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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act ("PAGA"), on behalf of the State of  
California and other aggrieved employees,

Plaintiff,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiffs,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Lead Case No. RG21113829  
Assigned to the Hon. Brad Seligman

**CRS #: A-21113829-001**

**NOTICE OF MOTION AND MOTION FOR  
COURT APPROVAL OF THE PARTIES'  
PAGA SETTLEMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT**

Date: August 27, 2024  
Time: 3:00 p.m.  
Place: Department 22

Complaint Filed: September 24, 2021  
Trial Date: None Set

Case No. 22CV012192

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1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 27, 2024 at 3:00 p.m., or as soon thereafter as  
3 counsel may be heard, in Department 22 of the above-captioned court, located at 1225 Fallon Street  
4 Oakland, California 94612, the Honorable Brad Seligman presiding, Plaintiffs Christina White and  
5 Fredric Lee Wynn Sr. will, and hereby do, move this Court for entry of an order and judgment approving  
6 the Parties' PAGA settlement pursuant to Labor Code section 2699(s)(2).

7 This Motion is based upon: (1) this Notice of Motion and Motion; (2) the Memorandum of  
8 Points and Authorities in Support of Motion for Court approval of the PAGA Settlement; (3) the  
9 Declaration of Raul Perez, which attaches the Joint Stipulation of PAGA Settlement and Release; (4) the  
10 Declaration of Christina M. Lucio; (5) the Declaration of Christina White; (6) the Declaration of Fredric  
11 Lee Wynn Sr.; (7) [Proposed] Order and Judgment Approving the PAGA Settlement; (8) the records,  
12 pleadings, and papers filed in this action; and (9) upon such other documentary and oral evidence or  
13 argument as may be presented to the Court at or prior to the hearing of this Motion.

14  
15 Dated: August 5, 2024

Respectfully submitted,

16 By: \_\_\_\_\_

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

Pursuant to the Labor Code Private Attorneys General Act of 2004 (Lab. Code. §§ 2698, *et seq.*, “PAGA”), Plaintiffs Christina White and Fredric Lee Wynn Sr. (“Plaintiffs”) seek Court approval of the settlement of their claims for PAGA civil penalties with Defendant Revolution Foods, Inc. (“Defendant”) (collectively with Plaintiffs, the “Parties”).

The PAGA provides that “[t]he superior court shall review and approve any settlement of any civil action filed pursuant to this part.” Lab. Code § 2699(s)(2). In *Moniz v. Adecco USA, Inc.*, 72 Cal. App. 5th 56 (2021), the Court of Appeal explained that similar to class action settlements, the trial court should satisfy itself that the settlement is “fair, adequate, and reasonable” in view of PAGA’s “purposes and policies.” The statute does not, however, require the two-step process utilized in class actions. *See Salazar v. Sysco Central Cal.*, No. 15-01758-DAD, 2017 WL 1135801, \*2 (E.D. Cal. Feb. 2, 2017) (rejecting the application of class action settlement rules and procedures for PAGA settlement approval). Nothing in the PAGA changes the strong judicial preference in support of approving settlements.

The principal terms of the Joint Stipulation of Settlement and Release<sup>1</sup> are as follows:

- (1) A non-reversionary Gross Settlement Amount of \$900,000, which includes payments to the LWDA and PAGA Members for their respective shares of the PAGA Fund, Plaintiffs’ attorneys’ fees and litigation costs, Plaintiffs’ Enhancement Payments, and settlement administration costs.
- (2) The creation of a PAGA Fund of approximately \$541,606.70, which will be paid to PAGA Members and the LWDA in full satisfaction of all Released Claims.
  - (a) Seventy-five percent of the PAGA Fund, or approximately \$406,205.03, will be paid to the LWDA pursuant to Labor Code section 2699(i).<sup>2</sup>

<sup>1</sup> Hereinafter, “Settlement” or “Settlement Agreement.” Unless indicated otherwise, all capitalized terms used herein have the same meaning as those defined by the Settlement Agreement, which is attached as Exhibit 1 to the Declaration of Raul Perez filed in conjunction with this motion.

<sup>2</sup> The PAGA statute was recently amended on July 1, 2024. Certain citations to the PAGA’s provisions in this Motion relate to the pre-amendment version of the statute, which applies to this action based on the pre-amendment filing date of the initial complaint and related administrative exhaustion letter.

(b) Twenty-five percent of the PAGA Fund, or approximately \$135,401.68, will be paid to all PAGA Members.

(c) PAGA Members are defined as: All persons who worked for Defendant as non-exempt, hourly paid employees in California at any time during the PAGA Period (“PAGA Members”). There are approximately 1,450 PAGA Members.

(3) Enhancement Payments of up to \$10,000, each, to Plaintiffs as consideration for their service on behalf of the State of California and PAGA Members, and for general releases of all claims they may have against Defendant arising out of their employment.

(4) Reasonable attorneys’ fees and costs under Labor Code section 2699(k)(1) for Plaintiffs’ Counsel’s successful prosecution and resolution of this action. Plaintiffs request a combined total of \$300,000 in attorneys’ fees and \$23,393.30 in costs for their counsel, Capstone Law APC and James Hawkins, APLC (“Plaintiffs’ Counsel”).

(5) Settlement Administration Costs of approximately \$15,000 to CPT Group, Inc. (“CPT”).

The civil penalties secured by the settlement represent a fair compromise of Plaintiffs’ PAGA claim in view of the risks of continued litigation and the hotly contested issues of law and fact relating to PAGA claims. The Settlement accomplishes PAGA’s objectives by imposing sufficient civil penalties “to punish and deter” Defendant from committing any of the Labor Code violations alleged, while also ensuring that the penalties are not “unjust, arbitrary and oppressive, or confiscatory.” *Iskanian v. CLS Transp. Los Angeles, LLC*, 59 Cal. 4th 348, 384 (2014).

For these reasons, Plaintiffs respectfully request that the Court approve the Settlement and enter the proposed Order Approving the PAGA Settlement Agreement and the proposed Judgment.

## **II. FACTS AND PROCEDURE**

### **A. Brief Overview of the Litigation and Settlement Negotiations**

Defendant prepares and delivers prepacked health-focused meals to schools and communities in California and Nevada. Defendant is certified both as a B Corporation and Public Benefit Corporation. Plaintiffs were each employed by Defendant in the State of California in non-exempt positions during the PAGA Period. (Declaration of Christina White ¶ 2; Declaration of Fredric Lee Wynn Sr. ¶ 2.)

After complying with PAGA’s administrative exhaustion requirements (*see* Cal. Lab. Code §

1 2699.3(a)(1)), Plaintiff White filed this PAGA action against Defendant on September 24, 2021 (“White  
2 Action”). (Declaration of Raul Perez [“Perez Decl.”] ¶ 2.) Plaintiff Fredric Lee Wynn Sr. filed his related  
3 PAGA action against Defendant in this Court on August 8, 2022 (“Wynn Action”).

4 In their respective Complaints, Plaintiffs seek PAGA civil penalties for Defendant’s alleged  
5 failure to comply with the following California Labor Code<sup>3</sup> sections: (a) 510 and 1198 (unpaid  
6 overtime); (b) 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (c) 226.7, 512(a), 516,  
7 and 1198 (failure to provide meal periods); (d) 226.7, 516, and 1198 (failure to authorize and permit rest  
8 periods); (e) 226(a), 1174(d), and 1198 (non-compliant wage statements and failure to maintain accurate  
9 payroll records); (f) 204 (failure to timely pay wages during employment); (g) 201, 202, and 203 (failure  
10 to timely pay final wages upon termination); (h) 212 and 213 (unlawful direct deposit and discount of  
11 wages); (i) 221 and 224 (unlawful deductions); (j) 222.5 (failure to pay for costs of mandatory physical  
12 exams and/or drug testing); (k) 1198 and California Code of Regulations Title 8, Section 11050  
13 Subdivision 5(A) (failure to pay reporting time pay); (l) 2802 (unreimbursed business expenses); (m)  
14 6401 and 6403 (failure to provide safety devices and safeguards); (n) 246 (failure to pay sick leave at  
15 proper rate); (o) 223 (unlawful payment below designated wage scale). (Perez Decl. ¶ 3.)

16 Following the informal exchange of documents and data, including Defendant’s California labor  
17 policies and procedures manuals, the Parties participated in a mediation with Louis Marlin, Esq., an  
18 experienced mediator of wage and hour actions, on March 11, 2024. (Perez Decl. ¶ 5.) Mr. Marlin  
19 helped to manage the Parties’ expectations and provided a useful, neutral analysis of the issues and risks  
20 to both sides. (*Id.*) With Mr. Marlin’s guidance, the Parties were eventually able to negotiate a complete  
21 settlement of Plaintiffs’ PAGA claims. (*Id.*) The terms of the settlement are now set forth in complete  
22 and final form in the Joint Stipulation of PAGA Settlement and Release. (*Id.*, Ex. 1, “Settlement  
23 Agreement.”) At all times, the Parties’ negotiations were adversarial and non-collusive. (*Id.*) The  
24 Settlement therefore constitutes a fair, adequate, and reasonable compromise of the claims at issue. (*Id.*)

25 On July 25, 2024, the Court consolidated the White Action and the Wynn Action. (*Id.* at ¶ 4.)  
26

27  
28 <sup>3</sup> Unless indicated otherwise, further statutory references are to the California Labor Code.

1           **B.       The Parties Negotiated a Fair and Reasonable Settlement of Plaintiffs' Claims**

2                   **1.       Terms of the Settlement and Distribution of PAGA Penalties**

3           The Settlement Agreement provides that Defendant will pay a total of \$900,000 to settle the  
4   White Action and Wynn Action. (Settlement Agreement ¶ 24.) From this amount, payments will be  
5   made to: (a) the LWDA and PAGA Members; (b) Plaintiffs as compensation for their service on behalf  
6   of the State, and for general releases of claims arising out of their employment with Defendant; (c)  
7   Plaintiffs' Counsel for their attorneys' fees and litigation costs; and (d) the Settlement Administrator  
8   (CPT) for its settlement administration costs. (*Id.* at ¶¶ 26-28.)

9           The resulting balance will be distributed to the LWDA and PAGA Members: the LWDA will  
10   receive approximately \$406,205.03, and PAGA Members will receive approximately \$135,401.68. (*Id.*)  
11   The PAGA Members encompassed by the proposed Settlement are all persons who worked for  
12   Defendant as non-exempt, hourly paid employees in California at any time during the PAGA Period. (*Id.*  
13   at ¶ 10.) There are approximately 1,450 PAGA Members.

14          Payments to PAGA Members will be made from the PAGA Fund. The individual allocations  
15   will be calculated on a pro-rata basis using the number of pay periods worked by each employee. (*Id.* at ¶  
16   29.) This is a fair and equitable means of allocating the penalties. PAGA Members who worked for a  
17   longer duration during the Settlement Period will receive proportionally larger payments than those  
18   employees who worked for shorter durations.

19                   **2.       The Settled PAGA Claims**

20          Upon the Funding Date, and except as to such rights or claims as may be created by the  
21   Settlement Agreement, Plaintiffs, PAGA Members, and the LWDA, together and individually, on their  
22   behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys, shall, by  
23   operation of the Court's Order approving this settlement, fully and forever release and discharge all of  
24   the Released Parties, or any of them, from each of the Released Claims during the PAGA Period.  
25   (Settlement Agreement ¶ 39.)

26          Additionally, Plaintiffs have agreed to a broader general release of all claims of any kind against  
27   Defendant in exchange for the enhancement payment. (*Id.* at ¶ 28.)  
28

1     **III.     ARGUMENT**

2             **A.       The PAGA Penalties Secured by the Settlement Are Genuine and Meaningful, and**  
3                     **Fulfill PAGA’s Underlying Purpose To Benefit the Public**

4             Under PAGA, an aggrieved employee may bring a civil action personally and on behalf of other  
5     current or former employees to recover civil penalties for Labor Code violations. *Iskanian*, 59 Cal. 4th at  
6     380. Seventy-five percent of any penalties recovered go to the LWDA, leaving the remaining twenty-  
7     five percent for aggrieved employees. *Id.* PAGA is intended “to augment the limited enforcement  
8     capability of [LWDA] by empowering employees to enforce the Labor Code as representatives of the  
9     Agency.” *Id.* at 383. A judgment in a PAGA action binds all those, including non-party aggrieved  
10    employees, who would be bound by a judgment in an action brought by the government. *Id.* at 381.

11            A superior court must review and approve any PAGA settlement. Cal. Lab. Code § 2699(s)(2).  
12    The court’s review “ensur[es] that any negotiated resolution is fair to those affected.” *Williams v.*  
13    *Superior Court*, 3 Cal. 5th 531, 549 (2017). The Court’s evaluation of the settlement must “determine  
14    whether it is fair, reasonable, and adequate in view of PAGA’s purposes to remediate present labor law  
15    violations, deter future ones, and to maximize enforcement of state labor laws.” *Moniz, Inc.*, 72 Cal. App.  
16    5th at 77.

17            The Court’s evaluation of the settlement should therefore not focus on “restitution”—the average  
18    recovery per aggrieved employee, as in a class action settlement, but rather take into account PAGA’s  
19    statutory purpose in deterring Labor Code violations through the imposition of civil penalties, with  
20    special attention on whether the relief is “genuine and meaningful.” *Salazar*, 2017 WL 1135801 at \*2.

21            **B.       Plaintiffs’ Counsel Conducted a Thorough Investigation of the Factual and Legal**  
22                     **Issues and Were Thus Able to Objectively Assess the Settlement’s Reasonableness**

23            As set forth in greater detail in Plaintiffs’ Counsel’s declarations, based on their analysis of  
24    documents and data produced by Defendant, including Defendant’s California labor policies and  
25    procedures manuals and PAGA Members’ time and pay data, Plaintiffs’ Counsel were able to  
26    realistically assess the value of Plaintiffs’ claims, and intelligently engage defense counsel in settlement  
27    discussions that culminated in the proposed settlement now before the Court. (Perez Decl. ¶¶ 6-10;  
28    Hawkins Decl. ¶¶ 21-22.)

1 By engaging in a thorough investigation and evaluation of Plaintiffs' claims, Plaintiffs' Counsel  
2 can opine that the Settlement, for the consideration and on the terms set forth in the Settlement  
3 Agreement, is fair, reasonable, and adequate, and is in the best interests of PAGA Members in light of all  
4 known facts and circumstances, including the risk of significant delay and uncertainty associated with  
5 litigation, various defenses asserted by Defendants. (Perez Decl. ¶ 11; Hawkins Decl. ¶ 23.)

6 **C. The Settlement Is Reasonable Given the Risks of Further Litigation**

7 In assessing whether the amount of civil penalties is genuine and meaningful, the Court may  
8 balance the amount in penalties against the risks of further litigation. Here, Plaintiffs obtained a  
9 meaningful amount of civil penalties despite facing hurdles had the litigation continued. Based on  
10 information and evidence produced by Defendant during discovery, Plaintiffs' Counsel determined that  
11 PAGA Members worked during a total of approximately 37,342 pay periods during the PAGA statute of  
12 limitations period. (Settlement Agreement ¶ 34.) Statutory penalties, if liability for same were proven,  
13 would be calculated according to Labor Code 2699(f)(2): If, at the time of the alleged violation, the  
14 person employs one or more employees, the civil penalty is up to one hundred dollars (\$100) for each  
15 aggrieved employee per pay period in which the initial violation occurred and up to two hundred dollars  
16 (\$200) for each aggrieved employee for each pay period in which subsequent violation occurred.

17 However, a number of courts have found that the "subsequent" penalty under PAGA applies  
18 only after a court or the Labor Commissioner determines that the employer has violated the Labor Code.  
19 *See Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334, 356 (2021) ("the increased \$200 civil penalty  
20 for 'subsequent violation[s]' does not apply unless [Plaintiff] presents evidence that the Labor  
21 Commission or a court notified [Defendant] that it was in violation of the Labor Code."); *Bernstein v.*  
22 *Virgin Am., Inc.*, 990 F.3d 1157, 1173 (9th Cir. 2021) (reversing judgment as to "heightened civil  
23 penalties" because the defendant was not given notice by the Labor Commissioner when the  
24 "subsequent" violations occurred).<sup>4</sup> Under this line of cases, Defendant's maximum exposure would be

25  
26 <sup>4</sup> See also *Vieyara-Flores v. Sika Corp.*, No. EDCV19606JVSKKX, 2019 WL 2436998, at \*5  
27 (C.D. Cal. June 10, 2019) ("employers are not subject to heightened penalties . . . until a court or  
28 commissioner notifies the employer that it is in violation of the Labor Code . . . [Plaintiff] has not offered  
evidence that the Labor Commission or a court has notified them of PAGA violations [thus] PAGA's  
heightened penalty of \$200 for subsequent violations will not be calculated to determine the amount in

1 calculated as follows:

2       **Minimum Wage / Overtime Claims:** California law defines “hours worked” as “the time  
3 during which an employee is subject to the control of an employer, and includes all the time the  
4 employee is suffered or permitted to work, whether or not required to do so.” *Morillion v. Royal Packing*  
5 *Co.*, 22 Cal. 4th 575, 578 (2000). Thus, “an employee who is subject to an employer’s control does not  
6 have to be working during that time to be compensated[.]” *Id.* at 582. Requiring employees to work  
7 without compensation violates California’s minimum wage and overtime laws. *See* Cal. Lab. Code §§  
8 510, 1194, 1197, 1197.1 and 1198. An employer is liable for off-the-clock “hours worked” if it “knew or  
9 should have known off-the- clock work was occurring.” *Brinker Rest. Corp. v. Superior Ct.*, 53 Cal. 4th  
10 1004, 1051-52 (2012). California Labor Code sections 510 and 1198 and the applicable Industrial  
11 Welfare Commission (“IWC”) Wage Order require employers to pay employees working more than 8  
12 hours in a day or more than 40 hours in a workweek at the rate of 1 ½ times the regular rate of pay for all  
13 hours worked in excess of 8 hours in a day or more than 40 hours in a workweek.

14       Plaintiffs allege that Defendant had a company-wide policy of strictly staffing its locations based  
15 on the labor hours allocated by each location’s labor or payroll budget set by corporate. This practice of  
16 labor budgeting, combined with the assignment of heavy workloads, strict deadlines, and single-staffing  
17 particularly during graveyard shifts, resulted in understaffing and a lack of adequate meal period  
18 coverage, because there were too few employees on duty to handle the workloads. As a result, PAGA  
19 Members allegedly worked during their meal periods to cope with the demands of their jobs. Plaintiffs  
20 estimated Defendant’s exposure for PAGA civil penalties as follows: 37,342 total pay periods during the  
21 PAGA Period × \$100 penalty per pay period = \$3,734,200.

22       In its defense, Defendant would have argued that its labor policies prohibit off-the-clock work,  
23 that employees were properly compensated for all time worked, and any time worked off-the-clock

24  
25 controversy”); *Chen v. Morgan Stanley Smith Barney, LLC*, No. 8:14-CV-01077 ODW (FFMx), 2014  
26 WL 4961182 (C.D. Cal., October 2, 2014) (“Under the Labor Code, if an employer does not have notice  
27 that they are committing a violation, they are not subject to the heightened penalties.”); *Trang v. Turbine*  
28 *Engine Components Technologies Corp.*, No. CV 12–07658 DDP (RZx), 2012 WL 6618854 (C.D. Cal.  
Dec. 19, 2012) (“courts have held that employers are not subject to heightened penalties for subsequent  
violations unless and until a court or commissioner notifies the employer that it is in violation of the  
Labor Code”), citing *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157 (2008).

1 would not be reflected in the time records, making it practically impossible to determine whether any  
2 PAGA Member worked off-the-clock without engaging in thousands of individualized inquiries. *See*  
3 *Brinker*, 53 Cal. 4th 1051-52 (holding that in the absence of a uniform, companywide policy, proof of  
4 liability is individual).

5 Defendant would also have argued that for Plaintiffs to establish that it failed to pay PAGA  
6 Members for all hours worked, Plaintiffs would have had to prove that it was aware that they were  
7 working hours for which they were not compensated. For example, in *Forrester v. Roth's I.G.A.*  
8 *Foodliner, Inc.*, 646 F.2d 413 (9th Cir. 1981), the Ninth Circuit held that “where an employer has no  
9 knowledge that an employee is engaging in overtime work and that employee fails to notify the  
10 employer or deliberately prevents the employer from acquiring knowledge of the overtime work, the  
11 employer’s failure to pay for the overtime hours is not a violation [of overtime requirements].” *Id.* at 414.

12 **Meal Period Claim:** “An employer shall not employ an employee for a work period of more  
13 than five hours per day without providing the employee with a meal period of not less than 30  
14 minutes[.]” Cal. Lab. Code § 512(a) . Additionally, an employee may not work more than 10 hours  
15 without being provided a second meal period. *Id.* Where an employee does not receive a timely meal  
16 period of at least 30 minutes, the employer is required to pay the employee one additional hour of pay at  
17 the employee’s regular rate of compensation. Cal. Lab. Code § 226.7(c) .

18 Due to Defendant’s alleged practice of understaffing its California locations, Plaintiffs allege that  
19 PAGA Members were regularly forced to work off-the-clock during their meal periods, or to take them  
20 late, to complete all of their assigned duties. Plaintiffs estimated Defendant’s exposure for meal period  
21 violations as follows: 37,342 total pay periods × 50% violation rate × \$100 penalty per pay period with a  
22 violation = \$1,867,100.

23 In its defense, Defendant would have argued that it has lawful and compliant policies and  
24 procedures, which explicitly authorize compliant meal periods. Defendant would have further argued  
25 that it has no obligation to “guarantee” or “ensure” that meal periods are taken by all employees at all  
26 times. *Brinker*, 53 Cal. 4th at 1040 (employers are “not obligated to police meal breaks and ensure no  
27 work thereafter is performed”). Rather, an employer satisfies (as Defendant would argue) its obligation  
28 to provide meal periods if “it relieves its employees of all duty, relinquishes control over their activities

1 and permits them a reasonable opportunity to take an uninterrupted 30-minute break, and does not  
2 impede or discourage them from doing so.” *Id.* Defendant argued that there is no “basis in the wage  
3 order or statute” for the notion “that an employer must ensure that no work is done – i.e., prohibit work”  
4 during a meal period. *Id.* at 1038; *see also Murphy*, 40 Cal. 4th at 1104 (finding a violation occurs only if  
5 the employee is “forced to forgo his or her meal period”).

6 Defendant also would have argued “to assert a meal break claim, the employee must show that  
7 he was **forced to forego** his meal breaks as opposed to merely showing that he did not take them.”  
8 *Nguyen v. Baxter Healthcare Corp.*, No. 8:10-CV-01436-CJC, 2011 WL 6018284, at \*5 (C.D. Cal.  
9 Nov. 28, 2011) (emphasis in original); *see also Brinker*, 53 Cal. 4th at 1034; *Dailey v. Sears, Roebuck*  
10 *& Co.*, 214 Cal. App. 4th 974, 1000-02 (2013); *Gonzalez v. Officemax N. Am.*, No. CV 07-04839 JVS  
11 MLGX, 2012 WL 5473764, at \*5 (C.D. Cal. Nov. 5, 2012).

12 **Rest Period Claim:** The applicable IWC Wage Order provides that “[e]very employer shall  
13 authorize and permit all employees to take rest periods, which insofar as practicable shall be in the  
14 middle of each work period” and that the “rest period time shall be based on the total hours worked daily  
15 at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof” unless the total  
16 daily work time is less than three and one-half (3½) hours. California Labor Code section 226.7 provides  
17 that no employer shall require an employee to work during any rest period mandated by an applicable  
18 order of the California IWC. To comply with its obligation to provide rest periods under California  
19 Labor Code section 226.7 and the applicable IWC Wage Order, an employer must “relinquish any  
20 control over how employees spend their break time, and relieve their employees of all duties —  
21 including the obligation that an employee remain on call. A rest period, in short, must be a period of  
22 rest.” *Augustus v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 273 (2016).

23 Like their meal period claim, Plaintiffs allege that Defendant’s rest period policies and  
24 practices—and specifically its practice of understaffing its California locations—discouraged PAGA  
25 Members from taking lawful rest periods by pressuring them to regularly work during their rest periods,  
26 or to forgo them entirely. Plaintiffs estimated Defendant’s exposure for rest period violations as follows:  
27 37,342 total pay periods × 50% violation rate × \$100 penalty per pay period with a violation =  
28 \$1,867,100.

1 In its defense, Defendant would have argued that it has lawful and compliant policies and  
2 procedures, which explicitly authorize compliant rest periods. Defendant would have further argued that  
3 absent a shift-by-shift, break-by-break, employee-by-employee inquiry, Defendant would have argued  
4 that there was simply no way to know (a) whether a break was taken; and (b) if not, why not. Defendant  
5 also would have argued that even if employees recorded every rest break ever taken, their time records  
6 would still be insufficient to prove liability. For each instance where an employee did not take a 10-  
7 minute rest period by the end of the fourth hour of work, the trier of fact would still have to determine  
8 why that particular employee had less than their full allotment of rest time. Defendant accordingly would  
9 have argued that rest break claims are inherently individualized in nature because employers only need to  
10 “authorize and permit” breaks; they need not ensure that rest breaks are taken. *Brinker*, 53 Cal. 4th at  
11 1004. To succeed, “[a]n employee must show that the employer prevented the employee from taking  
12 breaks; mere proof of knowledge that the employee was forgoing breaks is insufficient.” *Reece v.*  
13 *Unitrin Auto & Home Ins. Co.*, No. 5:11-CV-03960 EJD, 2013 WL 245452, at \*5 (N.D. Cal. Jan. 22,  
14 2013) (rejecting claim that the work structure made taking rest breaks impossible, because plaintiff failed  
15 to show that the employer prevented such breaks); *Drenckhahn v. Costco Wholesale Corp.*, No. 2:08-  
16 CV-01408-JHN, 2011 WL 3754659, at \*3 (C.D. Cal. Aug. 24, 2011) (“although employers must  
17 provide employees with meal and rest breaks under Cal. Lab. Code § 512(a), they need not guarantee  
18 that employees take breaks”).

19 Defendant would have argued that the lack of any actual policy of discouraging PAGA  
20 Members from taking their rest periods would have made it virtually impossible to succeed on the claim.

21 **Wage Statement Claim:** Labor Code section 226(a) provides, in pertinent part, that an  
22 employer must provide an “accurate itemized” wage statement showing net and gross wages earned.  
23 Cal. Lab. Code § 226(a). “[A]n employee has a statutory right to an accurate pay stub.”<sup>5</sup> Based on the  
24 preceding allegations, Plaintiffs allege that Defendant issued PAGA Members incorrectly itemized wage

25 <sup>5</sup> *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286, 1306 (2010) (“*Jaimez*”); *see also Kisliuk*  
26 *v. ADT Sec. Servs.*, 263 F.R.D. 544, 548 (C.D. Cal. 2008). “The purpose of the wage statement  
27 requirement is to provide transparency as to the calculation of wages. A complying wage statement  
28 accurately reports most of the information necessary for an employee to verify if he or she is being  
properly paid in accordance with the law and that deductions from wages are proper.” DLSE Opinion  
Letter 2006.07.06 at 2.

1 statements. Plaintiffs estimated Defendant's exposure for rest period violations as follows: 37,342 total  
2 pay periods  $\times$  \$100 penalty per pay period with a violation = \$3,734,200. In its defense, Defendant  
3 would have argued that Plaintiffs' derivative wage statement claims fail for the same reason as the  
4 underlying claims. Defendant would have further argued that Labor Code section 226 claim imposes  
5 penalties only for "knowing and intentional" failures to comply with the statute's itemization  
6 requirements, and that any failure to comply was not knowing and intentional as Defendant relied on the  
7 accuracy of PAGA Members' time records. In *Naranjo v. Spectrum Sec. Servs., Inc.*, 88 Cal. App. 5th  
8 937 (2023), the California court of appeal found that if a "good faith dispute" exists as to whether wages  
9 are due to an employee, then the employer is not liable for wage statement penalties.

10 **Final Pay Claim:** Based on the forgoing allegations, Plaintiffs allege that Defendant is liable for  
11 statutory penalties under Labor Code section 203. Section 203 provides that "the wages of the employee  
12 shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor  
13 is commenced; but the wages shall not continue for more than 30 days." Defendant's exposure would be  
14 as follows:  $\approx$  1,250 former employees  $\times$  \$100 penalty = \$125,000.

15 However, while Section 203 penalties are relatively straightforward to calculate, the analysis  
16 becomes more difficult for settlement purposes as derivative waiting-time penalties are only as strong as  
17 the underlying predicate claims, and are subject to good faith defenses. For example, defendants  
18 commonly argue that no waiting-time penalties can be awarded unless the failure to pay wages is  
19 "willful," an element that Plaintiffs acknowledge would have been difficult to prove. The California  
20 Code of Regulations specifically provides:

21 A willful failure to pay wages within the meaning of Labor Code Section 203  
22 occurs when an employer intentionally fails to pay wages to an employee when  
23 those wages are due. However, a good faith dispute that any wages are due will  
preclude imposition of waiting time penalties under Section 203...

24 A "good faith dispute" that any wages are due occurs when an employer presents  
25 a defense, based in law or fact which, if successful, would preclude any  
26 recover[y] on the part of the employee. The fact that a defense is ultimately  
27 unsuccessful will not preclude a finding that a good faith dispute did exist.  
Defenses presented which, under all the circumstances, are unsupported by any  
evidence, are unreasonable, or are presented in bad faith, will preclude a finding  
of a "good faith dispute."

28 Cal. Code Regs. tit. 8, § 13520.

1 Subsequent California cases have held that a good faith dispute as to whether wages were owed  
2 (including a good faith belief in a legal defense) precludes an award of waiting time penalties under  
3 Section 203. *Nordstrom Comm’n Cases*, 186 Cal. App. 4th 576, 584 (2010) (“There is no willful failure  
4 to pay wages [under Section 203] if the employer and employee have a good faith dispute as to whether  
5 and when the wages were due”); *see also Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 325 (2005)  
6 (“A good faith belief in a legal defense will preclude a finding of willfulness”).

7 And case law interpreting “willful” holds that even unsuccessful good faith defenses will be  
8 sufficient to preclude recovery so long as an employer’s “position is not so untenable as to constitute bad  
9 faith” or is not supported by any evidence. *See Estrada v. Royalty Carpet Mills, Inc.*, 76 Cal. App. 5th  
10 685, 708, 729 (2022) (finding no liability under Section 203 when the company had a good faith dispute  
11 that meal period premiums were owed due to an on-duty meal period policy that restricted employee  
12 freedom during meal periods while paying regular wages, even though the policy was found to be  
13 unlawful); *see also Woods v. Vector Mktg. Corp.*, No. C-14-0264 EMC, 2015 WL 2453202, at \*4 (N.D.  
14 Cal. May 22, 2015) (holding that the employer’s defense that the plaintiff was properly classified, even if  
15 ultimately unsuccessful at trial, was insufficient to amount to a “willful” violation of 203 and granting  
16 summary judgment on those claims because the plaintiff could point to no evidence that the defense was  
17 raised in bad faith or was unsupported by the evidence). On this point, Plaintiffs were not able to uncover  
18 any evidence that the violations were willful.

19 **Drug Test Claim:** Plaintiffs allege that they and other PAGA Members were required to  
20 undergo drug and medical tests during their employment off-the-clock and without compensation in  
21 clear violation of California law. The United States Department of Labor has weighed in on the issue and  
22 advises as follows:

23 After being hired, employers often require their employees to take certain tests **as**  
24 **they begin employment...** such as ... drug testing. Whenever you impose  
25 special tests, requirements or conditions that your employee must meet, time he  
or she spends traveling to and from the tests, waiting for and undergoing these  
tests, or meeting the requirements is probably hours worked.

26 The Department of Labor explains that “[t]ime spent in these activities is time during which the  
27 employee’s freedom of movement is restricted for the purpose of serving your business and during  
28 which he or she is subject to your discretion and control.” Plaintiffs’ estimated Defendant’s exposure as

1 follows:  $\approx 1,450 \text{ PAGA Members} \times \$100 \text{ penalty} = \$145,000$ .

2 In its defense, Defendant would have argued that activities undertaken by job applicants at the  
3 time of hiring—such as employer-mandated drug tests and physical examinations—are not “work”  
4 performed by an “employee,” and are therefore not compensable time. *See Johnson v. WinCo Foods,*  
5 *LLC*, 37 F.4th 604, 606 (9th Cir. 2022) (under California law, employer’s control over drug tests as part  
6 of the job application process was not control over the performance of the job and so did not convert  
7 applicants into employees). Defendant would have argued that under *Morillon v. Royal Packing Co.*, 22  
8 Cal. 4th 575, 587 (2000), an employer does not exercise “control” over employees by simply requiring  
9 them to appear at some specific destination. *Id.* at 583 (rejecting argument that commuting and grooming  
10 would be paid under the “control” rule because the “level of the employer’s control over its employees,  
11 *rather than the mere fact that the employer requires activity*, is determinative”) (emphasis added). *See*  
12 *also Gunawan*, 997 F. Supp. 2d at 1063 (finding time spent on second interview was not under “control”  
13 of prospective employer because, although company sent applicant to second interview and controlled  
14 communications with second interviewer, there was “no evidence that KForce had control over the  
15 questions asked . . . or more importantly, over the answers she provided . . . over the length . . . or that  
16 KForce required Ms. Gunawan to act in a certain manner while she was there”).

17 **Business Expense Claim:** Labor Code section 2802 provides that “an employer shall indemnify  
18 his or her employee for all necessary expenditures or losses incurred by the employee in direct  
19 consequence of the discharge of his or her duties...” Section 2802 “is designed to prevent employers  
20 from passing their operating expenses on to their employees.” *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42  
21 Cal. 4th 554, 562 (2007) (citing legislative history). Courts have recognized the “strong public policy...  
22 favor[ing] the indemnification... of employees...” *Stuart v. RadioShack*, 641 F. Supp. 2d 901, 903 (N.D.  
23 Cal. 2009) (quotation omitted). Plaintiffs allege that Defendant did not reimburse employees for all  
24 necessary business expenses, including expenses related to cellphone usage. Plaintiffs estimated  
25 Defendant’s exposure for the business expense reimbursement claim as follows:  $37,342 \text{ pay periods} \times$   
26  $1/2$  (to convert bi-monthly pay periods to months for purposes of calculating monthly cellular charges)  $\times$   
27  $\$100 = \$1,867,100$ .

28 In its defense, Defendant would have argued that it has lawful and compliant policies and

1 procedures regarding reimbursement of business expenses. Defendant would have further argued that  
2 employees are entitled to reimbursement for work-related expenses, such as for cellphone usage, only if  
3 they can prove that the employer knew or had reason to know that actual expenses were incurred. *See*  
4 *Gattuso*, 42 Cal. 4th at 568 (requirement to reimburse depends on “whether each of those expenses was  
5 ‘necessary,’ which in turn depends on the reasonableness of the employee’s choices”); *Cassady v.*  
6 *Morgan, Lewis & Bockius LLP*, 145 Cal. App. 4th 220, 232 (2006), as modified (Dec. 21, 2006) (Labor  
7 Code section 2802 “expressly conditions the right to indemnity on a showing that the expenditures arose  
8 as a direct consequence of the discharge of the employee’s duties”); *Snap! Mobile, Inc. v. Croghan*, No.  
9 18-CV-04686-LHK, 2019 WL 884177, at \*11 (N.D. Cal. Feb. 22, 2019) (“[F]or purposes of § 2802,  
10 before an employer’s duty to reimburse is triggered, it must either know or have reason to know that the  
11 employee has incurred an expense”) (quoting *Stuart v. RadioShack Corp.*, 641 F. Supp. 2d 901, 903-04  
12 (N.D. Cal. 2009)). Defendant would have further argued that the reimbursement claim would required an  
13 individualized inquiry into each expense, including whether it was incurred, whether it was necessary,  
14 and whether Defendant was aware of it.

15 **Reporting Time Claim:** Plaintiffs allege that PAGA Members were often sent home as early as  
16 two hours into their scheduled shifts, but without payment of reporting time pay. Defendant’s alleged  
17 failure to pay reporting time on these occasions violates the applicable Wage Order and Labor Code  
18 section 1198. Section 5 of the applicable IWC Wage Order, entitled “Reporting Time Pay,” states:

19 Each workday an employee is required to report for work and does report, but is not put  
20 to work or is furnished less than half said employee’s usual or scheduled day’s work, the  
21 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,  
which shall not be less than the minimum wage.”

22 Cal. Code Regs., title 8, section 11050, subd. 5. The “primary purpose of the reporting time regulation”  
23 is “to guarantee at least partial compensation for employees who report to work expecting to work a  
24 specified number of hours, and who are deprived of that amount because of inadequate scheduling or  
25 lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).  
26 Plaintiffs estimated Defendant’s exposure as follows: 37,342 total pay periods × 50% violation rate ×  
27 \$100 penalty per pay period with a violation = \$1,867,100.

28 Defendant would have argued that Plaintiffs’ reporting time claim failed as a matter of law as

1 reporting time, which is provided for in the wage orders, not the Labor Code, is not subject to PAGA  
2 penalties. Defendant would have further argued that approximately 85% of the shifts worked were not  
3 eligible for reporting time as they were longer than 4 hours. Defendant would have argued that its  
4 policies concerning reporting time were at all times compliant with the Labor Code and Wage Orders,  
5 and that any deviations from those policies were anomalous incidents for which Defendant should not be  
6 held accountable on a representative basis as each would require individualized inquiry into (1) the  
7 length of the shift scheduled; (2) the hours actually worked; and (3) the reason the employee worked less  
8 than the scheduled shift.

9 **Unlawful Direct Deposit Claim:** California Labor Code section 212 prohibits employers from  
10 issuing any instruments for the payment of wages unless such instruments are negotiable and payable in  
11 cash on demand and without discount. California Labor Code section 213 permits employers to pay  
12 employees via direct deposit so long as the employee authorizes payment via direct deposit. Employers  
13 are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but  
14 only under certain circumstances. Specifically, the DLSE has interpreted Labor Code sections 212 and  
15 213 as permitting employer use of payroll debit cards where the following requirements are satisfied: (1)  
16 [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days  
17 of sufficient funds for payment,” (2) the employees are “fully informed of the service and procedures and  
18 that it is represented as an alternative method for wage payment for which their participation is optional,”  
19 (3) the employees receive “an itemized wage statement,” and (4) “at least one transaction per pay period  
20 [is] without fee.” *Ortiz v. Randstad North America, L.P.*, No. C-13-5050 MMC, 2015 WL 6202298 at 3.

21 Plaintiffs allege that Defendant did not properly inform PAGA Members at the time of issuance  
22 of payroll cards that: card replacement fees were approximately \$5-\$25; inactivity fees were  
23 approximately \$2 per month; foreign transaction fees were approximately 3% of transaction amount; and  
24 out-of-network and international ATM balance inquiry fees were approximately \$1, among other  
25 undisclosed fees. Consequently, these undisclosed payroll debit card fees resulted in a discount in pay to  
26 other aggrieved employees. Plaintiffs’ estimated Defendant’s exposure as follows: 37,342 total pay  
27 periods × 5% (i.e., only approximately 5% of all PAGA Members received payroll debit cards) \$100  
28 penalty per pay period with a violation = \$186,710.

1 In its defense, Defendant would have argued that its lawful and compliant payroll debit card  
2 program was completely voluntary, and offered as an alternative to a traditional paycheck. Defendant  
3 would have further argued that its payroll card program allowed PAGA Members to use the card as a  
4 debit card or withdraw cash—without fees—at any of the thousands of US Bank or MoneyPass ATMs.  
5 Defendant also argued that both the DLSE and many courts have held that an employee’s right to full  
6 and prompt payment of wages without discount is not violated simply because the employee incurred  
7 fees from withdrawing funds from an out-of-network ATM. *See DLSE Opinion Letter 2008.07.07*  
8 (allowing payroll card program where “at least one transaction per pay period without fee”; “[b]y  
9 providing one free transaction, the payroll card programs effectively provide for immediate and free  
10 access to an employee’s wages in full”); *Ortiz v. Randstad N. Am., L.P.*, 2015 U.S. Dist. LEXIS 30660,  
11 at \*9 (holding pay card program “complie[d] with the requirements of California law” though the  
12 plaintiff sometimes incurred a transaction fee while using the card); *Holak v. Kmart Corp.*, 2012 WL  
13 6202298, at \*2 (E.D. Cal. Dec. 12, 2012) (dismissing section 212 claim based on alleged inability to  
14 access full wages via an ATM and incursion of ATM transaction fees because Plaintiff could withdraw  
15 wages in full and without discount by (1) withdrawing from a MasterCard- affiliated bank, or (2) using a  
16 free “pre-check” to write herself a check and cash it at a Citbank-affiliated check cashing location).

17 **The Gross Settlement Amount Is Fair, Adequate, and Reasonable:** Plaintiffs determined an  
18 appropriate range of recovery for settlement purposes by offsetting Defendant’s estimated exposure by:  
19 (a) the strength of its defenses to the merits of Plaintiffs’ claims; (b) the risk of losing on any of a number  
20 of dispositive motions that could have been brought between certification and trial (e.g., motions for  
21 summary judgment, and/or motions in limine) that might have eliminated all or some of Plaintiffs’  
22 claims, or barred evidence/testimony in support of the claims; (c) the risk of losing at trial; (d) the  
23 chances of a favorable verdict being reversed on appeal; and (e) the difficulties attendant to collecting on  
24 a judgment.

25 It should also be noted that PAGA gives the Court wide latitude to reduce the amount of civil  
26 penalties “based on the facts and circumstances of a particular case” when “to do otherwise would result  
27 in an award that is unjust, arbitrary and oppressive, or confiscatory.” Cal. Lab. Code § 2699(e)(2). In  
28 reducing PAGA penalties, courts have considered issues including whether the employees suffered

1 actual injury from the violations, whether the defendant was aware of the violations, and the employer's  
2 willingness to fix the violation. *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504, 528 (2018)  
3 (awarding PAGA penalties of only 0.2% of the maximum); *see also Cotter v. Lyft, Inc.*, 193 F. Supp. 3d  
4 1030, 1037 (N.D. Cal. 2016); *Fleming v. Covidien Inc.*, No. ED CV 10-01487 RGK (OPX), 2011 WL  
5 7563047, at \*4 (C.D. Cal. Aug. 12, 2011).

6 For example, during the penalty phase of trial in *Carrington*, the plaintiff requested PAGA  
7 penalties in the amount of approximately \$70 million. The trial court instead awarded only \$150,000—  
8 **or 0.21% of the calculated maximum**—and stated that this reduction was warranted because (a) the  
9 Court did not believe it was appropriate to impose multiple penalties per pay period in which a violation  
10 occurred and (b) imposing the maximum penalty would be “unjust, arbitrary, and oppressive” based on  
11 Starbucks’s “good faith attempts” to comply with meal period obligations and because the court found  
12 the violations were minimal. *Carrington*, 30 Cal. App. 5th at 517-18. The Court of Appeal affirmed the  
13 lower court’s reduced award of a \$150,000 penalty under PAGA. *Id.* at 529.

14 Likewise, in *Covidien*, the Court reduced the potential penalties by over 82%, awarding  
15 \$500,000 instead of maximum penalties of \$2.8 million. *Covidien*, 2011 WL 7563047 at \*4; *see also*  
16 *Thurman v. Bayshore Transit Mgmt.*, 203 Cal. App. 4th 1112, 1135-36 (2012) (affirming 30% reduction  
17 under specified PAGA claim where the employer produced evidence that it took its obligations  
18 seriously); *Elder v. Schwan Food Co.*, No. B223911, 2011 WL 1797254, at \*5-\*7 (Cal. Ct. App. May  
19 12, 2011) (reversing trial court decision denying any civil penalties where violations had been proven,  
20 remanding for the trial court to exercise discretion to reduce, but not wholly deny, civil penalties); *Li v. A*  
21 *Perfect Day Franchise, Inc.*, No. 5:10-CV-01189-LHK, 2012 WL 2236752, at \*17 (N.D. Cal. June 15,  
22 2012) (denying PAGA penalties for violation of California Labor Code section 226 as redundant with  
23 recovery on a class basis pursuant to California Labor Code section 226, directly); *Aguirre v. Genesis*  
24 *Logistics*, No. SACV 12-00687 JVS (ANx), 2013 WL 10936035 at \*2-\*3 (C.D. Cal. Dec. 30, 2013)  
25 (reducing penalty for past PAGA violations from \$1.8 million to \$500,000, after rejecting numerous  
26 other PAGA claims).

27 Considering the issues, defenses, and the risks, a \$900,000 settlement for a limited release of  
28 PAGA penalties—no individual wage and hour claims will be extinguished by the Settlement—is a fair

1 and just result and furthers PAGA’s objectives, and is not “unjust, arbitrary, and oppressive.”

2 **D. The Court Should Award the Requested Attorneys’ Fees in the Amount of**  
3 **Approximately One-Third of the Gross Settlement Fund**

4 For the reasons discussed in detail below, an award of attorneys’ fees in the amount of  
5 approximately one-third of the gross settlement fund is fair and reasonable, and in line with what other  
6 California courts, both state and federal, have awarded in settlements of similar litigation.

7 The PAGA provides that a plaintiff is entitled to recover reasonable attorneys’ fees, expenses,  
8 and costs. Section 2699(k)(1) of the California Labor Code provides that “[a]ny employee who prevails  
9 in any action shall be entitled to an award of reasonable attorney’s fees and costs.” In a *qui tam* action,  
10 reasonable attorneys’ fees and costs are typically awarded under the common fund doctrine where, as  
11 here, the litigation creates a common fund of money in a specific amount for the benefit of others. PAGA  
12 “is a type of *qui tam* action.” *See Iskanian*, 59 Cal. 4th at 382. “A *qui tam* action ‘is a type of private  
13 attorney general lawsuit’ [citation], in which ‘the *qui tam* plaintiff stands in the shoes of the state or  
14 political subdivision [citation].’” *People ex rel. Strathmann v. Acacia Research Corp.*, 210 Cal. App. 4th  
15 487, 501 (2012).

16 A PAGA action is a *qui tam* action because the statute allows the employee plaintiff, acting as  
17 the proxy of the State’s labor law enforcement agency, to sue his or her employer for Labor Code  
18 violations and recover civil penalties that otherwise would have been assessed and collected by the  
19 LWDA. *See Iskanian*, 59 Cal. 4th at 382. Indeed, the majority of the civil penalties recovered in a PAGA  
20 action are paid to the State, with a smaller portion paid to the aggrieved employees (e.g., 75% paid to the  
21 state; 25% paid to the aggrieved employees). *See Cal. Lab. Code § 2699(i)*. Where, as here, a common  
22 fund is created in a *qui tam* action by the successful litigation of a plaintiff and her attorneys, the  
23 plaintiff’s attorneys are entitled to recover their fees from the common fund:

24 Those benefiting from the recovery of the fund, in this case some depositors and  
25 eventually the People of the State of California, must bear their share of the cost of  
26 litigation. Fees for taxpayers’ attorneys will be deducted from the judgment, and each  
27 claimant’s share reduced proportionately. To the extent the judgment relies upon section  
1021.5 for recovery of attorney fees, it must be modified to confine the award of fees to  
the common fund theory.

28 *Bank of America v. Cory*, 164 Cal. App. 3d 66, 91 (1985) (authorizing common fund fees in a *qui tam*

1 taxpayer suit against certain banks).

2 Likewise, through the successful efforts of Plaintiffs and their attorneys, a common fund was  
3 created in the amount of \$900,000 for the benefit of the employees and the State of California. Thus,  
4 these beneficiaries must bear their share of the costs and attorneys' fees, to be deducted from the gross  
5 settlement fund under the common fund theory. *Id.* Such fees are deducted as a percentage of the  
6 settlement amount. *See, e.g., Boeing Co. v. Van Gernert*, 444 U.S. 472, 478-482 (1980); *Six (6) Mexican*  
7 *Workers v. Arizona Citrus Growers*, 904 F.2d 1301, 1311 (9th Cir. 1990); *Williams v. MGM-Pathe*  
8 *Communications Co.*, 129 F.3d 1026, 1027 (9th Cir. 1997); *Staton v. Boeing Co.*, 327 F.3d 938, 967 (9th  
9 Cir. 2003).

10 The California Supreme Court recently upheld the use of the common fund theory of recovery  
11 for attorneys' fees in *Laffitte v. Robert Half Int'l Inc.*, 1 Cal. 5th 480, 506 (2016). In *Laffitte*, the  
12 settlement created a common fund of \$19 million. The Court approved the award of attorneys' fees in  
13 the amount of one third of the gross \$19 million settlement (e.g., an award of \$6.33 million) under the  
14 common fund theory. *Id.* By awarding counsel a percentage of the total recovery, rather than fees based  
15 on hours worked, the common fund method encourages attorneys to efficiently litigate to achieve the  
16 best results possible. *See Laffitte*, 1 Cal. 5th at 492-494. Indeed, "the percentage method is generally  
17 favored in common fund cases because it allows courts to award fees from the fund in a manner that  
18 rewards counsel for success and penalizes it for failure. *Id.* at 493 (quoting *In re Rite Aid Corp. Securities*  
19 *Litig.*, 396 F.3d 294, 300 (3d Cir. 2005) (internal quotations omitted).

20 As a California appellate court very recently confirmed, "fee awards in class actions average  
21 around one-third of the recovery' regardless of 'whether the percentage method or the lodestar method is  
22 used." *Amaro v. Anaheim Arena Mgmt., LLC*, 69 Cal. App. 5th 521, 545 (2021) (quoting *Chavez v.*  
23 *Netflix, Inc.*, 162 Cal. App. 4th 43, 66, fn. 11 (2008)).

24 Consistent with that observation, California state and federal courts routinely award attorneys'  
25 fees equaling one-third of the common fund. *See, e.g. Laffitte v. Robert Half Internat. Inc.*, 231 Cal. App.  
26 4th 860, 871 (2016) ("33 1/3 percent of the common fund is consistent with, and in the range of, awards  
27 in other class action lawsuits"); *Chavez*, 162 Cal. App. 4th at 66 n.11 ("Empirical studies show that,  
28 regardless whether the percentage method or the lodestar method is used, fee awards in class actions

average around one-third of the recovery.”); Eisenberg & Miller, *Attorney Fees in Class Action Settlements: An Empirical Study*, J. of Empirical Legal Studies, Vol. 1, Issue 1, 27-78, March 2004, at 35 (independent studies of class action litigation nationwide conclude that fees representing one-third of the total recovery is consistent with market rates). Notably, the California Supreme Court in *Laffitte v. Robert Half Internat. Inc.* affirmed a fee award representing one-third of the fund. *Laffitte*, 231 Cal. App. 4th at 506.

A fee award in the amount of one-third of the common fund is also reasonable because it best reflects the market rate for contingency fees. See *Lealao v. Beneficial Cal. Inc.*, 82 Cal. App. 4th 19, 47 (2000) (“attorneys providing the essential enforcement services must be provided incentives roughly comparable to those negotiated in the private bargaining that takes place in the legal marketplace. . . .”). Fees representing one-third of the recovery reflect the rate negotiated in “typical contingency fee agreements [which] provide that class counsel will recover 33% if the case is resolved before trial and 40% if the case is tried.” *Fernandez v. Victoria Secret Stores, LLC*, No. CV 06-04149 MMM SHX, 2008 WL 8150856, at \*16 (C.D. Cal. July 21, 2008) (citing an academic study collecting contingency fee agreements and finding that a fee award constituting 34% of the fund is reasonable on that basis). Because the negotiated fee structure mimics the marketplace, it is reasonable and should be approved.

A one-third common fund<sup>6</sup> attorneys’ fee award is also consistent with what courts have awarded in other representative action cases. The following list shows PAGA actions where attorneys’ fees were awarded on a common fund basis:

- *Cruz v. Wal-Mart Associates, Inc.*, Los Angeles Superior Court, No. 18STCV03128 (May 28, 2021) (approving fee award from PAGA-only settlement of \$5 million against a common fund of \$15 million);

<sup>6</sup> Court have also approved fees in amounts greater than one-third of the common fund. See *Charles v. JPMorgan Chase Bank*, No. CGC-14-538933 (San Francisco County Superior Court June 18, 2019) (awarding plaintiffs \$2.88 million in attorneys’ fees on PAGA penalties totaling \$2.7 million); *Boseman v. VXi Global Solutions, LLC*, No. BC602442 (Los Angeles County Superior Court Jan. 3, 2019) (awarding plaintiff \$750,000 in attorneys’ fees and costs on general PAGA penalties totaling \$585,000); *Salas v. Hallmark Aviation Services LP*, No. BC586585 (Los Angeles County Superior Court February 17, 2017) (awarding plaintiff \$600,000 in attorneys’ fees on PAGA penalties totaling \$605,000); *Monroe v. Continental Design Co., Inc.*, No. RG16817667 (Alameda County Superior Court June 21, 2017) (awarding plaintiff \$110,000 in fees on PAGA penalties totaling \$90,000); *Ramirez v. Benito Valley Farms, LLC*, No. 16-CV-04708-LHK, 2017 WL 3670794, at \*6 (N.D. Cal. Aug. 25, 2017) (awarding attorneys’ fees under the lodestar method with no regard to the proportion of the fees to civil penalties).

- *Jones v. J.C. Penney Corporation*, Los Angeles Superior Court, Case No. BC451823 (April 20, 2017) (approving fee award from PAGA-only settlement of \$1.375 million against a common fund of \$3.2 million (42%));
- *Garcia v. Macy's*, San Bernardino County Superior Court, Case No. CIVDS1516007 (Sept. 13, 2017) (33.33% fee awarded on \$12,500,000 settlement of a PAGA only case);
- *Garcia v. Pep Boys*, Orange County Superior Court, Case No. 30-2014-00720574-CU-OE-CJC (July 14, 2016) (33.33% fee awarded on a \$1,030,000 settlement of a PAGA only case);
- *Brewer v. Connell Chevrolet*, Orange County Superior Court, Case No. 30-2016-00852123-CU-OC-CXC (June 15, 2017) (33.33% fee awarded on a PAGA only case);
- *Perez v. Staffmark Investment, LLC*, Riverside County Superior Court, Case No. MCC1401137 (May 23, 2016) (33.33% fee awarded on a \$650,000 settlement of a PAGA only case).

An award of fees from the gross settlement amount under the common fund doctrine prevents unjust enrichment of those who benefit from the common fund created through the successful efforts of plaintiff's counsel and furthers the important goal of attracting competent counsel to handle representative actions enforcing minimum labor standards. *Laffitte*, 1 Cal. 5th at 503. In affirming the use of the common fund doctrine in California, the California Supreme Court summarized the benefits of the percentage method of recovery stating: "The recognized advantages of the percentage method—including relative ease of calculation, alignment of incentives between counsel and the class, a better approximation of market conditions in a contingency case, and the encouragement it provides counsel to seek an early settlement and avoid unnecessarily prolonging the litigation [citations]—convince us the percentage method is a valuable tool that should not be denied our trial courts." *Id.*

For all of these reasons, a common fund fee award in the amount of \$300,000 is fair and reasonable.

**E. A Lodestar Cross-Check Confirms that the Requested Attorneys' Fees Are Fair and Reasonable**

The trial court may use an abbreviated lodestar "cross-check" for common fund awards if the court considers it useful. *Laffitte II*, 1 Cal. 5th at 504-05. However, under *Laffitte II*, this is not meant to displace the percentage analysis, but rather to act as a backstop. Indeed, the Supreme Court expressly instructed that "the lodestar calculation, when used in this manner, does not override the trial court's primary determination of the fee as a percentage of the common fund and thus does not impose an absolute maximum or minimum on the fee award." *Laffitte II*, 1 Cal. 5th at 505. Critically, the Court in *Laffitte II* emphasized that only where the "multiplier calculated by means of a lodestar cross-check is

1 **extraordinarily high or low**” should the court “consider whether the percentage should be adjusted so  
2 as to bring the imputed multiplier within a justifiable range.” *Id.* (emphasis added). Accordingly, when  
3 the cross-check multiplier is within a normal range, the lodestar-cross check does not provide a basis for  
4 a court to reduce the fee award. Furthermore, in conducting a lodestar cross-check, the court is not  
5 “required to closely scrutinize each claimed attorney-hour.” *Laffitte II*, 1 Cal. 5th at 505. An evaluation  
6 may be done by reviewing “counsel declarations summarizing overall time spent.” *Id.*

7 In conducting a lodestar cross-check, the Court first determines a lodestar value for the fees by  
8 multiplying the time reasonably spent by plaintiffs’ counsel on the case by a reasonable hourly rate. *In re*  
9 *Consumer Privacy Cases*, 175 Cal. App. 4th 545, 556-57 (2009). To determine whether the requested  
10 rate is reasonable, courts look to the prevailing rate for similar work in the pertinent geographic region.  
11 *PLCM Group v. Drexler*, 22 Cal. 4th 1084, 1096-97 (2000) (using prevailing hourly rate in community  
12 for comparable legal services even though party used in-house counsel). Here, Plaintiffs’ Counsel’s  
13 hourly rates are comparable to, or less than, those charged by other representative action plaintiffs’  
14 counsel and the firms defending PAGA actions, and have been approved by numerous federal and state  
15 courts. (Perez Decl. ¶¶ 21-24, Ex. 3; Hawkins Decl. ¶¶ 19-20, Exhs. 1-2.)

16 Likewise, the total attorney hours expended on this action are reasonable and in line with  
17 comparable cases. In determining the reasonableness of the hours expended, “the court should defer to  
18 the winning lawyer’s professional judgment as to how much time he was required to spend on the case;  
19 after all, he won, and might not have, had he been more of a slacker.” *Kerkeles v. City of San Jose*, 243  
20 Cal. App. 4th 88, 104 (2015) (quoting *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9th Cir.  
21 2008)). Plaintiffs’ Counsel billed a total of 629.2 hours. (Perez Decl. ¶ 21; Hawkins Decl. ¶ 19.)

22 Multiplying the total hours billed by Plaintiffs’ Counsel to the litigation by their reasonable  
23 hourly rates yields a lodestar of \$430,732.50. (Perez Decl. ¶ 21; Hawkins Decl. ¶ 19.) When plaintiffs  
24 seek an amount in fees that is less than what they actually billed, the requested fee amount is generally  
25 considered reasonable. *See, e.g., Chun-Hoon v. McKee Foods Corp.*, 716 F. Supp. 2d 848, 854 (N.D.  
26 Cal. 2010) (finding that, if the court is asked to apply a negative multiplier, it “suggests the negotiated fee  
27 award is a reasonable and fair valuation of the services rendered to the class by Plaintiff’s Counsel.”).

28 Plaintiffs’ Counsel would otherwise be entitled to a **positive** multiplier based on factors most

commonly cited by courts, including: (1) the results obtained; (2) the contingent nature of the fee award; and (3) the skill displayed by counsel. *See Serrano III*, 20 Cal. 3d at 49; *Thayer v. Wells Fargo Bank*, 92 Cal. App. 4th 819, 835 (2001) (recognizing “results obtained” as a factor). Additionally, under California law, a 1.5 multiplier would be awarded *for the contingent risk factor alone*, and without the presence of other factors. *See Ctr. for Biological Diversity v. Cty. of San Bernardino*, 185 Cal. App. 4th 866, 900 (2010) (affirming a 1.5 risk multiplier in a non-complex statutory case and expressly rejecting the application of other multiplier factors). *See also Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1174 (2008) (affirming a 1.65 contingent risk multiplier in a wage and hour class action, explaining that “counsel risked never receiving any compensation *at all*” (emphasis in original)); *Pellegrino v. Robert Half Int’l*, 182 Cal. App. 4th 278, 292 (2010) (affirming a 1.75 multiplier due, in part, to “Plaintiff’s Counsel not being paid for their work in the event that [defendant] prevailed on [an] affirmative defense.”).

The lodestar cross-check thus confirms that Plaintiffs’ fee request is fair and reasonable and should be approved.

#### **F. The Requested Recovery In Litigation Expenses Is Reasonable**

Plaintiffs’ Counsel are entitled to reimbursement of their discretionary litigation costs. Cal. Lab. Code § 2699(k)(1). Out-of-pocket discretionary expenses are compensable if they would normally be billed to a fee-paying client. *See Beasley v. Wells Fargo Bank*, 235 Cal. App. 3d 1407, 1419 (1991), *overruled in part on other grounds in Olson v. Automobile Club of Southern Calif.*, 42 Cal. 4th 1142 (2008). Such discretionary costs may be claimed as part of an attorneys’ fees motion when seeking statutory fees under the Labor Code. *See Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1218 n.27 (2008) (awarding costs that are necessarily incurred).

As itemized in Plaintiffs’ Counsel’s declarations, Plaintiffs’ Counsel advanced \$23,393.30 in out-of-pocket costs to the State for, among other things, court fees, courier fees, consultant fees, legal research databases, and mediation fees. (Perez Decl. ¶ 25; Hawkins Decl. ¶ 23.) Because these reasonable costs were necessarily incurred during the case’s pendency, these costs are reasonable and should be awarded. *See also* Cal. Civ. Pro. Code § 1033.5(c)(4) (“[i]tems not mentioned in this section and items assessed upon application may be allowed or denied in the court’s discretion.”); *Hsu v.*

1 *Semiconductor Sys., Inc.*, 126 Cal. App. 4th 1330, 1341 (2005) (“[W]hile it is reasonable to interpret a  
2 general contractual cost provision by reference to an established statutory definition of costs, we do not  
3 discern any legislative intent to prevent sophisticated parties from freely choosing a broader standard  
4 authorizing recovery of reasonable litigation charges and expenses.”).

5 **G. The Court Should Approve the Negotiated Service Award Payments**

6 Paragraphs 14 and 28 of the PAGA Settlement Agreement provides that Plaintiffs may request  
7 an enhancement payment of \$10,000, each, for their service on behalf of the LWDA and PAGA  
8 Members, and for general releases of all claims arising out of their employment. These releases cover not  
9 only the Released Claims, but any and all claims they have against the Released Parties.

10 The additional settlement payment is justified in light of the reputational risk that Plaintiffs  
11 assumed by litigating claims against a former employer. *See Billingshausen v. Tractor Supply Co.*, 306  
12 F.R.D. 245, 267-68 (N.D. Cal. 2015) (finding “personal detriment” upon testimony that future  
13 employers can easily learn that a prospective employee served as a plaintiff through the internet); *see*  
14 *also Guippone v. BH S&B Holdings LLC*, No. 09 Civ. 1029, 2011 U.S. Dist. LEXIS 126026, at \*\*4, 20  
15 (S.D.N.Y. Oct. 28, 2011) (“[T]he fact that a plaintiff has filed a federal lawsuit is searchable on the  
16 internet and may become known to prospective employers when evaluating the person . . . Even where  
17 there is not a record of actual retaliation, notoriety, or personal difficulties, [representative Plaintiffs]  
18 merit recognition for assuming the risk of such for the sake of absent [parties].”).

19 Employers commonly screen employee candidates to determine whether they have ever filed  
20 suit, and employee candidates who might be branded “litigious” are likely to be screened out of the  
21 process. In fact, an entire industry has developed for providing employers with background information  
22 on employee candidates. By bringing this action against an employer, Plaintiffs have assumed  
23 considerable reputational risk that may impact their ability to find employment in the future. *La Fleur v.*  
24 *Medical Management Intern, Inc.*, No. 13-00398-VAP, 2014 WL 2967475, \*8 (C.D. Cal. June 25,  
25 2014) (awarding \$15,000 to each named plaintiff in part for attesting to their fear that the lawsuit will  
26 harm their future job prospects in the industry).

27 Second, the separate settlement payment is reasonable because Plaintiffs “remained fully  
28 involved and expended considerable time and energy during the course of the litigation.” *See In re Toys*

1 'R' *Us-Del FACTA Litig.*, 295 F.R.D. at 471 (citation omitted). Plaintiffs devoted their time and effort  
2 toward assisting their attorneys with the prosecution of the claims, and assisted counsel with finalizing  
3 the settlement.

4 The separate payment is also appropriate because Plaintiffs otherwise “will not gain any benefit  
5 beyond that [they] would receive as an ordinary [PAGA Member].” *In re Toys “R” Us FACTA Litig.*,  
6 295 F.R.D. at 472; *Van Vranken*, 901 F. Supp. at 299 (holding that a substantial award is appropriate  
7 where a [representative’s] claim made up “only a fraction of the common fund.”). Here, absent the  
8 separate payment, Plaintiffs will recover no more than other PAGA Members, despite undergoing  
9 personal sacrifice in bringing this suit on behalf of the State of California and PAGA Members.

10 Lastly, because PAGA is a “type of qui tam action,” it is appropriate for the Plaintiffs to receive  
11 a modest additional payment from the settlement as a “bounty” for their special effort in vindicating the  
12 State’s interests by enforcing its labor laws. *See Iskanian*, 59 Cal. 4th at 382 (“A PAGA representative  
13 action is therefore a type of qui tam action.”); *see also People ex rel. Strathmann v. Acacia Research*  
14 *Corp.*, 210 Cal. App. 4th 487, 500 (2012) (“The person who brings the qui tam action, called the  
15 ‘relator,’ stands in the shoes of the People of the State of California, who are deemed to be the real party  
16 in interest . . . The relator in a qui tam action under section 1871.7 does not personally recover damages  
17 but, if successful, receives [a portion] of the recovery as a bounty.”) (internal citations omitted).

18 Such a payment incentivizes employees to step forward to enforce the Labor Code. *See MMM*  
19 *Holdings, Inc. v. Reich*, 21 Cal. App. 5th 167, 180 (2018) (“The bounty advances the public purpose and  
20 benefit by encouraging private qui tam actions; indeed, this prospect of reward may be the only means of  
21 inducing such private parties to come forward with their information.”) (internal quotations omitted).  
22 This is especially important in this context, as “the lack of government resources to enforce the Labor  
23 Code led to a legislative choice to deputize and incentivize employees uniquely positioned to detect and  
24 prosecute such violations through the PAGA.” *Iskanian*, 59 Cal. 4th at 390. Absent the incentive  
25 payment, fewer employees would be willing to step forward, and PAGA’s primary purpose—  
26 enforcement of the Labor Code—would be substantially undermined.

#### 27 **IV. CONCLUSION**

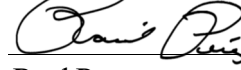
28 The Parties have negotiated a fair and reasonable settlement of Plaintiffs’ PAGA claims. Having

1 appropriately presented the materials and information necessary for approval, the Parties request that the  
2 Court approve the PAGA Settlement Agreement.

3  
4 Dated: August 5, 2024

Respectfully submitted,

5 By:



Raul Perez  
Roxanna Tabatabaeepour  
Ryan Tish  
Alexander Wallin  
**CAPSTONE LAW APC**

James R. Hawkins  
Christina M. Lucio  
**JAMES HAWKINS, ALPC**

Attorney for Plaintiffs Christina White and Fredric  
Lee Wynn Sr.

## Eduardo Santos

---

**From:** Dept. 22, Superior Court <dept22@alameda.courts.ca.gov>  
**Sent:** Monday, August 5, 2024 2:39 PM  
**To:** Eduardo Santos  
**Cc:** Christina Lucio; Matthew.Weber@gtlaw.com  
**Subject:** Re: RG21113829 / White v. Revolution Foods, Inc.

Mr. Santos,

Thank you.

The Hearing on Motion - Other Motion for Court Approval of the Parties' PAGA Settlement is reserved for hearing on **08/27/2024 at 3:00 PM** in Department 22 via Zoom.

**CRS #: A-21113829-001**

Please reference this number on the face page of the moving papers to avoid them being rejected, including the fax cover sheet if e-filing. Please add this section of the email as the last page to your filing. Original moving papers must be filed in the Civil Clerk's Office and chambers copies must be delivered and emailed to Department 22.

Chambers copies may be left at 1221 Oak St, 4th fl., Dept. 22 in the box outside of Dept. 22. Responsive and reply papers shall be submitted in the same manner.

Once the Motion is filed with the Court, log into ecourt. Search your case and check the Future Hearings Tab. If you do not see the hearing date for your Motion, contact the Civil Clerks' Office IMMEDIATELY as this may cause delays in your Motion being reviewed.

Pursuant to Alameda County Local Rule 3.30(d), the court may issue a tentative ruling which is available on the ecourt Public Portal.

A tentative ruling is posted two Court days before the hearing.

Best,  
Belinda Mercado (she/her)  
Courtroom Clerk II | Dept. 22  
The Honorable Judge Brad Seligman  
Superior Court of California, County of Alameda  
Department 22

Please review your case at <https://eportal.alameda.courts.ca.gov/> for the status of filings, issued orders and upcoming hearings.

---

**From:** Eduardo Santos <Eduardo.Santos@capstonelawyers.com>  
**Sent:** Monday, August 5, 2024 2:32 PM

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Attorneys for Plaintiff Christina White

*(Additional counsel listed on next page)*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act ("PAGA"), on behalf of the State of  
California and other aggrieved employees,

Plaintiff,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiffs,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Lead Case No. RG21113829  
Assigned to the Hon. Brad Seligman

**CRS #: A-21113829-001**

**DECLARATION OF RAUL PEREZ IN  
SUPPORT OF MOTION FOR COURT  
APPROVAL OF THE PARTIES' PAGA  
SETTLEMENT**

Date: August 27, 2024  
Time: 3:00 p.m.  
Place: Department 22

Complaint Filed: September 24, 2021  
Trial Date: None Set

Case No. 22CV012192

1 James R. Hawkins (SBN 192925)  
James@Jameshawkinsaplc.com  
2 Christina M. Lucio (SBN 253677)  
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3 JAMES HAWKINS APLC  
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6 Attorneys for Plaintiff Fredric Lee Wynn Sr.  
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1           5.       Following the informal exchange of documents and data, including Defendant's  
2 California labor policies and procedures manuals, the Parties participated in a mediation with Louis  
3 Marlin, Esq., an experienced mediator of wage and hour actions, on March 11, 2024. At all times, the  
4 Parties' negotiations were adversarial and non-collusive. Mr. Marlin helped to manage the Parties'  
5 expectations and provided a useful, neutral analysis of the issues and risks to both sides. With Mr.  
6 Marlin's guidance, the Parties were eventually able to negotiate a complete settlement of Plaintiffs'  
7 PAGA claims. The terms of the settlement are now set forth in complete and final form in the Joint  
8 Stipulation of PAGA Settlement and Release, attached as Exhibit 1.

9           6.       It is my opinion that the Settlement constitutes a fair, adequate, and reasonable  
10 compromise of the claims at issue. This opinion is informed by my experience litigating and settling  
11 wage and hour actions, and my firm's thorough investigation into the factual and legal issues implicated  
12 by Plaintiffs' claims and Defendant's defenses.

13          7.       Prior to filing the action, White contacted Capstone's attorneys to discuss the factual  
14 bases for pursuing an action against Defendant for Labor Code violations. White was intimately familiar  
15 with Defendant's labor policies and practices, and knowledgeably summarized those policies and  
16 practices to Capstone's attorneys. She explained how Defendant's policies and practices were instituted,  
17 and provided valuable insight into how they gave rise to the alleged Labor Code violations. Based on this  
18 information, Capstone's attorneys determined that there were legally sufficient grounds for pursuing an  
19 action against Defendant.

20          8.       Capstone's attorneys prepared a detailed letter (21 pages) to notify the LWDA of  
21 White's intent to seek civil penalties and other available relief recoverable under PAGA for Labor Code  
22 violations. Significant research and effort were expended to prepare a PAGA notice that was consistent  
23 with the developing legal requirements so as to withstand any challenge from Defendant regarding the  
24 notice's sufficiency. And in preparation for drafting the complaint, Capstone's attorneys conducted their  
25 own preliminary investigation into the factual bases for White's claims, which entailed, *inter alia*, a  
26 careful examination of White's employment records.

27          9.       In response to White's formal and informal discovery requests, Capstone's attorneys  
28 received a considerable amount of documents and data, including Defendant's California labor policies

1 and procedures manuals and a sample of PAGA Members' time and pay records. The document and  
2 data exchanges allowed Capstone's attorneys to fully assess the nature and magnitude of the claims  
3 being settled, as well as the impediments to recovery, and ultimately enabled Capstone's attorneys so as  
4 to make an independent assessment of the reasonableness of the settlement's terms.

5 10. In summary, Capstone's attorneys performed a thorough investigation into the claims at  
6 issue, which included: (a) determining White's suitability as a private attorney general through a  
7 background investigation and analysis of her employment files and related records; (b) evaluating all of  
8 White's potential representative claims; (c) researching similar PAGA actions as to the claims brought,  
9 the nature of the positions, and the type of employer; (d) analyzing a sample of PAGA Members' time  
10 and wage records; (e) reviewing Defendant's labor policies and procedures manuals; (f) researching  
11 settlements in similar cases; (g) evaluating White's claims and estimating Defendant's liability for  
12 purposes of settlement; (h) drafting the mediation brief; and (i) participating in the mediation.

13 11. By engaging in such a thorough investigation and evaluation of White's PAGA claims,  
14 Capstone's attorneys can opine that the Settlement, for the consideration and on the terms set forth in the  
15 Settlement Agreement, is fair, reasonable, and adequate, and is in the best interests of LWDA and PAGA  
16 Members in light of all known facts and circumstances, including the risk of significant delay and  
17 uncertainty associated with litigation, and various defenses asserted by Defendant.

#### 18 CAPSTONE LAW APC FIRM PROFILE

19 12. Since its founding in 2012, Capstone has emerged as a major force in aggregate  
20 litigation, making law on cutting-edge issues.

21 13. In February, 2015, Ryan H. Wu and I were honored with the *California Lawyer*  
22 Attorney of the Year (CLAY) award in labor and employment for our work in the landmark case  
23 *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of  
24 California workers to bring representative actions under the Labor Code Private Attorneys General Act  
25 ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.

26 14. Recognized as a leading firm in the prosecution of PAGA enforcement actions,  
27 Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior*  
28 *Court (Marshalls of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision

1 before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v.*  
2 *Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully  
3 argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.

4 15. Capstone has made important contributions to consumer protection law. In *McGill v.*  
5 *Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the  
6 right to seek public injunctive relief under the state’s consumer protection laws cannot be waived and  
7 that consumers need not satisfy class certification requirements to enjoin unfair business practices on  
8 behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed  
9 a denial of class certification, making law that clarified the use of “benefit of the bargain” damages  
10 models in consumer class actions.

11 16. Capstone served as class counsel in a number of significant wage and hour settlements,  
12 including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case  
13 No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v.*  
14 *Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of  
15 pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour*  
16 *Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an  
17 \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.

18 17. Capstone has an established practice in automotive defect class actions and is currently  
19 appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No.  
20 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A.,*  
21 *Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

22 18. Capstone has settled over 100 high-stakes class and representative actions. Capstone’s  
23 settlements have directly compensated hundreds of thousands of California workers and consumers.  
24 Capstone’s actions have also forced employers to modify their policies for the benefit of employees,  
25 including changing the compensation structure for commissioned employees and changing practices to  
26 ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA  
27 enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of  
28 California.

19. The following is a representative sample of Capstone's settlements:

- a. *Navarro v. United Parcel Service, Inc.*, No. BC592098 (LA County Superior Court): gross settlement of \$16.5 million on behalf of approximately 180,000 non-exempt employees for wage and hour violations;
- b. *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- c. *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- d. *Moore v. Petsmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- e. *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- f. *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- g. *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- h. *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- i. *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;

- j. *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- k. *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 non-exempt employees;
- l. *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- m. *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- n. *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- o. *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

20. Attached as Exhibit 2 is a true and correct copy of Capstone's firm resume.

#### ATTORNEYS' FEES AND COSTS

21. I have reviewed a summary of the billing records for this action, which are maintained during the regular course of business and billed contemporaneously. The bill for attorneys' fees is summarized in the chart below:

| Attorney         | Title               | CA Bar Yr. | Rate  | Hours | Fees        |
|------------------|---------------------|------------|-------|-------|-------------|
| Raul Perez       | Partner             | 1994       | \$950 | 20.8  | \$19,760.00 |
| Mark Ozzello     | Fmr. Senior Counsel | 1984       | \$950 | 11    | \$10,450.00 |
| Orlando Villalba | Senior Counsel      | 2004       | \$700 | 69.4  | \$48,580.00 |

| Attorney              | Title          | CA Bar Yr. | Rate  | Hours        | Fees                |
|-----------------------|----------------|------------|-------|--------------|---------------------|
| Roxanna Tabatabaepour | Senior Counsel | 2008       | \$650 | 148.8        | \$96,720.00         |
| Helga Hakimi          | Senior Counsel | 2008       | \$650 | 110.8        | \$72,020.00         |
| Anthony Castillo      | Senior Counsel | 2009       | \$625 | 48.9         | \$30,562.50         |
| Tyler Anderson        | Associate      | 2014       | \$550 | 49.5         | \$27,225.00         |
| Michelle Kennedy      | Fmr. Associate | 2018       | \$475 | 12           | \$5,700.00          |
| Alexander Wallin      | Associate      | 2018       | \$475 | 11.6         | \$5,510.00          |
| <b>Total</b>          |                |            |       | <b>482.8</b> | <b>\$316,527.50</b> |

22. While adjusting our rates to track market increases, Capstone's rates have steadily remained reasonable and competitive, and have been consistently approved by many federal and state courts over the past several years. *See, e.g., Madrigal v. Solage Management, Inc.*, No. CIV2100081 (Marin County Superior Court Dec. 5, 2023) (approving Capstone's rates for Associates (\$425-\$475) and Senior Counsel/Partners (\$625-\$950)); *Juarez v. TWM/Fresno, LLC*, No. STK-CV-UOE-2022-0002562 (San Joaquin County Superior Court Nov. 16, 2023) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625-\$950)); *Jimenez v. Apple Core Enterprises, Inc.*, No. CIVSB2134762 (San Bernardino County Superior Court Nov. 7, 2023) (approving Capstone's rates for Associates (\$425) and Senior Counsel/Partners (\$625-\$950)); *Ortega v. Cirks Construction, Inc.*, No. 34-2022-00316370-CU-OE-GDS (Sacramento County Superior Court Oct. 4, 2023) (approving Capstone's rates for Associates (\$475-\$500) and Senior Counsel/Partners (\$600-\$950)); *Rodriguez v. Imperial Western Products, Inc.*, No. CVRI2000071 (Riverside County Superior Court Sep. 20, 2023) (approving Capstone's rates Senior Counsel/Partners (\$625-\$950)); *Garcia v. Barney's College, Inc.*, No. RG21113350 (Alameda County Superior Court June 12, 2023) (approving Capstone's rates for Associates (\$450-\$475) and Senior Counsel/Partners (\$650 to \$950)); *Gonzaga v. Molina Healthcare, Inc.*, No. 21STCV03598 (Los Angeles County Superior Court Feb. 2, 2023) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)); *Amaral v. Unify Financial Credit Union*, No. 20STCV36466 (Los Angeles County Superior Court Jan. 31, 2023) (approving Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)); *Johnson v. Equity Residential Services, LLC*, No. MSC19-02145 (Contra Costa County Superior Court Nov. 1, 2022) (approving Capstone's rates for Associates (\$500) and Senior Counsel/Partners (\$625 to \$950)); *Lopez v. Big Creek Lumber Company*, No. 21CV-00613 (Merced County Superior Court Oct. 31, 2022) (approving

Capstone's rates for Associates (\$475) and Senior Counsel/Partners (\$625 to \$950)).

23. Other courts have approved hourly rates in this range for plaintiff's side law firms. *See Marshall v. Northrup Grumman Corp.*, No. 16-cv-06794, 2020 WL 5668935, at \*7 (C.D. Cal. Sept. 18, 2020) (approving attorney rates between \$490 and \$1,060 per hour); *Edwards v. First Am. Corp.*, No. 07-cv-03796, 2016 WL 8999934, at \*5 (C.D. Cal. Oct. 4, 2016) (rates of up to \$990 found reasonable); *Urakhchin v. Allianz Asset Mgmt. of Am., L.P.*, No. 15-cv-01614, 2018 WL 8334858, at \*6 (C.D. Cal. July 30, 2018) (approving billing rates between \$600 and \$825 per hour for attorneys with more than ten years of experience, \$325 to \$575 per hour for attorneys with 10 or fewer years of experience, and \$250 per hours for paralegals and clerks); *Gutierrez v. Wells Fargo Bank, N.A.*, No. 07-cv-05923, 2015 WL 2438274, at \*5 (N.D. Cal. May 21, 2015) (rates ranging \$475-\$975 for partners, \$300-\$490 for associates); *In re Toyota Motor Corp. Unint. Accel. Mktg., Sales Pracs., & Prods. Liab. Litig.*, No. 10-ml-02151, 2013 WL 12327929, at \*33 n.13 (C.D. Cal. July 24, 2013) (rates ranging from \$150-\$950); *Hashemi v. Bosley, Inc.*, No. CV 21-946 PSG (RAOX), 2022 WL 18278431, at \*10 (C.D. Cal. Nov. 21, 2022) (finding that, in Los Angeles, partners litigating class action matters have hourly rates ranging from \$304 to \$965, and associates have hourly rates ranging from \$287 to \$719); *Alvarez v. Sirius XM Radio Inc.*, No. CV 18-8605 JVS(SSX), 2021 WL 1234878, at \*11 (C.D. Cal. Feb. 8, 2021) (finding hourly rates ranging from \$450 for an associate to \$950 for a partner "are reasonable given prevailing rates in the Los Angeles region"); *In re MacBook Keyboard Litig.*, No. 5:18-CV-02813-EJD, 2023 WL 3688452, at \*15 (N.D. Cal. May 25, 2023) (approving rates in a class action of \$875-\$1,195 per hour for partners; \$385-\$850 per hour for associates).

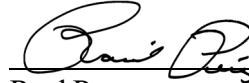
24. Finally, Capstone's rates are in line with the adjusted Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. *See* Exhibit 3.

25. As summarized in the table below, counsel has incurred a total of \$12,893.75 in costs and expenses to date.

| Cost & Expense Categories                              | Amount     |
|--------------------------------------------------------|------------|
| Copying, Printing & Scanning and Facsimiles            | \$0.50     |
| Court Fees, Courier Fees, Filings & Service of Process | \$2,681.55 |
| Court Reporters, Transcripts & Depositions             | \$1,225.00 |
| Fountain Consulting                                    | \$2,680.00 |

| Cost & Expense Categories                | Amount             |
|------------------------------------------|--------------------|
| Mediation Fees                           | \$6,000.00         |
| Postage & Mailings                       | \$1.19             |
| Research Services (PACER, Westlaw, etc.) | \$305.51           |
| <b>Total</b>                             | <b>\$12,893.75</b> |

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 5th day of August, 2024, at Los Angeles, California.

  
Raul Perez

# Exhibit 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY ALAMEDA

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act (“PAGA”), on behalf of the State of  
California and other aggrieved employees,

Plaintiff,

v.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiff,

v.

REVOLUTION FOODS, INC., a Delaware  
Corporation, and DOES 1-50, inclusive,

Defendants.

CASE NO. RG21113829; 22SCV012192

**JOINT STIPULATION OF PAGA  
SETTLEMENT AND RELEASE**

## JOINT STIPULATION OF SETTLEMENT AND RELEASE

This Joint Stipulation of Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiffs Christina White and Fredric Lee Wynn Sr. (“Plaintiffs”), and Defendant Revolution Foods, Inc. (“Defendant”) (collectively with Plaintiffs, the “Parties”).

### DEFINITIONS

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

1. “Actions” means the White Action and Wynn Actions collectively.

1(a) “White Action” means the *Christina White v. Revolution Foods, Inc.*, Alameda County Superior Court Case Number RG21113829; and

1(b) “Wynn Action” means the *Fredric Lee Wynn Sr. v. Revolution Foods, Inc.*, Alameda County Superior Court Case Number 22SCV012192.

2. “Attorneys’ Fees and Costs” means attorneys’ fees for Plaintiffs’ Counsel’s litigation and resolution of the Action, and their expenses and costs incurred in connection with the Action, which shall be paid from the Gross Settlement Amount. Plaintiffs’ Counsel will request attorneys’ fees not in excess of Thirty-Three and One Third Percent (33 1/3%) of the Gross Settlement Amount, i.e., Three Hundred Thousand Dollars (\$300,000.00) and the reimbursement of costs and expenses associated with Plaintiffs’ Counsel’s litigation and settlement of the Action, up to Twenty Five Thousand Dollars (\$25,000.00), subject to the Court’s approval. Defendant has agreed not to oppose Plaintiffs’ Counsel’s request for fees and reimbursement of costs as set forth above.

3. “Court” means the Alameda Superior Court.

4. “Defendant” means Defendant Revolution Foods, Inc.

5. “Effective Date” means the sixty-first (61st) calendar day after the date of PAGA Approval, provided no appeal, motion to intervene, motion to vacate, or other challenge to the Court’s approval of the Settlement is initiated; or if a timely appeal, motion to intervene, motion to vacate, or other challenge to the Court’s approval of the Settlement is initiated, then the Effective Date will be twenty-one (21) days after the date of final resolution of same (including any requests for vacating,

1 intervention, rehearing and/or petitions for certiorari) resulting in final judicial approval of the  
2 Settlement.

3 6. "Gross Settlement Amount" means the Gross Settlement Amount of Nine Hundred  
4 Thousand Dollars (\$900,000.00), to be paid by Defendant in full satisfaction of all Released Claims,  
5 which includes Attorneys' Fees and Costs, Plaintiff Enhancement Payments, the PAGA Fund, and  
6 Settlement Administration Costs. In no event will Defendant be liable for more than the Gross  
7 Settlement Amount except as otherwise explicitly set forth herein. There will be no reversion of the  
8 Gross Settlement Amount to Defendant.

9 7. "Individual Settlement Payment" means each PAGA Member's respective share of the  
10 PAGA Fund, after payment to the Labor and Workforce Development Agency ("LWDA") of 75% of  
11 the PAGA Fund.

12 8. "PAGA Fund" means the portion of the Gross Settlement Amount remaining after  
13 deducting the Attorneys' Fees and Costs, Plaintiff Enhancement Payments, and Settlement  
14 Administration Costs. The PAGA Fund will be distributed to the LWDA and PAGA Members. There  
15 will be no reversion of the PAGA Fund to Defendant.

16 9. "PAGA Member List" means a complete list of all PAGA Members that Defendant will  
17 diligently and in good faith compile from its records and provide only to the Settlement Administrator  
18 within twenty (20) calendar days after Approval of this Settlement. The PAGA Member List will be  
19 formatted in Microsoft Office Excel and will include each PAGA Member's full name; most recent  
20 mailing address and telephone number; Social Security number; dates of employment; the number of  
21 pay periods that each PAGA Member worked during the PAGA Period.

22 10. "PAGA Members" means all persons who worked for Defendant as non-exempt, hourly  
23 paid employees in California at any time during the PAGA Period.

24 11. "PAGA Period" means the period from July 20, 2020 through either (i) the date of  
25 PAGA Settlement Approval, or (ii) June 17, 2024.

26 12. "PAGA Settlement Approval" means the date on which the Court enters an order  
27 granting approval of the Settlement Agreement.

28 13. "Parties" means Plaintiffs and Defendant collectively.

1           14.     “Plaintiff Enhancement Payments” means the amount to be paid to Plaintiffs in  
2 recognition of their effort and work in prosecuting the Actions on behalf of PAGA Members, and for  
3 their general release of claims and dismissal of any pending actions or arbitrations. Subject to the Court  
4 granting final approval of this Settlement Agreement and subject to the exhaustion of any and all  
5 appeals, Plaintiffs will request Court approval of Plaintiff Enhancement Payments of Ten Thousand  
6 Dollars (\$10,000) for each Plaintiff.

7           15.     “Plaintiffs” means Plaintiffs Christina White and Fredric Lee Wynn Sr.

8           16.     “Plaintiffs’ Counsel” means Capstone Law APC, and James Hawkins, APLC.

9           17.     “Released Claims” means all claims for civil penalties under the Labor Code Private  
10 Attorneys General Act (Labor Code section 2699, *et seq.*) that were alleged or could have been alleged  
11 based on the facts and matters pleaded in the operative Complaints in the Actions and Plaintiffs’ PAGA  
12 letters.

13           18.     “Released Parties” means Defendant Revolution Foods, Inc., its current and former  
14 parent, subsidiaries and/or related companies, affiliated and related corporations and other entities, their  
15 successors and assigns, and all of its current and former owners, shareholders, directors, officers,  
16 partners, principals, managers, members, employees, agents, attorneys, representatives, firms,  
17 associations, partnerships, joint ventures, and entities, and their agents, guardians, successors, assigns,  
18 heirs, executors, and administrators.

19           19.     “Settlement Administration Costs” means the costs payable from the Gross Settlement  
20 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,  
21 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross  
22 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The  
23 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,  
24 any such costs in excess of the amount represented by the Settlement Administrator as being the  
25 maximum costs necessary to administer the Settlement. The Settlement Administration Costs shall not  
26 exceed Fifteen Thousand Dollars (\$15,000).

27           20.     “Settlement Administrator” means CPT Group, Inc., or any other third-party settlement  
28 administrator agreed to by the Parties and approved by the Court for the purposes of administering this

1 Settlement. The Parties each represent that they do not have any financial interest in the Settlement  
2 Administrator or otherwise have a relationship with the Settlement Administrator that could create a  
3 conflict of interest.

4 21. "Settlement Check" means the checks that will be issued to each PAGA Members  
5 pursuant to this Agreement.

6 22. "Settlement Cover Letter" means a letter, substantially in the form attached as Exhibit A,  
7 and each PAGA Member's Individual Settlement Payment.

#### 8 TERMS OF AGREEMENT

9 The Plaintiffs and Defendant agree as follows:

10 23. Consolidation of Superior Court Actions. The Parties agree to consolidate the Wynn  
11 Action into the White Action, with the White Action being the lead case.

12 24. Funding of the Gross Settlement Amount. Defendant will make a one-time deposit of  
13 the Gross Settlement Amount of Nine Hundred Thousand Dollars (\$900,000.00) into a Qualified  
14 Settlement Account to be established by the Settlement Administrator. After the Effective Date, the  
15 Gross Settlement Amount will be used for: (a) Individual Settlement Payments; (b) the LWDA Payment;  
16 (c) Attorneys' Fees and Costs; (d) Plaintiff Enhancement Payments; and (e) Settlement Administration  
17 Costs. Defendants will deposit the Gross Settlement Amount within twenty-one (21) calendar days of the  
18 Effective Date ("Funding Date"). Any obligation by Defendant to pay the Gross Settlement Amount is  
19 expressly conditioned on the Court's approval the Settlement, and Plaintiffs dismissing any and all  
20 actions or pending arbitrations against Defendant (other than the collective PAGA Action pending in  
21 state court), including JAMS Arbitration *White v. Revolution Foods, Inc.*, JAMS Ref. No. 5120000095,  
22 Plaintiff's individual PAGA claims in the Actions, and any individual PAGA actions/arbitrations against  
23 Defendant.

24 25. Dismissal of Pending Actions/Arbitrations. Within five (5) business days of the Court's  
25 Approval of the Settlement, Plaintiffs shall cause to be dismissed with prejudice any and all actions or  
26 pending arbitrations against Defendant (other than the collective PAGA Action pending in state court),  
27 including JAMS Arbitration *White v. Revolution Foods, Inc.*, JAMS Ref. No. 5120000095, Plaintiff's  
28 individual PAGA claims in the Actions, and any individual PAGA actions/arbitrations against

1 Defendant.

2 26. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or  
3 motion by Plaintiffs' Counsel for Attorneys' Fees and Costs of not more than Three Hundred Thousand  
4 Dollars (\$300,000.00), plus the reimbursement of all out-of-pocket costs and expenses associated with  
5 Plaintiffs' Counsel's litigation and settlement of the Action (including expert/consultant fees,  
6 investigations costs, etc.), not to exceed Twenty Five Dollars (\$25,000.00), both of which will be paid  
7 from the Gross Settlement Amount.

8 27. Settlement Administration Costs. The Settlement Administrator will be paid for the  
9 reasonable costs of administration of the Settlement and distribution of payments from the Gross  
10 Settlement Amount, which shall not exceed Fifteen Thousand Dollars (\$15,000). These costs, which will  
11 be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the  
12 Individual Settlement Payments, the issuing of IRS Form 1099s, distributing Settlement Cover Letter,  
13 calculating and distributing the Gross Settlement Amount, and providing necessary reports and  
14 declarations.

15 28. General Release by Plaintiffs. Upon the Funding Date, in addition to the claims being  
16 released by all PAGA Members and in exchange for the Plaintiff Enhancement Payments, Plaintiffs will  
17 release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any  
18 and all claims, known and unknown, asserted and not asserted, which Plaintiffs have or may have against  
19 the Released Parties as of the date of execution of this Settlement Agreement. To the extent the foregoing  
20 release is a release to which Section 1542 of the California Civil Code or similar provisions of other  
21 applicable law may apply, Plaintiffs expressly waive any and all rights and benefits conferred upon them  
22 by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law  
23 which are as follows:

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

PARTY.

29. PAGA Fund. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Fund will be paid to the LWDA and Twenty-Five Percent (25%) will be paid to PAGA Members in proportion to the number of pay periods worked during the PAGA Period.

30. Notice to the LWDA. The Parties' settlement is expressly conditioned upon the consolidation of the Wynn Action and White Action, and the Court's approval of the Settlement. Plaintiffs shall be responsible for timely providing notice to the LWDA and providing Defendant's counsel confirmation of same, under California Labor Code § 2699(l)(2), and submission of any judgment within ten (10) days after entry of same, under California Labor Code § 2699(l)(3).

31. No Right to Exclusion or Objections by Representative Action Members. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiffs acting as proxies and as a Private Attorneys General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Member has the right to exclude himself or herself from the Settlement. PAGA Members will be bound by the terms of the Settlement Agreement, upon its approval by the Court, regardless of whether he or she cashes any payment received as a result of this Settlement. The Parties also agree that no PAGA Member has the right to object to the terms of the Settlement Agreement.

32. PAGA Fund. The entire PAGA Fund will be distributed to the LWDA and PAGA Members. No portion of the PAGA Fund will revert to or be retained by Defendant.

33. Individual Settlement Payment Calculations. Individual Settlement Payments will be calculated and apportioned from the PAGA Fund based on the number of pay periods a PAGA Member worked during the PAGA Period. All PAGA Members will be credited with at least one pay period during the PAGA Period. Specific calculations of Individual Settlement Payments will be made as follows: Defendants will calculate the total number of pay periods worked by each PAGA Member during the PAGA Period and the aggregate total number of pay periods worked by all PAGA Members during the PAGA Period. To determine each PAGA Member's estimated "Individual Settlement Payment," the Settlement Administrator will use the following formula: The PAGA Member portion of the PAGA Fund (i.e., 25% of the PAGA Fund) will be divided by the aggregate total number of pay periods, resulting in the "PAGA Pay Period Value." Each PAGA Member's "Individual Settlement

1 Payment” will be calculated by multiplying each individual PAGA Member’s total number of pay  
2 periods by the PAGA Pay Period Value. The entire PAGA Fund will be disbursed to all PAGA  
3 Members.

4 34. Pay Period Assumption. Defendant estimates that there are approximately 37,342 pay  
5 periods through the PAGA Period, and the Parties’ Settlement is based on that estimate. If the number of  
6 pay periods in the PAGA Period by more than 10% (i.e., in excess of 41,076 pay periods), then the Gross  
7 Settlement Amount will be increased proportionately. For example, if the number is 11% higher, the  
8 Gross Settlement Amount will be increased by 1%, using a per pay period calculation of \$21.91/pay  
9 period (41,076 pay periods / \$900,000.00). In the alternative, the Defendant may elect to shorten the  
10 PAGA Period to ensure that there are no more than 41,076 pay periods during the PAGA Period.

11 35. Administration Process. The Parties agree to cooperate in the administration of the  
12 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in  
13 administration of the Settlement.

14 36. Delivery of the PAGA Member List. Within twenty (20) calendar days of Approval,  
15 Defendant will provide the PAGA Member List to the Settlement Administrator. The PAGA Member  
16 List shall not be shared with Plaintiffs’ Counsel.

17 37. Confirmation of Contact Information in the PAGA Member List. Prior to mailing, the  
18 Settlement Administrator will perform a search based on the National Change of Address Database for  
19 information to update and correct for any known or identifiable address changes. Any Settlement Cover  
20 Letter returned to the Settlement Administrator as non-deliverable will be sent promptly via regular First-  
21 Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate  
22 the date of such re-mailing on the Settlement Cover Letter. If no forwarding address is provided, the  
23 Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or  
24 other search using the name, address and/or Social Security number of the PAGA Member involved, and  
25 will then perform a single re-mailing.

26 38. Settlement Cover Letter. All PAGA Members will be mailed, at their last known  
27 mailing address identified in the PAGA Member List, a Settlement Each PAGA Member’s Individual  
28 Settlement Payment will be enclosed with each PAGA Member’s respective Settlement Cover Letter.

1           39.     Release of the Released Claims. Upon the Funding Date, and except as to such rights or  
2 claims as may be created by this Settlement Agreement, Plaintiffs, PAGA Members, and the LWDA,  
3 together and individually, on their behalf and on behalf of their respective heirs, executors,  
4 administrators, agents, and attorneys, shall, by operation of the Court's Order approving this settlement,  
5 fully and forever release and discharge all of the Released Parties, or any of them, from each of the  
6 Released Claims during the PAGA Period.

7           40.     Distribution Timing of Individual Settlement Payments. Within twenty (20) calendar  
8 days of the Funding Date, the Settlement Administrator will issue payments, enclosed with the  
9 Settlement Cover Letter, to: (a) PAGA Members; (b) the LWDA; (c) Plaintiffs; and (d) Plaintiffs'  
10 Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved services  
11 performed in connection with the Settlement.

12           41.     Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment  
13 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for  
14 more than one hundred and eighty (180) calendar days after issuance will be tendered to The Justice Gap  
15 Fund maintained by The State Bar of California.

16           42.     Certification of Completion. Upon completion of administration of the Settlement, the  
17 Settlement Administrator will provide a written declaration under oath to certify such completion to  
18 counsel for all Parties, and the Court, if necessary.

19           43.     Treatment of Individual Settlement Payments. All Individual Settlement Payments will  
20 be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

21           44.     Administration of Taxes by the Settlement Administrator. The Settlement Administrator  
22 will be responsible for issuing to PAGA Members and Plaintiffs' Counsel any 1099, or other tax forms  
23 as may be required by law for all amounts paid pursuant to this Settlement.

24           45.     Tax Liability. Defendant makes no representation as to the tax treatment or legal effect  
25 of the payments called for hereunder, and PAGA Members are not relying on any statement,  
26 representation, or calculation by Defendant or by the Settlement Administrator in this regard.

27           46.     Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES  
28 OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS

1 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY")  
2 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND  
3 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES  
4 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR  
5 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED  
6 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES  
7 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE  
8 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS  
9 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX  
10 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS  
11 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY  
12 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY  
13 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO  
14 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
15 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER  
16 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF  
17 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER  
18 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE  
19 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY  
20 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS  
21 AGREEMENT.

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

26 48. Nullification of Settlement Agreement. In the event that (a) the Court, after  
27 consolidation, does not finally approve the Settlement as provided herein, or (b) the Court refuses to  
28 consolidate the White Action and Wynn Action and the Settlement is not approved by both Courts

1 overseeing the Actions, then this Settlement Agreement, and any documents generated to bring it into  
2 effect, will be null and void. Any order or judgment entered by the Court in furtherance of this  
3 Settlement Agreement will likewise be treated as void from the beginning.

4 49. Approval Hearing. The Parties recognize in accordance with Labor Code § 2699(1)(2)  
5 that Court approval is required in the event of any settlement of a PAGA action. Within ten (10)  
6 business days of the full execution of this Agreement, Plaintiffs shall cause the White Action and Wynn  
7 Action to be consolidated, and within five (5) business days after consolidation, Plaintiffs shall reserve a  
8 hearing on the motion requesting that the Court approve the PAGA Penalties provided for in this  
9 Settlement Agreement (“Approval Motion”). The Approval Motion will be filed at least sixteen (16)  
10 court days prior to the noticed hearing. Plaintiffs shall provide for review the Approval Motion to  
11 Defendant at least seven (7) calendar days prior to filing. The Parties will expeditiously meet and confer  
12 in good faith to resolve any disagreements concerning the Approval Motion. The Approval Motion  
13 submitted to the Court shall request the entry of an order approving the Settlement Amount provided for  
14 in this Settlement. Defendant may file a response to Plaintiffs’ Approval Motion.

15 50. Judgment and Continued Jurisdiction. Upon approval of the Settlement by the Court,  
16 the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court  
17 will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement  
18 of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters  
19 as may be appropriate under court rules or as set forth in this Settlement Agreement. A copy of the  
20 Judgment will be posted to the Settlement Administrator’s website.

21 51. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the  
22 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth  
23 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

24 52. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the  
25 entirety of the Parties’ settlement terms. No other prior or contemporaneous written or oral agreements  
26 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section  
27 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is  
28 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and

1 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or  
2 contradict the terms of this Settlement Agreement.

3 53. Amendment or Modification. No amendment, change, or modification to this Settlement  
4 Agreement will be valid unless in writing and signed, either by all the Parties or all their counsel in this  
5 Action.

6 54. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and  
7 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement  
8 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant  
9 to this Settlement Agreement to effectuate its terms and to execute any other documents required to  
10 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each  
11 other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to  
12 reach agreement on the form or content of any document needed to implement the Settlement, or on any  
13 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties  
14 may seek the assistance of the Court to resolve such disagreement.

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

17 56. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto  
18 will be governed by and interpreted according to the laws of the State of California, without regard to its  
19 choice of law rules.

20 57. Execution and Counterparts. This Settlement Agreement is subject only to the execution  
21 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All  
22 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned  
23 copies of the signature page, will be deemed to be one and the same instrument.

24 58. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this  
25 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this  
26 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account  
27 all relevant factors, present and potential. The Parties further acknowledge that they are each represented  
28 by competent counsel and that they have had an opportunity to consult with their counsel regarding the

1 fairness and reasonableness of this Settlement.

2 59. Invalidity of Any Provision. Before declaring any provision of this Settlement  
3 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent  
4 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement  
5 valid and enforceable.

6 60. Waiver of Certain Appeals. The Parties agree to waive appeals; except, however, that  
7 Plaintiffs or Plaintiffs' Counsel may appeal any reduction to the Attorneys' Fees and Costs below the  
8 amount they request from the Court, however the settlement will remain effective regardless of the  
9 amount of Attorneys' Fees and Costs ultimately awarded.

10 61. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute  
11 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In  
12 entering into this Settlement, Defendant does not admit, and specifically denies, that it violated any  
13 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or  
14 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached  
15 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with  
16 respect to its employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any  
17 of the negotiations connected with it, will be construed as an admission or concession by Defendant of  
18 any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to  
19 enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be  
20 offered or received as evidence in any action or proceeding to establish any liability or admission on the  
21 part of Defendant or to establish the existence of any condition constituting a violation of, or a non-  
22 compliance with, federal, state, local or other applicable law.

23 62. No Public Comment: The Parties and their counsel agree that they will not issue any  
24 press releases, initiate any contact with the press, respond to any press inquiry, or have any  
25 communication with the press about the fact, amount or terms of the Settlement.

26 63. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement  
27 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
28 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

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

65. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel. Further, Plaintiff and Plaintiffs' Counsel warrant and represent that there are no liens on the Settlement Agreement.

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

67. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

68. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

**READ CAREFULLY BEFORE SIGNING**

PLAINTIFF

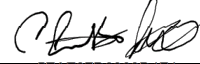
Dated: 5/22/2024

Christina White

PLAINTIFF

Dated: \_\_\_\_\_

Fredric Lee Wynn Sr.

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# **READ CAREFULLY BEFORE SIGNING**

PLAINTIFF

Dated: 5/22/2024

Christina White

PLAINTIFF

Dated: 05/24/24

Fredric Lee Wynn Sr.

DEFENDANT

Dated: June 18, 2024 | 12:11 PM PDT

DocuSigned by:



Dominic Engels

Revolution Foods, Inc.

By Its: CEO, Revolution Foods, PBC

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Raul Perez

Attorneys for Plaintiff Christina White

JAMES HAWKINS, APLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

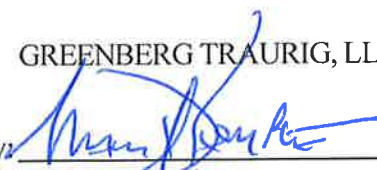
James Hawkins

Christina Lucio

Attorneys for Plaintiff Fredric Lee Wynn Sr.

GREENBERG TRAURIG, LLP

Dated: 6/18/24

By:  \_\_\_\_\_

Mark D. Kemple

Matthew J. Weber

Attorneys for Defendant Revolution Foods, Inc.

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DEFENDANT

Dated: \_\_\_\_\_

\_\_\_\_\_  
Revolution Foods, Inc.

By Its: \_\_\_\_\_

**APPROVED AS TO FORM**

CAPSTONE LAW APC

Dated: 5/22/2024 \_\_\_\_\_

By: \_\_\_\_\_



Raul Perez

Attorneys for Plaintiff Christina White

JAMES HAWKINS, APLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

James Hawkins

Christina Lucio

Attorneys for Plaintiff Fredric Lee Wynn Sr.

GREENBERG TRAURIG, LLP

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Mark D. Kemple

Matthew J. Weber

Attorneys for Defendant Revolution Foods, Inc.

DEFENDANT

Dated: \_\_\_\_\_

Revolution Foods, Inc.

By Its: \_\_\_\_\_

**APPROVED AS TO FORM**

CAPSTONE LAW APC

Dated: 5/22/2024

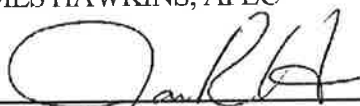
By:  \_\_\_\_\_

Raul Perez

Attorneys for Plaintiff Christina White

JAMES HAWKINS, APLC

Dated: May 24, 2024

By:  \_\_\_\_\_

James Hawkins

Christina Lucio

Attorneys for Plaintiff Fredric Lee Wynn Sr.

GREENBERG TRAURIG, LLP

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Mark D. Kemple

Matthew J. Weber

Attorneys for Defendant Revolution Foods, Inc.

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**EXHIBIT A**  
**(Notice of PAGA Settlement)**

1 [Mailing Date]

2 **NOTICE OF SETTLEMENT**

3 *Re: Christina White v. Revolution Foods, Inc.*, Alameda County Superior Court Case Number  
4 RG21113829

5 *Fredric Lee Wynn Sr. v. Revolution Foods, Inc.*, Alameda County Superior Court Case Number  
6 22SCV012192

6 [Claims Admin Info]

7 Dear Sir or Madam:

8 The enclosed payment is made to you pursuant to a court-approved settlement between Plaintiffs Christina  
9 White and Fredric Lee Wynn Sr. ("Plaintiffs"), on behalf of themselves and the people of the State of  
10 California and as "aggrieved employees" under the Labor Code Private Attorneys General Act of 2004,  
11 section 2698, et seq. ("PAGA"), and Defendant Revolution Foods, Inc. ("Defendant"), in the above-  
12 referenced matters (the "Actions") in which Plaintiffs made claims against Defendant.

13 Defendant denies any liability or wrongdoing of any kind and no finding of liability has been made by the  
14 court. However, the Parties have reached a settlement, which has been approved by the Court, and whereby  
15 all current and former non-exempt California employees employed by Defendant at any time during the  
16 PAGA Period ("PAGA Members") will receive a portion of the settlement in exchange for a release of  
17 [INSERT FINAL AGREED-UPON RELEASE LANGUAGE]. There is no opportunity to opt-out of  
18 this PAGA settlement. The enclosed check represents your portion of the settlement recovery. Your  
19 enclosed check is valid for 180 days from the date of issuance. We suggest you cash it promptly. For tax  
20 purposes, an IRS Form 1099 will be issued to you for this payment.

# Exhibit 2

## FIRM PROFILE

Capstone Law APC is one of California's largest plaintiff-only labor and consumer law firms. Since its founding in 2012, Capstone has emerged as a major force in aggregate litigation, making law on cutting-edge issues and obtaining over two hundred million dollars in recovery for employees and consumers:

- In February, 2015, Capstone attorneys Raul Perez and Ryan H. Wu were honored with the *California Lawyer* Attorney of the Year (CLAY) award in labor and employment for their work in the landmark case *Iskanian v. CLS Transportation Los Angeles*, 59 Cal.4th 348 (2014), which preserved the right of California workers to bring representative actions under the Labor Code Private Attorneys General Act ("PAGA") notwithstanding a representative action waiver in an arbitration agreement.
- Recognized as a leading firm in the prosecution of PAGA enforcement actions, Capstone is responsible for some of the most important decisions in this area. In *Williams v. Superior Court (Marshall's of Calif.)*, 3 Cal.5th 531 (2017), Capstone attorneys achieved a watershed decision before the California Supreme Court as to the broad scope of discovery in PAGA actions. In *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), a case of first impression, Capstone successfully argued that PAGA actions are state enforcement actions not covered by the Class Action Fairness Act.
- Capstone has made important contributions to consumer protection law. In *McGill v. Citibank N.A.*, 2 Cal. 5th 945 (2017), Capstone represented plaintiffs in a major decision holding that the right to seek public injunctive relief under the state's consumer protection laws cannot be waived and that consumers need not satisfy class certification requirements to enjoin unfair business practices on behalf of the public. In *Nguyen v. Nissan N.A.*, 726 F.3d 811 (9th Cir. 2019), Capstone attorneys reversed a denial of class certification, making law that clarified the use of "benefit of the bargain" damages models in consumer class actions.
- Capstone served as class counsel in a number of significant wage and hour settlements, including \$12 million on behalf of a nationwide class of in *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.), over \$10 million on behalf of non-exempt hourly workers in *Zamora v. Balboa Life & Casualty LLC*, Case No. BC360026 (L.A. Super. Ct.); and \$9 million on behalf of pharmacists in *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.). In *Vorise v. 24 Hour Fitness USA, Inc.*, No. C 15-02051 (Contra Costa Super. Ct.), Capstone and co-counsel negotiated an \$11 million PAGA settlement on behalf of over 36,000 employees for Labor Code violations.
- Capstone has an established practice in automotive defect class actions and is currently appointed sole class counsel, following contested class certification, in *Victorino v. FCA US, LLC*, No. 16-1617-GPC, 2019 WL 5268670 (S.D. Cal. Oct. 17, 2019) and *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-8629-FMO, 2019 WL 1940619 (C.D. Cal. Mar. 27, 2019).

## SUMMARY OF SIGNIFICANT SETTLEMENTS

Since its founding, Capstone has settled over 100 high-stakes class and representative actions totaling well over \$200 million dollars. Capstone's settlements have directly compensated hundreds of thousands of California workers and consumers. Capstone's actions have also forced employers to modify their policies for the benefit of employees, including changing the compensation structure for commissioned employees and changing practices to ensure that workers will be able to take timely rest and meal breaks. A leader in prosecuting PAGA enforcement actions, Capstone has secured millions of dollars in civil penalties for the State of California.

The following is a representative sample of Capstone's settlements:

- *Hightower et al v. Washington Mutual Bank*, No. 2:11-cv-01802-PSG-PLA (N.D. Cal.): gross settlement of \$12 million on behalf of approximately 150,000 personal bankers, tellers, sales associates, and assistant branch manager trainees for wage and hour violations;
- *Vargas v. Ford Motor Co.*, 12-08388-AB (C.D. Cal.): providing cash payments and unique buyback program for nearly 2 million consumers;
- *Moore v. PetSmart, Inc.*, No. 5:12-cv-03577-EJD (N.D. Cal.): gross settlement of \$10 million on behalf of over 19,000 non-exempt PetSmart employees for wage and hour violations;
- *Dittmar v. Costco Wholesale Corp.*, No. 14-1156 (S.D. Cal.): gross settlement of \$9 million on behalf of approximately 1,200 pharmacists for wage and hour violations;
- *Perrin v. Nabors Well Services Co.*, No. 56-2007-00288718 (Ventura Super. Ct.): gross settlement of over \$6.5 million on behalf of oil rig workers for sleep time and other wage violations;
- *Cook v. United Insurance Co.*, No. C 10-00425 (Contra Costa Super. Ct.): gross settlement of \$5.7 million on behalf of approximately 650 sales representatives;
- *Alvarez v. MAC Cosmetics, Inc.*, No. CIVDS1513177 (San Bernardino Super. Ct.): gross settlement of \$5.5 million for approximately 5,500 non-exempt employees.
- *Aceves v. AutoZone, Inc.*, No. 14-2032 (C.D. Cal.): gross settlement of \$5.4 million in a case alleging FCRA violations;
- *Berry v. Urban Outfitters Wholesale, Inc.*, No. 13-02628 (N.D. Cal.): gross settlement of \$5 million on behalf of over 12,000 nonexempt employees;
- *The Children's Place Retail Stores Wage & Hour Cases*, No. JCCP 4790: gross settlement of \$5 million on behalf of 15,000 nonexempt employees;
- *York v. Starbucks Corp.*, Case No. 08-07919 (C.D. Cal.): gross settlement of nearly \$5 million on behalf of over 100,000 non-exempt workers for meal break and wage statement claims;
- *Rodriguez v. Swissport USA*, No. BC 441173 (Los Angeles Super. Ct.): gross settlement of nearly \$5 million on behalf of 2,700 non-exempt employees following contested certification;
- *Asghari v. Volkswagen Group of North America*, Case No. 13-02529 (C.D. Cal.): Settlement providing complementary repairs of oil consumption defect, reimbursement for repairs, and extended warranty coverage of certain Audi vehicles valued at over \$20 million;
- *Klee v. Nissan of North America*, Case No. 12-08238 (C.D. Cal.): Settlement providing complimentary electric vehicle charging cards and extending warranty coverage for the electric battery on the Nissan Leaf valued at over \$10 million.

## PROFESSIONAL BIOGRAPHIES

### Partners

**Rebecca Labat.** Rebecca Labat is co-managing partner of Capstone Law APC, supervising the litigation for all of the firm's cases. She also manages the firm's co-counsel relationships and assists the firm's other partners and senior counsel with case management and litigation strategy. Under Ms. Labat's leadership, Capstone has successfully settled over 100 cases, delivering hundreds millions of dollars to California employees and consumers while earning statewide recognition for its cutting-edge work in developing new law.

Ms. Labat's career accomplishments representing consumers and employees in class actions include the certification of a class of approximately 3,200 current and former automobile technicians and shop employees for the miscalculation of the regular rate for purposes of paying premiums for missed meal and rest breaks.

Before her work representing plaintiffs in class and representative actions, Ms. Labat was an attorney with Wilson Elser and represented life, health, and disability insurers in litigation throughout California in both state and federal courts. She graduated from the University of California, Hastings College of the Law in 2002, where she was a member of the Hastings Civil Justice Clinic, served as a mediator in Small Claims Court for the City and County of San Francisco, and received the CALI Award for Excellence in Alternative Dispute Resolution. She received her undergraduate degree from the University of California, Los Angeles. Ms. Labat is a member of the National Employment Lawyers Association (NELA), the Consumer Attorneys Association of Los Angeles (CAALA), and the Beverly Hills Bar Association.

**Raul Perez.** Raul Perez is co-managing partner at Capstone, and has focused exclusively on wage and hour and consumer class litigation since 2011. Mr. Perez is the lead negotiator on numerous large settlements that have resulted in hundreds of millions to low-wage workers across California, including many of the most valuable settlements reached by Capstone.

During his career, Mr. Perez has successfully certified by way of contested motion and/or been appointed Lead Counsel or Interim Lead Counsel in several cases, including: *Lopes v. Kohl's Department Stores, Inc.*, Case No. RG08380189 (Alameda Super. Ct.); *Hightower v. JPMorgan Chase Bank*, Case No. 11-01802 (C.D. Cal.); *Tameifuna v. Sunrise Senior Living Managements, Inc.*, Case No. 13-02171 (C.D. Cal.) (certified class of over 10,000 hourly-paid employees); and *Berry v. Urban Outfitters Wholesale, Inc.*, Case No. 13-02628 (N.D. Cal.) (appointed lead counsel in a class action involving over 10,000 non-exempt employees). As the lead trial attorney in *Iskanian v. CLS Transportation Los Angeles*, 59 Cal. 4<sup>th</sup> 348 (2014), Mr. Perez, along with Mr. Wu, received the 2015 CLAY Award in labor and employment.

Mr. Perez received both his undergraduate degree and his law degree from Harvard University and was admitted to the California Bar in December 1994. Earlier in his career, Mr. Perez handled a variety of complex litigation matters, including wrongful termination and other employment related actions, for corporate clients while employed by some of the more established law firms in the State of California, including Morgan, Lewis & Bockius; Manatt Phelps & Phillips; and Akin Gump Strauss Hauer & Feld. Before Capstone, Mr. Perez was a partner at another large plaintiff's firm, helping to deliver millions of dollars in relief to California workers.

**Melissa Grant.** Melissa Grant is a partner at Capstone. Ms. Grant is responsible for litigating many of the firm's most contentious and high-stakes class actions. The author of numerous successful motions for class

certification, Ms. Grant is the lead or co-lead attorney on multiplied certified class actions currently on track for trial, representing over 140,000 California employees in pursuing their wage and hour claims. She is also at the forefront in developing the law on PAGA, including administrative exhaustion, standing, the nature of PAGA violations, the scope of discovery, and trials.

Prior to joining Capstone, Ms. Grant worked at the Securities and Exchange Commission as a staff attorney in the Enforcement Division, investigating ongoing violations of federal securities regulations and statutes and for Quinn Emanuel Urquhart & Sullivan, LLP, where she was an associate on the trial team that prosecuted the *Mattel v. Bratz* case. Ms. Grant began her legal career as a law clerk to the Honorable Harry Pregerson, Justice of the Ninth Circuit Court of Appeals before joining Sidley & Austin as an associate. She graduated from Southwestern Law School in 1999, where she served as editor-in-chief of the Law Review, and graduated *summa cum laude* and first in her class. Ms. Grant earned her undergraduate degree from Cornell University, where she received the JFK Public Service Award and the Outstanding Senior Award. Her published articles include: *Battling for ERISA Benefits in the Ninth Circuit: Overcoming Abuse of Discretion Review*, 28 Sw. U. L. Rev. 93 (1998), and CLE Class Actions Conference (SF) CAFA: *Early Decisions on Commencement and Removal of Actions* (2006).

**Ryan H. Wu.** Ryan H. Wu is a partner at Capstone and is primarily responsible for complex motion work and supervising court approval of class action settlements. Mr. Wu handles many of the most challenging legal issues facing Capstone's clients, including the scope and operation of PAGA, contested attorneys' fees motions, responding to objectors, and high-impact appeals. Mr. Wu is responsible for the merits briefing in *McGill v. Citibank, N.A.*, 2 Cal. 5th 945 (2017), where the California Supreme Court unanimously held that consumers' right to pursue public injunctive relief cannot be impeded by a contractual waiver or class certification requirements. He briefed the closely-watched *Williams v. Superior Court (Marshalls of CA LLC)*, 3 Cal.5th 531(2017), an important pro-employee ruling that broadened the scope of discovery in PAGA actions and resolved a longstanding conflict regarding third-party constitutional privacy rights. He also authored the briefs in *Baumann v. Chase Inv. Servs. Corp.*, 747 F.3d 1117 (9th Cir. 2014), where, on an issue of first impression, the Ninth Circuit sided with Plaintiffs in holding that PAGA actions are state enforcement actions not covered by the CAFA. In February 2015, Mr. Wu, along with Mr. Perez, received the prestigious CLAY award for his successful appellate work, including briefing to the California Supreme Court, in *Iskanian*. Mr. Wu recently achieved an important consumer victory in *Nguyen v. Nissan N.A.*, 932 F.3d 811 (9th Cir. 2019), which clarified the use of "benefit of the bargain" damages models in consumer class actions.

Mr. Wu graduated from the University of Michigan Law School in 2001, where he was an associate editor of the *Michigan Journal of Law Reform* and contributor to the law school newspaper. He received his undergraduate degree in political science with honors from the University of California, Berkeley. He began his career litigating international commercial disputes and commercial actions governed by the Uniform Commercial Code. Mr. Wu is co-author of "*Williams v. Superior Court: Employees' Perspective*" and "*Iskanian v. CLS Transportation: Employees' Perspective*," both published in the *California Labor & Employment Law Review*.

**Robert Drexler.** Robert Drexler is a partner with Capstone Law where he leads one of the firm's litigation teams prosecuting wage-and-hour class actions. He has more than 25 years of experience representing clients in wage-and-hour and consumer rights class actions and other complex litigation in state and federal courts. Over the course of his career, Mr. Drexler has successfully certified dozens of employee classes for claims such as misclassification, meal and rest breaks, and off-the-clock work, ultimately resulting in multi-million

dollar settlements. He has also arbitrated and tried wage-and-hour and complex insurance cases. Mr. Drexler has been selected as one of Southern California's "Super Lawyers" every year from 2009 through 2020.

Before joining Capstone, Mr. Drexler was head of the Class Action Work Group at Khorrami Boucher, LLP and led the class action team at The Quisenberry Law Firm. Mr. Drexler graduated from Case Western Reserve University School of Law, where he served as Managing Editor of the Case Western Reserve Law Review and authored Defective Prosthetic Devices: Strict Tort Liability for the Hospital? 32 CASE W. RES. L. REV. 929 (1982). He received his undergraduate degree in Finance at Ohio State University where he graduated *cum laude*. Mr. Drexler is a member of Consumer Attorneys of California (CAOC) and Consumer Attorneys of Los Angeles (CAALA). He has been a featured speaker at class action and employment litigation seminars, and has published articles in CAOC's Forum Magazine and The Daily Journal.

**Jamie Greene.** Jamie Greene is a partner with Capstone Law, where she leads the firm's business development and case generation team. Ms. Greene is responsible for evaluating all potential new cases and referrals, developing new claims, and managing the firm's client and cocounseling relationships. She also supervises the pre-litigation phase for all cases, including investigation, analysis, and client consultation.

Before joining Capstone, Ms. Greene began her legal career at Makarem & Associates representing clients in a wide array of cases ranging from wrongful death, insurance bad faith, employment, personal injury, construction defect, consumer protection, and privacy law. Ms. Greene is a graduate of the University of Southern California Gould School of Law and earned her bachelor's degree from Scripps College in Claremont, California.

**Bevin Allen Pike.** Bevin Allen Pike is a partner with Capstone Law, where she focuses primarily on wage-and-hour class actions. Ms. Pike has spent her entire legal career representing employees and consumers in wage-and-hour and consumer rights class actions. Over the course of her career, Ms. Pike has successfully certified dozens of employee and consumer classes for claims such as meal and rest breaks, unpaid overtime, off-the-clock work, and false advertising.

Before joining Capstone, Ms. Pike's experience included class and representative action work on behalf of employees and consumers at some of the leading plaintiffs' firms in California. Ms. Pike graduated from Loyola Law School, Los Angeles, where she was an Editor for the International and Comparative Law Review. She received her undergraduate degree from the University of Southern California. Ms. Pike has been selected as one of Southern California's "Super Lawyers – Rising Stars" every year from 2012 through 2015.

#### **Senior Counsel**

**Theresa Carroll.** Theresa Carroll is a senior counsel at Capstone Law. Her practice is devoted to the Appeals & Complex Motions team, working on various settlement and approval projects.

Prior to joining Capstone, Ms. Carroll was an associate with Parker Stanbury, LLP, advising small business owners on various employment matters and worked as an associate attorney for O'Donnell & Mandell litigating employment discrimination and sexual harassment cases. In 1995, she graduated from Southwestern University School of Law where she was on the trial advocacy team and was awarded the prestigious Trial Advocate of the Year award sponsored by the American Board of Trial Advocates (ABOTA) for Southwestern University School of Law. Ms. Carroll received her Bachelor of Science degree in speech with an emphasis in theatre from Iowa State University.

**Liana Carter**. Liana Carter is a senior counsel with Capstone Law APC, specializing in complex motions, writs, and appeals. Her work on recent appeals has included reversing a denial of class certification decision in *Brown v. Cinemark USA, Inc.*, No. 16-15377, 2017 WL 6047613 (9th Cir. Dec. 7, 2017), affirming a denial of a motion to compel arbitration in *Jacoby v. Islands Rests., L.P.*, 2014 Cal. App. Unpub. LEXIS 4366 (2014) and reversal of a dismissal of class claims in *Rivers v. Cedars-Sinai Med. Care Found.*, 2015 Cal. App. Unpub. LEXIS 287 (Jan. 13, 2015). Ms. Carter was responsible for drafting the successful petition for review in *McGill v. Citibank N.A.*, as well as the petition for review and briefing on the merits in *Williams v. Superior Court*, 2017 WL 2980258. Ms. Carter also has extensive prior experience in overseeing settlement negotiations and obtaining court approval of class action settlements.

Ms. Carter was admitted to the California bar in 1999 after graduating from the University of Southern California Gould School of Law, where she was an Articles Editor on the board of the *Southern California Law Review*. She received her undergraduate degree with honors from the University of California, Irvine.

**Anthony Castillo**. Anthony Castillo is a senior counsel with Capstone Law. His practice focuses on analyzing and developing pre-litigation wage-and-hour and consumer claims, including PAGA representative actions and class actions for failure to pay overtime and minimum wages, meal and rest period violations, and claims under the Fair Labor Standards Act and the Investigative Consumer Reporting Agency Act. Prior to joining Capstone, he was an associate at a California bankruptcy practice, where he represented individual and business debtors in liquidations and re-organizations as well as various debt and foreclosure defense-related issues.

Mr. Castillo graduated from Loyola Law School, Los Angeles in 2009, where he volunteered with the Disability Rights Legal Center. He attended Stanford University for his undergraduate degree, majoring in Political Science and minoring in History. Anthony is admitted to practice law in California and Washington and before the United States District Court for the Central and Southern Districts of California.

**Molly DeSario**. Molly DeSario is a senior counsel with Capstone Law, specializing in employment class action litigation. Ms. DeSario's practice focuses primarily on wage-and-hour class action and Private Attorneys General Act litigation on behalf of employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work. She has experience briefing and arguing a multitude of dispositive motions in state and federal court and has successfully certified and settled numerous classes for claims such as exempt misclassifications, unpaid wages, missed meal and rest breaks, and unreimbursed business expenses.

Ms. DeSario began her career as a general practice litigation associate with Sandler & Mercer in Rockville, Maryland, handling a wide range of civil and criminal matters. Since 2005, she has primarily litigated class action cases and, for the last seven years, has focused on representing employees and consumers in class and collective actions across California and the nation, helping them recover millions of dollars in unpaid wages, restitution, and penalties. Molly graduated from Northeastern University School of Law in 2002. During law school, she interned for the U.S. Attorney's Office in Boston, Massachusetts, and the Honorable Paul L. Friedman at the U.S. District Court for the District of Columbia. She received her undergraduate degree in Marketing and International Business from the University of Cincinnati, where she graduated summa cum laude.

**Helga Hakimi**. Helga Hakimi is a senior counsel at Capstone Law. Her practice primarily involves employment law class action litigation, namely wage-and-hour class actions and PAGA litigation on behalf of

employees for failure to pay overtime and minimum wages, provide meal and rest breaks, and provide compensation for off-the-clock work, and related employer violations under the Fair Labor Standards Act and California Labor Code.

Prior to joining Capstone, Ms. Hakimi was a partner at a civil litigation firm in West Los Angeles, where she handled mainly real estate litigation, business litigation, and defense of some employment law matters; prior to that, she worked as a civil litigation attorney handling complex personal injury litigation. Ms. Hakimi's interest in advocating for employee rights began in law school, where she volunteered for the Workers' Rights Clinic and assisted low-income community members in Northern California's greater Bay Area region with employment-related legal issues. Upon graduating from law school, Ms. Hakimi worked as an associate for a municipal law firm, and thereafter at the local City Attorney's Office, where she advised municipalities and cities in civil matters involving land use, environmental law, development issues, Constitutional law, and First Amendment rights. Ms. Hakimi graduated from Berkeley Law (Boalt Hall School of Law), where she earned her Juris Doctorate and was awarded the Prosser Award in Remedies. Ms. Hakimi received her Bachelor of Arts degree in Political Science with a minor in Education Studies from the University of California, Los Angeles, and graduated summa cum laude and with Departmental Highest Honors.

**Daniel Jonathan.** Daniel Jonathan is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Prior to joining Capstone, Mr. Jonathan began his career as an associate at Kirkland & Ellis representing Fortune 500 clients in high-stakes litigation in various matters, including class action defense and plaintiff's actions for accounting fraud. Following that, he was a senior counsel at a boutique litigation firm where he successfully first-chaired several trials. Mr. Jonathan graduated from the Northwestern University School of Law. He received his undergraduate degree in Accounting from the University of Southern California, where he graduated cum laude. He has passed the CPA examination and worked as an auditor at Deloitte before attending law school.

**Jonathan Lee.** A senior counsel with Capstone, Jonathan Lee primarily litigates employment class actions. At Capstone, Mr. Lee has worked on several major successful class certification motions, and his work has contributed to multi-million dollar class settlements against various employers, including restaurant chains, retail stores, airport staffing companies, and hospitals. Prior to joining Capstone, Mr. Lee defended employers and insurance companies in workers' compensation actions throughout California.

Mr. Lee graduated in 2009 from Pepperdine University School of Law, where he served as an editor for the Journal of Business, Entrepreneurship and the Law; he received his undergraduate degree from UCLA.

**Cody Padgett.** Cody Padgett is a senior counsel with Capstone Law. Mr. Padgett prosecutes automotive defect and other consumer class action lawsuits during all stages of litigation. His work has been integral to achieving contested class certification in several automotive defect cases, including *Falco v. Nissan N. Am. Inc.*, No. 13-00686 (C.D. Cal.) (certifying a class of owners/lessees of Nissan vehicles), *Salas v. Toyota Motor Sales, U.S.A., Inc.*, No. 15-08629 (C.D. Cal.) (certifying a class of owners/lessees of Toyota vehicles), and *Victorino v. FCA US, LLC*, No. 16-01617 (S.D. Cal.) (certifying a class of owners/lessees of Dodge Dart vehicles). Mr. Padgett's efforts have also contributed to major settlements of automotive defect and consumer cases, providing substantial monetary relief to millions of class members, valued in the hundreds of millions of

dollars. See, e.g., *Weckwerth v. Nissan North America, Inc.*, No. 18-00588 (M.D. Tenn.) (providing a \$407 to \$547 million-dollar benefit to a class of nearly 3 million consumers).

Prior to joining Capstone Law, Mr. Padgett assisted with the defense of major felony cases at the San Diego County Public Defender's Office. During law school, Mr. Padgett served as a judicial extern to the Honorable C. Leroy Hansen, United States District Court for the District of New Mexico. He graduated from California Western School of Law in the top 10% of his class and received his undergraduate degree from the University of Southern California, where he graduated *cum laude*. Mr. Padgett is admitted to practice in California, before the Ninth Circuit Court of Appeals, and before United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

**Eduardo Santos.** Eduardo Santos is a senior counsel at Capstone Law, and concentrates his practice on managing and obtaining court approval of many of Capstone's wage-and-hour, consumer, and PAGA settlements, from the initial contract drafting phase to motion practice, including contested motion practice on attorneys' fees. Over the course of his career, Mr. Santos has helped to secure court approval of over one hundred high-stakes class and representative action settlements totaling over \$100 million.

Before joining Capstone, Mr. Santos began his career at a prominent plaintiff's firm in Los Angeles specializing in mass torts litigation, with a focus on complex pharmaceutical cases. Most notably, he was involved in the national Vioxx settlement, which secured a total of \$4.85 billion for thousands of individuals with claims of injuries caused by taking Vioxx. Mr. Santos graduated from Loyola Law School, Los Angeles, where he was a recipient of a full-tuition scholarship awarded in recognition of academic excellence. While in law school, Mr. Santos served as an extern for the Honorable Thomas L. Willhite, Jr. of the California Court of Appeal. He graduated magna cum laude from UCLA and was a recipient of the Ralph J. Bunche Scholarship for academic achievement.

**Mao Shiokura.** Mao Shiokura is a senior counsel with Capstone. Her practice focuses on identifying, evaluating, and developing new claims, including PAGA representative actions and class actions for wage-and-hour violations and consumer actions under the Consumers Legal Remedies Act, False Advertising Law, Unfair Competition Law, and other consumer protection statutes. Prior to joining Capstone, Ms. Shiokura was an associate at a California lemon law firm, where she represented consumers in Song-Beverly, Magnuson-Moss, and fraud actions against automobile manufacturers and dealerships.

Ms. Shiokura graduated from Loyola Law School, Los Angeles in 2009, where she served as a staff member of Loyola of Los Angeles Law Review. She earned her undergraduate degree from the University of Southern California, where she was a Presidential Scholar and majored in Business Administration, with an emphasis in Cinema-Television and Finance.

**John Stobart.** John Stobart is a senior counsel with Capstone Law. He focuses on appellate issues in state and federal courts and contributes to the firm's amicus curiae efforts to protect and expand the legal rights of California employees and consumers. Mr. Stobart has significant appellate experience having drafted over two dozen writs, appeals and petitions, and having argued before the Second, Fourth, and Fifth Districts of the California Court of Appeal.

Prior to joining Capstone, Mr. Stobart was a law and motion attorney who defended against civil liability in catastrophic injury and wrongful death cases brought against his clients, which included the railroad, public schools, small businesses, and commercial and residential landowners. He has drafted and argued scores of

dispositive motions at the trial court level and had success in upholding judgments and verdicts on appeal. He graduated cum laude from Thomas Jefferson School of Law where he was on the mock trial competition team and earned his undergraduate degree from the Ohio State University.

**Roxanna Tabatabaepour.** Roxanna Tabatabaepour is a senior counsel with Capstone Law. Her practice primarily involves representing employees in class actions and representative actions for various violations of the California Labor Code.

Before joining Capstone, Ms. Tabatabaepour's experience included representing workers in single-plaintiff and class/representative action lawsuits regarding wage-and-hour violations, as well as individual claims for discrimination, retaliation, failure to accommodate, harassment, and wrongful termination, under both California and federal laws. Ms. Tabatabaepour received her undergraduate degrees from the University of California San Diego. She subsequently graduated from the American University, Washington College of Law, where she was a Marshall-Brennan Constitutional Literacy Fellow and taught Constitutional Literacy to teens in marginalized communities.

**Ryan Tish.** Ryan Tish is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and Private Attorneys General Act ("PAGA") representative actions on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, failure to reimburse necessary business expenses, and other claims under the Fair Labor Standards Act and California Labor Code.

Before joining Capstone, Mr. Tish was an associate at a civil litigation firm in Los Angeles, handling a variety of matters, including commercial contracts, real estate, and employment law. Mr. Tish has represented both employers and employees in actions ranging from individual claims of discrimination, harassment, retaliation, and wrongful termination, to class and representative actions for wage-and-hour and privacy law violations. Mr. Tish is a graduate of the University of Southern California Gould School of Law and earned his bachelor's degree in civil and environmental engineering from the University of California, Los Angeles. Mr. Tish is admitted to practice law in California and before the United States District Court for the Northern, Eastern, Central, and Southern Districts of California.

**Orlando Villalba.** Orlando Villalba is a senior counsel at Capstone Law. His practice primarily involves wage-and-hour class actions and PAGA litigation on behalf of employees for the failure to pay overtime and minimum wages, failure to provide meal and rest breaks, claims under the Fair Labor Standards Act, and other California Labor Code violations.

Mr. Villalba began his career at Kirkland & Ellis where he handled a wide range of business litigation matters, including transnational contract disputes, insurance-related tort claims, developer litigation, and civil rights actions. He also has extensive plaintiff-side experience representing government agencies and note-holders in the pursuit of mortgage and other fraud losses. Mr. Villalba graduated from Stanford Law School, where he served as an articles editor on the Stanford Journal of Law, Business & Finance. After law school, he clerked for the Honorable Warren Matthews of the Alaska Supreme Court. Orlando received his bachelor's degree in International Business from the University of Southern California.

**Tarek Zohdy.** A senior counsel with Capstone Law, Tarek Zohdy develops, investigates and litigates automotive defect class actions, along with other consumer class actions for breach of warranty and consumer fraud. At Capstone, he has worked on several large-scale automotive class actions from

investigation through settlements that have provided significant relief to millions of defrauded car owners. Before joining Capstone, Mr. Zohdy spent several years representing individual consumers in their actions against automobile manufacturers and dealerships for breaches of express and implied warranties pursuant to the Song-Beverly Consumer Warranty Act and the Magnuson-Moss Warranty Act, commonly referred to together as “Lemon Law.” He also handled fraudulent misrepresentation and omission cases pursuant to the Consumers Legal Remedies Act. Mr. Zohdy graduated from Louisiana State University *magna cum laude* in 2003, and Boston University School of Law in 2006, where he was a member of the criminal clinic representing underprivileged criminal defendants.

### **Associates**

**Tyler Anderson.** Tyler Anderson is an associate with Capstone Law. His practice focuses on complex motions, writs, and appeals. Before joining Capstone, Mr. Anderson was Co-Director of the Los Angeles Center for Community Law and Action (“LACCLA”), a nonprofit law firm that represents tenant unions and union organizers. While there, Mr. Anderson tried a disparate impact federal Fair Housing Act case that resulted in a jury verdict of over \$1,000,000. He also frequently used California Anti-SLAPP laws to block attempts to silence tenant union organizers. Prior to working at LACCLA, Mr. Anderson clerked for the Honorable Martha Vazquez, a federal district court judge for the District of New Mexico who, at the time, sat on the Executive Committee of the Federal Judiciary. Before that, Mr. Anderson was a litigation associate at the international law firm Jenner & Block LLP. Mr. Anderson graduated from Harvard Law School, where he was the Executive Articles Editor of the Harvard Journal on Legislation as well as President of one of the largest student-run pro bono organizations at Harvard University, Project No One Leaves. He graduated with several “Dean’s Scholar” prizes for receiving top grades in his constitutional law courses.

**Sairah Budhwani.** Sairah Budhwani is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work violations. Previously, Ms. Budhwani litigated employment discrimination, harassment, and retaliation claims, and also represented incarcerated individuals contesting the conditions of their confinement. Ms. Budhwani graduated from UCLA School of Law in 2019 and received an undergraduate degree in Urban Studies from University of California, Irvine in 2012. Ms. Budhwani is admitted to practice law in California. She is fluent in Urdu.

**Laura Goolsby.** Laura Goolsby is an associate with Capstone Law. Her practice focuses on prosecuting automotive defect and other consumer class action cases in state and federal court. Prior to joining Capstone Law, Ms. Goolsby was an associate at a California civil litigation practice representing individuals in toxic tort disputes. Previous to that, Ms. Goolsby was a trial attorney in a California lemon law firm, trying cases against automobile manufacturers in state and federal court. Ms. Goolsby is published in the University of Pennsylvania Journal of Law and Change law review and served as a judicial intern to the U.S. Department of Justice Immigration Court while in law school. Ms. Goolsby graduated from California Western School of Law, where she was a member of the award-winning Philip C. Jessup International Moot Court team and spent multiple trimesters on the Dean’s List. She graduated with several Academic Excellence Awards for receiving top grades in various international law, civil rights law, and legal skills courses.

**Ninel Kocharyan.** Ninel Kocharyan is an associate with Capstone Law. Her practice focuses on evaluating and analyzing pre-litigation wage-and-hour claims, including claims for violation of overtime and minimum

wage law, meal and rest period requirements, and off-the-clock work violations. Ms. Kocharyan began her career in entertainment law reviewing, drafting, and negotiating contracts for talent and ensuring FTC compliance. She immigrated to the United States from Russia at the age of 15 with a passion to pursue a career in law. Ms. Kocharyan graduated from Thomas Jefferson School of Law in 2014 and received her undergraduate degree from University of California, Los Angeles where she majored in Political Science. Ms. Kocharyan is admitted to practice law in California.

**Alexander Lima.** Alexander Lima is an associate with Capstone Law. His practice focuses on evaluating pre-litigation wage-and-hour claims, including potential violations of overtime and minimum wage law, meal and rest period requirements, and off-the-clock work issues, as well as consumer protection claims. Previously, Mr. Lima was an associate at a California civil litigation practice representing individuals and entities in real estate disputes. Mr. Lima graduated from Santa Clara University, School of Law in 2018, where he served as an Executive Board Member of the Honors Moot Court and was selected as a regional finalist for the American Bar Association Negotiation Competition. He received his undergraduate degree from the University of California, Riverside in 2014.

**Trisha Monesi.** Trisha Monesi is an associate with Capstone. Her practice focuses on prosecuting consumer class actions in state and federal court. Ms. Monesi graduated from Loyola Law School, Los Angeles in 2014, where she served as an editor of the Loyola of Los Angeles Entertainment Law Review and was a certified law clerk at the Center for Juvenile Law and Policy. She earned her undergraduate degree from Boston University in 2011, where she majored in Political Science and International Relations. She is an active member of the Women Lawyers Association of Los Angeles, and the Los Angeles County and Beverly Hills Bar Associations.

**Joey Parsons.** Joey Parsons is an associate with Capstone. His practice primarily involves wage-and-hour class actions and PAGA representative actions. Previously, Joey was an associate at a boutique firm where he represented California employees in all facets of employment law, including claims brought under the FEHA, Title VII, and the California Labor Code. Joey is a graduate of the University of Alabama School of Law, where he competed on the Labor and Employment Moot Court team and served as the Executive Articles Editor for the Alabama Law & Psychology Review. Joey received his bachelor's degree in history from Virginia Tech.

**Jezzette Ron.** Jezzette Ron is an associate with Capstone Law. Her practice focuses on analyzing pre-litigation wage-and-hour and consumer claims, including claims for overtime wages, meal and rest periods, and off-the-clock work violations. She began her career as in-house counsel for a private entity reviewing and drafting company policies. During this time, she actively supported the company with human resource and workers compensation matters. Additionally, she ensured company compliance with California Labor Codes and Occupational Safety and Health Administration (OSHA) regulations. She also implemented an Illness Injury Prevention Program, which included a COVID-19 Exposure Control and Response procedure in compliance with OSHA. Ms. Ron graduated from Whittier Law in 2017, where she served as a board member of the Student Bar Association. She received her undergraduate degree from the University of California, Riverside in 2012 where she majored in Business Management and Public Policy. Ms. Ron is admitted to practice law in California and takes pride in being an advocate for creating a work friendly environment for all employees.

**Alexander Wallin.** Alexander Wallin is an associate at Capstone Law. He is a passionate litigator who has successfully represented employees against corporate injustice. Mr. Wallin has recovered millions of dollars in



numerous wage-and-hour class actions, PAGA actions, and individual discrimination lawsuits. He has a particular interest in representing economically disadvantaged employees who cannot afford legal representation on a retainer-fee basis. Mr. Wallin is a member of the Los Angeles County Bar Association's Employment Law Section and stays up-to-date with the rapidly evolving areas of wage-and-hour protections. He graduated from Loyola Law School in 2017 and is admitted to practice law in California, as well as before the United States District Court for Central and Northern Districts of California. He has been selected as a Southern California "Super Lawyers – Rising Star" in 2022 and 2023.

#### **OUTREACH AND EDUCATION**

To increase public awareness about the issues affecting class action and other representative litigation in the consumer and employment areas, Capstone publishes the Impact Litigation Journal ([www.impactlitigation.com](http://www.impactlitigation.com)). Readers have access to news bulletins, op-ed pieces, and legal resources. By taking advantage of social media, Capstone hopes to spread the word about consumer protection and employee rights to a larger audience than has typically been reached by traditional print sources, and to thereby contribute to the enforcement of California's consumer and workplace protection laws.

# Exhibit 3

# LAFFEY MATRIX

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|                  |                      |                            | Years Out of Law School * |       |       |       |       |
|------------------|----------------------|----------------------------|---------------------------|-------|-------|-------|-------|
| Year             | Adjustmt<br>Factor** | Paralegal/<br>Law<br>Clerk | 1-3                       | 4-7   | 8-10  | 11-19 | 20 +  |
| 6/01/21- 5/31/22 | 1.006053             | \$208                      | \$381                     | \$468 | \$676 | \$764 | \$919 |
| 6/01/20- 5/31/21 | 1.015894             | \$206                      | \$378                     | \$465 | \$672 | \$759 | \$914 |
| 6/01/19- 5/31/20 | 1.0049               | \$203                      | \$372                     | \$458 | \$661 | \$747 | \$899 |
| 6/01/18- 5/31/19 | 1.0350               | \$202                      | \$371                     | \$455 | \$658 | \$742 | \$894 |
| 6/01/17- 5/31/18 | 1.0463               | \$196                      | \$359                     | \$440 | \$636 | \$717 | \$864 |
| 6/01/16- 5/31/17 | 1.0369               | \$187                      | \$343                     | \$421 | \$608 | \$685 | \$826 |
| 6/01/15- 5/31/16 | 1.0089               | \$180                      | \$331                     | \$406 | \$586 | \$661 | \$796 |
| 6/01/14- 5/31/15 | 1.0235               | \$179                      | \$328                     | \$402 | \$581 | \$655 | \$789 |
| 6/01/13- 5/31/14 | 1.0244               | \$175                      | \$320                     | \$393 | \$567 | \$640 | \$771 |
| 6/01/12- 5/31/13 | 1.0258               | \$170                      | \$312                     | \$383 | \$554 | \$625 | \$753 |
| 6/01/11- 5/31/12 | 1.0352               | \$166                      | \$305                     | \$374 | \$540 | \$609 | \$734 |
| 6/01/10- 5/31/11 | 1.0337               | \$161                      | \$294                     | \$361 | \$522 | \$589 | \$709 |
| 6/01/09- 5/31/10 | 1.0220               | \$155                      | \$285                     | \$349 | \$505 | \$569 | \$686 |
| 6/01/08- 5/31/09 | 1.0399               | \$152                      | \$279                     | \$342 | \$494 | \$557 | \$671 |
| 6/01/07-5/31/08  | 1.0516               | \$146                      | \$268                     | \$329 | \$475 | \$536 | \$645 |
| 6/01/06-5/31/07  | 1.0256               | \$139                      | \$255                     | \$313 | \$452 | \$509 | \$614 |
| 6/1/05-5/31/06   | 1.0427               | \$136                      | \$249                     | \$305 | \$441 | \$497 | \$598 |
| 6/1/04-5/31/05   | 1.0455               | \$130                      | \$239                     | \$293 | \$423 | \$476 | \$574 |
| 6/1/03-6/1/04    | 1.0507               | \$124                      | \$228                     | \$280 | \$405 | \$456 | \$549 |
| 6/1/02-5/31/03   | 1.0727               | \$118                      | \$217                     | \$267 | \$385 | \$434 | \$522 |
| 6/1/01-5/31/02   | 1.0407               | \$110                      | \$203                     | \$249 | \$359 | \$404 | \$487 |
| 6/1/00-5/31/01   | 1.0529               | \$106                      | \$195                     | \$239 | \$345 | \$388 | \$468 |
| 6/1/99-5/31/00   | 1.0491               | \$101                      | \$185                     | \$227 | \$328 | \$369 | \$444 |
| 6/1/98-5/31/99   | 1.0439               | \$96                       | \$176                     | \$216 | \$312 | \$352 | \$424 |
| 6/1/97-5/31/98   | 1.0419               | \$92                       | \$169                     | \$207 | \$299 | \$337 | \$406 |
| 6/1/96-5/31/97   | 1.0396               | \$88                       | \$162                     | \$198 | \$287 | \$323 | \$389 |
| 6/1/95-5/31/96   | 1.032                | \$85                       | \$155                     | \$191 | \$276 | \$311 | \$375 |
| 6/1/94-5/31/95   | 1.0237               | \$82                       | \$151                     | \$185 | \$267 | \$301 | \$363 |

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

\* "Years Out of Law School" is calculated from June 1 of each year, when most law students graduate. "1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). "4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier "1-3" from June 1, 1996 until May 31, 1999, would move into tier "4-7" on June 1, 1999, and tier "8-10" on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

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Attorneys for Plaintiff FREDRIC LEE WYNN SR.

*(Additional counsel listed on next page)*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ALAMEDA**

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act (“PAGA”), on behalf of the State  
of California and other aggrieved employees,

Plaintiff,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10,  
inclusive,

Defendants.

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiffs,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10,  
inclusive,

Defendants.

Case No. RG21113829

Assigned to the Hon. Brad Seligman

**DECLARATION OF JAMES R.  
HAWKINS IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR COURT  
APPROVAL OF THE PARTIES’ PAGA  
SETTLEMENT**

Date: August 27, 2024

Time: 3:00 p.m.

Dept.: 22

Complaint Filed: September 24, 2021

CMC: October 25, 2024

Trial: Not Set

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1 I, James R. Hawkins, declare as follows:

2 1. I am an individual over the age of 18. I am a principal to the Law Firm of James  
3 Hawkins, APLC. I am one of the attorneys of record for Plaintiff and the Aggrieved Group. I have  
4 personal knowledge of the facts set forth below, and if called to testify regarding them, I could and  
5 would do so competently.

6 2. I submit this Declaration in support of Plaintiffs' Motion For Approval of The  
7 Parties' PAGA Settlement Agreement (the "Approval Motion").

8 3. I respectfully submit that the Settlement reached between Plaintiffs and the  
9 Defendant is fair, reasonable and adequate, and in the best interests of the State and the Aggrieved  
10 Group.

11 **Adequacy of PAGA Representative Counsel**

12 4. I am an attorney at law licensed to practice before the Courts of the State of  
13 California and before this Court.

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

21 6. From 1997-2007, I was a named partner at Hawkins & Sofonio, a law firm based out  
22 of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department litigating  
23 plaintiff related employment issues such as: Wrongful Termination, Age Discrimination,  
24 Disability, Wage and Hour and Sexual Harassment claims. Through the success and experience I  
25 obtained litigating employment related matters, I commenced the Wage and Hour division of our  
26 employment department in 2002. Since then, I have spent the vast majority of my practice litigating  
27 wage and hour class actions.

1           7.       In 2007, I incorporated my wage and hour class action practice as James Hawkins  
2       APLC. Since its inception, this law firm has been exclusively involved in class action and complex  
3       litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class  
4       actions. I have been lead or co-lead counsel in all of the cases listed below.

5           8.       I have a great deal of experience in wage and hour class action litigation. I have been  
6       certified and approved as class counsel in many other wage/hour class actions, and I am currently  
7       litigating numerous others before this Court and others. Although not an all-inclusive list, over the  
8       years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which  
9       implicated similar law and facts to those associated with this Action:

10           **a.** Mojica v. Compass Group, Inc., et. al. USDC Central District, Case No. 8:13-cv-  
11           01754. Wage and Hour Class Action case seeking past wages for meal and rest  
12           break violations for production workers in the State of California. Plaintiff's  
13           Counsel preliminarily appointed as Class Counsel. Case settled. Final approval  
14           granted, and funds fully disbursed.

15           **b.** Dao v. 3M Company, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-04554.  
16           Wage and Hour Class Action case seeking past wages for "off the clock", overtime  
17           and meal and rest break violations for production workers in the State of  
18           California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final  
19           Approval granted, no objections and funds fully distributed.

20           **c.** Ortiz v. Kmart, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.  
21           Wage and Hour Class Action case seeking past wages for meal and rest period  
22           violations for retail employees in the State of California. Plaintiff's counsel  
23           appointed co-lead counsel. Case settled, Final Approval granted, no objections and  
24           funds fully distributed.

25           **d.** Morgan v. Aramark Campus, LLC, USDC, CENTRAL DISTRICT, Case No.  
26           SACV08-00412. Wage and Hour Class Action case seeking past wages for meal  
27           and rest period violations for retail employees in the State of California. Plaintiff's  
28

Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

**e. West v Iron Mountain Information Management, Inc, et. al.;** Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Stipulation for “binding arbitration.” Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff’s counsel lead trial counsel and class counsel.

**f. Gonzalez v. Superior Industries International, Inc., et al.,** Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff’s counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

**g. Acosta v. Fleetwood Travel Trailers of California, Inc., et al.,** Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff’s counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

**h. Walker v. Sharkeez, et al.,** Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff’s counsel appointed as lead counsel. Case settled. Final Approval granted and funds fully distributed.

**i. Padron v. Universal Protection Service, et al,** Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California.

1 Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval  
2 granted, no objections and funds fully distributed.

3 **j. Martinez v. Securitas Security Services USA, et al.,** Santa Clara Superior Court,  
4 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action  
5 seeking past wages for meal and rest break violations for security officers  
6 employed by defendant in the State of California. Plaintiff's counsel and co-  
7 counsel. Case settled, Final Approval granted and funds fully distributed.

8 **k. Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.,** Riverside Superior Court,  
9 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for  
10 overtime, meal and rest break violations for housekeepers employed by defendant  
11 in the State of California. Plaintiff's counsel appointed as lead counsel. Case  
12 settled, Final Approval granted, no objections and funds fully distributed.

13 **l. Ruiz, et al. v. Unisource Worldwide, Inc., et al.,** USDC, CENTRAL DISTRICT,  
14 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal  
15 and rest period violations for non-exempt employees employed by defendant in the  
16 state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff  
17 has petitioned the Court for Lead Counsel.

18 **m. Herrador v. Culligan International Company, et al.,** USDC, CENTRAL DISTRICT,  
19 Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for  
20 field and branch employees of defendant in the State of California. Plaintiff's  
21 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

22 **n. Defries v. Domain Restaurants, et al.,** Orange County Superior Court, Case No.  
23 05CC00128. Wage and Hour Class Action seeking past wages for restaurant  
24 employees of defendant in the State of California. Plaintiff's counsel appointed as  
25 lead counsel. Case settled, Final Approval granted, no objections and funds fully  
26 distributed.

- 1           **o.** Denton v. BLB Enterprises, Inc., et al., Orange County Superior Court, Case No.  
2           07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest  
3           break violations for security guards employed by defendant in the State of  
4           California. Plaintiff's counsel appointed as lead counsel. Case settled, Final  
5           Approval granted, no objections and funds fully distributed.
- 6           **p.** Rios v. Sandberg Furniture Manufacturing Co., Inc, et al., Los Angeles Superior  
7           Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal  
8           and rest break violations for production employees employed by defendant in the  
9           State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final  
10          Approval granted, no objections and funds fully distributed.
- 11          **q.** McMurray v. Dave and Busters, Inc., et al., Orange County Superior Court, Case  
12          No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and  
13          rest break violations for restaurant employees employed by defendant in the State  
14          of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final  
15          Approval granted, no objections and funds fully distributed.
- 16          **r.** Osuna v. DFG Restaurants, Inc., et al., Los Angeles Superior Court, Case No. BC  
17          330145. Wage and Hour Class Action seeking past wages of overtime for mis-  
18          classification of managers employed by Defendant, DBA Carl's Jrs. in the State of  
19          California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final  
20          Approval granted, no objections and funds fully distributed.
- 21          **s.** Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No.  
22          CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and  
23          rest break violations for retail employees employed by defendant in the State of  
24          California. Plaintiff's counsel appointed lead counsel. Case settled, Final  
25          Approval granted, no objections and funds fully distributed.
- 26          **t.** Willems v. Diedrich Coffee, Inc., et al., Orange County Superior Court, Case No.  
27          07CC00015. Wage and Hour Class Action seeking past wages of overtime for  
28

1 mis-classification of managers employed by Defendant in the State of California.  
2 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted,  
3 no objections and funds fully distributed.

4 **u.** Davila, et al. v. Beckman Coulter, Inc., et al., Orange County Superior Court, Case  
5 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime,  
6 meal and rest break violations for production workers employed by defendant in  
7 the State of California. Plaintiff's counsel appointed lead counsel. Case settled,  
8 Final Approval granted, no objections and funds fully distributed.

9 **v.** Perez v. Naked Juice Company of Glendora, Inc., Los Angeles Superior Court, Case  
10 No. BC387088. Wage and Hour Class Action seeking past wages for overtime,  
11 meal and rest period violations for production employees employed by defendant in  
12 the State of California. Plaintiff counsel appointed as lead counsel. Case settled.  
13 Final Approval granted, no objections and funds fully distributed.

14 **w.** Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour  
15 Cases, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour Class  
16 Action seeking past wages for overtime, meal and rest period violations for security  
17 guards employed by defendant in the State of California. Certification granted.  
18 Plaintiff's counsel appointed as co-lead counsel. Writ taken. Court stays action  
19 pending Appellate Court ruling. Court lifts stay.

20 **x.** Placencia v. Amcor Packaging Distribution, Inc., Orange County Superior Court,  
21 Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking  
22 past wages for overtime, meal and rest period violations, and penalties on behalf of  
23 non-exempt production, maintenance, shipping, and receiving employees employed  
24 by Defendant in California. Plaintiff counsel appointed as lead counsel. Case  
25 settled. Final Approval granted, no objections and funds fully distributed.

26 **y.** Trani v. Lisi Aerospace, et al., Los Angeles Superior Court, Case No. BC495527.  
27 Wage and Hour Class Action seeking past wages for overtime, meal and rest period  
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violations, and penalties on behalf of non-exempt manufacturing employees employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

**z.** Galvan v. Goodwin Co., Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for meal period violations, and non-compliant wage statements on behalf of non-exempt production employees employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

**aa.** Reyes v. Bristol Fiberlite, Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, inaccurate wage statements, and penalties on behalf of non-exempt employees employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and distribution of funds pending.

**bb.** Gutierrez v. HMT Tank, USDC Central Dist., Case No. CV14-1967-CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest period violations, failure to indemnify necessary expenses, inaccurate wage statements, and penalties on behalf of non-exempt employees working in positions related to servicing, refabricating and repairing storage tanks employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

**cc.** Williams v. Il Fornaio America Corp., Sacramento County, Case No. 34-2011-0009616. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt restaurant employees employed by Defendant in California. Plaintiff counsel

1 appointed as lead counsel. Case settled. Final Approval granted, and funds fully  
2 distributed.

3 **dd.** Aguilar v. 7-Eleven, Inc., Orange County, Case No. 30-2009-002687141-CU-OE-  
4 CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest  
5 period violations, and penalties on behalf of non-exempt retail clerks employed by  
6 Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled.  
7 Final Approval granted, no objections and funds fully distributed.

8 **ee.** Madrigal v. Huntington Beach Market Broiler, Inc., Orange County, Case No. 30-  
9 2012-00611260. Wage and Hour Class Action seeking past wages for overtime,  
10 meal and rest period violations, reimbursements, and penalties on behalf of non-  
11 exempt employees employed by Defendant in California. Plaintiff counsel  
12 appointed as lead counsel. Case settled. Final Approval granted, no objections and  
13 funds fully distributed.

14 **ff.** Vang v. Jazz Semiconductor, Inc., Orange County, Case no. 30-2011-00460278.  
15 Wage and Hour Class Action seeking past wages for overtime, meal and rest period  
16 violations, reimbursements, and penalties on behalf of non-exempt production  
17 workers employed by Defendant in California. Plaintiff counsel appointed as lead  
18 counsel. Case settled. Final Approval granted, no objections and funds fully  
19 distributed.

20 **gg.** Cano v. Financial Statement Services, Inc., Orange County, Case No. 30-2013-  
21 00653349-CU-OE-CXC.

22 **hh.** Gonzalez v. Quality Aluminum Force, LLC, Orange County, Case No. 30-2015-  
23 00817941-CU-OE-CXC.

24 **ii.** Smith v. Space Exploration Technologies Corp., Los Angeles County Case No.  
25 BC554258.

26 **jj.** Madrigal v. Balda C Brewer, Inc., Orange County Case No. 30-2015-00820218-  
27 CU-OE-CXC.  
28

1           **kk.** Mendez v. Liberty Glass Fabricators, Inc., Riverside County Case No. RIC  
2           1800119.

3           **ll.** Attia v. Neiman Marcus Group, Inc., United States District Court for the Central  
4           District of California Case No. 8:16-cv-001504-DOC-FFM

5           **mm.** Vigueras v. Red Robin, United States District Court for the Central District of  
6           California Case No. 8:17-cv-1422-JVS-DFM.

7           **nn.** Payne v. Marriott Ownership Resorts, Inc., San Diego County Case No. 37-2018-  
8           00015175-CU-OE-CTL.

9  
10           9.       In sum, my firm has been lead or co-lead counsel in hundreds of cases since its  
11           inception. We have recovered hundreds of millions of dollars for employees in the State of  
12           California and millions for the State as well through PAGA.

13           10.      Our firm has served as class counsel in a number of significant wage and hour  
14           settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest wage  
15           and hour class action settlement in California history at \$130,000,000. During this case, plaintiffs  
16           appealed a decertification order. This case involved several appeals. The appellate record  
17           amassed an extensive appellate record comprising a 23-volume joint appendix, a three-volume  
18           reporters transcript, five briefs, four letter briefs, two motions for judicial notice, a motion to  
19           augment the record, and several additional letters informing the appellate court of new legal  
20           authority issued after Dukes. The matter was argued to and submitted by the Court of Appeal on  
21           September 15, 2016, and on November 21, 2016, the decertification order was reversed and the  
22           case was remanded for further proceedings. (Lubin v. The Wackenhut Corporation (“Lubin”), 5  
23           Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of the Court of Appeal decision  
24           to the California Supreme Court. The Supreme Court denied Wackenhut’s petition for review of  
25           Lubin. The Court of Appeal issued remittitur on April 10, 2017. Eventually through more  
26           litigation, the parties were able to secure the \$130 million settlement that was approved on  
27           October 21, 2019 by Judge Highberger in the Los Angeles Superior Court.

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

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

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

### Attorney's Fees and Costs

14. To date, my firm has expended approximately 146.40 hours and approximately \$10,499.55 in costs in litigating this matter. At PAGA Counsel's hourly rates, this results in a total lodestar amount in excess of \$114,205.00. Here, the Parties' agreement to pay Plaintiff's Counsel fees of up to \$900,000 (or approximately 1/3 of the Gross Settlement Amount) is reasonable. I believe James Hawkins, APLC's hourly rates are in line with, and, in fact are modest compared with the hourly rates of other counsel in similar actions.

15. I am the founding partner at James Hawkins, APLC and have devoted in excess of 50 hours in prosecuting this case on behalf of Plaintiffs, the State, and the Aggrieved Group. In 1993, I graduated from the University of California, Los Angeles with a Bachelor of Arts Degree. Following graduation, I attended Whittier Law School. In 1996, while a full-time law student, I

1 was also a full-time Judicial Extern for the Honorable Consuelo B. Marshall, United States  
2 District Court, Central District. After approximately five months of service for Judge Marshall, I  
3 became a full-time extern for the United States Attorney's Office, Central District of California.  
4 My externship lasted for approximately five months. Thereafter, in 1997, I graduated from  
5 Whittier Law School. The same year, I was admitted to practice law in the State of California.  
6 Since its inception, this law firm has been exclusively involved in class action and complex  
7 litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour  
8 class actions. Since 2002, I have been lead counsel or co-lead counsel in hundreds of wage and  
9 hour class actions. My hourly rate is \$1,050.00 per hour. I have expended in excess of 50 hours in  
10 litigating this case. The following is a summary of my tasks and activities in prosecuting this  
11 matter: review due diligence; legal and factual research; witness interviews; extensive  
12 investigation and document review in connection with the filing of the complaint; notes in  
13 connection with the due diligence; reviewing and revising pleadings; strategy with attorneys;  
14 conferences with client; reviewing and revising motions; conferences regarding arbitration issues;  
15 reviewing informal discovery; mediation preparation; participating in mediation; negotiations with  
16 the mediator; reviewing related cases; conferences with co-counsel; reviewing and revising  
17 settlement-related documentation; reviewing relevant documentation regarding the claims and  
18 defenses. The number of hours I have expended for work performed and the corresponding  
attorney's fees of approximately \$52,500 are reasonable and necessary.

19 16. Christina Lucio is Of Counsel to James Hawkins, APLC and has been the lead day  
20 to day attorney on this case. She has devoted in excess of 56.3 hours in prosecuting the Action.  
21 Such hours were reasonable and necessary. Ms. Lucio has 17 years of experience and primarily  
22 handled the day-to-day litigation of this matter during the action. Ms. Lucio graduated from the  
23 University of California, Riverside in 2003 and received her law degree from the University of  
24 Southern California in 2007. She has been a member of the State Bar of California since 2007.  
25 Her practice focuses primarily on employment law including wrongful termination,  
26 discrimination, retaliation, wage and hour violations (individual and class action), and sexual  
27 harassment claims. In recent years, a substantial part of her practice has been focused on  
28

1 representative and class actions, including wage and hour litigation. Ms. Lucio's hourly rate is  
2 currently \$775 per hour. The number of hours Ms. Lucio expended for work performed and the  
3 corresponding attorney's fees of \$43,632.50 reasonable and necessary. The following is a  
4 summary of Ms. Lucio's tasks and activities in prosecuting this matter: review notes from due  
5 diligence and witness interviews; reviewing client documentation; drafting complaints and LWDA  
6 letters; reviewing arbitration agreements; initiating arbitration; client conferences; drafting  
7 stipulations; day to day correspondence and case management in this action and the related action;  
8 attending case management and status conferences; drafting pleadings; reviewing productions;  
9 mediation preparation; reviewing informal discovery; mediation preparation; attending mediation;  
10 negotiations with the mediator; reviewing related cases; reviewing and revising the memorandum  
11 of understanding; reviewing and revising the settlement agreement; reviewing relevant  
12 documentation regarding the claims and defense; preparing the declarations in support of the  
13 motion for approval; and attending hearings. I believe James Hawkins, APLC's hourly rates are  
14 in line with, and, in fact are modest compared with the hourly rates of other counsel in similar  
15 actions.

16 17. Mitchell Murray is Of Counsel to James Hawkins, APLC. Mr. Murray is a 2007  
17 graduate of the University of California, San Diego and 2012 graduate of California Western  
18 School of Law. He was admitted to the State Bar of California in 2012. He is a member of the  
19 Consumers Attorneys of San Diego. He was selected as a "Rising Star" in 2019 by Super Lawyers  
20 Magazine. Mr. Murray's legal experience has focused primarily on all areas of employment law.  
21 Since 2016, he has focused his practice in the area of wage and hour class action. Mr. Murray has  
22 dedicated 20.1 hours in prosecuting this action on behalf of Plaintiffs, the State and the Aggrieved  
23 Group. Such hours are reasonable and necessary. The following is a summary of Mr. Murray's  
24 tasks and activities in prosecuting this matter: reviewing and revising the pleadings; attending case  
25 management conferences; drafting relevant stipulations; conferences and correspondence with co-  
26 counsel; conferences with client; attending mediation; mediation preparation; reviewing court  
27 orders, and assisting with pleadings and motions in the approval process. Mr. Murray's hourly rate  
28

1 is \$725.00 per hour. The number of hours expended by Mr. Murray for work performed and the  
2 corresponding attorney's fees of \$14,572.50 are reasonable and necessary.

3 18. Our paralegals (Melissa, Whitson, Michael Cipriano, and Camille Baylis) have  
4 dedicated over 20 hours in assisting with the prosecution of this case. Their hourly rate is \$200.00  
5 per hour. The number of hours expended for work performed and the corresponding fees of \$4000  
6 are reasonable and necessary.

7 19. The lodestar for James Hawkins APLC is approximately \$114,205.00. I submit that  
8 the requested attorneys' fees of one-third of the Gross Settlement Amount that PAGA Counsel has  
9 obtained to resolve the PAGA claim is fair and reasonable, as are the hourly rates at which our  
10 attorneys bill.

**James Hawkins APLC Lodestar Summary**

| <b>Timekeeper</b>   | <b>Years</b> | <b>Hours</b>  | <b>Rate</b> | <b>Total</b>        |
|---------------------|--------------|---------------|-------------|---------------------|
| James Hawkins, Esq. | 26           | 50            | \$1050      | \$52,000.00         |
| Christina Lucio     | 17           | 56.3          | \$775       | \$43,632.50         |
| Mitchell Murray     | 12           | 20.1          | \$725       | \$14,572.50         |
| Paralegal Staff     |              | 20            | \$200       | \$4000.00           |
| <b>TOTALS</b>       |              | <b>146.40</b> |             | <b>\$114,205.00</b> |

15 20. We respectfully submit that our hourly rates are reasonable in light of the hourly  
16 rates charged in the marketplace for comparable skill, years of experience and services. A true and  
17 correct copy of the 2021 Wolters Kluwer Real Rate Report, attached as **Exhibit 1**, and the Laffey  
18 Matrix, attached as **Exhibit 2**.

19 21. As set forth in my co-counsel's declaration, the Settlement achieved is a fair,  
20 reasonable, and adequate resolution of the Action in light of the claims and defenses at issue.

21 22. The Settlement that Counsel has negotiated on behalf of the State and the  
22 Aggrieved Group confronts very difficult and potentially individualized issues which make trial  
23 on the merits challenging. I and our firm's attorneys and paralegals, along with co-counsel, have  
24 secured this Settlement through persistent advocacy of the PAGA claims, which has applied legal  
25 nuances and negotiation techniques to achieve a very favorable result under the circumstances.  
26 Other attorneys without our experience and comprehensive knowledge and perspective in  
27 connection with complex employment litigation may not have been able to achieve such superior  
28 settlement terms on behalf of the State and the Aggrieved Group. I believe the requested amount

1 of attorneys' fees under the Settlement is a reasonable allocation given the excellent result we  
2 have achieved. I, therefore, respectfully request the Court approve the allocated attorneys' fees  
3 under the Parties' Settlement. Defendant and its counsel do not oppose the requested fee  
4 allocation.

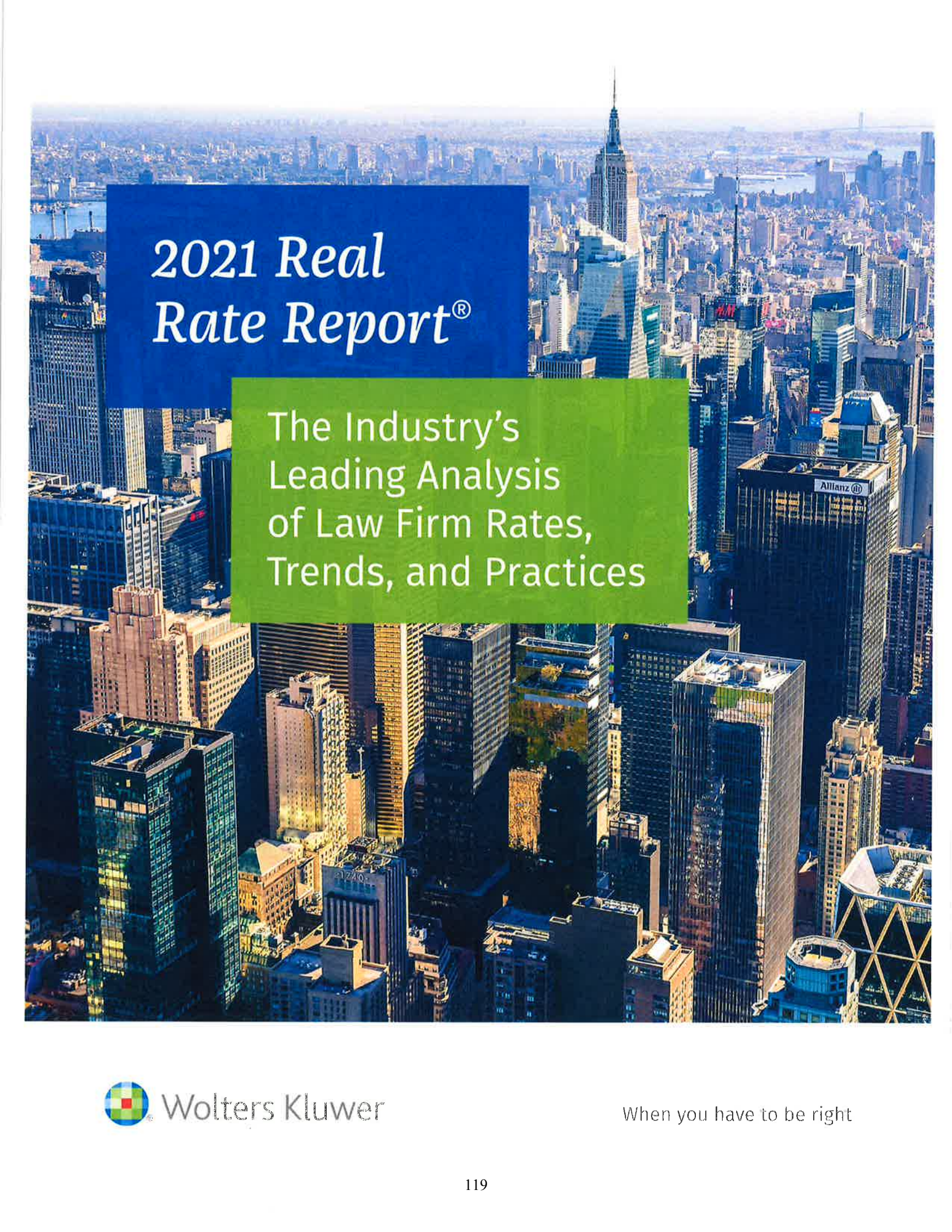
5 23. In serving as Plaintiffs' counsel and PAGA Counsel in this matter, my firm will  
6 also seek reimbursement for the out-of-pocket costs of \$10,499.55. This does not include the  
7 costs incurred by our co-counsel. A summary of the costs incurred by our firm to date in this  
8 action is attached herewith as **Exhibit 3**. I believe that all of these fees and costs are reasonable  
9 and necessarily incurred in litigating this matter and in pursuit of the settlement.

10  
11 I declare under penalty of perjury under the laws of the State of California and the United  
12 States of America that the foregoing is true and correct.

13  
14 Executed on this 1<sup>st</sup> day of August, 2024 at Irvine, California.

15  
16   
17 \_\_\_\_\_  
18 James R. Hawkins, Esq.  
19  
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## **EXHIBIT 1**



# *2021 Real Rate Report®*

The Industry's  
Leading Analysis  
of Law Firm Rates,  
Trends, and Practices



Wolters Kluwer

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## A Letter to Our Readers

**Welcome to the Wolters Kluwer's ELM Solutions Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates.**

Our Real Rate Report has been a relied upon data analytics resource to the legal industry since its inception in 2010 and continues to evolve. The Real Rate Report is powered by Wolters Kluwer's ELM Solutions LegalVIEW® data warehouse, the world's largest source of legal performance benchmark data, which has grown to include over \$150 billion in anonymized legal data.

This year, we launched our LegalVIEW Insights Report series, which explores the emerging trends behind the overall legal spend volatility seen in corporate legal departments. The insights reports coupled with the Real Rate Report are great tools to drive actionable decisions.

The legal services industry relies on internal analytics and the use of external data resources, such as the LegalVIEW® data warehouse, to support legal management strategies. The depth and details of the data in the Real Rate Report enable you to better benchmark and make more informed investment and resourcing decisions for your organization.

As with past Real Rate Reports, all of the data analyzed are from corporations' and law firms' e-billing and time management solutions. We have included lawyer and paralegal rate data filtered by specific practice and sub-practice areas, metropolitan areas, and types of matters to give legal departments and law firms greater ability to pinpoint areas of opportunity. We strive to make the Real Rate Report a valuable and actionable reference tool for legal departments and law firms.

As always, we welcome your comments and suggestions on what information would make this publication more valuable to you. We thank our data contributors for participating in this program. And we thank you for making Wolters Kluwer's ELM Solutions your trusted partner for legal industry domain expertise, data, and analytics and look forward to continuing to provide market-leading, expert solutions that deliver the best business outcomes for collaboration among legal departments and law firms.

Sincerely,



**Barry Ader**

Vice President, Product Management and Marketing  
Wolters Kluwer's ELM Solutions

# Report Use Considerations

## 2021 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

### Some key factors<sup>1</sup> that drive rates<sup>2</sup>:

**Attorney location** - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

**Litigation complexity** - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

**Years of experience and reputation** - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

**Overhead** - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

**Firm size** - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

### Rates increase in geographic areas with growing population

Additional analysis was performed to examine the impact of geographic location on law firm hourly rates. This report, like previous ones, shows that large, cosmopolitan legal services markets like New York City, San Francisco, and Los Angeles are associated with higher hourly rates. In addition, our analysis reveals a significant spike in hourly rates in areas of the country

<sup>1</sup> David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

<sup>2</sup> Source: 2018 RRR. Factor order validated in multiple analyses since 2010

## Report Use Considerations

that are currently experiencing high population growth. Significant average rate increases occurred from 2020 to 2021 in many areas, but especially Fresno, California (~15% average rate increase), Greenville, SC (~18%), Miami, FL (~9%), Nashville, TN (~11%), Oklahoma City (~13%), Phoenix, AZ (~10%), and Seattle, WA (~11%) -- all of which have experienced much higher than average population growth in recent years.

The correlation between hourly rates and population growth makes sense. When people and businesses move into an area, it creates a spike in demand for all sorts of goods and services, including legal services. However, it is hard for the supply of legal services to move as quickly as demand because attorneys looking to move into a new geographic area face high switching costs that most will refuse to pay unless they absolutely have to.

First, attorneys looking to take work in a new state have to get licensed there, which takes time and effort and is a distraction that can reduce their current income in the form of the number of hours they are able to bill to clients. Second, despite the rise in remote working, many attorneys looking to establish practices in a new geographic location may have to establish at least some physical presence there, find a new office, new lodging, and potentially uproot their entire family. Third, even if the switching costs of licensure, physically moving, etc. are paid, attorneys may fear yet another switching cost in the form of attrition of their existing clients from their original geographic locale, who may view them as no longer investing in their knowledge of the legal problems and legal solutions that are specific to the original locale.

<sup>3</sup> Source: 2020 RRR. Factor order validated in multiple analyses since 2010

## Section I: High-Level Data Cuts

### Cities

By Matter Type

#### 2021 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City           | Matter Type    | Role      | n   | First Quartile | Median | Third Quartile | 2021  | 2020  | 2019  |
|----------------|----------------|-----------|-----|----------------|--------|----------------|-------|-------|-------|
| Kansas City MO | Non-Litigation | Associate | 95  | \$250          | \$320  | \$385          | \$323 | \$288 | \$278 |
|                |                | Partner   | 14  | \$285          | \$350  | \$484          | \$402 | \$445 | \$413 |
| Las Vegas NV   | Non-Litigation | Partner   | 19  | \$250          | \$300  | \$445          | \$375 | \$421 | \$480 |
|                |                | Associate | 12  | \$238          | \$323  | \$377          | \$320 | \$282 | \$280 |
| Little Rock AR | Non-Litigation | Partner   | 12  | \$215          | \$215  | \$300          | \$267 | \$290 | \$274 |
| Los Angeles CA | Litigation     | Partner   | 342 | \$475          | \$715  | \$1,042        | \$759 | \$708 | \$694 |
|                |                | Associate | 433 | \$402          | \$602  | \$806          | \$610 | \$583 | \$535 |
| Los Angeles CA | Non-Litigation | Partner   | 559 | \$600          | \$880  | \$1,160        | \$894 | \$872 | \$816 |
|                |                | Associate | 761 | \$480          | \$685  | \$895          | \$696 | \$665 | \$620 |
| Louisville KY  | Litigation     | Partner   | 18  | \$265          | \$356  | \$405          | \$344 | \$353 | \$338 |
|                |                | Associate | 16  | \$178          | \$200  | \$278          | \$225 | \$227 | \$214 |
| Louisville KY  | Non-Litigation | Associate | 12  | \$208          | \$215  | \$249          | \$224 | \$230 | \$197 |
|                |                | Partner   | 15  | \$244          | \$389  | \$529          | \$421 | \$424 | \$430 |
| Madison WI     | Non-Litigation | Partner   | 15  | \$244          | \$389  | \$529          | \$421 | \$424 | \$430 |
| Memphis TN     | Litigation     | Partner   | 16  | \$290          | \$415  | \$425          | \$364 | \$355 | \$347 |
|                |                | Associate | 20  | \$298          | \$340  | \$369          | \$345 | \$346 | \$334 |
| Memphis TN     | Non-Litigation | Partner   | 20  | \$298          | \$340  | \$369          | \$345 | \$346 | \$334 |
|                |                | Associate | 12  | \$208          | \$215  | \$249          | \$224 | \$230 | \$197 |
| Miami FL       | Litigation     | Partner   | 100 | \$282          | \$475  | \$614          | \$465 | \$473 | \$453 |
|                |                | Associate | 12  | \$238          | \$323  | \$377          | \$320 | \$282 | \$280 |

## Section I: High-Level Data Cuts

### Cities

By Years of Experience

#### 2021 - Real Rates for Associate

#### Trend Analysis - Mean

| City           | Years of Experience     | n   | First Quartile | Median | Third Quartile | 2021  | 2020  | 2019  |
|----------------|-------------------------|-----|----------------|--------|----------------|-------|-------|-------|
| Jackson MS     | 7 or More Years         | 22  | \$55           | \$55   | \$183          | \$124 | \$125 | \$183 |
| Kansas City MO | 3 to Fewer Than 7 Years | 26  | \$252          | \$310  | \$349          | \$306 | \$294 | \$292 |
|                | 7 or More Years         | 28  | \$295          | \$325  | \$370          | \$325 | \$283 | \$282 |
| Los Angeles CA | Fewer Than 3 Years      | 70  | \$494          | \$533  | \$622          | \$543 | \$511 | \$413 |
|                | 3 to Fewer Than 7 Years | 128 | \$533          | \$709  | \$821          | \$673 | \$582 | \$510 |
|                | 7 or More Years         | 164 | \$412          | \$565  | \$841          | \$629 | \$604 | \$576 |
| Miami FL       | 3 to Fewer Than 7 Years | 14  | \$277          | \$340  | \$408          | \$364 | \$323 | \$323 |
|                | 7 or More Years         | 30  | \$310          | \$475  | \$540          | \$431 | \$429 | \$374 |
| Minneapolis MN | 3 to Fewer Than 7 Years | 23  | \$330          | \$351  | \$462          | \$394 | \$388 | \$355 |
|                | 7 or More Years         | 26  | \$326          | \$448  | \$580          | \$441 | \$397 | \$384 |
| Nashville TN   | 7 or More Years         | 13  | \$245          | \$283  | \$325          | \$287 | \$271 | \$253 |
| New Orleans LA | 3 to Fewer Than 7 Years | 13  | \$235          | \$238  | \$280          | \$251 | \$260 | \$248 |
|                | 7 or More Years         | 13  | \$260          | \$340  | \$364          | \$324 | \$326 | \$276 |
| New York NY    | Fewer Than 3 Years      | 160 | \$440          | \$590  | \$775          | \$629 | \$560 | \$513 |
|                | 3 to Fewer Than 7 Years | 237 | \$412          | \$670  | \$875          | \$681 | \$625 | \$559 |

## Section I: High-Level Data Cuts

### Cities

By Years of Experience

#### 2021 - Real Rates for Partner

#### Trend Analysis - Mean

| City           | Years of Experience | n   | First Quartile | Median  | Third Quartile | 2021    | 2020  | 2019  |
|----------------|---------------------|-----|----------------|---------|----------------|---------|-------|-------|
| Los Angeles CA | Fewer Than 21 Years | 173 | \$550          | \$855   | \$1,065        | \$815   | \$724 | \$703 |
|                | 21 or More Years    | 332 | \$527          | \$725   | \$1,145        | \$844   | \$818 | \$758 |
| Memphis TN     | Fewer Than 21 Years | 11  | \$283          | \$300   | \$340          | \$317   | \$324 | \$309 |
|                | 21 or More Years    | 17  | \$365          | \$415   | \$425          | \$391   | \$379 | \$370 |
| Miami FL       | Fewer Than 21 Years | 44  | \$408          | \$540   | \$583          | \$503   | \$484 | \$485 |
|                | 21 or More Years    | 99  | \$414          | \$550   | \$750          | \$569   | \$564 | \$532 |
| Milwaukee WI   | Fewer Than 21 Years | 14  | \$306          | \$358   | \$433          | \$373   | \$355 | \$323 |
|                | 21 or More Years    | 26  | \$375          | \$470   | \$545          | \$535   | \$530 | \$431 |
| Minneapolis MN | Fewer Than 21 Years | 41  | \$400          | \$520   | \$604          | \$513   | \$515 | \$478 |
|                | 21 or More Years    | 82  | \$450          | \$659   | \$789          | \$619   | \$591 | \$579 |
| Nashville TN   | Fewer Than 21 Years | 27  | \$375          | \$464   | \$495          | \$436   | \$413 | \$374 |
|                | 21 or More Years    | 49  | \$420          | \$470   | \$536          | \$481   | \$472 | \$433 |
| New Orleans LA | Fewer Than 21 Years | 24  | \$275          | \$305   | \$390          | \$346   | \$361 | \$337 |
|                | 21 or More Years    | 40  | \$295          | \$332   | \$412          | \$352   | \$373 | \$369 |
| New York NY    | Fewer Than 21 Years | 456 | \$656          | \$1,044 | \$1,407        | \$1,033 | \$987 | \$938 |

## Section I: High-Level Data Cuts

### Cities

By Role

#### 2021 - Real Rates for Associate and Partner

#### Trend Analysis - Mean

| City           | Role      | n     | First Quartile | Median | Third Quartile | 2021  | 2020  | 2019  |
|----------------|-----------|-------|----------------|--------|----------------|-------|-------|-------|
| Little Rock AR | Partner   | 16    | \$215          | \$250  | \$300          | \$272 | \$287 | \$282 |
| Los Angeles CA | Partner   | 786   | \$536          | \$822  | \$1,101        | \$843 | \$808 | \$766 |
|                | Associate | 1,110 | \$450          | \$653  | \$860          | \$664 | \$636 | \$587 |
| Louisville KY  | Partner   | 25    | \$278          | \$355  | \$400          | \$348 | \$363 | \$348 |
|                | Associate | 25    | \$180          | \$210  | \$264          | \$224 | \$228 | \$210 |
| Madison WI     | Partner   | 15    | \$241          | \$389  | \$536          | \$419 | \$435 | \$440 |
| Memphis TN     | Partner   | 30    | \$290          | \$351  | \$415          | \$354 | \$351 | \$342 |
| Miami FL       | Partner   | 226   | \$360          | \$530  | \$675          | \$525 | \$524 | \$516 |
|                | Associate | 149   | \$265          | \$361  | \$475          | \$375 | \$381 | \$365 |
| Milwaukee WI   | Partner   | 52    | \$316          | \$390  | \$476          | \$452 | \$450 | \$387 |
|                | Associate | 36    | \$270          | \$305  | \$358          | \$316 | \$305 | \$269 |
| Minneapolis MN | Partner   | 175   | \$419          | \$595  | \$711          | \$578 | \$544 | \$531 |
|                | Associate | 137   | \$295          | \$406  | \$521          | \$405 | \$377 | \$376 |
| Nashville TN   | Partner   | 108   | \$375          | \$468  | \$535          | \$463 | \$457 | \$414 |
|                | Associate | 73    | \$252          | \$311  | \$338          | \$305 | \$283 | \$257 |

## **EXHIBIT 2**

# LAFFEY MATRIX

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|                  |                      |                         | Years Out of Law School * |       |       |       |        |
|------------------|----------------------|-------------------------|---------------------------|-------|-------|-------|--------|
| Year             | Adjustmt<br>Factor** | Paralegal/<br>Law Clerk | 1-3                       | 4-7   | 8-10  | 11-19 | 20 +   |
| 6/01/23- 5/31/24 | 1.059295             | \$239                   | \$437                     | \$538 | \$777 | \$878 | \$1057 |
| 6/01/22- 5/31/23 | 1.085091             | \$225                   | \$413                     | \$508 | \$733 | \$829 | \$997  |
| 6/01/21- 5/31/22 | 1.006053             | \$208                   | \$381                     | \$468 | \$676 | \$764 | \$919  |
| 6/01/20- 5/31/21 | 1.015894             | \$206                   | \$378                     | \$465 | \$672 | \$759 | \$914  |
| 6/01/19- 5/31/20 | 1.0049               | \$203                   | \$372                     | \$458 | \$661 | \$747 | \$899  |
| 6/01/18- 5/31/19 | 1.0350               | \$202                   | \$371                     | \$455 | \$658 | \$742 | \$894  |
| 6/01/17- 5/31/18 | 1.0463               | \$196                   | \$359                     | \$440 | \$636 | \$717 | \$864  |
| 6/01/16- 5/31/17 | 1.0369               | \$187                   | \$343                     | \$421 | \$608 | \$685 | \$826  |
| 6/01/15- 5/31/16 | 1.0089               | \$180                   | \$331                     | \$406 | \$586 | \$661 | \$796  |
| 6/01/14- 5/31/15 | 1.0235               | \$179                   | \$328                     | \$402 | \$581 | \$655 | \$789  |
| 6/01/13- 5/31/14 | 1.0244               | \$175                   | \$320                     | \$393 | \$567 | \$640 | \$771  |
| 6/01/12- 5/31/13 | 1.0258               | \$170                   | \$312                     | \$383 | \$554 | \$625 | \$753  |
| 6/01/11- 5/31/12 | 1.0352               | \$166                   | \$305                     | \$374 | \$540 | \$609 | \$734  |
| 6/01/10- 5/31/11 | 1.0337               | \$161                   | \$294                     | \$361 | \$522 | \$589 | \$709  |
| 6/01/09- 5/31/10 | 1.0220               | \$155                   | \$285                     | \$349 | \$505 | \$569 | \$686  |
| 6/01/08- 5/31/09 | 1.0399               | \$152                   | \$279                     | \$342 | \$494 | \$557 | \$671  |
| 6/01/07-5/31/08  | 1.0516               | \$146                   | \$268                     | \$329 | \$475 | \$536 | \$645  |
| 6/01/06-5/31/07  | 1.0256               | \$139                   | \$255                     | \$313 | \$452 | \$509 | \$614  |
| 6/1/05-5/31/06   | 1.0427               | \$136                   | \$249                     | \$305 | \$441 | \$497 | \$598  |
| 6/1/04-5/31/05   | 1.0455               | \$130                   | \$239                     | \$293 | \$423 | \$476 | \$574  |
| 6/1/03-6/1/04    | 1.0507               | \$124                   | \$228                     | \$280 | \$405 | \$456 | \$549  |
| 6/1/02-5/31/03   | 1.0727               | \$118                   | \$217                     | \$267 | \$385 | \$434 | \$522  |
| 6/1/01-5/31/02   | 1.0407               | \$110                   | \$203                     | \$249 | \$359 | \$404 | \$487  |
| 6/1/00-5/31/01   | 1.0529               | \$106                   | \$195                     | \$239 | \$345 | \$388 | \$468  |
| 6/1/99-5/31/00   | 1.0491               | \$101                   | \$185                     | \$227 | \$328 | \$369 | \$444  |
| 6/1/98-5/31/99   | 1.0439               | \$96                    | \$176                     | \$216 | \$312 | \$352 | \$424  |
| 6/1/97-5/31/98   | 1.0419               | \$92                    | \$169                     | \$207 | \$299 | \$337 | \$406  |
| 6/1/96-5/31/97   | 1.0396               | \$88                    | \$162                     | \$198 | \$287 | \$323 | \$389  |

|                |        |      |       |       |       |       |       |
|----------------|--------|------|-------|-------|-------|-------|-------|
| 6/1/95-5/31/96 | 1.032  | \$85 | \$155 | \$191 | \$276 | \$311 | \$375 |
| 6/1/94-5/31/95 | 1.0237 | \$82 | \$151 | \$185 | \$267 | \$301 | \$363 |

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

\*  $\frac{1}{2}$  Years Out of Law School  $\frac{1}{2}$  is calculated from June 1 of each year, when most law students graduate.  $\frac{1}{2}$  1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1).  $\frac{1}{2}$  4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier  $\frac{1}{2}$  1-3" from June 1, 1996 until May 31, 1999, would move into tier  $\frac{1}{2}$  4-7" on June 1, 1999, and tier  $\frac{1}{2}$  8-10" on June 1, 2003.

\*\* The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

## **EXHIBIT 3**

# Matter Billing Detail

Report Date: 8/5/2024  
Report Time: 10:27AM  
Page: 1 of 2  
User ID: R. Hawkins

## JAMES HAWKINS APLC

Date Range: 01/01/1900 to 08/05/2024

Client: REVFOODS - Fredric Lee Wynn Sr.

Matter: REVOLUTIONFOODS - Revolution Foods, Inc- Fredric Wynn v. Revolution

| Date       | Expense Code | Description                                                                                              | Debit      | Credit | Billing Status | On Hold | Invoice Number | Check Number | Payee |
|------------|--------------|----------------------------------------------------------------------------------------------------------|------------|--------|----------------|---------|----------------|--------------|-------|
|            |              | <b>Balance Forward:</b>                                                                                  | \$0.00     |        |                |         |                |              |       |
| 06/02/2022 | POS          | Postage- 06.02.22 Certified Mail to Agent(s) re LWDA Filing                                              | \$15.92    |        | Unbilled       |         |                |              |       |
| 06/02/2022 | FIL          | Filing Fee- 06.02.22 LWDA Filing Fee                                                                     | \$75.00    |        | Unbilled       |         |                |              |       |
| 06/02/2022 | FST          | First Legal Network- E-Filing: Complaint, Civil Case Cover Sheet, Summons IN#30202789                    | \$1,618.95 |        | Unbilled       |         |                |              |       |
| 07/26/2022 | CRT          | Court Documents - 07.05.22 Order & minute order                                                          | \$2.00     |        | Unbilled       |         |                |              |       |
| 08/02/2022 | CRT          | Court Documents - 7.05.22 minute order and cert. of service                                              | \$2.00     |        | Unbilled       |         |                |              |       |
| 08/02/2022 | FST          | First Legal Network- E-Filing: Proof of Personal Service IN#30209403                                     | \$40.45    |        | Unbilled       |         |                |              |       |
| 09/07/2022 | FST          | First Legal Network - E-Filing: Joint Stip to Dismiss CA, Ntc and Acknowledgement of Receipt IN#30212421 | \$1,659.40 |        | Unbilled       |         |                |              |       |
| 11/03/2022 | FST          | First Legal Network - E-Filing - Case Management Statement IN#                                           | \$40.45    |        | Unbilled       |         |                |              |       |
| 11/03/2022 | FST          | First Legal Network - E-Filing - Case Management Statement IN# 30219274                                  | \$40.45    |        | Unbilled       |         |                |              |       |
| 11/21/2022 | CRT          | Court Documents - Minute Order and Order                                                                 | \$2.00     |        | Unbilled       |         |                |              |       |
| 06/01/2023 | FST          | First Legal Network - 06.01.23 Case Management Conference IN30240914                                     | \$117.20   |        | Unbilled       |         |                |              |       |
| 06/01/2023 | FST          | First Legal Network - E-Filing - Case Management Statement IN# 30240914                                  | \$117.20   |        | Unbilled       |         |                |              |       |
| 08/21/2023 | CRT          | Court Documents - General order and Minute Order                                                         | \$10.50    |        | Unbilled       |         |                |              |       |
| 08/21/2023 | POS          | Postage- 08.21.23 Crs to client re contact via certified mail                                            | \$4.98     |        | Unbilled       |         |                |              |       |
| 11/02/2023 | MED          | Mediation Services- IN#2023 CK#11239                                                                     | \$6,000.00 |        | Unbilled       |         |                |              |       |
| 05/17/2024 | CRT          | Court Documents - 05.17.24 Minute Order                                                                  | \$2.00     |        | Unbilled       |         |                |              |       |
| 05/20/2024 | FST          | First Legal Network - Filing - Plaintiffs Notice of May 17 2024 IN# 30283542                             | \$44.90    |        | Unbilled       |         |                |              |       |

Matter Billing Detail

JAMES HAWKINS APLC

| Date                                | Expense Code | Description | Debit      | Credit | Billing Status | On Hold | Invoice Number | Check Number | Payee |
|-------------------------------------|--------------|-------------|------------|--------|----------------|---------|----------------|--------------|-------|
| Total:                              |              |             | \$9,793.40 | \$0.00 |                |         |                |              |       |
| Balance:                            |              |             | \$9,793.40 |        |                |         |                |              |       |
| Total Fees Billed-----              |              |             | \$0.00     |        |                |         |                |              |       |
| Total Fees Unbilled : -----         |              |             | \$0.00     |        |                |         |                |              |       |
| Total Fees Received : -----         |              |             | \$0.00     |        |                |         |                |              |       |
| Total Soft Cost Billed : -----      |              |             | \$0.00     |        |                |         |                |              |       |
| Total Soft Cost Unbilled : -----    |              |             | \$0.00     |        |                |         |                |              |       |
| Total Soft Cost Received : -----    |              |             | \$0.00     |        |                |         |                |              |       |
| Total Hard Cost Billed : -----      |              |             | \$0.00     |        |                |         |                |              |       |
| Total Hard Cost Unbilled : -----    |              |             | \$9,793.40 |        |                |         |                |              |       |
| Total Hard Cost Received : -----    |              |             | \$0.00     |        |                |         |                |              |       |
| Total Taxes Billed : -----          |              |             | \$0.00     |        |                |         |                |              |       |
| Total Taxes Unbilled : -----        |              |             | \$0.00     |        |                |         |                |              |       |
| Total Taxes Received : -----        |              |             | \$0.00     |        |                |         |                |              |       |
| Total Late Charges Billed : -----   |              |             | \$0.00     |        |                |         |                |              |       |
| Total Late Charges Unbilled: -----  |              |             | \$0.00     |        |                |         |                |              |       |
| Total Late Charges Received : ----- |              |             | \$0.00     |        |                |         |                |              |       |
| Trust Balance: -----                |              |             | \$0.00     |        |                |         |                |              |       |

# Matter Billing Detail

## JAMES HAWKINS APLC

Date Range: 01/01/1900 to 08/05/2024  
Client: REVFOODS - Fredric Lee Wynn Sr.  
Matter: REVOLUTION PGA - Revolution Foods, Inc-PAGA - Fredric Wynn v. Revolution

| Date       | Expense Code | Description                                                                          | Debit    | Credit | Billing Status | On Hold | Invoice Number | Check Number | Payee |
|------------|--------------|--------------------------------------------------------------------------------------|----------|--------|----------------|---------|----------------|--------------|-------|
|            |              | Balance Forward:                                                                     | \$0.00   |        |                |         |                |              |       |
| 08/08/2022 | FST          | First Legal Network- E-Filing: Complaint, Summons Civil Case Cover Sheet IN#30209403 | \$518.95 |        | Unbilled       |         |                |              |       |
| 01/27/2023 | FST          | First Legal Network - E-Filing - Case Management Statement IN# 30224217              | \$42.70  |        | Unbilled       |         |                |              |       |
| 07/31/2023 | FST          | First Legal Network - E-Filing - Case Management Statement IN# 30248438              | \$42.70  |        | Unbilled       |         |                |              |       |
| 08/22/2023 | CRT          | Court Documents - Order                                                              | \$7.00   |        | Unbilled       |         |                |              |       |
| 01/30/2024 | CRT          | Court Documents - Minute order and Order                                             | \$3.00   |        | Unbilled       |         |                |              |       |
| 05/02/2024 | FST          | First Legal Network - Filing - Case Management Statement IN# 30283542                | \$44.90  |        | Unbilled       |         |                |              |       |
| 06/24/2024 | FST          | First Legal Network - Filing - CM Statement IN# 30287287                             | \$44.90  |        | Unbilled       |         |                |              |       |
| 07/29/2024 | CRT          | Court Documents-06.20.24-Order re: CMC                                               | \$2.00   |        | Unbilled       |         |                |              |       |
|            |              | Total:                                                                               | \$706.15 | \$0.00 |                |         |                |              |       |
|            |              | Balance:                                                                             | \$706.15 |        |                |         |                |              |       |

Matter Billing Detail

JAMES HAWKINS APLC

| Date                               | Expense Code | Description | Debit    | Credit | Billing Status | On Hold | Invoice Number | Check Number | Payee |
|------------------------------------|--------------|-------------|----------|--------|----------------|---------|----------------|--------------|-------|
| Total Fees Billed-----             |              |             | \$0.00   |        |                |         |                |              |       |
| Total Fees Unbilled :-----         |              |             | \$0.00   |        |                |         |                |              |       |
| Total Fees Received :-----         |              |             | \$0.00   |        |                |         |                |              |       |
| Total Soft Cost Billed :-----      |              |             | \$0.00   |        |                |         |                |              |       |
| Total Soft Cost Unbilled :-----    |              |             | \$0.00   |        |                |         |                |              |       |
| Total Soft Cost Received :-----    |              |             | \$0.00   |        |                |         |                |              |       |
| Total Hard Cost Billed :-----      |              |             | \$0.00   |        |                |         |                |              |       |
| Total Hard Cost Unbilled :-----    |              |             | \$706.15 |        |                |         |                |              |       |
| Total Hard Cost Received :-----    |              |             | \$0.00   |        |                |         |                |              |       |
| Total Taxes Billed :-----          |              |             | \$0.00   |        |                |         |                |              |       |
| Total Taxes Unbilled :-----        |              |             | \$0.00   |        |                |         |                |              |       |
| Total Taxes Received :-----        |              |             | \$0.00   |        |                |         |                |              |       |
| Total Late Charges Billed :-----   |              |             | \$0.00   |        |                |         |                |              |       |
| Total Late Charges Unbilled:-----  |              |             | \$0.00   |        |                |         |                |              |       |
| Total Late Charges Received :----- |              |             | \$0.00   |        |                |         |                |              |       |
| Trust Balance:-----                |              |             | \$0.00   |        |                |         |                |              |       |

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Attorneys for Plaintiff Christina White

*(Additional counsel listed on next page)*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act ("PAGA"), on behalf of the State of  
California and other aggrieved employees,

Plaintiff,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiffs,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. RG21113829

Assigned to the Hon. Brad Seligman

**DECLARATION OF CHRISTINA WHITE IN  
SUPPORT OF MOTION FOR COURT  
APPROVAL OF THE PARTIES' PAGA  
SETTLEMENT**

Date: August 27, 2024

Time: 3:00 p.m.

Place: Department 22

Complaint Filed: September 24, 2021

Trial Date: None Set

James R. Hawkins (SBN 192925)  
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Christina M. Lucio (SBN 253677)  
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Attorneys for Plaintiff Fredric Lee Wynn Sr.

# DECLARATION OF CHRISTINA WHITE

I, Christina White, hereby declare as follows:

1. I am over eighteen years old and unless the context indicates otherwise, I have personal knowledge of the following facts, and if called as a witness, I could and would testify competently to them. I am a named plaintiff in the above-captioned action. I make this declaration in support of the Motion for Court Approval of the Parties' PAGA Settlement.

2. I was employed by Defendant Revolution Foods, Inc. ("Defendant") in San Lorenzo, California as a Delivery Driver and Dispatch Supervisor (both hourly paid, non-exempt positions) from approximately January 2019 to September 2020. As a Delivery Driver, my job duties included delivering meals to local schools and unloading products, verifying delivery plans and routes, conducting vehicle pre-check inspections, and managing packing slips. As a Dispatch Supervisor, my job duties included assisting with loading trucks at the docks, monitoring and inspecting meals, communicating with drivers regarding deliveries and routes, and continuing my duties as a Delivery Driver by covering routes for other drivers, which I did approximately 80% of the time.

3. I decided to file this lawsuit because I had a number of grievances against Defendant stemming from its labor policies. These grievances are set forth in detail in the operative Complaint and my letter to California Labor and Workforce Development Agency ("LWDA").

4. Prior to filing the action, my attorneys and I had multiple conferences about the factual bases for the claims that I wanted to pursue against Defendant.<sup>1</sup> During those conferences, my attorneys provided me with an overview of how those claims would be litigated, and generally educated me about the nature of complex/representative litigation and my role as the representative Plaintiff.

5. After retaining my attorneys, I spent considerable time on the phone discussing the facts of my case with my attorneys. I discussed the facts related to my employment with Defendant, including discussing my job duties and responsibilities, my job position, the hours and days I worked, and how I was compensated.

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<sup>1</sup> Although the preservation of my attorney-client privilege requires that I refrain from revealing the specifics of my communications with my attorneys, I understand that the privilege is not waived by stating generally the matters that I have discussed with my attorneys.

1           6.       When I agreed to represent the LWDA as a deputized private attorney general, I  
2 understood it was my duty to be readily available and to participate actively in this case. I knew that I  
3 would be required to review documents, search for documents and produce them to my attorneys,  
4 answer written questions, potentially answer oral questions and testify truthfully under oath, and be  
5 available to appear in court, if necessary.

6           7.       I understood that I needed to maintain awareness of the status and progress of the  
7 lawsuit.

8           8.       My attorneys provided me with a draft of the Complaint for my review and approval. I  
9 closely reviewed the Complaint to ensure accuracy and completeness. Following the filing of the  
10 Complaint, I collaborated with my attorneys on the prosecution of my claims, and I regularly contacted  
11 my attorneys to stay current on the status of the litigation, and to discuss my attorneys' progress in  
12 prosecuting the claims.

13          9.       I have worked to the best of my ability to prosecute this action on behalf of the LWDA,  
14 always considering the interests of the LWDA just as I would consider my own interests. I believe  
15 PAGA actions are an important tool to assure compliance with the Labor Code.

16          10.      Since initiating this lawsuit until now, I have kept aware of the status of the lawsuit and  
17 provided my attorneys with information used by them in the litigation. I have spent large amounts of  
18 time and effort pursuing my claims and the claims of the other employees from the time I retained my  
19 attorneys to the present date.

20          11.      I worked closely with my attorneys during the discovery phase of the litigation, and in  
21 particular, I spent considerable time working with my attorneys to prepare responses to Defendant's  
22 discovery requests, including form interrogatories (general and employment), special interrogatories,  
23 requests for admission, and document requests.

24          12.      I have carefully reviewed the terms of the proposed settlement. My attorneys explained  
25 the specifics of how the settlement would work and I accepted the settlement only after I had spent time  
26 evaluating the proposed outcome to assure that it was fair. Based on my attorneys' evaluation and  
27 recommendation, and my own review, I believe the settlement is fair and reasonable in light of PAGA's  
28 policies and purposes.

14. Throughout this case, I have not sought individual benefits from the lawsuit. Rather, I maintained this lawsuit because I wanted to hold Defendant accountable for its unlawful conduct. I believe that I have fulfilled my responsibilities, and I will continue to fulfill those responsibilities, to the best of my ability, until the conclusion of the case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on [Date] 7/31/2024, at [City] Hayward, California.

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Attorneys for Plaintiff Christina White

*(Additional counsel listed on next page)*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF ALAMEDA**

CHRISTINA WHITE, as an aggrieved  
employee pursuant to the Private Attorneys  
General Act ("PAGA"), on behalf of the State of  
California and other aggrieved employees,

Plaintiff,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Lead Case No. RG21113829  
Assigned to the Hon. Brad Seligman

**CRS #: A-21113829-001**

**[PROPOSED] ORDER APPROVING THE  
PARTIES' PAGA SETTLEMENT  
AGREEMENT AND JUDGMENT**

Date: August 27, 2024  
Time: 3:00 p.m.  
Place: Department 22

Complaint Filed: September 24, 2021  
Trial Date: None Set

FREDRIC LEE WYNN SR., individually and  
on behalf of himself and all others similarly  
situated,

Plaintiffs,

vs.

REVOLUTION FOODS, INC., a Delaware  
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No. 22CV012192

1 James R. Hawkins (SBN 192925)  
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6 Attorneys for Plaintiff Fredric Lee Wynn Sr.  
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1 finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order and  
2 Judgment, the Settlement, nor any document referred to herein, nor any action taken to carry out the  
3 Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,  
4 concession, or liability whatsoever by or against Defendant.

5 8. The Court approves the gross settlement amount of \$900,000. After deducting the  
6 approved amounts for attorneys' fees and costs, Plaintiffs' Service Awards, and settlement  
7 administration costs, the net settlement amount of \$541,606.70 will be allocated as follows: Seventy-  
8 Five Percent (75%), or approximately \$406,205.03, shall be paid to the California Labor and Workforce  
9 Development Agency, and the remaining Twenty-Five Percent (25%), or approximately \$135,401.68,  
10 shall be paid to PAGA Members.

11 9. The Court hereby awards \$300,000 in attorneys' fees and \$23,393.30 costs to Plaintiffs'  
12 Counsel, Capstone Law APC and James Hawkins APLC. The award of attorneys' fees and costs will be  
13 divided as follows: (a) \$213,000 in attorneys' fees and \$12,893.75 in litigation costs to Capstone Law  
14 APC; and (b) \$87,000 in attorneys' fees and \$10,499.55 in litigation costs to James Hawkins APLC.

15 10. The Court approves Service Awards of \$10,000, each, to Christina White and Fredric  
16 Lee Wynn Sr.

17 11. The Court appoints CPT Group, Inc. to serve as the Settlement Administrator, and  
18 approves Settlement Administration Costs of \$15,000.

19 12. Plaintiffs shall file a declaration from the Settlement Administrator regarding the  
20 completion of settlement administration activities no later than June 27, 2025, as well as an amended  
21 judgment regarding the distribution of unclaimed residuals to the cy pres beneficiary, The Justice Gap  
22 Fund maintained by The State Bar of California. The Court sets a non-appearance compliance hearing  
23 for \_\_\_\_\_ at 3:00 p.m., at which time the Court will consider evidence that the  
24 distribution process is complete and that a final accounting may be approved.

25 13. This Judgment shall be binding on all PAGA Members and the State of California, who  
26 are hereby barred by the doctrine of res judicata from re-litigating the Released Claims during the PAGA  
27 Period, as those terms are defined by the Settlement. *See Arias v. Superior Court*, 46 Cal. 4th 969, 986  
28 (2009) (holding that a judgment in a representative action brought by an aggrieved employee under

1 PAGA is binding not only on the named employee plaintiff but also on state labor law enforcement  
2 agencies and any aggrieved employee not a party to the proceeding).

3 14. Without affecting the finality of the Order and Judgment, the Court shall retain exclusive  
4 and continuing jurisdiction under California Code of Civil Procedure § 664.6, over the above-captioned  
5 action and the parties for purposes of enforcing the terms of the Judgment and the Settlement.

6 15. This document shall constitute a judgment under California Code of Civil Procedure §  
7 664.6.

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9 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

10 Date \_\_\_\_\_

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11 Hon. Brad Seligman  
12 Alameda County Superior Court Judge  
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