below. The Gross Settlement Amount will be used to pay Individual ~~ClassSettlement~~ Payments, Individual

~~PAGA~~ Payments, the LWDA PAGA Payment, Class Counsel Fees ~~Payment~~, Class Counsel ~~Litigation~~ Expenses ~~Payment~~, Class Representative Service Payment, and the Administrator’s ~~Expenses~~Costs.

~~1.24.~~ “Individual Class Payment” means the Participating Class Member’s ~~pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.~~

1.21. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of ~~Workweeks~~PAGA Pay ~~Periods~~ worked during the PAGA Period.

~~1.25.~~ “Judgment” means the judgment entered by the Court based upon the Final Approval.

~~1.22.~~ “Individual Settlement Payment” means the net payment of each Participating Class Member’s Individual Settlement Share, after reduction for the employee’s share of taxes and withholdings with respect to the portion of the Individual Settlement Share allocated as wages, as provided in Paragraph 3.2.5 below.

~~1.23.~~ “Individual Settlement Share” means the *pro rata* share of the Net Settlement Amount that a Class Member may be eligible to receive under the Settlement Agreement.

to be calculated in accordance with Paragraph 3.2.5.

1.24. “Litigation” means (1) Plaintiff’s class action lawsuit alleging wage and hour violations against Defendant captioned *Mayra Cortez v. Barksdale, Inc.*, initiated on August 9, 2021, Los Angeles Superior Court Case No. 21STCV29193 and (2) Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendant captioned *Mayra Cortez v. Barksdale, Inc.*, initiated on September 23, 2021, Los Angeles Superior Court Case No. 21STCV35127.

~~1.22.~~1.25. “LWDA” means the California Labor and Workforce Development Agency,~~the agency entitled, under Labor Code section 2699, subd. (i).~~

~~1.23.~~1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

~~1.24.~~1.27. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration ~~Expenses Payment.~~Costs. The remainder is to be paid to Participating Class Members as Individual ~~Class Settlement~~ Payments.

~~1.25.~~1.28. “Non-Participating Class Member” means any Class Member who opts out of the ~~Class~~ Settlement by sending the Administrator a valid and timely Request for Exclusion.

~~1.26. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for XYZ for at least one day during the PAGA Period.~~

1.29. “Operative Complaint” means the First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, et seq., encompassing Plaintiff’s Class and PAGA claims filed in conjunction with this Settlement Agreement and attached as “**Exhibit B**” hereto.

1.30. “PAGA Pay Periods” means the number of weeks each Aggrieved Employee worked for Defendant as an hourly-paid or non-exempt employee within California during the PAGA Period, which information will be provided to the Settlement Administrator by Defendant. PAGA Pay Periods are calculated by the Settlement Administrator, based on each Aggrieved Employees’ employment for five (5) or more calendar days during a pay period based on hire and termination dates, as follows: if an Aggrieved Employee’s hire date was within the PAGA Period and was on Monday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period); if an Aggrieved Employee’s termination date was within the PAGA Period and was on a Friday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period). If an Aggrieved Employee’s hire and/or termination date falls outside of the PAGA Period, the start and/or end dates of the PAGA Period (i.e., July 20, 2020 and/or May 31, 2022) shall be deemed the start and/or end dates for that Aggrieved Employee.

~~1.26.1.31.~~ “PAGA Period” means the period from _____ to _____ⁱⁱⁱ July 20, 2020 to May 31, 2022.

~~1.27.1.32.~~ “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

~~1.28.1.33.~~ “PAGA Notice” means Plaintiff’s _____ July 20, 2021 letter to XYZ Defendant and the LWDA ~~[and Plaintiff’s _____ letter to XYZ and the LWDA]~~ providing notice pursuant to Labor Code section 2699.3, subd.(a).

~~1.29.1.34.~~ “PAGA Penalties” means the total amount of PAGA civil penalties, in the amount of \$200,000.00, to be paid from the Gross Settlement Amount, allocated as 25% to the Aggrieved Employees (\$50,000.00) and 75% to the LWDA (\$150,000.00) in settlement of PAGA claims.

~~(____) and~~

~~1.30.1.35.~~ “PAGA Settlement” means the 75% to LWDA (____) in settlement and resolution of the Released PAGA claims ~~Claims.~~

~~1.31.1.36.~~ “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class Settlement.

~~1.32.1.37.~~ “Plaintiff” means _____ Mayra Cortez, the named plaintiff in the Action ~~Litigation.~~

~~1.33.1.38.~~ “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

~~1.34.1.39.~~ ~~“Preliminary Approval Order”~~ means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

~~1.35.1.40.~~ “Released Class Claims” means the claims being released as described in Paragraph ~~65.2~~ below.

~~1.36.1.41.~~ “Released PAGA Claims” means the claims being released as described in Paragraph ~~6.25.3~~ below.

~~1.37.1.42.~~ “Released Parties” means: XYZ Defendant and each of its former and present directors, officers, shareholders, owners, [members], attorneys, insurers, divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns—[, subrogees, executors, partners, parents, subsidiaries] [affiliates], joint employers, insurers, clients, customers, suppliers, and vendors.

~~1.38.1.43.~~ “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member, in accordance with the requirements set forth in Paragraph 7.5.1 below.

~~1.39.~~ 1.44. ~~"Response Deadline"~~ means ~~[e.g., sixty (60)]~~ calendar days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) ~~fax, email, or mail~~ Requests for Exclusion from the Class Settlement, or (b) ~~fax, email, or mail~~ his or her Objection to the Class Settlement. The Response Deadline shall be extended by fourteen (14) calendar days for those Class Members to whom Notice Packets/Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

~~1.27.~~ ~~"Settlement" means the disposition of the Action effected by this Agreement and the Judgment.~~

~~1.28.~~ ~~"Workweek" means any week during which a Class Member worked for XYZ for at least one day, during the Class Period.^{iv}~~

1.45. "Workweeks" means the number of weeks each Class Member worked for Defendant as an hourly-paid or non-exempt employee within California during the Class Period, which information will be provided to the Settlement Administrator by Defendant. Workweeks are calculated by the Settlement Administrator, based on each Class Members' employment for three (3) or more calendar days during a workweek based on hire and termination dates, as follows: if a Class Member's hire date was within the Class Period and was on Monday, Tuesday, or Wednesday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek); if a Class Member's termination date was within the Class Period and was on a Wednesday, Thursday, or Friday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek). If a Class Member's hire and/or termination date falls outside of the Class Period, the start and/or end dates of the Class Period (i.e., August 9, 2017 and/or May 31, 2022) shall be deemed the start and/or end dates for that Class Member.

2. RECITALS.

~~1.29. On _____, Plaintiff commenced this Action by filing a Complaint alleging causes of action against XYZ for _____.
[The Complaint is the operative complaint in the Action (the "Operative Complaint.")]
[On __, Plaintiff filed a [e.g., First Amended Complaint] alleging causes of action against XYZ for _____. The [e.g., First Amended] Complaint is the operative complaint in the Action (the "Operative Complaint.")]~~ XYZ denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

~~1.30. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to XYZ and the LWDA by sending the PAGA Notice.~~

~~1.31. On _____ (type in additional dates) _____, [the Parties~~

2.1. On August 9, 2021, Plaintiff commenced the class action lawsuit entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV29193 (i.e., Class Action), by filing the Class Action

Complaint for Damages, which alleged ten causes of action against Defendant for: (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods and associated premiums pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods and associated premiums pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to timely pay wages during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226 and the IWC Wage Orders; (8) failure to keep complete or accurate payroll records pursuant to California Labor Code section 1174(d) and the IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, et seq.

2.2. On July 20, 2021, Plaintiff provided written notice to the LWDA and to Defendant of the specific provisions of the California Labor Code that Defendant allegedly violated (i.e., PAGA Notice). Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice. On September 23, 2021, Plaintiff commenced the PAGA action entitled *Mayra Cortez v. Barksdale, Inc.*, in the Superior Court of California for the County of Los Angeles, Case No. 21STCV35127 (i.e., PAGA Action), by filing a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq., alleging one cause of action against Defendant for civil penalties under California Labor Code § 2698, et seq. For the purposes of effectuating this Settlement, the Parties will stipulate that Plaintiff shall file a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Class Action, consolidating the Class Action and PAGA Action (i.e., Operative Complaint).

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

2.4. On May 17, 2022, the Parties participated in an all-day mediation presided over by Mark S. Rudy, Esq. Although the parties did not reach a resolution during the mediation, the Mediator presented a "Mediator's Proposal" at the conclusion of mediation, which both parties accepted, and which led to this Agreement to settle the Action (describe alternative means of negotiation). Litigation.
(describe alternative means of negotiation)

1.32. Prior to ☐ mediation ☐ negotiating the Settlement, Plaintiff obtained, through

~~☐ formal ☐ informal discovery, (documents, testimony and information obtained) -~~

2.5. Prior to mediation, Plaintiff obtained, through informal discovery, a random sampling of Class Members' time and pay records, as well as information and documents concerning the claims set forth in the Litigation, including but not limited to, Defendant's employee handbook and relevant wage and hour policies, datapoints, including and not limited to, information regarding the number of Class Members and Aggrieved Employees, the number of workweeks worked by the Class Members, the number of pay periods worked by the Aggrieved Employees, and the average rate of pay of the Class Members. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

~~1.33. — 2.6.~~ The Court ~~☐ has ☐ has not~~ yet granted class certification. ~~(insert details, as needed) — the Parties agreed to mediate prior to the filing of any motion to determine whether a class should be certified.~~

2.7. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 98 below, ~~XYZ~~Defendant promises to pay \$~~1,200,000.00~~ and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual ~~Class Payments.~~ XYZSettlement Shares. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.14.3 of this Agreement.*. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to ~~XYZ~~Defendant.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

~~1.33.1. — 3.2.1.~~ To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$~~Ten Thousand Dollars and Zero Cents (\$10,000.00)~~ (in addition to any Individual ~~Class~~Settlement Payment and any Individual PAGA Payment) the Class Representative is

entitled to receive as a Participating Class Member). XYZDefendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service ~~Payments~~Payment no later than ~~{sixteen (16) court}~~ days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount to be distributed to Participating Class Members. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than ~~—35%~~, which is currently estimated to be ~~\$—Four Hundred Twenty Thousand Dollars and Zero Cents (\$420,000.00)~~ and a Class Counsel Litigation Expenses Payment of not more than ~~\$_____~~. ~~XYZThirty Thousand Dollars and Zero Cents (\$30,000.00).~~ Defendant will not oppose requests for these payments ~~provided that do not exceed these amounts.~~ Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than ~~{sixteen (16) court}~~ days prior to the Final Approval Hearing. If the Court approves a—These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the Litigation, including without limitation all work performed to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of the Settlement, as well as any objections raised, and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. With respect to the Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment—less than, the amounts requested, theSettlement Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counselmay purchase annuities to utilize United States Treasuries and bonds or any other Plaintiff's Counsel arising from any claim to any portion any attorney fee deferral vehicles, for Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay. Any additional expenses for the use of attorney fee deferral vehicles shall be paid separately by Class Counsel and shall not be included in the Administration Costs. Any portion of the Class Counsel Fees Payment and—Class Counsel Expenses/or a Class Counsel Litigation Expenses Payment not awarded to Class Counsel shall be part of the Net Settlement Amount to be distributed to Participating Class Members.

3.2.3. To the Administrator: The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00). To the extent actual Administration Costs are greater than the estimated amount stated herein, such excess amount will be disclosed to the Court and deducted from the Gross Settlement Amount, subject to approval by the Court. Any portion of the estimated, designated, and/or awarded Administration

Costs which are not in fact required to fulfill payment to the Administrator to undertake the required settlement administration duties will become part of the Net Settlement Amount to be distributed to Participating Class Members.

3.2.2.3.2.4. PAGA Penalties: Subject to approval by the Court, the Parties agree that the amount of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) from the Gross Settlement Amount will be allocated toward penalties under PAGA (“PAGA Penalties”), of which seventy-five percent (75%), or \$150,000, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) or, \$50,000, will be distributed to Aggrieved Employees on a *pro rata* basis, based on PAGA Pay Periods during the PAGA Period (i.e., Individual PAGA Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds XYZ harmless, and indemnifies XYZ, from any dispute or controversy regarding any division or sharing of any of these Payments.).

1.33.2. _____ To the Administrator: An Administrator Expenses Payment not to exceed
3.2.5.\$ _____ except for a showing of good cause and as approved by the Court. To the extent the
Administration Expenses are less or the Court approves payment less than \$ _____
Individual Settlement Share Calculations: Individual Settlement Shares will be
calculated and apportioned from the Net Settlement Amount based on the Class
Members' Workweeks, as follows:

After Preliminary Approval of the Settlement, the Administrator will ~~retain the remainder in the Net Settlement Amount.~~

a. ~~To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing~~divide the Net Settlement Amount by the total number of Workweeks worked by all ~~Participating Class Members during the Class Period and~~Class Members to yield the “Estimated Workweek Value,” and multiply each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement.

~~(b) multiplying the result by each Participating Class Member’s Workweeks.~~

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

3.2.6. Individual PAGA Payment Calculations: Individual PAGA Payments will be calculated and apportioned from the 25% share of the PAGA Penalties based on the Aggrieved Employees' PAGA Pay Periods, as follows: The Administrator will divide the 25% portion of the PAGA Penalties attributed to Aggrieved Employees, i.e. \$50,000.00, by the PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period resulting in the PAGA Pay Period Value and then multiplying the PAGA Pay Period Value by the number of PAGA

Pay Periods worked by each individual Aggrieved Employee during the PAGA Period.

~~1.33.2.1. Tax Allocation of Individual Class Settlement Payments. %~~
~~_____ and Individual PAGA Payments. Twenty percent (20%) of each~~
~~Participating Class Member's Individual Class Member's Individual~~
~~Settlement Payment will be allocated to settlement of wage claims (the~~
~~"Wage Portion"). The Wage Portions are subject to tax withholding and will~~
~~be reported on an IRS W-2 Form. The~~
~~% _____ Eighty percent (80%) of each Participating Class Member's~~
~~Individual Class Settlement Payment will be allocated to settlement of~~
~~claims for [e.g., penalties, interest, and penalties] non-wage damages (the~~
~~"Non-Wage Portion").~~
~~The Non-Wage Portions are not subject to wage~~
~~withholdings and will be reported on IRS 1099 Forms. Participating Class~~
~~Members assume full responsibility and liability for any employee taxes~~
~~owed on their Individual Class Payment. Settlement Payment. Any payment~~
~~for an Individual PAGA Payment will be allocated as one hundred percent~~
~~(100%) penalties, will not be subject to taxes or withholdings, and will be~~
~~reported on an IRS Form-1099, if necessary. The Administrator will have~~
~~the option to pay the Individual Settlement Payment and Individual PAGA~~
~~Payment by way of a single check.~~

3.2.3.3.2.7. Effect of Non-Participating Class Members on Calculation of
Individual Class Settlement Payments. Non-Participating Class Members will not receive
any Individual Class Settlement Payments. The Administrator will retain amounts equal to
their Individual Class Settlement Payments in the Net Settlement Amount for distribution to
Participating Class Members on a pro rata basis.

~~1.33.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount~~
~~of \$ _____ to be paid from the Gross Settlement Amount, with 75%~~
~~(\$ _____) allocated to the LWDA PAGA Payment and 25% (\$ _____)~~
~~allocated to the Individual PAGA Payments.~~

~~1.33.3.1. The Administrator will calculate each Individual PAGA Payment~~
~~by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA~~
~~Penalties \$ _____ by the total number of PAGA Period Pay Periods worked by all~~
~~Aggrieved Employees during the PAGA Period and (b) multiplying the result~~
~~by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved~~
~~Employees assume full responsibility and liability for any taxes owed on their~~
~~Individual PAGA Payment.~~

~~1.33.3.2. If the Court approves PAGA Penalties of less than the amount~~
~~requested, the Administrator will allocate the remainder to the Net Settlement~~
~~Amount. The Administrator will report the Individual PAGA Payments on IRS~~
~~1099 Forms.~~

4. SETTLEMENT FUNDING AND PAYMENTS.

Class 4.1. Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of its records, during the period from August 9, 2017 to date, XYZ February 12, 2022, Defendant estimates there are _____ were 241 Class Members who collectively worked a total of _____ 30,634 Workweeks, and _____ of during the period from July 20, 2020 to February 12, 2022, there were 181 Aggrieved Employees who worked a total _____ of 5,425 PAGA Pay Periods.

1.34.1.20. 4.2. Class Data. Not later than {e.g., 15} fourteen (14) calendar days after the Court grants Preliminary Approval of the Settlement, XYZ Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. XYZ Notwithstanding this provision, Class Counsel shall also receive redacted Class Data that shall only disclose an identification number attributed to each Class Member and their associated Workweeks during the Class Period and each Aggrieved Employee and their associated PAGA Pay Periods during the PAGA Period. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which XYZ Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. XYZ Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay XYZ's Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than {fourteen (14)} calendar days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within {fourteen (14)} calendar days after XYZ Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Settlement Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment Costs, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Settlement Payments and Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual Class Settlement Payments and/or Individual PAGA Payments and send them to the Class Members and/or Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 one hundred eighty (180) calendar days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual

PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual [ClassSettlement](#) Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

~~1.34.1.1.20.1.~~ For any Class Member whose Individual [ClassSettlement](#) Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~to the California Controller's Unclaimed Property Fund in the name~~ [Legal Aid Foundation of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. \(b\).](#) ~~for to Los Angeles, a Court approved~~ nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ~~("the "Cy Pres Recipient")~~. The Parties, Class Counsel, and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

- 4.4.3. The payment of Individual [ClassSettlement](#) Payments and Individual PAGA Payments shall not obligate [XYZDefendant](#) to confer any additional benefits or make any additional payments to Class Members [or Aggrieved Employees](#) (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Upon the Effective ~~on the date when XYZ fully funds the entire~~ Date and full funding of the Gross Settlement Amount ~~and funds(including~~ all employer payroll taxes owed on the Wage Portion of the Individual [ClassSettlement](#) Payments~~),~~ Plaintiff, ~~Class Members, and Class Counsel~~ all Participating Class Members (i.e., Class Members who do not submit a valid and timely Request for Exclusion), and Aggrieved Employees will release claims against all Released Parties as follows:

- 5.1 ~~Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences [that occurred during the Class Period], including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, [or ascertained during the Action and released under 6.2, below]. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation~~

~~benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.~~

~~5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:~~

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

~~Release 5.1. General Release of Claims by Plaintiff. Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of and from all claims arising from her employment with Defendant, separation of employment from Defendant, whether known or unknown, arising under any federal or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:~~

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

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

~~5.2. Released Class Claims by Participating Class Members Who Are Not Aggrieved~~

Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from ~~(i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.].~~ Except as set forth in Section 6 all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint and ascertained in the course of the Litigation, including, any and all claims, actions, and causes of action, arising during the Class Period, for: (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to maintain adequate payroll records pursuant to California Labor Code section 1174(d) and 1174.5 and the IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, *et seq.* Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Release 5.3. Released PAGA Claims by Non-Participating Class Members Who Are Aggrieved Employees: ~~All The State of California and all Aggrieved Employees, including~~ Non-Participating Class Members who are Aggrieved Employees, are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, ~~based on the PAGA Period facts stated in the Operative Complaint [and], PAGA Complaint,~~ the PAGA Notice ~~and~~ and ascertained in the course of the ~~Action] [including, e.g., “(Litigation for violations of California Labor Code sections 201, 202, 203, 204, 226(a) any), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and all claims involving any alleged failure to pay minimum wage; etc.] IWC Wage Orders 1-2001, 4-2001, and 16-2001.~~

6. **MOTION FOR PRELIMINARY APPROVAL**. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

XYZ’s 6.1.

Defendant's Declaration in Support of Preliminary Approval. Within fourteen (14) calendar days of the full execution of this Agreement, ~~XYZ~~Defendant will prepare and deliver to Class Counsel a signed Declaration from ~~XYZ~~Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and ~~XYZ~~Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.1 6.2. Plaintiff's Responsibilities. Within thirty (30) calendar days of the full execution of this Agreement, Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members ~~and/or the proposed Cy Pres~~; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, ~~and/or~~ the Administrator ~~and/or the proposed Cy Pres~~; ~~(v); (vi)~~ a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); ~~(vii)~~ a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and ~~(viii)~~ all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~thirty (30)~~ninety (90) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by

telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

~~7.1~~ 7.1. Selection of Administrator. The Parties have jointly selected ~~_____ and will ask the Court to appoint Phoenix Settlement Administrators ("PSA")~~ to serve as the Administrator and ~~verified that, as a condition of appointment, _____ agrees to be bound by this Agreement and to perform, as a fiduciary,~~ all duties specified in this Agreement in exchange for payment of Administration ~~Expenses~~ Costs. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall ~~have and use its own~~ take steps to establish a case-specific Employer Identification Number, ~~if necessary,~~ for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

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

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, ~~PAGA Members~~ Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2. ~~_____~~ Using best efforts to perform as soon as possible, and in no event later than ~~fourteen (14)~~ calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice ~~{with Spanish translation, if applicable}~~ substantially in the form attached to this Agreement as "Exhibit A". The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Settlement Payment and/or Individual PAGA Payment payable to the Class Member and/or Aggrieved Employee, and the number of Workweeks and/or PAGA Pay Periods ~~(if applicable)~~ used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3. Not later than ~~three (3)~~ four (4) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address

obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, ~~Challenges to~~ to the Class Settlement, disputes regarding Workweeks and/or Pay Periods, and Requests for Exclusion from the Class Settlement will be extended an additional ~~fourteen (14)~~ calendar days beyond the ~~sixty (60)~~ calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, ~~XYZ~~Defendant, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than ~~14 days after~~ fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5. Requests for Exclusion from the Class Settlement (Opt-Outs).

7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by ~~fax, email, or mail~~, a signed written Request for Exclusion not later than ~~60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed).~~ the Response Deadline. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Class Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely ~~faxed, emailed, or postmarked by~~ the Response Deadline. Aggrieved Employees shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.

7.5.2. The Administrator may not reject a Request for Exclusion from the Class Settlement as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

~~7.1.1~~ ~~Every~~ Class ~~Member~~Members who ~~does~~do not submit a timely and valid Request for Exclusion ~~is from the Class Settlement are~~ deemed to be a Participating Class ~~Member~~Members under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' ~~Releases~~release of Released Class Claims under ~~Paragraphs 6~~Paragraph 5.2 and

7.5.3. ~~6.3~~ of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Class Settlement.

7.5.4. ~~Every~~ Class ~~Member~~Members who ~~submit~~submit a valid and timely Request for Exclusion ~~is a from the Class Settlement are~~ Non-Participating Class ~~Member~~Members and shall not receive ~~an~~ Individual ~~Class Payment~~Settlement ~~Payments~~ or have the right to object to the ~~class action components of the~~Class Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are also Aggrieved Employees are deemed to release the ~~claims~~Released PAGA Claims identified in Paragraph ~~5.3 of this Agreement and are eligible for an Individual PAGA Payment.~~

~~7.6.4 of this Agreement and are eligible for an Individual PAGA Payment.~~

7.27.1 Challenges to Calculation of Workweeks. Each Class Member and Aggrieved Employee shall have ~~[60] days after until~~ the ~~Administrator mails the Class Notice (plus an additional [14] days for Class Members whose Class Notice is re-mailed)~~Response Deadline to challenge the number of Class Workweeks and/or PAGA Pay Periods (if any) allocated to the Class Member and/or Aggrieved Employee in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via ~~fax~~, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks and/or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Class Settlement.

7.7.1. Only Participating Class Members may object to the ~~class action components of the~~Class Settlement and/or this Agreement, including contesting the fairness of the Class Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by ~~fax~~, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal

objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than ~~[60] days after the Administrator's mailing of the Class Notice (plus an additional [14] days for Class Members whose Class Notice was re-mailed)~~ the Response Deadline.

7.7.3. Non-Participating Class Members have no right to object to ~~any of the class action components of the~~ the Class Settlement.

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will ~~establish and maintain and use an internet website to~~ post information of interest to Class Members including the date, time, and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment, on a portion of its website. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, ~~faxes~~ and emails.

~~7.2.1—7.2.2.~~ Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than ~~five (5)~~ calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion from the Class Settlement (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion from the Class Settlement; (c) copies of all Requests for Exclusion from the Class Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion from the Class Settlement (whether valid or invalid) received, objections to the Class Settlement received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Settlement Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4. Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or

PAGA Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5. Administrator's Declaration. Not later than fourteen (14) calendar days before the date by which Plaintiff Class Counsel is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the Class Settlement it received (both valid or invalid), the number of written objections to the Class Settlement and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within ten (10) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

~~8. CLASS SIZE ESTIMATES [and ESCALATOR CLAUSE] Based on its records, XYZ estimates that, as of the date of this Settlement Agreement, (1) there are _____ Class Members and _____ Total Workweeks during the Class period and (2) there were _____ Aggrieved Employees who worked _____ Pay-Periods during the PAGA Period.^{vii}~~

XYZ'S

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE. Based on its records, Defendant estimates that: (1) during the period from August 9, 2017 to February 12, 2022 there were 241 Class Members and 30,634 total Workweeks, and (2) during the period from July 20, 2020 to February 12, 2022 there were 181 Aggrieved Employees who worked 5,425 PAGA Pay Periods. Defendant will provide a declaration verifying these representations. Should the Parties, or the Settlement Administrator, determine that these representations regarding the scope of the class in existence as of February 12, 2022 was inaccurate by more than ten percent (10%), the Gross Settlement Amount shall increase proportionately by the amount in excess of ten percent (10%), based upon the increased number of pay periods or Class Members, with the greater increase controlling. If it is determined that the total number of Workweeks during the represented period actually exceeds 30,634 by more than ten percent (10%), then the Gross Settlement Amount will be increased on a proportional basis by the same number of percentage points above ten percent (10%) (e.g., if the number of Workweeks during the represented period actually exceeds 30,634

by 11% to 34,004 Workweeks, the Gross Settlement Amount will increase by 1%).

9. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion from the Class Settlement identified in the Exclusion List exceeds %—five percent (5%) of the total of all Class Members, XYZDefendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if XYZDefendant withdraws, the Settlement shall be void *ab initio*, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, XYZDefendant will remain responsible for paying all Settlement Administration ExpensesCosts incurred to that point. XYZDefendant must notify Class Counsel and the Court of its election to withdraw not later than [seven]fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL. Not later than [sixteen (16)] court days before the calendared Final Approval Hearing, PlaintiffClass Counsel will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), Settlement, a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff-Class Counsel shall provide drafts of these documents to Defense Counsel not later than [seven]five (5) calendar days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

10.1. Response to Objections- to the Class Settlement. Each Party retains the right to respond to any objection to the Class Settlement raised by a Participating Class Member, including the right to file responsive documents in Court no later that [than five] (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator—Expenses PaymentAdministration Costs shall not constitute a material modification to the Agreement within the meaning of this paragraph.

8.1—10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, ActionLitigation, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and

Class Counsel Litigation Expenses Payment ~~reflected as~~ set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration ~~Expenses~~Costs reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. **ADDITIONAL PROVISIONS.**

~~8.2~~ 12.1. No Admission of Liability, Class Certification, or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by ~~XYZ Defendant~~ that any of the allegations in the ~~Operative Complaint~~Litigation have merit or that ~~XYZ Defendant~~ has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that ~~XYZ's Defendant's~~ defenses in the ~~Action~~Litigation have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval, or enter Judgment, ~~XYZ Defendant~~ reserves the right to contest certification of any class for any reasons, and ~~XYZ Defendant~~ reserves all available defenses to the claims in the Action Litigation, and Plaintiff reserves the right to move for class certification on any grounds available and to contest ~~XYZ's Defendant's~~ defenses. The Settlement, this Agreement and ~~Parties' Parties'~~ willingness to

settle the ~~Action~~Litigation will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

8.3 — 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, ~~XYZ~~Defendant, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed with the Court, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency.

Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, ~~XYZ~~Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, ~~any~~ with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Class Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

8.4 — 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement

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

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

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

12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court. Notwithstanding the foregoing, the Parties agree that any dates contained or contemplated in this Agreement may be modified by agreement of counsel for the Parties in writing without approval by the Court if the Parties agree and cause exists for such modification.

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

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

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

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

12.14. Use and Return of Class Data. ~~Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of~~To the extent that Class Data provided to Class Counsel by ~~XYZ~~the Settlement Administrator in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) calendar days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy; all paper and electronic versions of Class Data received from ~~XYZ~~Defendant unless, prior to the Court's discharge of the Administrator's obligation, ~~XYZ~~Defendant makes a written request to Class Counsel for the return, rather than the

~~destructions~~destruction, of Class Data. Notwithstanding this provision, Class Counsel is entitled to retain an archival copy of all pleadings, motion papers, deposition transcripts, hearing transcripts, legal memoranda, correspondence, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Class Data.

12.15. Neutral Employment Reference. Although Plaintiff is currently employed by Defendant, in the event of a separation of employment from Defendant, Defendant agrees that it will adopt a neutral reporting policy regarding any future employment references related to Plaintiff. In the event that any potential or future employers of Plaintiff request a reference regarding Defendant's employment of Plaintiff, Defendant shall only provide the requested Plaintiff's dates of employment and job titles during employment. Defendant shall not refer to the Litigation or this Settlement.

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

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

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

To Plaintiff:

and Class Counsel: _____ To ~~XYZ~~ Defendant:

Edwin Aiwarzian, Esq.

Arby Aiwarzian, Esq.

Joanna Ghosh, Esq.

Yasmin Hosseini, Esq.

LAWYERS for JUSTICE, PC

410 West Arden Avenue, Suite 203

Glendale, California 91203

Robert S. Blumberg

Tony P. Zhao

LITTLER MENDELSON, P.C.

2049 Century Park East, Fifth Floor

Los Angeles, California 90067

12.19. Execution in Counterparts. This Agreement may be executed in one or more

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

12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 ~~to extend~~ the date to bring a case to trial under CCP section 583.310 shall be extended for the entire period of this settlement process.

For **IT IS SO AGREED.**

PLAINTIFF MAYRA CORTEZ

Dated: _____

Mayra Cortez, Plaintiff _____ For XYZ

Counsel For **DEFENDANT BARKSDALE, INC.**

Dated: _____

Full Name: _____
Title: _____
On behalf of Barksdale, Inc.

APPROVED AS TO FORM ONLY:

Dated: _____ By: _____

Edwin Aiwasian, Esq.
LAWYERS for JUSTICE, PC
Attorneys for Plaintiff _____ Mayra Cortez and
Proposed Class Counsel ~~For XYZ~~

Dated: _____ By: _____
Robert S. Blumberg
Tony P. Zhao
LITTLER MENDELSON, P.C.
Attorneys for Defendant Barksdale, Inc.

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT
AND HEARING DATE FOR FINAL COURT APPROVAL**

(case name and number) Cortez v. Barksdale, Inc., Case No. 21STCV29193

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit ("Action") against (abbreviate name; "XYZ" is used herein as a placeholder) Barksdale, Inc. ("Defendant") for alleged wage and hour violations. The Action was filed by a[n] [former] XYZ-employee Mayra Cortez ("Plaintiff") and seeks payment of (1) backunpaid wages, unreimbursed business expenses, restitution, statutory penalties, interest, and other relief attorneys' fees and costs for a class of [e.g., all non-exempt or hourly] paid employees ("Class Members") who worked for XYZDefendant during the Class Period (August 9, 2017 to May 31, 2022); and (2) civil penalties under the California Private Attorney General Act ("PAGA") for all [e.g., non-exempt or hourly] paid employees who worked for XYZDefendant during the PAGA Period (July 20, 2020 to May 31, 2022) ("Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring XYZDefendant to fund Individual ClassSettlement Payments, and (2) a PAGA Settlement requiring XYZDefendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on XYZ'sDefendant's records, and the Parties' current assumptions, **your Individual ClassSettlement Payment is estimated to be \$** \$ **(less withholding) and your Individual PAGA Payment is estimated to be \$** \$. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to XYZ'sDefendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn'tdid not work during the PAGA Period.)

The above estimates are based on XYZ'sDefendant's records showing that **you worked** workweeks Workweeks during the Class Period and **you worked** workweeks PAGA Pay Periods during the PAGA Period. If you believe that you worked more workweeksWorkweeks during either periodthe Class Period or PAGA Pay Periods during the PAGA Period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires XYZDefendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against XYZDefendant.

If you worked for XYZDefendant during the Class Period and/or the PAGA Period, you have

two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual [ClassSettlement](#) Payment ~~and/or an Individual PAGA Payment.~~ As a Participating Class Member, though, you will give up your right to assert ~~Class Period wage claims and PAGA Period penalty claims against XYZ.~~ [Released Class Claims.](#) If you are an Aggrieved Employee, you will automatically be bound to the PAGA Settlement and issued your Individual PAGA Payment.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the [Class](#) Settlement, you will not receive an Individual [ClassSettlement](#) Payment. You will, however, preserve your right to personally pursue [Released](#) Class ~~Period wage claims~~ [Claims](#) against [XYZDefendant](#), and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA ~~portion of the proposed~~ Settlement.

[XYZDefendant](#) will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual ClassSettlement Payment and/or an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims Released Class Claims and/or Released PAGA Clams against XYZDefendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is 	If you don't do not want to fully participate in the proposed Class Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual ClassSettlement Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. XYZDefendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposedClass Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
<u>Final Approval Hearing</u>	<u>The Court’s Final Approval Hearing is scheduled to take place on  on  at .</u> You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Class Settlement at the Final Approval Hearing. See Section 8 of this Notice.
<u>You Can Challenge the Calculation of Your Workweeks/Pay Periods</u> <u>Written Challenges Must be Submitted by</u>	<u>The amount of your Individual Settlement Payment and Individual PAGA Payment (if any) depend on how many Workweeks and/or PAGA Pay Periods you were determined to have worked, as follows:</u> <u>PAGA Pay Periods are calculated by the Settlement Administrator, based on each Aggrieved Employees’ employment for five (5) or more calendar days during a pay period based on hire and termination dates, as follows: if an Aggrieved Employee’s hire date was within the PAGA Period and was on Monday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period); if an Aggrieved Employee’s termination date was within the PAGA Period and was on a Friday, he or she will be credited for that PAGA Pay Period (i.e., he or she worked five (5) or more calendar days during this pay period). If an Aggrieved Employee’s hire and/or termination date falls outside of the PAGA Period, the start and/or end dates of the PAGA Period (i.e., July 20, 2020 and/or May 31, 2022) shall be deemed the start and/or end dates for that Aggrieved Employee.</u> <u>Workweeks are calculated by the Settlement Administrator, based on each Class Members’ employment for three (3) or more calendar days during a workweek based on hire and termination dates , as follows: if a Class Member’s hire date was within the Class Period and was on Monday, Tuesday, or Wednesday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek); if a Class Member’s termination date was within the Class Period and was on a Wednesday, Thursday, or Friday, he or she will be credited for that Workweek (i.e., he or she worked three (3) or more calendar days during this workweek). If a Class Member’s hire and/or termination date falls outside of the Class Period, the start and/or end dates of the Class Period (i.e., August 9, 2017 and/or May 31, 2022) shall be deemed the start and/or end dates for that Class Member.</u>

	<u>The number Workweeks and number of PAGA Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.</u>
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1. WHAT IS THE ACTION ABOUT?

Plaintiff is a ~~[n]~~ ~~[former]~~ XYZ current employee of Defendant. On August 9, 2021, Plaintiff commenced the class action lawsuit entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV29193 (i.e., Class Action) and on September 23, 2021, Plaintiff commenced the PAGA action entitled *Mayra Cortez v. Barksdale, Inc.* in the Superior Court of California for the County of Los Angeles, Case No. 21STCV35127 (i.e., PAGA Action) (together with the Class Action, “Action”). On [date], Plaintiff file a First Amended Consolidated Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. in the Class Action, consolidating the Class Action and PAGA Action (i.e., Operative Complaint). The Action accuses XYZDefendant of violating California labor laws by failing to properly pay ~~[e.g., minimum and~~ overtime wages, ~~minimum wages, wages due upon termination and reimbursable expenses]~~ and failing to provide ~~[e.g., compliant~~ meal ~~periods, and~~ rest breaks and ~~accurate itemized~~ associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide complaint wage statements~~], keep requisite payroll records, reimburse business expenses, and thereby engaged in unfair business practices in violation of the California Business & Professions Code section 17200, et seq.~~ Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:

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

(“Class Counsel.”)

XYZDefendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether XYZDefendant or Plaintiff is correct on the merits.

In the meantime, Plaintiff and XYZDefendant hired ☐ an experienced, neutral mediator ☐ ~~a retired judge~~

☐ (describe alternative means of negotiation) in an effort to reach an agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and XYZDefendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, XYZDefendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) XYZDefendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the

best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. XYZDefendant Will Pay \$ 1,200,000.00 as the Gross Settlement Amount (Gross Settlement). XYZDefendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual ClassSettlement Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, XYZDefendant will fund the Gross Settlement not more than [14] days after the Judgment entered by the Court ~~become~~becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$ (~~420,000.00~~ 35% of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$ 30,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$ 10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual ClassSettlement Payment and any Individual PAGA Payment as a Class Member and Aggrieved Employee.
 - C. Up to \$ 10,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$ 200,000.00 for PAGA Penalties, allocated as 75% to be paid to the LWDA ~~PAGA Payment~~ and 25% ~~in Individual PAGA Payments to be paid~~ to the Aggrieved Employees based on their PAGA ~~Period~~ Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, ~~the~~ Administrator will distribute the rest of the Gross Settlement (the "Net Settlement Amount") by making Individual Settlement Payments to Participating Class Members based on their Workweeks.
~~Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.~~

4. Taxes Owed on Payments to Class Members. Plaintiff and XYZDefendant are asking the Court to approve an allocation of % 20% of each Individual ClassSettlement Payment to taxable wages (“Wage Portion”) and % 80% to ~~{e.g., penalties, interest, etc.} and non-wage damages~~ (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. ~~{Option 1: (XYZDefendant will separately pay employer payroll taxes it owes on the Wage~~
- 5.4. ~~Portion.}}~~ The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Settlement Payments on IRS 1099 Forms.
Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and XYZDefendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Paymentspayments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

6. Need to Promptly Cash Payment Checks. The front of every check issued for Individual ClassSettlement Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you ~~don’t do not~~ cash it by the void date, your check will be automatically cancelled, and the monies
- ~~☐ will be deposited with the California Controller’s Unclaimed Property Fund in your name.~~
- 7.5. ~~will~~ irrevocably lost to you because they will be paid to a non-profit organization or foundation (“Cy Pres”).

~~If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.~~

- 8.6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, [60 Day Response Deadline], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion from the Class Settlement by the —[60 Day Response Deadline] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Class Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual ClassSettlement Payments, but will preserve their rights to personally pursue ~~wage and hour claims~~ Released Class Claims against XYZDefendant.

You cannot opt-out of the PAGA ~~portion of the~~ Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert Released PAGA claimsClaims against ~~XYZ based on the PAGA Period facts alleged in the~~ ActionDefendant.

- 9.7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. PlaintiffsPlaintiff and XYZDefendant have agreed that, in either case, the Settlement will be void: XYZDefendant

will not pay any money and Class Members will not release any claims against XYZ Defendant.

~~10. Administrator.~~ The Court has appointed a neutral company,

~~11.8. ——— Phoenix Settlement Administrators~~ (the “Administrator~~2~~”), to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion- from the Class Settlement. The Administrator will also decide Class Member Challenges over disputes regarding Workweeks and/or PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

~~12.9. Participating Class Members’ Release. After of Released Class Claims. Upon~~ the Judgment is final Effective Date and XYZ has fully funded full funding of the Gross Settlement ~~{Option 1: (and separately paid Amount (including all employer payroll taxes))}~~, owed on the Wage Portion of the Individual Settlement Payments, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against XYZ or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement Defendant or Released Parties for Released Class Claims.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.”]. Except as set forth in Section 6 Defendant and its divisions, affiliates, predecessors, successors, shareholders, officers, directors, employees, agents, trustees, representatives, administrators, fiduciaries, assigns, subrogees, executors, partners, parents, subsidiaries, joint employers, insurers, clients, customers, suppliers, and vendors (“Released Parties”) from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action during the Class Period for (1) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (2) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (3) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders; (4) failure to pay all minimum wages owed pursuant to California Labor Code sections 1194, 1194.2, 1197, and 1197.1 and the IWC Wage Orders; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226 and the IWC Wage Orders; (8) failure to maintain adequate payroll records pursuant to California Labor Code section 1174 and IWC Wage Orders; (9) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (10) violations of California Business & Professions Code sections 17200, *et seq.* (“Released Class Claims”). Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits,

wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.^{viii}

~~13.10.~~ Aggrieved Employees' ~~PAGA Release~~. ~~After of Released PAGA Claims. Upon~~ the Court's judgment is final, Effective Date and XYZ has paid full funding of the Gross Settlement (and separately paid the Amount (including all employer-side payroll taxes owed on the Wage Portion of the Individual Settlement Payments), all Aggrieved Employees will be barred from asserting PAGA claims against XYZ Defendant, whether or not they exclude themselves from the Class Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against XYZ or its related entities Released Parties based on the PAGA Period facts alleged in the Action during the PAGA Period and resolved by this Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

~~The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:~~

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint~~[,] [,]~~ and the PAGA Notice ~~[and ascertained in the course of the Action]~~ for alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and Industrial Welfare Commission Wage Orders, including, e.g., (a) any and all claims involving any alleged failure to pay minimum wage; etc.] inter alia, Wage Orders 1-2001, 4-2001, and 16-2001 ("Released PAGA Claims").

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. ~~Individual Class Settlement Payments.~~ The Administrator will ~~calculate Individual Class Payments by (a) dividing~~ divide the final Net Settlement Amount by the ~~total number of~~ Workweeks ~~worked by of~~ all Participating Class Members, ~~to yield the "Final Workweek Value," and (b) multiplying the result by the number of Workweeks worked by multiply~~ each individual Participating Class Member's individual Workweeks by the Final Workweek Value to yield his or her Individual Settlement Share.
2. ~~Individual PAGA Payments.~~ The Administrator will ~~calculate Individual PAGA Payments by (a) dividing \$_____ by~~ divide the ~~total number~~ 25% portion of the PAGA Penalties attributed to Aggrieved Employees, i.e., \$50,000.00, by the PAGA Pay Periods worked by all Aggrieved Employees ~~and (b) multiplying the result by the number of~~ during the PAGA Period resulting in the PAGA Pay Period Value and then multiplying the PAGA Pay Period Value by the number of PAGA Pay Periods worked by each individual Aggrieved Employee during the PAGA Period.
3. ~~Workweek/Pay Period Challenges.~~ The number of ~~Class~~ Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in XYZ's Defendant's records, are stated in the first page of this Notice. You have

until _____ [60-Day Response Deadline] to ~~challengedispute~~ the number of Workweeks and/or Pay Periods credited to you. You can submit your ~~challengedispute~~ by signing and sending a letter to the Administrator via mail, or email ~~or fax~~. Section 9 of this Notice has the Administrator's contact information.

You need to support your ~~challengedispute~~ by sending copies of pay stubs or other records. The Administrator will accept ~~XYZ'sDefendant's~~ calculation of Workweeks and/or PAGA Pay Periods based on ~~XYZ'sDefendant's~~ records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or PAGA Pay Period ~~challengesdisputes~~ based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and ~~XYZ'sDefendant's~~ Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual ClassSettlement Payment and the Individual PAGA Payment.

~~Non-Participating Class Members.~~2. Aggrieved Employees. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every ~~Aggrieved Employee~~individual who ~~opts-out-of-is eligible to receive payment under~~ the ClassPAGA Settlement (~~i.e., every Non-Participating Class Member~~)as an Aggrieved Employee.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Class Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as _____

_____Cortez v. Barksdale, Inc., Case No. 21STCV29193, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, [60 Day Response Deadline], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE CLASS SETTLEMENT?

Only Participating Class Members have the right to object to the Class Settlement. Before deciding whether to object, you may wish to see what Plaintiff and ~~XYZDefendant~~ are asking the Court to approve. At least _____sixteen (16) court days before the _____[Date of Final Approval Hearing] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for

Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) or the Court's website for a fee at <https://www.lacourt.org/casesummary/ui/>.

_____ (url) or the Court's website _____ (url).

A Participating Class Member who disagrees with ~~any aspect of~~ the ~~Agreement~~ Class Settlement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Class Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** [60-Day Response Deadline]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action _____ as Cortez v. Barksdale, Inc., Case No. 21STCV29193 and include your name, current address, telephone number, and approximate dates of employment for [XYZ] Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object to the Class Settlement (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but ~~don't~~ do not have to, attend the Final Approval Hearing on _____ (Date) at _____ (time) _____ (Time) in Department [7]12 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors to the Class Settlement, Class Counsel, and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either _____ personally or _____ virtually via _____ LACourtConnect (<https://www.lacourt.org/lacc/>; <https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything XYZ Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity) _____'s the Administrator's website at _____ (url). You can also telephone or send an email to ~~Class Counsel~~ or the Administrator using the contact information listed below, or consult the Superior Court website by going _____ to (<http://www.lacourt.org/casesummary/ui/index.aspx>) <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. _____.

_____21STCV29193. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800. You may also telephone Class Counsel at the phone number provided in Section 1 above.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN
INFORMATION ABOUT THE SETTLEMENT.**

Class Counsel:-
Name of Attorney:-
Email Address:-
Name of Firm:-
Mailing Address:-
Telephone:-

Settlement Administrator: Name of Company:-

Phoenix Settlement Administrators

Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

☐ you should consult the Unclaimed Property Fund _____ for
instructions on how to retrieve the funds
you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

~~ⁱ This Model Class Action and PAGA Settlement Agreement has been approved by the Court, the Complex litigation judges, and a 2022 Ad Hoc Wage and Hour Committee co-chaired by Judge David Cunningham and Judge Amy Hogue and comprised of 16 attorneys who regularly represent plaintiffs and defendants in wage and hour case. It is written for settlements of single plaintiff wage and hour actions asserting class claims and PAGA claims against a single employer (XYZ). The parties will need to revise this form if there are multiple plaintiffs or multiple defendants. For settlements of wage and hour class actions that do not include PAGA claims, please use the Model Class Action Settlement Agreement and Class Notice. THE COURT ASKS ALL COUNSEL USING THIS MODEL AGREEMENT TO ATTACH A REDLINED VERSION TO THEIR MOTIONS FOR APPROVAL SO THAT THE COURT CAN EASILY SEE EXACTLY HOW THE PARTIES HAVE MODIFIED THIS MODEL AGREEMENT.~~

~~ⁱⁱ Whether the "date of preliminary approval" yields a fair and adequate payment to Class Members may depend on whether the Class Members, in exchange for their releases of claims, receive consideration for time worked between the date when parties reached a settlement and the date of preliminary approval. The Parties' *Kullar* analysis must give the Court sufficient information to allow the Court to determine whether the Gross Settlement Amount "represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing the litigation." (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 94-95, internal quotation marks omitted.)~~

~~ⁱⁱⁱ See endnote ii above.~~

- ^{iv} ~~The Parties may need to tailor this language to pay periods or shifts depending on the facts of the case.~~
- ^v ~~The Parties are free to negotiate a payment plan structure, if appropriate, and payment deadlines may fall earlier as necessary thereto.~~
- ^{vi} ~~Note that this is not the only possible appropriate breakdown depending on the claims at issue in the case (e.g. a settlement that is solely a Labor Code Section 226(a) claim.)~~
- ^{vii} ~~Insert negotiated terms, if any, addressing the possibility that XYZ's estimates of class size, Workweeks or Pay Periods turn out to be understated such as an ADR clause imposing a duty to engage in good faith negotiations or mediation or an "escalator" clause memorializing XYZ's promise to increase the Gross Settlement Amount in an agreed upon proportion to the percentage by which the calculated class size, Workweeks, or Pay Periods exceeds XYZ's estimates.~~
- ^{viii} ~~Releases in Notice should track the releases in the Settlement Agreement.~~

EXHIBIT 3

LAWYERS FOR JUSTICE^{PC}

July 20, 2021

BY ONLINE SUBMISSION

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

Re: BARKSDALE, INC.

Dear Representative:

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

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

Barksdale employed Ms. Cortez as an hourly-paid, non-exempt employee from approximately April 2014, in the State of California.

The “aggrieved employees” that Ms. Cortez may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for any of the above-referenced entities within the State of California.

Based on the following facts and theories, Barksdale has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and IWC Wage Orders including *inter alia*, Wage Orders 1-2001, 4-2001, and 16-2001.

Barksdale required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Barksdale rounded the work time recorded by aggrieved employees in a manner that was not fair and neutral on its face and/or that favored Barksdale over time, resulting in aggrieved employees being underpaid for their time worked.

California Labor Code sections 510 and 1198 require employers to pay time-and-a-half or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours

in one day and/or over forty hours in one week without paying the premium overtime rates at one-and-one-half times or double the regular rate of pay, including additional remuneration. During the relevant time period, Ms. Cortez and other aggrieved employees worked in excess of 8 hours in a day and 40 hours in a week. Therefore, Ms. Cortez and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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

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

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

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

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause

his employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation. During the relevant time period, Ms. Cortez and the aggrieved employees were required to regularly and/or consistently work in excess of six (6) days in a workweek. During the relevant time period, Ms. Cortez and the aggrieved employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. During the relevant time period, Ms. Cortez and the aggrieved employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Ms. Cortez and the aggrieved employees accumulated days of rest, they were not actually provided the opportunity to take the equivalent of one (1) day's rest in seven (7) during each calendar month.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case shall be kept on file for not less than two years. During the relevant time period, Barksdale failed to keep accurate and complete payroll records showing the actual hours worked daily and the wages earned by Ms. Cortez and other aggrieved employees, including earned and unpaid minimum, overtime, and premium wages as discussed above.

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

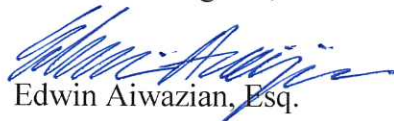
California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 1-2001, 4-2001, and 16-2001, require that for each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay. During the relevant time period, Barksdale failed to pay Ms. Cortez and other aggrieved employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Ms. Cortez and the other aggrieved employees reported to work and were furnished less than half the usual or scheduled day's work. During the relevant time period, Barksdale failed to pay Ms. Cortez and other aggrieved employees for two (2) hours at the employee's regular rate of pay on days in which Ms. Cortez and the other aggrieved employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

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

Therefore, on behalf of all aggrieved employees, Ms. Cortez seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

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

With kind regards,



Edwin Aiwanian, Esq.

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

Barksdale, Inc.
c/o C T Corporation System
Agent for Service of Process
330 N. Brand Blvd.,
Glendale, CA 91203

Barksdale, Inc.
c/o Robert S. Blumberg
Littler Mendelson P.C.
Attorney
633 West 5th Street, 63rd Floor
Los Angeles, CA 90071