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and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BERNABE PARRILLA, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

MONSTER ENERGY COMPANY, a
Delaware corporation; DOES 1 through 25,

Defendants.

Case No.: 21STCV25855

*Assigned for all purposes to Hon. Elihu
M. Berle, SSC-6*

**DECLARATION OF AARON
GUNDZIK IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: April 4, 2024

Time: 9:00 a.m.

Dept.: 6

Complaint Filed: July 14, 2021

1 I, Aaron C. Gundzik, declare as follows:

2 1. I am a partner at Gundzik Gundzik Heeger LLP, co-counsel for Plaintiff
3 Bernabe Parrilla. This Declaration is submitted in support of Plaintiff's Motion for Final
4 Approval of Class Action Settlement.

5 2. I am admitted to practice law in the state of California. I have personal
6 knowledge of the matters set forth herein, and, if called as a witness, could competently
7 testify thereto.

8 3. I am familiar with California law governing wages owed to employees,
9 including but not limited to California Labor Code Sections 201, 202, 203, 204, 226, 226.7,
10 510, 512, 2802 and 2698 *et seq.*, California Business and Profession Codes 17200 *et seq.*,
11 and the Wage Orders of the Industrial Welfare Commission.

12 4. There are no conflicts that would prevent me from serving as Class Counsel
13 in this matter.

14 **Procedural Information**

15 5. Plaintiff Bernabe Parrilla filed his initial complaint against Defendant
16 Monster Energy Company ("MEC") on July 14, 2021.

17 6. Plaintiff filed his First Amended Complaint on September 14, 2021.

18 7. Plaintiff's First Amended Complaint (FAC), which is the operative
19 complaint, alleges causes of action against MEC for (1) failure to pay overtime; (2) failure
20 to provide meal and rest breaks; (3) inaccurate wage statements; (4) failure to pay unpaid
21 wages at separation; (5) violation of the Unfair Practices Act; and (6) recovery of civil
22 penalties under the California Labor Code Private Attorneys' General Act ("PAGA").

23 **Investigation and Discovery Prior to Settlement**

24 8. Rebecca Gundzik and I, and our co-counsel Dan Holzman, have been directly
25 involved in all aspects of this case on behalf of Plaintiff. In that regard, we have extensively
26 investigated Plaintiff's claims against Defendant. We have engaged in formal and informal
27 discovery. And we obtained from Defendant, and then reviewed and analyzed policy
28 documents, pay records for approximately 10% of class members and other information

1 concerning class member wages and work activities. We also obtained class member contact
2 information and have interviewed 9 (of 75) class members. In addition, we investigated and
3 compiled publicly available information about Defendant.

4 9. We also met and conferred extensively with Defendant's counsel regarding
5 the scope and type of additional documents and information Plaintiff was seeking in advance
6 of the mediation. As a result of these negotiations, Defendant provided additional
7 information including, the number of Class Members and PAGA Aggrieved Employees,
8 total Class Member workweeks and pay periods, total PAGA Aggrieved Employee
9 workweeks and pay periods, and other data.

10 10. I and my litigation team have reviewed and analyzed the records and
11 information produced by Defendant together with the information provided by our client and
12 class member interviews, to assess Defendant's potential liability and prepared an estimate
13 of the damages incurred by the Class and the PAGA Aggrieved Employees.

14 11. I and my co-counsel consulted with Plaintiff extensively in order to
15 investigate the facts before filing the Complaint. We continued to consult with him prior and
16 subsequent to the mediation regarding the forgoing issues. Mr. Parrilla provided us with
17 numerous details about his experience working for Defendant. And he attended the
18 mediation.

19 12. Based upon our investigation, we made the following contentions: During the
20 Class Period, Defendant has been in the business of manufacturing and selling beverages in
21 California and elsewhere. Plaintiff was employed by Defendant as a Field Sales
22 Representative and Club Field Sales Representative (collectively "FSR") from 2016 until
23 about April 2020.

24 13. Plaintiff alleged that during the Class Period, which begins on July 14, 2017,
25 Defendant incorrectly classified persons employed as FSR's as exempt employees and did
26 not pay overtime premium wages for overtime hours. In addition, Plaintiff contended that
27 MEC did not provide employees with compliant meal periods or rest breaks or provide
28 required premium wages as compensation. In addition, Plaintiff contended that Defendant

1 failed to provide accurate wage statements that reflected the unpaid overtime and other
2 premium wages and failed to pay these unpaid wages when employees separated.

3 **Summary of Settlement Negotiations**

4 14. On October 20, 2022, I, Rebecca Gundzik, our co-counsel, Daniel Holzman
5 and Plaintiff Bernabe Parrilla, as well as Defendant and Defendant's counsel, attended a
6 mediation session with Gig Kyriacou. Mr. Kyriacou has substantial experience mediating
7 wage and hour class actions like this one. The case did not settle at the mediation. The
8 mediator continued to work with the parties by telephone and made a settlement proposal on
9 March 31, 2023. The proposal was accepted by the parties on April 6, 2023.

10 15. The settlement was negotiated at arms' length and was in no sense collusive.

11 16. I, Ms. Gundzik, our co-counsel and our client concluded, after taking into
12 account the sharply disputed factual and legal issues involved in the lawsuit, the risks
13 attending further prosecution, and the substantial benefits to be received pursuant to the
14 compromise and settlement of the action, that the settlement is in the best interests of the
15 Class and is fair and reasonable. We also considered the possibility that the Class would not
16 be certified and factored in the additional delay in recovery for Class members if the
17 settlement were rejected and the case went to trial.

18 17. A true and correct copy of the Class Action and PAGA Settlement
19 Agreement is attached hereto in **Exhibit 1**. Pursuant to the terms of the proposed settlement,
20 Defendant will pay a Gross Settlement Amount (GSA) of \$285,000. After proposed
21 deductions, as approved by the Court, the Net Settlement Amount will be approximately
22 \$145,245, all of which will be available to distribute to settlement Class members. The
23 parties propose making the following payments from the GSA:

24 (a) Settlement Administration costs of \$5,500;

25 (b) a Service and Release Award to Representative Plaintiff Bernabe Parrilla
26 in the amount of \$10,000;

27 (c) Class Counsel's Attorneys' Fees not to exceed one-third of the GSA, in
28 the amount of \$95,000;

(d) Class Counsel's actual litigation costs and expenses in the amount of \$17,255.14; and

(e) An allocation of \$12,000 to Plaintiff's PAGA claims (the "PAGA Amount"), seventy-five percent (75%) (\$9,000) of which will be paid to the California Labor and Workforce Development Agency (the "LWDA Payment"), and the remaining twenty-five percent (25%) (\$3,000) of which will be distributed to the Aggrieved Employees. See Ex. 1, ¶¶ 3.1-5; 3.7.

The remaining Net Settlement Amount of \$145,245 will be distributed to the settlement Class Members according to the formula in the Settlement Agreement, not including the amounts owed to them as Aggrieved Employees. See Ex. 1, ¶ 3.6.

18. Paragraph 3.9 of the Settlement Agreement includes an Escalator Clause which was to be triggered if total Workweeks during the Class Period exceeded 110% more than the 6,516 Represented Workweeks. Upon receipt of the Class Data, the administrator advised us that the data did not trigger the Escalation Clause.

19. As compensation for his efforts, the Settlement Agreement provides that a Class Representative Service and Release Award in the amount of \$10,000 will be requested for the Representative Plaintiff, Bernabe Parrilla. This award is in recognition of the significant time Mr. Parrilla expended pursuing this action and assisting our efforts with the case, and in recognition of the expanded general release that he is required to provide, as part of the Settlement. Mr. Parrilla spent a great deal of time consulting with us in order to investigate the facts before we filed the Complaint and amended pleadings, responding to formal written discovery, monitoring the status of the litigation, consulting with us extensively prior to, during and subsequent to the mediation and reviewing, discussing and signing the Memorandum of Understanding and Settlement Agreement. He provided us with numerous details about his experience and the experience of others working for Defendant and missed a day of work to attend the mediation. Plaintiff's presence at the mediation was invaluable, as he was able to provide us a great deal of additional information that was

1 extremely helpful for our negotiations. As an additional requirement to receiving the
2 proposed Class Representative Service and Release Award, Plaintiff is required to sign a
3 broad general release which includes a waiver of Section 1542 of the California Civil Code.

4 **Analysis of Value of Claims**

5 20. The First Cause of Action is for failure to pay overtime. This claim was based
6 on Plaintiff's contention that he and other FSRs were wrongly treated as non-exempt outside
7 salespersons and as a result were not paid overtime wages when they worked overtime hours.
8 The Wage Order defines an outside salesperson as an employee "who customarily and
9 regularly works more than half the working time away from the employer's place of
10 business selling tangible or intangible items or obtaining orders or contracts for products,
11 services or use of facilities." Wage Order 04-2001(2)(M). Plaintiff contended that class
12 members did spend part of their working days selling beverages, but that these sales
13 activities took up less than half of their working time. Defendant contended that all or most
14 of class members' working time related to sales and therefore class members were properly
15 classified as outside salespersons. Defendant also contended that the class could not be
16 certified on this claim due to a multitude of individual issues concerning how class members
17 spent their workdays. Defendant did not require FSR employees to record their working
18 hours. As a result, there are no records of the actual overtime hours worked by class
19 members. Instead, we relied on our employee interviews to estimate that class members
20 worked about five overtime hours per week. As of the mediation date, class members had
21 worked 5,958 workweeks during the class period and their salaries translated into an hourly
22 rate of \$27.90. Using these data points, we estimated the maximum value of this claim to be
23 \$1,246,488. (\$27.90 per hour x 1.5 x 5 overtime hours per week x 5,958 workweeks =
24 \$1,246,488.08.) Based upon MEC defenses, including the potential inability to certify a
25 class, we determined that the minimum value of this claim is nothing.

26 21. The Second Cause of Action is for failure to provide compliant meal and rest
27 periods. Employers are not required to provide meal periods and rest breaks to outside
28 employees engaged in outside sales. Wage Order 04-2001(1)(C). Plaintiff contended that

1 MEC did not provide class members with compliant meal and rest breaks because MEC
2 incorrectly believed that such employees were covered by the outside sales exemption.
3 Defendant contended that it was not required to provide meal or rest breaks because class
4 members were exempt outside salespersons and, in any case, class members were
5 unsupervised during their workdays and were able to take breaks at any time. MEC did not
6 track meal and rest breaks taken by class members. So, the of incidence of noncompliant
7 breaks could not be measured precisely. We used our class member interviews to estimate
8 that class members missed two meal breaks and three rest breaks each week. Using these
9 estimated data points, we estimated that the maximum value of this claim was \$332,397 for
10 meal periods and \$498,595 for rest breaks. ((2 meal breaks + 3 rest breaks) x 5,958
11 workweeks x \$27.90 per hour = \$830,992.05.) Considering the defenses discussed above,
12 we determined that the minimum value of this claim is nothing.

13 22. The Third Cause of Action is for failure to provide compliant wage
14 statements. The statute of limitations on such a claim is one year. This claim is based on the
15 fact that the wage statements issued to Plaintiff and the class are incorrect in that they do not
16 reflect overtime pay or meal and rest break wage premiums that should have been paid. The
17 penalties for inaccurate wage statements are \$50 per employee for the first violation and
18 \$100 per employee per violation for all subsequent violations. Penalties per employee are
19 limited to \$4,000. During the relevant limitations period, Defendant issued a total of 1,084
20 wage statements to about 43 class members. Assuming that each wage statement failed to
21 include at least some overtime pay or at least one non-compliant break, we estimated the
22 maximum value of this claim to be \$106,250. ((1,084 wage statements x \$100 penalty) – (43
23 employees x \$50) = \$106,250.) At the same time, considering the defenses discussed above,
24 we determined that the minimum value of this claim is nothing.

25 23. The Fourth Cause of Action is for failure to pay separated employees all
26 wages due at the time of separation. This claim is based on Defendant's alleged failure to
27 pay class members amounts due for overtime work and meal or rest period premiums. A
28 total of 19 class members terminated during the three-year limitations period. Based on this

1 information, we estimated the maximum value of this claim to be \$151,051. (((8 hours x
2 \$27.90 hourly wage) + (1 hour x \$27.90 hourly wage x 1.5)) x 30 days x 19 separated class
3 members = \$151,051.43.) In light of the defenses identified above applicable to Plaintiff's
4 wage claims, we determined that the minimum value of this claim is nothing.

5 24. The Fifth Cause of Action is for violation of Business & Professions Code
6 section 17200, *et. seq.* The forgoing analysis assumes the longer four-year statute of
7 limitations that is available under the UCL for the overtime and meal and rest period
8 violations. The value of this claim has been included in the analyses for the First and Second
9 Causes of Action.

10 25. The Sixth Cause of Action is for violations of the Private Attorneys General
11 Act (PAGA). The PAGA claim is limited in time to one year. The strength of the PAGA
12 claim would be impacted by the factors discussed above for the non-PAGA claims. Based
13 on recent PAGA decisions, I concluded that even if Plaintiff was successful on this claim
14 through trial, the Court may well have exercised its discretion under PAGA and significantly
15 reduced the penalties. Cal. Labor Code §2699(e)(2). In addition, the settlement was
16 primarily directed at recovering wages and unpaid premiums owed to class members and the
17 bulk of the settlement funds were intended to compensate for these wages. Based on these
18 factors, I believe that the maximum reasonable value of the PAGA claim is approximately
19 \$300,000, and the minimum value is nothing. I therefore concluded that the \$12,000 that the
20 parties allocated to PAGA, \$9,000 of which will be paid to the LWDA, is a reasonable
21 settlement of that claim.

22 26. Based upon the forgoing, I determined that the class claims in this case had a
23 minimum value of nothing and a maximum estimated value of about \$2.3 million, not
24 including the PAGA penalties. Assuming a class of 75, the reasonable estimate of the
25 average amount that Class members could have obtained if Plaintiff proceeds to trial on
26 behalf of the entire Class, if the Class was certified, would be a minimum of nothing and a
27 maximum of about \$30,666. However, the maximum amount is almost never recovered at
28 trial and never in a settlement. Settlements, by their nature, must account for the weaknesses

1 in a plaintiff's case, which are discussed above. Indeed, because Defendant raised a
2 colorable legal or factual defense to each of the claims Plaintiff alleged, it is possible that,
3 after trial, the Class would recover nothing.

4 27. The PAGA settlement satisfies the criteria in *Moniz v. Adecco USA, Inc.* 72
5 Cal. App. 5th 56, 77 (2021), because "it is fair, reasonable, and adequate in view of PAGA's
6 purposes to remediate present labor law violations, deter future ones, and to maximize
7 enforcement of state labor laws." In our settlement, \$12,000 is allocated to Plaintiff's PAGA
8 claim. In conjunction with the class settlement, this settlement will serve to remediate
9 Defendant's alleged Labor Code violations. Given that Defendant will be paying \$285,000
10 as a result of the alleged violations, the class and PAGA settlement is a large disincentive for
11 Defendant to engage in similar Labor Code violations in the future. And, because Defendant
12 is aware that we have spoken with class members and aggrieved employees as a result of the
13 litigation and because all class members will receive a Class Notice with our contact
14 information, those employees will know to contact us in the future if Defendant attempts to
15 engage in similar practices. These factors—the payment of a large sum and employee notice
16 of violations and potential violations—serve to maximize enforcement of state labor laws.
17 Also, unlike in *Moniz*, here there is no unsubstantiated and disproportionate allocation of
18 civil penalties between different groups of employees. All Aggrieved Employees will
19 receive an allocation of PAGA civil penalties based on the number of workweeks that they
20 worked for Defendant.

21 28. If the settlement is not approved, Plaintiff would need to move forward with
22 discovery and then move for class certification. Defendant will oppose certification on the
23 grounds that numerous individualized fact issues allegedly exist. Defendant will argue and
24 could succeed in claiming that these individualized issues overwhelm common issues,
25 and/or that the action is not manageable on a class wide basis. The result could be that the
26 case would not be certifiable as a class action.

27 29. Even if we proceeded and the Class is certified, significant risks would
28 remain. At trial Defendant could interpose a successful defense which could either cause the

1 Court to decertify the Class or cause the jury to reject Plaintiff's claims or award the Class
2 only a small amount of the damages sought. And, even if the Class ultimately prevailed,
3 most of the Class Members would have to wait years before they received any payment from
4 the lawsuit.

5 30. After analyzing and weighing the evidence discussed above as well as the
6 legal issues, we concluded that the settlement of \$285,000, of which, \$12,000 will be
7 allocated to Plaintiff's PAGA claim, represents a fair and reasonable discount from the
8 realistic recovery. We firmly believe that amount is the most that Defendant was willing to
9 pay at this stage of the case and that if we had rejected that amount, we would have been
10 forced to seek class certification, and subject the Class to the risk of losing at any stage of
11 the process. The settlement will allow the parties to avoid the expense and time
12 commitments of continued litigation and provides a significant benefit for the Class, the
13 LWDA and the Aggrieved Employees which would not otherwise have been available
14 unless a settlement was reached. Based on my experience, I am of the opinion that a gross
15 settlement of \$285,000 is within the "ballpark" of a fair, reasonable and adequate settlement.

16 Preliminary Approval of Settlement

17 31. On August 9, 2023, Plaintiff filed his Motion for Preliminary Approval of
18 Class Action Settlement with supporting declarations.

19 32. On December 4, 2023, the Court granted preliminary approval of the
20 settlement and approved the notice of settlement prepared by the parties. A copy of the
21 Court's preliminary approval order is attached hereto as **Exhibit 2**.

22 Settlement Administration

23 33. The settlement is being administered by Phoenix Settlement Administrators
24 ("Phoenix" or "Settlement Administrator"). Until distribution, the Gross Settlement Amount
25 will be held in a Qualified Settlement Fund established by the Settlement Administrator.
26 Phoenix's fee for the costs of administration of the settlement is \$5,500.

27 34. The notification process was fairly administered. As set forth in the
28 Declaration of Jarrod Salinas, Phoenix Case Manager, on January 4, 2024, Phoenix sent the

1 Notice of Settlement to the Class Members' last-known address as specified in the Court's
2 Order granting preliminary approval of class action settlement. Of those, none were or
3 determined to be undeliverable.

4 35. As set forth in the TPA's declaration, as of the date of this Declaration,
5 Phoenix has received no opt-outs and no objections. Class Counsel have not received any
6 objections or opt out notices from any Class Members. Because this is an opt-out Class, all
7 75 Class Members will receive a settlement payment, which is a 100 % participation rate.
8 That participation rate, together with the absence of any objectors, provides a strong
9 indication that the settlement is fair and adequate, and that Class Members believe it to be
10 so.

11 **Request for Attorneys' Fees and Costs**

12 36. The preliminarily approved settlement provides for the payment of up to one
13 third of the gross settlement amount (\$95,000) to Class Counsel for attorneys' fees and up to
14 \$25,000 for Class Counsel's reasonable costs and expenses. Class Counsel has expended
15 \$16,715.14 in connection with this lawsuit, and will expend an additional \$540, for a total of
16 \$17,255.14, which is the amount of cost reimbursement we are requesting. This request is
17 fair, reasonable and adequate to compensate Class Counsel for the substantial work we have
18 put into this case and the risk we assumed by taking it. The attorneys' fees award is intended
19 to reimburse Class Counsel for all the uncompensated work that we have already done and
20 for all the work we will continue to do in carrying out and overseeing the administration of
21 the settlement. We are requesting that the Court compensate Class Counsel on a contingency
22 basis in light of the benefit provided to the Class and because a lodestar analysis confirms
23 the reasonableness of the contingency fee.

24 **Summary of Class Counsel's Experience**

25 37. I graduated from the University of Southern California Law School in 1987
26 and have been a member of the California bar since 1987. For my first 14 years of practice, I
27 worked in the Los Angeles office of a large international law firm, then known as LeBoeuf,
28 Lamb, Greene & MacRae, first as an associate and then as an equity partner. I left that firm

1 in 2001 and formed Cotton & Gundzik LLP. In 2012, I joined Gartenberg Gelfand Hayton
2 LLP, and in January of 2020, I formed Gundzik Gundzik Heeger LLP (“GGH”). Throughout
3 my career, I have been involved in the litigation of complex cases, including securities,
4 consumer and wage and hour class actions. Presently, I and my partner, Rebecca Gundzik,
5 are Plaintiff’s counsel in approximately ten class actions in various stages of litigation. I
6 have served as class counsel in numerous wage and hour class actions that have already
7 settled and successfully represented a class of service technicians at trial and through appeal
8 in *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36 (2013). The *Gonzalez* case
9 helped develop the law regarding an employee’s right to be separately paid for their
10 nonproductive time and is one of the bases for California Labor Code section 226.2.

11 38. Rebecca Gundzik, who is also a partner at my law firm, has worked with me
12 extensively on this case. Ms. Gundzik graduated from the University of Southern California
13 Law School in 1988 and has been a member of the California bar since 1988. In her 35-year
14 legal career, Ms. Gundzik worked at Loeb & Loeb and worked at Allen Matkins Leck
15 Gamble Mallory & Natsis LLP for fifteen years. Ms. Gundzik has also had significant
16 experience with complex cases, including real estate, business, and consumer and wage and
17 hour class actions. Ms. Gundzik works with me on all of my class action matters and was
18 my co-counsel at the trial of *Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36
19 (2013).

20 39. I and and/or Rebecca Gundzik and I have been appointed as class counsel in
21 the following wage and hour class actions:

- 22 a. *Gonzalez v. Downtown LA Motors*, 215 Cal. App. 4th 35 (2013)
- 23 b. *Aboyte v. Sunrise Ford, Inc.*, Los Angeles County Superior Court Case No.
24 BC521274
- 25 c. *Alshamri v. Ford of Santa Monica, Inc.*, Los Angeles County Superior Court
26 Case No. BC529007
- 27 d. *Altschuler v. Sedgwick Claims Management Services, Inc.*, Los Angeles
28 Superior Court Case No. 21STCV06933

- 1 e. *Bromberg v. Fidelity National Information Services*, C.D. Cal. No. 2:15-CV-
2 7930
- 3 f. *Burciaga v. Superior Thread Rolling Company*, Los Angeles County
4 Superior Court Case No. BC585143
- 5 g. *Centino v. Arrowhead Products Corporation*, Orange County Superior Court
6 Case No. 30-2018-00988493
- 7 h. *Caesar-Roden v Yoga Works, Inc.*, Los Angeles County Superior Court Case
8 No. BC711991
- 9 i. *Claim Jumper Restaurants Wage and Hour Cases*, JCCP No. 4916
- 10 j. *ClubCorp Wage and Hour Cases*, Orange County Superior Court Case No.
11 30-2-2—01137085 (JCCP No. 5138)
- 12 k. *Cypress Security Wage and Hour Cases*, Los Angeles County Superior Court
13 Case No. BC672405 (JCCP No. 4963)
- 14 l. *Dittmar v. Costco*, S.D. Cal. No. 3-14-CV-1156
- 15 m. *Franco v. Gentry Brothers, Inc.*, Los Angeles County Superior Court Case
16 No. BC586571
- 17 n. *Gallegos v. EC Holdings Inc.*, Los Angeles County Superior Court Case No.
18 BC616867
- 19 o. *Gonzales v. Manrika, Inc.*, Los Angeles County Superior Court Case No.
20 BC570534
- 21 p. *Grieg v. Food on Time, Inc.*, at al., Los Angeles County Superior Court Case
22 No. BC684566
- 23 q. *Guillen v. Grasshopper House, LLC*, Los Angeles County Superior Court
24 Case No. BC685116
- 25 r. *Hall v. Culpepper & Associates Security Services, Inc.*, Los Angeles County
26 Superior Court Case No. 20STCV15317
- 27 s. *Haskins v. Walmart, et al.*, San Diego County Superior Court Case No. 37-
28 2019-00020149-CU-OE-NC

- 1 t. *Hamilton v. BlueMercury, Inc.*, Los Angeles County Superior Court Case No.
2 BC625829
- 3 u. *Henriquez v. NGU Transport LLC*, Los Angeles County Superior Court No.
4 BC714165
- 5 v. *Hernandez v. The Bicycle Casino LP*, Los Angeles County Superior Court
6 Case No. BC628414
- 7 w. *Hughes v. JeffreyLee Galitz, MD, et al.*, Los Angeles County Superior Court
8 Case No. 21STCV30732
- 9 x. *Honeine v. PMB Motorcars, LLC*, Los Angeles County Superior Court Case
10 No. BC530827
- 11 y. *Jimenez v. El Proyecto Del Barrio, Inc.*, Los Angeles County Superior Court
12 No. 19STCV18696
- 13 z. *Jimenez v. PPG Industries, Inc.*, Los Angeles County Superior Court Case
14 No. BC613324
- 15 aa. *Kaelberer v. Long Beach Eurocars LLC*, Los Angeles County Superior Court
16 Case No. BC521275
- 17 bb. *Kuenstle v. Childrens Hospital Los Angeles Medical Group, Inc.*, Los
18 Angeles County Superior Court Case No. BC653858
- 19 cc. *Kussner v. MV Public Transportation, Inc., et al.*, Los Angeles Superior
20 Court Case No. 21STCV12259
- 21 dd. *Maravilla v. Motion Picture Television Fund*, Los Angeles County Superior
22 Court Case No. BC690494
- 23 ee. *Medina v. Kaweah Pump, Inc.*, Tulare County Superior Court No. 265579
- 24 ff. *Mendoza v. Quanta Computer, USA, Inc.*, Alameda County Superior Court
25 No. RG11589781
- 26 gg. *Mitchiner v. Cox Target Media, Inc.*, Los Angeles County Superior Court
27 Case No. 19STCV00319
- 28

1 hh. *Munoz v. Dependable Highway Express, Inc.*, Los Angeles County Superior
2 Court Case No. BC535931
3 ii. *Nava v. Pacific Coast Sightseeing Tours and Charters, Inc.*, Los Angeles
4 County Superior Court Case No. BC685681
5 jj. *Ortiz v. Roberts Tool Co., Inc.*, Los Angeles County Superior Court Case No.
6 BC626244
7 kk. *Otis v. Ray Stone Incorporated*, Sacramento County Superior Court Case No.
8 34-2019-00269952
9 ll. *Parrilla v. Monster Energy Company*, Los Angeles County Superior Court
10 Case No. 21STCV25855
11 mm. *Perez v. The Parsons Group, Inc.*, Santa Barbara County Superior
12 Court Case No. 19CV01203
13 nn. *Poland v. Glen Ivy Hot Springs, Inc.*, Riverside County Superior Court No.
14 RIC1312130
15 oo. *Saavedra v. Cliff View Terrace, Inc.*, Santa Barbara County Superior Court
16 Case No. 17CV02531
17 pp. *Santiago v. Univar Solutions Inc., et. al*, Los Angeles County Superior Court
18 Case No. 21STCV25600
19 qq. *Schneider v. Inner City Education Foundation*, Los Angeles County Superior
20 Court Case No. BC617827
21 rr. *Stadnik v. Leon's Transmission Service, Inc.*, Los Angeles County Superior
22 Court Case No. 19STCV44253
23 ss. *Surveillance Security Wage and Hour Cases*, JCCP 4969
24 tt. *T.J. Maxx Wage & Hour Cases*, JCCP No. 5097
25 uu. *Vatrалеva v. Sears, Roebuck and Co.*, Los Angeles County Superior Court
26 Case No. BC515650
27 vv. *Villalobos v. Pedego, Inc.*, Orange County Superior Court Case No. 30-
28 2019-01102461

- 1 ww. *Watson v. Aegis Security & Investigations Inc.*, Los Angeles County
2 Superior Court Case No. BC695411
3 xx. *Wysocki v. Color Spot Nurseries, Inc.*, San Luis Obispo County Superior
4 Court No. 14CVPO138
5 yy. *Yoo v NGL Transportation LLC*, Los Angeles County Superior Court Case
6 No. BC682160
7 zz. *Yoo v. South Coast Transportation & Distribution, Inc.*, Los Angeles County
8 Superior Court Case No. BC682120

9 40. Many of the cases listed in Paragraph 40 and the cases still active involve
10 wage and hour issues similar to the legal and procedural issues involved in this case.

11 **B. Summary of Work Performed**

12 41. Ms. Gundzik and I have performed significant legal work in this case on
13 behalf of Plaintiff, as summarized in Paragraphs 42-47 below.

14 42. The legal work performed by my firm on the case consumed a great deal of
15 our time and resources. Both GGH and Caskey & Holzman are small firms with few
16 attorneys. Our work on this case included preparing pleadings and other documents filed
17 with the Court, drafting and responding to many sets of formal written discovery, drafting
18 and responding to numerous attempts to meet and confer with opposing counsel regarding
19 the written discovery and Defendant's responses and document productions, numerous
20 telephone meet and confer conferences with opposing counsel regarding formal discovery,
21 meeting and conferring extensively with opposing counsel regarding the documents and
22 information to be exchanged in conjunction with the mediation, reviewing and analyzing the
23 documents produced by Defendant, contacting class members regarding their work
24 experience for Defendant, preparing for and engaging in a successful mediation, and then
25 negotiating and drafting the settlement documents, reviewing and analyzing numerous time
26 and pay records, policies and other documents in advance of the mediation, drafting the
27 motion for preliminary approval of the settlement and related documents, and drafting the
28 motion for final approval and related documents. Additionally, in preparation for the

1 mediation, I worked extensively to develop information on potential damages. Mr. Parrilla
2 also worked with us to provide information about the Class's working conditions and
3 Defendant's payment practices. This information was also invaluable to us in determining
4 what claims to bring and the information that Defendant had to support those claims.

5 43. I and Ms. Gundzik drafted the initial complaint and the First Amended
6 Complaint. We drafted and negotiated a stipulation for the mailing of a Belaire-West notice
7 to the Class Members, and were able to interview many of them about their experiences
8 working for Defendant as a result. We drafted written discovery, responded to formal
9 discovery, met and conferred extensively regarding the discovery responses, drafted
10 supplemental discovery responses, and reviewed thousands of pages of documents produced
11 by Defendant. We drafted Plaintiff's mediation brief, analyzed the sample documents and
12 wage information provided by Defendant, and prepared a detailed damages assessment in
13 connection with the mediation. We prepared extensively for mediation and attended the
14 October 20, 2022 mediation with our co-counsel, Daniel Holzman. After the parties reached
15 the terms of a settlement in principle, we drafted a lengthy settlement stipulation and
16 participated in numerous conversations and other communications about those documents
17 with opposing counsel and our client.

18 44. After the parties reached agreement on the details of the settlement
19 stipulation, we prepared the motion for preliminary approval and the supporting declarations
20 and proposed order. After the Court preliminarily-approved the settlement, we worked with
21 the settlement administrator to effectuate the notice to Class Members. Finally, we worked
22 on this Motion and the supporting declarations and other documents.

23 45. When the case settled several months after the mediation, my office agreed to
24 prepare all of the settlement documents and motions. To that end, we first prepared a
25 memorandum of understanding and then the Class Action and PAGA Settlement Agreement
26 and Class Notice, all of which we negotiated extensively with defense counsel. We also
27 prepared the Motion for Preliminary Approval and the supplemental papers required by the
28 Court. We then oversaw the process of mailing settlement notices.

46. Our work on the case will not end with the filing of this motion. We will need to address any belated objections, appear for the hearing and then, if the motion is granted, oversee the receipt and disbursement of settlement funds. As part of that process, we will likely receive and respond to communications from Class Members about the settlement.

47. The actual time Rebecca Gundzik, I, and our paralegal Nicole Salazar expended litigating this matter is itemized in detail in our billing records through January 25, 2024, a true and correct copy of which are attached hereto in **Exhibit 3**. As shown on **Exhibit 3**, my firm has incurred attorneys' fees through December 11, 2023 on this case in the amount of \$201,625.00. These time entries include the following amounts of time spent on the following activities:

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
Communications with client and other class members: initial client meetings and review of claims, ongoing communications and meetings with client; interview class members and prepare interview summaries; pre-filing investigation	33.8 hours
Strategy, research and analysis regarding claims and other legal issues	6.5 hours
Communications with defense counsel; meet and confer regarding discovery and stipulations	10.0 hours
Formal written discovery (includes preparation of meet and confer correspondence)	52.1 hours
Settlement matters: negotiation with opposing counsel and mediator after mediation, communications with co-counsel, preparing and reviewing the settlement agreement and the class notice; communications with the settlement administrator	30.2 hours

<u>ATTORNEY ACTIVITY</u>	<u>TIME EXPENDED:</u>
prepare for/attend Court hearings	12.2 hours
performing review and analysis of class members' and plaintiff's records, sample payroll records, policy handbooks, other policies and create damages model	15.4 hours
prepare for and attend mediation (includes working to prepare mediation strategy, drafting mediation brief and post-mediation analysis)	47.1 hours
Drafting and reviewing pleadings and Court documents and related communications (includes complaints, stipulations regarding litigation, motion for preliminary approval and supporting declarations, and motion for final approval and supporting declarations)	77.5 hours
<u>Total Hours:</u>	284.8 hours

48. This chart and our billing records do not include approximately 25 additional hours to finalize this Motion, prepare for and attend the hearing on this Motion, and time that I or Ms. Gundzik will spend working with Phoenix and Defendant to implement the settlement and communicate with Class Members regarding the disbursement of the settlement funds. At our hourly rate of \$825, this additional time adds \$20,625 to our lodestar. Additionally, as set forth in his declaration, our co-counsel Daniel Holzman spent 42.3 hours working on the case at his hourly rate of \$750, and he accordingly incurred total fees in the amount of \$31,725. Including the fees we have already billed, the additional \$20,625 we anticipate incurring in the future, and the \$31,725 amount incurred by Mr. Holzman, our total lodestar is **316.1 hours** for a total lodestar in the amount of **\$253,975**.

49. My firm also incurred costs in this case that we have paid which include but are not limited to fees and expenses for filing, copies, service of process, the mediator's fees, consultant fees and postage and delivery. My firm incurred costs and expenses of \$10,130.94 and will incur additional filing fees in connection with this Motion in the

1 approximate amount of \$60 and future CaseAnywhere fees of approximately \$240 (\$120 per
2 quarter for at least two more quarters) for total expenses in the amount of \$10,430.94. As set
3 forth in Mr. Holzman's declaration, his firm incurred costs and expenses in the amount of
4 \$6,584.20 and will include additional CaseAnywhere fees of approximately \$240. In total,
5 our expenses are **\$17,255.14**, which is the amount for which we are requesting
6 reimbursement.

7 50. Despite the risks presented by Defendant's various arguments and defenses,
8 we invested our time and litigation costs and expenses, with no guarantee of compensation
9 or reimbursement. In addition, we were precluded from spending time on other matters so
10 that we could devote our attention to this case. My firm took this case on a contingent-fee
11 basis against a corporation represented by a reputable defense firm. We are a small firm with
12 only two litigation attorneys and one paralegal. As such, when we take contingent-fee cases,
13 we must pay careful attention to the economics involved, because there are some cases we
14 expend a great deal of time on, but which produce little or no fees.

15 51. Contingent-fee cases present the very real risk of working hundreds if not
16 thousands of hours that may never be entirely compensated. Moreover, while the case is
17 being litigated, counsel must pay overhead (salaries, rent, etc.), pay their expenses and pay
18 out-of-pocket expenses on the plaintiff's behalf. The prospect of a court-awarded fee does
19 not greatly reduce the risk posed by these cases. One must prevail to receive a court-
20 awarded fee, and even the best cases can be lost at trial. There are also often unseen
21 obstacles that arise during a case, such as a change in the law, documents which do not
22 comport with a client's recollection of the facts, or a client's acceptance of a settlement offer
23 that does not compensate us for our reasonable fees.

24 52. Defendant does not oppose the fees and costs being requested in this case.
25 Moreover, the Notice of Settlement mailed to Class Members stated the amount of fees
26 being requested by Class counsel. Not a single Class Member has objected to our requested
27 fee award.
28

1 53. The lodestar cross-check against the percentage of the benefit analysis (or
2 common fund approach) supports the requested contingency-fee percentage. A loadstar
3 cross-check analysis typically happens in three steps. First, a trial court must determine a
4 baseline guide or “loadstar” figure based on the time spent and reasonable hourly
5 compensation for each attorney involved in the case. *Serrano v. Priest*, 20 Cal.3d 25, 48
6 (1975). Second, a court sets an hourly fee to apply to the time expended, with reference to
7 the prevailing rates in the geographic area in which the action is pending. *Bihun v. AT&T*
8 *Information Systems*, 13 Cal.App.4th 976, 997 (1993). Third, a multiplier is selected with
9 reference to factors substantially similar to the common-fund analysis: (1) the novelty and
10 difficulty of the issues involved, (2) the skill displayed in presenting them, (3) the extent to
11 which the nature of the litigation precluded other employment by the attorneys, and (4) the
12 contingent nature of the award, based on the uncertainty of prevailing on the merits and of
13 establishing eligibility for the award, (5) the amount involved and the results obtained on
14 behalf of the class by plaintiffs’ counsel, and (6) the reaction of the class members. *Serrano*
15 *v. Priest*, 20 Cal.3d at 49. Here, because our actual fees exceed the amount we are
16 requesting, no multiplier analysis is required.

17 54. I am familiar with the hourly rates charged by attorneys with similar
18 experience and expertise. My and Ms. Gundzik’s hourly rates of \$825 are well within the
19 range of rates charged by attorneys with similar expertise and experience. Likewise, Ms.
20 Salazar’s hourly rate of \$125 is well within the rates for paralegals in California. These rates
21 are comparable to those judicially-approved for other plaintiffs’ firms in California. *See*,
22 *e.g., In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*, MDL
23 No. 2672, 2017 WL 1047834, at *5 (N.D. Cal. Mar. 17, 2017) (finding a lodestar cross-
24 check supports the reasonableness of Class Counsel’s requested fees and approving partner
25 billing rates ranging from \$275 to \$1,600); *Dickey v. Advanced Micro Devices, Inc.*, No. 15-
26 cv-04922-HSG, 2020 WL 870928, at *8 (N.D. Cal. Feb. 21, 2020) (finding rates
27 between \$275 and \$1,000 for attorneys reasonable); *In re Yahoo! Inc. Customer Data Sec.*
28 *Breach Litig.*, No. 16-MD-02752-LHK, 2020 WL 4212811, at *26 (N.D. Cal. July 22, 2020)

(approving rates of \$450 to \$900 for partners, \$160 to \$850 for non-partner attorneys, and \$50 to \$380 for staff members); *Luquetta v. Regents of Cal.*, CGC-05-443007 (San Francisco Super. Ct.) (approving partner rates between \$550 and \$850 per hour); and *Holloway v. Best Buy Co.*, C-05-5056-PJH (MEJ) (N.D. Cal.) (approving 2011 partner rates of \$700 to \$825 an hour).

55. The 2020 Class Action Hourly Rate Survey, conducted by the National Association of Legal Fee Analysis (NALFA), asked class action litigators from the nation's 16 largest legal markets if their current regular hourly rate falls within a given range. The NALFA survey shows that the average hourly rate for partners like me and Ms. Gundzik, who have more than 20 years of experience, ranges between \$801-\$900. See **Exhibit 4**.

56. Defense-side hourly rates are also relevant. In a survey of more than 250 U.S. law firms conducted by the international accounting and consulting firm PricewaterhouseCoopers ("PwC"), the median average 2020 billing rate for litigation equity partners at AmLaw 25 firms was \$1,327/hour and for AmLaw 50 firms was \$1,206/hour.

57. Likewise, the following is a table of hourly rates which was prepared by a Federal Court in *Xu v. Yamanaka*, No. 13-CV-3240 YGR, 2014 WL 3840105, at *4 (N.D. Cal. Aug. 1, 2014):

Firm	Partner Range	Partner Average	Associate Range	Associate Avg.
Weil Gotshall		\$927	\$450–790	\$581
Latham & Watkins	\$895–1110	\$990	\$465–725	\$605
Paul Weiss	\$760–1120	\$1040	\$250–760	\$600
Skadden Arps	\$845–1150	\$1035	\$340–845	\$620
Willkie Farr	\$790–1090	\$950	\$350–790	\$580

These rates for partners include many who have less years of legal experience than Class Counsel, as partnership positions usually begin after eight or nine years of work. I became a partner at the national firm formerly known as LeBoeuf Lamb Greene & MacRae in 1995 but have been working in the legal field for twenty-seven years since that time and have been working as an attorney for thirty-five years. It is therefore reasonable to assume that these average rates certainly apply to partners at these firms with thirty plus years of

1 experience, like Rebecca Gundzik and me. Most of my former partners charge hourly rates
2 in excess of the hourly rate I am seeking.

3 58. The fees we are requesting comport with the attorneys' fee agreements in the
4 lawsuit. Pursuant to the Settlement Agreement, the parties agreed that Class Counsel could
5 seek their attorneys' fees in an amount of up to one-third of the Gross Settlement Amount.
6 The engagement agreement that GGH and Plaintiff Parrilla entered into provides for a fee
7 award in this amount. It was agreed that attorney's fees would be the greater of (1) one-third
8 of all amounts obtained or received in the lawsuit, or (2) the hours worked multiplied by the
9 hourly rates of the attorneys working on the case, plus any additional multiplier awarded by
10 the Court.

11 59. The results obtained support the requested multiplier. The settlement is very
12 good for the Class. It is not likely that many Class Members would have expended the time
13 or effort to take the necessary steps to attempt to recover their unpaid wages. Indeed, in our
14 communications with Class Members we have been thanked for and complimented about
15 our work on this case on behalf of the Class.

16 **The Proposed Service and Release Award to the Class Representative**

17 60. As compensation for his efforts, the Settlement Agreement provides that
18 Representative Plaintiff Bernabe Parrilla will receive a service and release award in the
19 amount of \$10,000 as payment for his time and efforts in pursuing this action, for the risks
20 he took in agreeing to serve as a class representative and as additional compensation for the
21 expanded release that he is providing. In addition to the time that he spent on this matter and
22 the risks he undertook, as an additional requirement to receiving his service and release
23 payment, Plaintiff is being required to sign a broad general release which includes a waiver
24 of Section 1542 of the California Civil Code.

25 61. It is important that the named Plaintiff be paid a fair amount for his services.
26 By agreeing to become a named representative he subjected herself to substantial risks. Mr.
27 Parrilla also spent a significant amount of time on the lawsuit, meeting with us many times
28 by Zoom and by telephone and missing a full day of work to attend the mediation. See

1 *Golba v. Dick's Sporting Goods, Inc.* (2015) 238 Cal. App. 4th 1251, 1272. He provided us
2 with many documents and connected us with other class members who we interviewed. By
3 agreeing to serve as a class representative, Mr. Parrilla has taken significant actions to
4 protect the interests of the Class, and the Class has significantly benefitted from those
5 actions. *Clark v. American Residential Services LLC* (2009) 175 Cal. App. 4th 785, 804.

6 62. If it wasn't for the named Plaintiff, the settlement, pursuant to which
7 approximately \$145,245 will be paid to 75 Class Members, would not have been obtained
8 for the Class. It is not likely that many Class Members would have expended the time or
9 effort to take the necessary steps to attempt to recover their unpaid reimbursements.
10 Although we contend Defendant had not been compensating employees for the amounts at
11 issue in this case for many years, only the named Plaintiff was willing to come forward and
12 seek compensation for all of Defendant's employees.

13 63. If Plaintiff had gone to the Department of Labor, he may have received some
14 compensation, but the Class, LWDA and Aggrieved Employees would have received
15 nothing.

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

18
19 Dated: February 2, 2024



Aaron C. Gundzik

Exhibit 1

CLASS ACTION AND PAGA REPRESENTATIVE ACTION SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Bernabe Parrilla, individually and on behalf of all others similarly situated, (“Plaintiff”) and Defendant MEC Monster Energy Company (“MEC”) subject to the terms and conditions herein and the Court’s approval. The Agreement refers to Plaintiff and MEC collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. For purposes of this Agreement, “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against MEC captioned Bernabe Parrilla v. Monster Energy Company, Case No. 21STCV25855 initiated on June 14, 2021, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. For purposes of this Agreement, “Administrator” means Phoenix Settlement Administrators, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. For purposes of this Agreement, “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. For purposes of this Agreement, “Aggrieved Employee” or “PAGA Employee” means a person employed by MEC in California and classified as a Field Sales Representative (including Club Field Sales Representatives) at any time during the PAGA Period.
- 1.5. For purposes of this Agreement, the “Class” or “Class Member” consist of: All persons employed by MEC in California and classified as Field Sales Representatives (including Club Field Sales Representatives) at any time during the Class Period.
- 1.6. For purposes of this Agreement, “Class Counsel” means Aaron Gundzik and Rebecca Gundzik of Gundzik Gundzik Heeger LLP and Daniel Holzman of Caskey & Holzman.
- 1.7. For purposes of this Agreement, “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. For purposes of this Agreement, “Class Data” means a file containing Class Member identifying information in MEC’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

- 1.9. For purposes of this Agreement, “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.10. For purposes of this Agreement, “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. For purposes of this Agreement, “Class Period” means the period from July 14, 2017 to April 4, 2023.
- 1.12. For purposes of this Agreement, “Class Representative” or “PAGA Representative” or “Plaintiff” means Plaintiff Bernabe Parrilla, named in the Operative Complaint in the Action and seeking Court approval to serve as a Class Representative.
- 1.13. For purposes of this Agreement, “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action in addition to his Individual Class Payment as a Settlement Class Member and individual PAGA Payment as a PAGA Employee.
- 1.14. For purposes of this Agreement, “Complaint” means the operative complaint at the time the Court grants Preliminary Approval of this Settlement, which is currently the First Amended Complaint.
- 1.15. For purposes of this Agreement, “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. For purposes of this Agreement, “MEC” means named Defendant Monster Energy Company.
- 1.17. For purposes of this Agreement, “Defense Counsel” means Marc P. Miles and Laura Booth of Shook Hardy & Bacon LLP.
- 1.18. For purposes of this Agreement, “Effective Date” means the first business day after all the following have occurred: (a) the Settlement Agreement has been executed by all Parties and their respective counsel; (b) the Court has given preliminary approval of the Settlement; (c) the Notice has been given to the Class Members; (d) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (e) the Judgment is final. The Judgment is final as of the earliest of the following occurrences: (a) the date of the Final Approval Order if no Participating Class Member objects to the settlement; (b) if a Participating Class Member submits a timely objection to the settlement, 65 calendar days following notice of entry of the Court’s Final Approval Order, assuming no

appeal or request for review is filed, or (c) if any appeal, writ or other appellate proceeding opposing this Settlement has been filed within 65 calendar days following notice of entry of the Court's Final Approval Order, then 30 calendar days after when any appeal, writ or other appellate proceeding opposing the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final as set forth above and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

- 1.19. For purposes of this Agreement, "Final Approval" means the Court's order granting final approval of the Settlement that disposes of all issues raised in this Action and entering a Judgment approving this Settlement on substantially the same terms provided herein or as may be modified by subsequent mutual agreement of the Parties or on order of the Court.
- 1.20. For purposes of this Agreement, "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.21. For purposes of this Agreement, "Gross Settlement Amount" shall have the meaning ascribed to it in Paragraph 3.1 herein.
- 1.22. For purposes of this Agreement, "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.23. For purposes of this Agreement, "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.24. For purposes of this Agreement, "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.25. For purposes of this Agreement, "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.26. For purposes of this Agreement, "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDS under Labor Code section 2699, subd. (i).
- 1.27. For purposes of this Agreement, "Net Settlement Amount" shall have the meaning ascribed to it in Paragraph 3.8 herein.
- 1.28. For purposes of this Agreement, "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.29. For purposes of this Agreement, "Objecting Settlement Class Member" means a Settlement Class Member, other than Plaintiff, who submits a valid and timely objection to the terms of this Agreement pursuant to Paragraph 4.14 herein.

- 1.30. For purposes of this Agreement, “PAGA Pay Period” means a Pay Period during which an Aggrieved Employee worked for MEC as a Field Sales Representative for at least one day during the PAGA Period.
- 1.31. For purposes of this Agreement, “PAGA Period” means the period from July 14, 2020 to April 4, 2023.
- 1.32. For purposes of this Agreement, “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. For purposes of this Agreement, “PAGA Notice” means Plaintiff’s July 14, 2021, letter to MEC and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. For purposes of this Agreement, “PAGA Penalties” means the \$12,000 of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$3,000) and 75% to LWDA (\$9,000) in settlement of PAGA claims.
- 1.35. For purposes of this Agreement, “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. For purposes of this Agreement, “Preliminary Approval Date” means the date of the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.37. For purposes of this Agreement, “Preliminary Approval Order” means the judicial Order to be entered by the Court, upon the application or motion of the Plaintiff, preliminarily approving this Settlement and providing for the issuance of the Notice to the Class Members, an opportunity to submit timely Requests for Exclusion from the settlement of the Class Claims, an opportunity to submit timely objections to the terms of this Settlement related to the Class Claims, and setting a hearing on the fairness of the terms of the Settlement, including approval of attorney’s fees and costs.
- 1.38. For purposes of this Agreement, “QSF” means the Qualified Settlement Fund set up by the Administrator for the benefit of the Settlement Class Members, and from which the settlement payments shall be made, and which is intended to be a fund that qualifies under Internal Revenue Code section 468.
- 1.39. For purposes of this Agreement, “Release” means the release and discharge of the Class Claims by Plaintiff and all of the Settlement Class Members and the release and discharge of the PAGA Claims by Plaintiff and all of the PAGA Employees.
- 1.40. For purposes of this Agreement, “Released Class Claims” means the claims being released as described in Paragraph 6.9 below, which is limited to any and all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the Complaint, including claims for: (i) failure to pay overtime in violation of Labor Code § 510; (ii) failure to provide meal and rest breaks in violation of Labor Code §§ 226.7 and

512; (iii) failure to provide accurate wage statements in violation of Labor Code § 226(a); (iv) failure to pay unpaid wages at time of discharge in violation of Labor Code §§ 201 and 202; and (v) unfair business practices in violation of Cal. Business & Professions Code §§ 17200. The Released Class Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California's Business and Professions Code §§ 17200). The Released Class Claims include all types of relief available for the Released Class Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys' fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. For purposes of this Agreement, "Released PAGA Claims" means any and all claims, causes of action, demands, damages, or liabilities arising at any time during the PAGA Period that were pled or which could have been pled based on the factual allegations contained in the Complaint, including claims premised on the alleged Labor Code violations identified in Paragraph 6.9, below. The Released PAGA Claims, including but without limitation any claims for damages, penalties, fines, attorney's fees, costs, expenses or interest.

- 1.41. For purposes of this Agreement, the "PAGA Released Claims" means any liability for civil penalties recoverable under PAGA for violations of the following California Labor Code sections: 201, 202, 203, 226(a), 226(b), 226.7, 510 and 512.
- 1.42. For purposes of this Agreement, "Released Parties" means: MEC, including each of its past, present and/or future parent companies, subsidiaries, affiliates and related companies, divisions, related companies, successors and predecessors, as well as their respective past, present and future owners, officers, directors, shareholders, employees, agents, members, managers, principals, representatives, accountants, auditors, consultants, fiduciaries, insurers and reinsurers, investors, lenders, administrators, company-sponsored employee benefit plans, assigns, joint venturers and attorneys, both individually and in their official capacities, as well as all persons acting by, through, under, or in concert with any of these persons or entities.
- 1.43. For purposes of this Agreement, "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member as specified in Paragraph 4.13.
- 1.44. For purposes of this Agreement, "Response Deadline" means the date that is 45 calendar days after the Administrator mails the Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.45. For purposes of this Agreement, "Settlement," "Settlement Agreement" or "Agreement" means this Settlement Agreement and Release of Claims including the disposition of the Action effected by this Agreement and the Judgment.

- 1.46. For purposes of this Agreement, “Workweek” means a workweek during which a Class Member worked for MEC, as a Field Sales Representative for at least one day, during the Class Period. Workweeks will be calculated based on MEC’s business records.

2. RECITALS.

- 2.1. On July 14, 2021, Plaintiff commenced this Action by filing a Complaint, which was amended on September 14, 2021. The Complaint alleges causes of action against MEC for (1) failure to pay overtime wages in violation of Labor Code § 510; (2) failure to provide meal and rest breaks in violation of Labor Code §§ 226.7 and 512; (3) failure to provide compliant wage statements in violation of Labor Code § 226(a); (4) failure to pay final wages in violation of Labor Code §§ 201 and 202; (5) violation of Business & Professions Code § 17200, et al.; and (5) recovery of civil penalties under PAGA for Labor Code violations.
- 2.2. Solely for purposes of settling the Action as set forth in this Agreement, MEC will stipulate and agree that the Class Members described herein who do not Request Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the PAGA Employees are appropriate for representative treatment for purposes of settlement. This stipulation to certification and representative treatment is in no way an admission that class action certification and/or representative treatment is proper and shall not be admissible in this or in any other action except for the sole purposes of enforcing this Agreement.
- 2.3. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. MEC expressly reserves its right to oppose class certification, representative treatment, and the substantive merits of this Action should Final Approval or the Effective Date not occur for any reason.
- 2.4. MEC denies the allegations in the Complaint, denies any liability or wrong doing of any kind whatsoever associated with the claims alleged in the Complaint, and MEC further denies that, for any purpose other than settling this lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff’s claims, MEC contends, among other things, that Plaintiff and the Class Members have been paid proper wages, have been provided compliant meal periods, have been provided compliant rest periods, have been paid timely wages upon separation of employment, and have been provided with accurate itemized wage statements. MEC contends, among other things, that it has complied at all times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, MEC contends that it has complied at all times with the California Business and Professions Code.
- 2.5. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to

MEC and the LWDA by sending the PAGA Notice.

- 2.6. On October 20, 2022, the Parties participated in an all-day mediation presided over by Gig Kyriacou, and thereafter continued the mediation telephonically for months, which led to this Agreement to settle the Action. Prior to mediation, Plaintiff conducted a thorough investigation into the facts of this Action and obtained, through formal and informal discovery, policy documents, personnel files, pay records and other materials. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. FootLocker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.7. The Parties agree that neither the Parties' Settlement, this Agreement, nor the acts to be performed or judgments to be entered pursuant to the terms of the Settlement and Agreement, shall be construed as an admission by MEC or any of the Released Parties of any wrongdoing or violation of any statute or law or liability on the claims or allegations in the Action.
- 2.8. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Complaint.
- 2.9. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.
- 2.10. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.
- 2.11. The Court has not granted class certification.
- 2.12. The Parties, Class Counsel and Defense Counsel represent that, other than the matter of *Laura Hernandez v. Monster Energy Company*, currently in arbitration with JAMS, they are not aware of any other potentially related cases or pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 3.9 below, MEC promises to pay \$285,000 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. MEC has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to MEC.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by

the Court in the Final Approval:

- 3.3. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). MEC will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.4. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$95,000 and a Class Counsel Litigation Expenses Payment of not more than \$25,000. MEC will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds MEC harmless, and indemnifies MEC, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.5. To the Administrator: An Administrator Expenses Payment not to exceed \$5,500 (except for a showing of good cause and as approved by the Court), for expenses including, but not limited to printing, distributing, and tracking forms for this Settlement, calculating estimated amounts per Class Member, tax reporting, distributing the Net Settlement Amount to Settlement Class Members and PAGA Employees, distributing Court-approved attorneys' fees and litigation costs to Class Counsel, distributing the PAGA Allocation to the LWDA, and providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, as requested by the Parties. The costs of the Administrator for work done shall be paid regardless of the outcome of this Settlement. To the extent the Administration Expenses are less or the Court approves payment of less than \$5,500, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.6. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all

Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Each Settlement Class Member's share of the Settlement Class Payment will be distributed by the Administrator by mail to each Settlement Class Member. Uncashed, unclaimed or abandoned checks shall be transmitted to the California Controller's Office, as set forth in Paragraph 4.2 herein. If there are any timely submitted Requests for Exclusion, the Administrator shall proportionately increase each Settlement Class Member's share of the Settlement Class Payment so that the amount distributed to Settlement Class Members equals 100% of the Net Settlement Amount.

3.6.1 Tax Allocation of Individual Class Payments. One-third of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining two-thirds of each Participating Class Member's Individual Class Payment, attributed to interest and penalties, will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.7. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$12,000 to be paid from the Gross Settlement Amount, with 75% (\$9,000) allocated to the LWDA PAGA Payment and 25% (\$3,000) allocated to the Individual PAGA Payments.

3.7.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$3,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

3.8. Net Settlement Amount: The Net Settlement Amount is defined as the Gross Settlement Amount (\$285,000.00) less the following sums, subject to approval by the Court: (1) attorney's fees (not to exceed one-third of the Gross Settlement Amount, or \$95,000.00); (2) reasonable litigation costs (not to exceed \$25,000.00); (3) the Service Payment (not to exceed \$10,000.00 to Plaintiff); (4) the PAGA Penalty Payment in the amount of \$12,000.00; and (5) Administration Costs (not to exceed \$5,500). Settlement Payments to

the Class Members will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth in Paragraph 3.6, herein. In the event that the Court reduces the attorney's fees, litigation costs, Service Payment or Administration Costs, or either increases or decreases the PAGA Allocation, the Net Settlement Amount shall be increased or decreased accordingly.

- 3.9. Escalator Clause: MEC estimates there are approximately 6,516 Workweeks ("Represented Workweeks") during the Class Period through April 4, 2023. If it is later determined that the total number of Workweeks during the Class Period exceeds 110% of the Represented Workweeks at the time the Class List and Data is delivered to the Administrator to prepare the Notice, MEC shall increase the total Gross Settlement Amount by the same percentage that the total actual Workweeks exceed 110% of Represented Workweeks.
- 3.10. Payroll Taxes and Required Withholdings: As to that portion of the Settlement Class Members' Settlement Payments that constitute wages, MEC shall be separately responsible for only its share of any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount. Except for any employer payroll taxes, it is understood and agreed that MEC's maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Administrator shall provide to MEC an estimate of the employer's share of payroll taxes within ten (10) calendar days of sending out the Notice to the Class. Upon calculation of each Settlement Class Member's share of the Net Settlement Amount, and at least three (3) calendar days after Final Approval (if not sooner), the Administrator shall advise MEC of the amount of the employer's share of payroll taxes. MEC will provide that amount to the Administrator within fifteen (15) business days of the Effective Date. The Administrator shall remit the employer payroll taxes due to the appropriate taxing authorities.
- 3.11. Non-reversionary Settlement: No portion of the Gross Settlement Amount will revert to MEC. Settlement Class Members who do not timely submit valid Requests for Exclusion are entitled to 100% of the Net Settlement Amount Distribution, in the form of Settlement Class Payments to Settlement Class Members, will be made directly to each Settlement Class Member. If there are any timely submitted Requests for Exclusion, the Settlement Administrator shall proportionately increase the individual Settlement Class Payment for each Settlement Class Member so that the amount actually distributed to Settlement Class Members equals 100% of the Net Settlement Amount. The Administrator shall be responsible for accurately and timely reporting any remittance obligations with respect to unclaimed funds as a result of a Settlement Class Member not cashing a Settlement Class Payment by the check cashing deadline, as set forth in Paragraphs 4.20 and 8.8.6 herein.
- 3.12. Tax Liability: Class Counsel, MEC, and Defense Counsel make no representations as to the tax treatment or legal effect of the Settlement Payments called for hereunder, and Plaintiff and the Class Members are not relying on any statement or representation by Class Counsel, MEC, or Defense Counsel in this regard. Plaintiff and Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective Settlement Payments described herein. Income tax

withholding will also be made pursuant to applicable federal, state, and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, are changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring MEC into compliance with any such changes.

- 3.13. CIRCULAR 230 DISCLAIMER. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, THEIR, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Upon receipt of Gross Settlement Amount from MEC, the Administrator will issue and send out the Settlement Payment checks to the Class Members as provided herein. Settlement Class Payments and PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will automatically be cancelled by the Administrator if they are not cashed, deposited or otherwise negotiated by the Class Member within that time. Settlement Payment checks which have expired will not be reissued. In the event that any settlement check is returned to the Administrator within 180 days of mailing, the Administrator will, within five (5) business days of receipt of the returned settlement check, perform a Class Member Address Search to locate the

individual. If a new address is located by these means, the Administrator will have ten (10) business days to re-issue the check. The Administrator shall provide notice to Class Counsel and Defense Counsel of any settlement checks remaining un-cashed for more than 180 calendar days. Neither MEC, Defense Counsel, Class Counsel, Plaintiff, nor the Settlement Administrator will have any liability for lost or stolen settlement checks, forged signatures on settlement checks, or unauthorized negotiation of settlement checks. Without limiting the foregoing, in the event a Settlement Class Member notifies the Administrator that he/she/they believe that a settlement check has been lost or stolen, the Administrator shall immediately stop payment on such check. If the check in question has not been negotiated prior to the stop payment order, the Administrator will issue a replacement check.

- 4.2. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void date, shall be transmitted to the California State Controller's Office pursuant to California's Unclaimed Property Law in the name of each Class Member who failed to cash their Settlement Payment, which would permit any such Class Members to claim their checks at a later date. Upon completion of its calculation of Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A declaration attesting to completion of all payment obligations will be provided to Class Counsel and Defendant's Counsel and filed with the Court by Class Counsel.
- 4.3. No person shall have any claim against MEC, Defense Counsel, Plaintiff, Class Counsel, or the Administrator based on mailings, distributions, payments, or reports made in accordance with or pursuant to this Agreement. This provision does not, however, prevent a Party from seeking enforcement of this Agreement.
- 4.4. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, MEC estimates there are 75 Class Members who collectively worked a total of 6,516 Workweeks, and 47 Aggrieved Employees who worked a total 1,359 PAGA Pay Periods. The Administrator will independently review the Class Workweeks attributed to each Class Member and PAGA Pay Periods attributed to each PAGA Employee, and will calculate the estimated amounts due to each Class Member and each PAGA Employee, as well as the actual amounts due to each Settlement Class Member in accordance with this Settlement. The Administrator shall report, in summary or narrative form, the substance of its findings.
- 4.5. Within 10 days of the close of the Response Deadline, the Administrator will provide to Class Counsel and Defense counsel a final report identifying all objections and Requests for Exclusion. The Administrator shall provide counsel for the Parties, at least 25 days prior to the final approval hearing, a declaration of due diligence and proof of mailing with regard to the mailing of the Class Notice.
- 4.6. Any and all disputes relating to the Administrator's performance of its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction pursuant to California Code of Civil Procedure § 664.6 over the terms and conditions of this

Settlement until all payments and obligations contemplated by this Settlement have been fully carried out. Prior to presenting any issue to the Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of Court intervention.

- 4.7. Without prejudice to any other remedies, the Administrator shall agree to be responsible for any breach of its obligations (whether committed by the Settlement Administrator or its agents) and to indemnify and hold the Parties and their counsel harmless from and against all liabilities, claims, causes of action, costs and expenses (including legal fees and expenses) arising out of any breach committed by the Administrator or its agents.
- 4.8. Class Data. Not later than 10 calendar days after the Court grants Preliminary Approval of the Settlement, MEC will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. The Class Data, without names (and instead using a unique identifier), contact information or social security numbers, shall also be provided to Class Counsel. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. MEC has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which MEC must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.9. Funding of Gross Settlement Amount. MEC shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay MEC's share of payroll taxes by transmitting the funds into the QSF created by the Administrator no later than 21 days after the Effective Date. Upon MEC's transfer of the Gross Settlement Amount and its share of employer payroll taxes to the QSF, MEC, the Released Parties and Defense Counsel shall have no further monetary liability or financial responsibility to Class Counsel, Plaintiff, Settlement Class Members, the Administrator, or any vendors or third parties employed by Plaintiff, Class Counsel, and/or the Administrator in connection with the Action. MEC shall not be obligated to make any payments contemplated by this Agreement unless and until the Court enters the Final Approval Order and Final Judgment, and after the Effective Date of the Agreement.
- 4.10. Payments from the Gross Settlement Amount. Within ten days after MEC funds the Gross Settlement Amount, the Administrator will mail checks for or otherwise pay all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.11. Class Members Cannot Exclude Themselves from the Released PAGA Claims: Class

Members submitting a Request for Exclusion will nevertheless receive their pro-rata share of the PAGA Settlement Payment. If the Court approves the compromise of the PAGA Claim, all Class Members are bound by the Court's resolution of that Claim. Plaintiff shall serve a notice of settlement on the LWDA at or before the time Plaintiff files the motion for preliminary approval.

- 4.12. Disputes Regarding Class Data. Class Members may dispute their Workweeks and/or PAGA Pay Periods if they feel they were employed more Workweeks in the Class Period and/or PAGA Pay Periods in California than MEC's records show by timely submitting evidence to the Administrator. Each Class Member is responsible for maintaining a copy of any documents sent to the Administrator and a record of proof of mailing. MEC's records will be presumed determinative absent reliable evidence to rebut MEC's records, but the Administrator will evaluate the evidence submitted by the Class Member and provide the evidence submitted to Class Counsel and MEC's Counsel who agree to meet and confer in good faith about the evidence to determine the Class Member's actual number of Covered Workweeks and/or PAGA Pay Periods and estimated share of the Net Settlement Amount. If Class Counsel and Defense Counsel are unable to agree, they agree to submit the dispute to the Administrator to render a final decision. Class Members will have until the Response Deadline to dispute Covered Workweeks and/or PAGA Pay Periods. Information or documents submitted after the expiration of the Response Deadline will not be considered by the Administrator, unless otherwise agreed to by the Parties. In the event that the Administrator increases the number of Covered Workweeks and/or PAGA Pay Periods for any Class Member, then the Administrator will recalculate each Settlement Class Member's share of the Net Settlement Amount; accordingly, in no event will MEC be required to increase the Gross Settlement Amount.
- 4.13. Right of Class Member to Request Exclusion from the Settlement: Any Class Member, other than Plaintiff, may request to be excluded from settlement of the Class Claims by submitting a "Request for Exclusion" to the Settlement Administrator, postmarked on or before the Response Deadline at the address set forth in the Notice. Requests for Exclusion must: (1) contain the name, address, telephone number, last four digits of the Class Member's Social Security Number, and the signature of the Class Member requesting exclusion; (2) clearly state that the Class Member does not wish to be included in the Settlement; (3) be returned by mail, email or fax to the Settlement Administrator at the specified address; and, (4) be postmarked or received on or before the Response Deadline. A Request for Exclusion will be timely only if made in accordance with the terms set forth herein. The Administrator shall provide any Requests for Exclusion to Class Counsel and Defense Counsel within three (3) days of receipt, and the Administrator shall attach the same to its declaration of due diligence it files with the Court prior to the final approval hearing. Any Class Member who timely requests exclusion in compliance with these requirements: (i) will not have any rights under this Agreement with respect to the Class Claims, including the right to object, appeal, or comment on the Settlement; (ii) will not be entitled to receive an Individual Class Payment under this Agreement; and (iii) will not be bound by the Released Class Claims. Any Class Member who does not request exclusion from the Settlement, regardless of whether they cash their settlement check, will be bound by all terms of the Settlement, including those pertaining to Released Class Claims, Released Parties, as well as any Judgment that may be entered by the Court if it

grants final approval of the Settlement. PAGA Employees will receive their share of the PAGA Settlement Payment and will be deemed to have released the PAGA Released Claims regardless of whether they are Participating Class Members. PAGA Employees may not opt out or otherwise request exclusion from the settlement of PAGA Claims.

- 4.14. Right of Settlement Class Member to Object to The Settlement: PAGA Employees may not object to the Settlement with respect to the PAGA Claims. However, any Settlement Class Member, other than Plaintiff, may object to the Settlement with respect to the Class Claims. To object, the Settlement Class Member must submit a simple written brief or statement of objection to the Settlement Administrator, postmarked or otherwise received on or before the Response Deadline at the address set forth in the Notice. Any Participating Class Member may also appear at the Final Approval Hearing to present an oral objection to the Settlement. If any Settlement Class Member chooses to submit a written objection, the written objection should contain sufficient information to confirm the identity of the Objecting Settlement Class Member and the basis of the objection, including (1) the full name of the Objecting Settlement Class Member; (2) the signature of the Objecting Settlement Class Member; (3) the grounds for the objection, as well as any documentation or evidence in support thereof; and (4) if the Objecting Settlement Class Member is represented by counsel, the name and address of his/her/their counsel. The Administrator shall provide objections, if any, to Class Counsel and Defense Counsel within three (3) days of receipt, and the Administrator shall attach the same to its declaration of due diligence it files with the Court prior to the final approval hearing. Any Settlement Class Member who files an objection remains eligible to receive his/her/their share of the Settlement Class Payment. If a Class Member timely submits both an objection and a Request for Exclusion, the objection will be considered invalid. Settlement Class Members also have the right to appear at the final approval hearing to state any objection. Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must either make a timely complaint in intervention before final judgment or by file a motion to set aside and vacate the class judgment under Code of Civil Procedure § 663 to have standing to appeal entry of judgment approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). Neither Plaintiff nor MEC shall be responsible for any fees, costs, or expenses incurred by any Class Member and/or his/her/their counsel related to any objections to the Settlement.
- 4.15. Failure to Object. Any Class Member who does not object prior to or at the final approval hearing will be deemed to have waived any objections and will be foreclosed from making any objections (whether at the final approval hearing, by appeal, or otherwise) to the Settlement. If the Objecting Settlement Class Member does not formally intervene in the action or move to set aside any judgment and/or the Court rejects the Objecting Settlement Class Member's objection, the Objecting Settlement Class Member will still be bound by the terms of this Agreement and waives any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, motion for new trial, a motion under California Code of Civil Procedure section 473, and extraordinary writs.
- 4.16. Responses to Objections. Class Counsel and Defense Counsel may, at least 5 calendar

days (or some other number of days as the Court shall specify) before the final approval hearing, file responses to any written objections submitted to the Court.

- 4.17. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.18. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.19. Within 60 days after settlement checks are mailed, the Administrator shall mail postcards to all Class Members who have not yet cashed their settlement checks. The postcards shall inform such Class Members of the upcoming void date for settlement checks and offer to replace any checks that have been lost or not received. Prior to sending such postcards, the Administrator shall perform a Class Member Address Search to locate any new addresses for all Class Members who have not yet negotiated their settlement checks. The reminder postcards shall be sent to the Class Member's new address as determined through the Class Member Address Search.
- 4.20. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.21. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate MEC to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. ATTORNEY'S FEES AND COSTS

- 5.1 In consideration for settlement of the Action and the Release described in Paragraph 6 and its subparts herein, MEC will not object to Class Counsel's application to the Court for attorney's fees not to exceed one-third of the Gross Settlement Amount (\$95,000) and litigation costs not to exceed \$25,000.00. The amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and administration of the Settlement.
- 5.2 Class Counsel will submit an application for attorneys' fees and litigation costs to the Court for approval prior to the date of the hearing for final approval of the Settlement. The ultimate amount of any award for attorneys' fees and litigation costs is to be determined by the Court, and MEC is not agreeing to pay any specific amount(s) other than the amount(s) awarded by the Court. The Administrator (and not the MEC) shall issue an IRS Form 1099 to Class Counsel reflecting the awarded attorneys' fees and costs.
- 5.3 Should Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees and/or litigation costs, the difference between the lesser amount(s) and the maximum amount of \$95,000.00 for attorneys' fees and \$25,000.00 for litigation costs shall be added to the Net Settlement Amount. As with the Settlement Payments to the Settlement Class, the attorney's fees and costs approved by the Court shall be paid to Class Counsel, within seven (7) business days after MEC deposits the Gross Settlement Amount into the QSF.
- 5.4 The Parties agree that, over and above the total amount of the attorneys' fees and litigation costs awarded to Class Counsel by the Court, Plaintiff and MEC shall each bear her/its own fees and costs incurred by her/it or arising out of this Action; the negotiation, execution, or implementation of this Settlement; and/or the process of obtaining, administering or challenging any Preliminary Approval Order, Final Approval, and/or Judgment. The Parties will not seek reimbursement of any such fees and/or costs from any party to this Agreement or any of the Released Parties.
- 5.5 Any order, finding, ruling, holding or proceeding relating to any such applications for attorneys' fees and litigation costs, or any separate appeal from any separate order, finding, ruling, holding, or proceeding relating to them or reversal or modification of them, shall not operate to terminate or cancel this Settlement. The award of an attorneys' fees and costs award in the amounts sought is not a material term of this Agreement and the award of any of these items at less than requested by Class Counsel does not give rise to a basis to abrogate this Agreement.
- 5.6 In the event that the Court awards less than one-third of the Gross Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any Final Approval Order and Judgment. While Class Counsel retains the right to appeal any such reductions, such appeal will delay Defendant's obligation to make all payments set forth in this Agreement. If, after the exhaustion of any such appellate review, additional amounts not awarded to as attorneys' fees and litigation costs and expenses shall be added

to the Net Settlement Amount to be distributed to Settlement Class Members.

- 5.7 All claims for attorneys' fees and costs that Class Counsel, Plaintiff, the Settlement Class Members and the PAGA Employees may possess against MEC have been compromised and resolved in this Settlement and shall not be affected by any appeal that Class Counsel may file.
- 5.8 Class Counsel shall be solely responsible for the division and distribution of any and all Court-approved attorneys' fees and litigation costs between or among Class Counsel and any other attorney representing or claiming to represent Plaintiff, any other Class Member and/or any other PAGA Employee. Class Counsel agrees to release MEC and the Released Parties from any responsibility for or liability arising out of or related to the division and distribution of any Court-approved attorneys' fees and litigation costs.

6. RELEASES OF CLAIMS.

- 6.1 The Parties agree that it is their intent that the terms set forth in this Agreement will release any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action of any kind by each and all of the Settlement Class Members (including participation to any extent in any class or collective action), to obtain a recovery arising out of each and all of the claims, causes of action, demands, damages, penalties, and/or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the Complaint, as set forth in more detail in the Paragraphs below . Effective on the date when MEC fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members who have not submitted a valid and timely Request for Exclusion as to Class Claims other than PAGA Claims, and Class Counsel will release claims against all Released Parties as follows:
- 6.2 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, contracts, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including for back wages, statutory penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of any nature whatsoever, from the beginning of time through the execution of this Agreement, whether known or unknown, suspected or unsuspected, concealed or hidden, including but not limited to all claims arising out of, based upon, or relating to Plaintiff's employment with MEC or the remuneration for such employment (collectively, the "Class Representative's Released Claims") by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter up to and including the date of Plaintiff's execution of this Agreement, including but not limited to, any and all claims under Title VII of the Civil Rights Act of 1964 (Title VII), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) (regarding existing but not prospective claims), the Fair Labor Standards Act (FLSA),] the Equal Pay Act, the Employee Retirement Income Security Act (ERISA) (regarding unvested benefits), the Civil Rights Act of 1991, Section 1981 of U.S.C. Title

42, the Fair Credit Reporting Act (FCRA), the Worker Adjustment and Retraining Notification (WARN) Act, the National Labor Relations Act (NLRA), the Age Discrimination in Employment Act (ADEA), the Uniform Services Employment and Reemployment Rights Act (USERRA), the Genetic Information Nondiscrimination Act (GINA), the Immigration Reform and Control Act (IRCA), the California Fair Employment and Housing Act (FEHA), the California Labor Code, the California Constitution, the California Family Rights Act (CFRA), all as amended and their respective implementing regulations, and any other federal, state, local, or foreign law (statutory, regulatory, or otherwise) regarding discrimination, harassment, retaliation and all other claims that may be legally waived and released; however, the identification of specific statutes is for purposes of example only, and the omission of any specific statute or law shall not limit the scope of this general release in any manner. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

- 6.3 Plaintiff expressly waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of the State of California and do so understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

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

- 6.4 Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Plaintiff and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Plaintiff knew of, as well as all claims that he does not know or suspect to exist in his favor against the Released Parties, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representative's Released Claims.
- 6.5 Notwithstanding anything in this Agreement to the contrary, nothing contained herein shall constitute a waiver or release by Class Representative of any claim for workers' compensation benefits or any other claim which cannot be legally waived. Plaintiff hereby agrees not to bring or participate in any class or collective action against MEC or any Released Party that asserts, in whole or in part, any claims that arose before he signed this

Agreement, whether or not such claims (if brought by him individually) are released by this Agreement. Nothing in this Agreement prohibits Plaintiff from reporting possible violations of federal or state law or regulation to the government, including but not limited to the EEOC, Department of Justice, Securities and Exchange Commission, Congress, and any agency inspector general, or filing a charge with or participating in an investigation or proceeding conducted by the EEOC or a comparable state or local agency (collectively, any such activity shall be referred to as a “Government Report”). However, by signing this Agreement, Plaintiff understands and agrees that he is waiving the right to receive any award of monetary or other benefits or any other legal or equitable relief whatsoever, including but not limited to payment for attorneys’ fees, costs or disbursements, resulting from any such proceeding by Plaintiff, anyone else on his behalf, or otherwise, unless this Agreement is invalidated. Plaintiff agrees to waive such personal relief even if it is sought on his behalf by an agency, a governmental authority, or a person claiming to represent his and/or any member of a class.

- 6.6 Release by Participating and Non-Participating Class Members Who Are Aggrieved Employees: Upon the Effective Date of this Settlement, Plaintiff, the LWDA, and each PAGA Employee, for themselves and for their respective spouses, domestic partners, marital community, children, estates, trusts, attorneys, heirs, successors, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, assigns, and representatives, will forever completely release and discharge the Released Parties from the PAGA Released Claims. Each PAGA Employee and the LWDA will be deemed to have made this Release as if by manually signing it, whether they timely submit a Request for Exclusion from the Settlement Class or not. The Notice will advise all PAGA Employees of the binding nature of this Release and such Notice shall have the same force and effect as if the Agreement were executed by each PAGA Employee. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released PAGA Claim. Aggrieved Employees shall not waive section 1542 of the California Civil Code.
- 6.7 Binding Effect on PAGA Employees and the LWDA. The PAGA Released Claims are released by Class Representative in his representative capacity as authorized proxy and agent for the State of California and the LWDA and as a private attorney general “aggrieved employee” acting on behalf of himself and all PAGA Employees.
- 6.8 The Release of PAGA Released Claims will therefore be binding upon all PAGA Employees, regardless of whether they cash, deposit, or negotiate their settlement checks within the 180-day period.
- 6.9 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the operative Complaint in the Action, including but not limited to claims for: (i) violation of Labor Code §§ 226.7 and 512; (ii) violation of Labor Code §§ 510 and

1194; (iii) violation of Labor Code §§ 201, 202, 203, and 204; (iv) violation of Labor Code § 226; and (v) violation of Business & Professions Code §§ 17200, which are premised on the violations described above (collectively, the “Released Claims”). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California’s Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any Released Claims if raised in the future. Class Members shall not waive section 1542 of the California Civil Code. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. Each Settlement Class Member will be deemed to have made this Release as if by manually signing it. The Notice will advise all Settlement Class Members of the binding nature of this Release and such Notice shall have the same force and effect as if the Agreement were executed by each Settlement Class Member. This Agreement may be pleaded by any Released Party as a full and complete defense to and may be used as the basis for an injunction against, any action, suit, or other proceeding that has been or may be instituted, prosecuted, or attempted, asserting any Released Class Claim.

- 6.10 Binding Effect on Settlement Class Members. Except for those Class Members who timely submit a Request for Exclusion as set forth in Paragraph 4.13 herein, all Class Members will: (i) be deemed to be Settlement Class Members for all purposes under this Agreement; (ii) will be bound by the terms and conditions of this Agreement, the Judgment, and the Release set forth herein, regardless of whether they cash, deposit or negotiate their settlement checks within the 180-day period; and (iii) except as otherwise provided herein, will be deemed to have waived all objections and oppositions to the fairness, reasonableness, and adequacy of the Settlement.

7. MOTION FOR PRELIMINARY APPROVAL.

- 7.1 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals. The Parties shall submit this Agreement to the Court in support of Plaintiff’s unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Agreement, Plaintiff shall apply to the Court for the entry of an order:
- a. Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney’s fees and costs, and the Class Representative’s Service Payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;

- b. Certifying a Class for purposes of the Settlement only;
- c. Approving as to form and content the proposed Notice;
- d. Directing the mailing of the Notice;
- e. Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- f. Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- g. Appointing Phoenix Settlement Administrators as the Administrator, and order the Administrator to issue Notices as outlined above.

- 7.2 MEC's Declaration in Support of Preliminary Approval. Within 30 days of the full execution of this Agreement, MEC will prepare and deliver to Class Counsel a signed Declaration from MEC and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and MEC shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement other than the matter of *Laura Hernandez v. Monster Energy Company*, currently in arbitration with JAMS.
- 7.3 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 7.4 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than

30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

- 7.5 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.
- 7.6 In the event the Court declines, on its first hearing, to approve this Agreement because the PAGA Allocation is not adequate, then the Parties shall cooperate in good faith to reallocate the total settlement proceeds, with the Gross Settlement Amount, to try to achieve Final Approval of the Agreement upon any subsequent Court hearings.

8. SETTLEMENT ADMINISTRATION.

- 8.1 Selection of Administrator. The Parties have jointly selected Phoenix Settlement Administrators ("PSA") to serve as the Administrator and verified that, as a condition of appointment, PSA agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a QSF under US Treasury Regulation section 468B-1.
- 8.4 Notice to Class Members.
- 8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 8.4.2 Using best efforts to perform as soon as possible, and in no event later than 10 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this

Agreement as Exhibit 1. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- 8.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 8.4.4 It will be conclusively presumed that if an envelope has not been returned within thirty days of the mailing that the Class Member received the Notice.
- 8.4.5 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 8.4.6 If the Administrator, MEC or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

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

- 8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.6 and 6.9 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.6 of this Agreement and are eligible for an Individual PAGA Payment.
- 8.6 Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.
- 8.7 Objections to Settlement.
- 8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 8.7.2 Participating Class Members may send written objections to the Administrator, by

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

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

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

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

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

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

8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

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

8.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 5 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

9. **MEC'S RIGHT TO WITHDRAW.** MEC may, but is not obligated to, elect to withdraw from the Settlement Agreement at any time prior to Final Approval if (a) 10% or more of all Class Members submit valid and timely Requests for Exclusion, provided MEC exercises this right of rescission, in writing, to Class Counsel within 7 calendar days after the Response Deadline and the Administrator notifies the Parties of the total number of Requests for Exclusion; (b) the Settlement is construed by the Court in such a fashion that MEC would be required to pay more than the Gross Settlement Amount; (c) the Court does not approve the Settlement; (d) the Court does not certify the Settlement Class, does not certify a class releasing the claims set forth herein, or otherwise makes an order inconsistent with any of the terms of this Settlement Agreement; (e) Plaintiff or Class Counsel breach any term in the Settlement Agreement; or (f) the LWDA or any other state or governmental agency seeks to intervene or commences an enforcement action. If this option is exercised by MEC, MEC shall be responsible for the costs incurred by the Settlement Administrator for the settlement administration.

9.1 The Parties enter into this Agreement on a conditional basis. If the Court does not enter the Final Approval Order and Judgment or the Effective Date does not occur, this Agreement shall be deemed null and void *ab initio*, and shall be of no force or effect whatsoever, the Parties shall be returned to their respective positions as if no settlement had been contemplated, and no party may use the fact that the Parties agreed to settle, or the terms provided herein as an admission, evidence, or for any other purpose, including, without limitations, to prove any liability or the amount of any sum allegedly owed by any party.

9.2 In the event this Settlement is nullified or terminated as provided above: (i) this Settlement shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or proceedings shall have any force or effect and no party shall be

bound by any of its terms, and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Plaintiff and Class Counsel agree that MEC retains and reserves all rights to challenge all causes of action alleged in the Action upon all procedural and factual grounds, as well as asserting any and all other potential defenses and/or privileges.

- 9.3 If the Settlement is voided or fails for any reason, other than as set forth above, Plaintiff and MEC will have no further obligations under the Settlement, including any obligation by MEC to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Settlement.
- 9.4 If the Settlement is voided or fails for any reason, any costs incurred by the Administrator shall be borne equally by MEC and Plaintiff, unless otherwise specified in this Agreement.
- 9.5 MEC must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under LaborCode section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”) containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel’s application to the Court for Class Counsel’s Fee Payment and Class Counsel’s Litigation Expenses Payment;
- (c) Approving the Class Representative Service Payment;
- (d) Adjudging that the Administrator has fulfilled its initial notice and reporting duties under the Settlement.
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action, thereby permanently barring all Participating Class Members from prosecuting any Released Class Claims against any of the Released Parties and permanently barring all Aggrieved Employees and the LWDA from prosecuting any Released PAGA Claims against any of the Released Parties;
- (g) Adjudging that notwithstanding the submission of any timely Requests for Exclusion, Class Members are still bound by the Settlement and Release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State’s claims for civil penalties pursuant to PAGA are also extinguished;
- (h) Directing the posting of the Judgment on the Administrator’s website as sufficient notice of entry of Judgment, as required by California Rule of Court 3.771(b).

- 10.1 Any revised final judgments will also be provided to Defense Counsel for review and approval before they are submitted to the Court.
- 10.2 In accordance with section 2699(1)(3) of the California Labor Code, Plaintiff shall provide to the LWDA a copy of the Final Approval Order and Judgment entered by the Court in this action within ten (10) days after entry of the Final Approval Order and Judgment.
- 10.3 Plaintiff shall provide drafts of these documents to Defense Counsel not later than three court days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.4 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.5 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
11. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
12. **WAIVER OF RIGHT TO APPEAL.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 12.1 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release

to be granted by Class Members) this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

- 12.2 Dispute Resolution. Prior to instituting legal action to enforce the provisions of the MOU and/or this long-form Settlement Agreement that is forthcoming or to declare rights and/or obligations under the MOU and/or this long-form Settlement Agreement, a Party shall provide written notice to the other Party and allow thirty (30) calendar days to cure the alleged deficiencies, and during such 30 day period, Plaintiff and MEC agree to seek the help of mediator Gig Kyriacou to resolve any dispute that they are unable to resolve informally. During this period, the Parties shall bear their own attorneys' fees and costs.
13. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

14. **ADDITIONAL PROVISIONS.**

- 14.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by MEC that any of the allegations in the Operative Complaint have merit or that MEC has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that MEC's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Judgment, MEC reserves the right to contest certification of any class for any reasons, and MEC reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest MEC's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 14.2 Confidentiality and Public Comment. Neither Plaintiff nor Class Counsel shall issue any press release or announcement of any kind related in any way to the Settlement. Plaintiff, Class Counsel, MEC and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom

will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. In all other cases, Plaintiff and Class Counsel agree to limit their statements regarding the terms of the Settlement, whether oral, written or electronic (including the world wide web), to say the Action has been resolved and that Plaintiff and his counsel are satisfied with the Settlement terms. Nothing in this paragraph is intended to restrict Class Counsel's obligations to faithfully discharge their duties as Class Counsel, including but not limited to, communicating with the Settlement Class Members regarding the Settlement.

- 14.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 14.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire Agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 14.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and MEC, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement. It is agreed that because the members of the Class are so numerous, it is impossible or impracticable to have each member of the class execute this Settlement. The Notice will advise all Class Members of the binding nature of the Released Class Claims and Released PAGA Claims, and the release shall have the same force and effect as if this Settlement were executed by each member of the Class.
- 14.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 14.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action,

cause of action, or right released and discharged by the Party in this Settlement.

- 14.8 No Tax Advice. Neither Plaintiff, Class Counsel, MEC nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 14.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 14.10 Agreement Binding on Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the successors, heirs, trustees, executors, administrators and assigns of each of the Parties.
- 14.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 14.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 14.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 14.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by MEC in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from MEC unless, prior to the Court's discharge of the Administrator's obligation, MEC makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 14.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 14.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

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

To Plaintiff:

Aaron C. Gundzik
aaron.gundzik@gghllp.com
Rebecca Gundzik
rebecca.gundzik@gghllp.com
Gundzik Gundzik Heeger LLP
14011 Ventura Blvd., Suite 206E
Sherman Oaks, CA 91423
Telephone: (818) 290-7461
Facsimile: (818) 918-2316

Daniel M. Holzman
dholzman@caskeyholzman.com
Caskey & Holzman
24025 Park Sorrento, Ste. 400
Calabasas, CA 91302
Telephone: (818) 657-1070
Facsimile: (818) 297-1775

To MEC:

Marc P. Miles
mmiles@shb.com
Laura M. Booth
lbooth@shb.com
Shook, Hardy & Bacon, LLP
5 Park Plaza, Suite 1600
Irvine, California 92614
Telephone: (949) 475-1500
Facsimile: (949) 475-0016

- 14.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 14.19 No Knowledge of Related Cases. Other than the matter of *Laura Hernandez v. Monster Energy Company*, currently in arbitration with JAMS, neither the Parties nor their counsel are aware of any potentially related cases, or cases with partially or completely overlapping class definitions.
- 14.20 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

14.21 Final Judgment. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement

Plaintiff BERNABE PARRILLA

Dated: August __, 2023

Defendant MONSTER ENERGY COMPANY

By: 

Its: SVP Chief Litigation Counsel

Dated: August 7, 2023

Approved as to form:

Dated: August 8, 2023

SHOOK, HARDY & BACON


Marc P. Miles
Laura M. Booth
Attorneys for Defendant Monster Energy
Company

Dated: August __, 2023

GUNDZIK GUNDZIK HEEGER LLP

Aaron C. Gundzik
Rebecca G. Gundzik
Attorneys for Plaintiff Bernabe Parrilla,
individually and on behalf of all other similarly
situated

Dated: August __, 2023

CASKEY & HOLZMAN

Daniel Holzman
Attorneys for Plaintiff Bernabe Parrilla
individually and on behalf of all other similarly
situated

14.21 Final Judgment. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement


Bernabe Parrilla Padilla (Aug 8, 2023 11:18 PDT)

Plaintiff BERNABE PARRILLA

Dated: August 8, 2023

Defendant MONSTER ENERGY COMPANY

By: _____
Its: _____

Dated: August __, 2023

Approved as to form:

Dated: August __, 2023

SHOOK, HARDY & BACON

Marc P. Miles
Laura M. Booth
Attorneys for Defendant Monster Energy
Company

Dated: August 8, 2023

GUNDZIK GUNDZIK HEEGER LLP



Aaron C. Gundzik
Rebecca G. Gundzik
Attorneys for Plaintiff Bernabe Parrilla,
individually and on behalf of all other similarly
situated

Dated: August 8, 2023

CASKEY & HOLZMAN



Daniel Holzman
Attorneys for Plaintiff Bernabe Parrilla
individually and on behalf of all other similarly
situated

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

Bernabe Parrilla v. Monster Energy Company
(Los Angeles Superior Court Case No. 21STCV25855)

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Monster Energy Company (abbreviated name: “MEC” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by MEC employee Bernabe Parrilla (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class consisting of Field Sales Representatives, including Club Field Sales Representatives (“Class Members”) who worked for MEC during the Class Period (July 14, 2017 to April 4, 2023); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all Field Sales Representatives who worked for MEC during the PAGA Period (July 14, 2020 to April 4, 2023) (“Aggrieved Employees”).

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

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

The above estimates are based on MEC’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against MEC that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. MEC must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period PayPeriods you worked according to MEC’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is an MEC employee. The Action accuses MEC of violating California labor laws by failing to pay overtime wages, wages due upon termination and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Aaron Gundzik and Rebecca Gundzik of Gundzik Gundzik Heeger LLP and Daniel Holzman of Caskey & Holzman (“Class Counsel.”)

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

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

So far, the Court has made no determination whether MEC or Plaintiff is correct on the merits. In the meantime, Plaintiff and MEC hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and MEC have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, MEC does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) MEC has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. MEC Will Pay \$285,000 as the Gross Settlement Amount (Gross Settlement). MEC has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator Expense Payment, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, MEC will fund the Gross Settlement not more than 21 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$95,000 (one-third of the Gross Settlement to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$5,500 to the Administrator for services administering the Settlement.
 - D. Up to \$12,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

4. Taxes Owed on Payments to Class Members. Plaintiff and MEC are asking the Court to approve an allocation of one-third of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. MEC will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

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

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and MEC have agreed that, in either case, the Settlement will be void: MEC will not pay any money and Class Members will not release any claims against MEC.
8. Administrator. The Court has appointed a neutral company,

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

9. Participating Class Members’ Release. After the Judgment is final and MEC has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against MEC or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the operative Complaint in the Action, including but not limited to claims for: (i) violation of Labor Code §§ 226.7 and 512; (ii) violation of Labor Code §§ 510 and 1194; (iii) violation of Labor Code §§ 201, 202, 203, and 204; (iv) violation of Labor Code § 226; and (v) violation of Business & Professions Code §§ 17200, which are premised on the violations described above (collectively, the “Released Claims”). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California’s Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any Released Claims if raised in the future. Class Members shall not waive section 1542 of the California Civil Code.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and MEC has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against MEC, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against MEC or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from any liability for civil penalties recoverable under PAGA for violations of the following California Labor Code sections: 201, 202, 203, 226(a), 226(b), 226.7, 510 and 512. PAGA Employees shall not waive section 1542 of the California Civil Code.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$3,000 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in MEC's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Parrilla v Monster Energy Company, STCV25855, and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of your social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action Parrilla v. Monster Energy Company, STCV25855 and include your name, current address, telephone number, and approximate dates of employment for MEC and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that

support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at ____ (time) in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LA Court Connect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything MEC and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity) 's website at _____ (url) _____. You can also telephone or send an email to Class Counsel, MEC's counsel, or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary>) and entering the Case Number for the Action, Case No. 21STCV25855. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

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MEC's Counsel:

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Shook, Hardy & Bacon, LLP
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Irvine, California 92614
Telephone: (949) 475-1500
Facsimile: (949) 475-0016

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund [Unclaimed Property \(ca.gov\)](#) for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 2

AARON C. GUNDZIK (State Bar No. 132137)
REBECCA G. GUNDZIK (State Bar No. 138446)
GUNDZIK GUNDZIK HEEGER LLP
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MARSHALL A. CASKEY (State Bar No. 65410)
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Facsimile: (818) 297-1775

Attorneys for Plaintiff Bernabe Parrilla, individually,
on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BERNABE PARRILLA, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

MONSTER ENERGY COMPANY, a
Delaware corporation; DOES 1 through
25,

Defendants.

Case No.: 21STCV25855
*Assigned for all purposes to Hon.
Elihu M. Berle, SSC-6*

[PROPOSED] ORDER:

- (1) PRELIMINARILY
APPROVING CLASS
ACTION SETTLEMENT;**
- (2) CONDITIONALLY
CERTIFYING A CLASS
FOR SETTLEMENT
PURPOSES ONLY;**
- (3) APPROVING THE NOTICE
OF SETTLEMENT; AND**
- (4) SETTING A HEARING ON
MOTION FOR FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: November 30, 2023

Time: 9:00 a.m.

Dept.: 6

Complaint Filed: July 14, 2021

The Court, having considered Plaintiff Bernabe Parrilla's Motion for Preliminary
Approval of Class Action and PAGA Settlement and the papers filed in support thereof,
including the parties' Class Action and PAGA Settlement Agreement and Notice

1 (“Settlement Agreement”) executed by Plaintiff and Defendant Monster Energy Company,
2 and attached as Exhibit 1 to the Declaration of Aaron Gundzik in Support of Plaintiff’s
3 Motion for Preliminary Approval, makes the following findings:

4 1. The parties to this action are Plaintiff Bernabe Parrilla (“Plaintiff”) and
5 Defendant Monster Energy Company. (“Defendant”).

6 2. After participating in an arms’-length mediation, Plaintiff and Defendant
7 have agreed to a proposed settlement of this action on behalf of the class that Plaintiff seeks
8 to represent. The terms of the proposed settlement are fully set forth in the Settlement
9 Agreement.

10 3. The terms of the proposed settlement include the following:

11 a. The proposed Class consists of all persons employed by Defendant in
12 California during the Class Period as Field Sales Representatives, including Club Field Sales
13 Representatives.

14 b. The proposed Class Period is from July 14, 2017, through April 4,
15 2023.

16 c. The Aggrieved Employees are all persons employed by Defendant in
17 California during the Class Period as Field Sales Representatives, including Club Field Sales
18 Representatives.

19 d. The PAGA Period is from July 14, 2020, to April 4, 2023.

20 e. In settlement, Defendant will pay the gross amount of \$285,000. From
21 the gross settlement amount, the parties propose to deduct fees for settlement administration
22 costs in the amount of \$5,500, PAGA Penalties totaling \$12,000, a Class Representative
23 Service Payment to Plaintiff of up to \$10,000, a Class Counsel Litigation Expenses Payment
24 not to exceed \$25,000, and a Class Counsel Fees Payment, not to exceed \$95,000.

25 f. 75% of the \$12,000 in PAGA Penalties will be paid to the LWDA.
26 The other 25% will be divided among the Aggrieved Employees based on the formula
27 specified in the Settlement Agreement.
28

1 g. The Net Settlement Amount, which is the amount remaining after the
2 forgoing deductions, as approved by the Court, will be distributed to Participating Class
3 Members in accord with the formula specified in the Settlement Agreement.

4 4. The Parties propose that notice of this proposed settlement be sent to all Class
5 Members by regular mail and that Class Members shall have forty-five (45) days to opt out
6 of or object to the settlement.

7 5. The proposed Class Counsel are experienced and, in their view, the proposed
8 settlement is fair and reasonable.

9 6. The notice procedure set forth in the Settlement Agreement will adequately
10 notify the Class of the settlement and of their right to opt out or object.

11 7. The Settlement Agreement and Notice include a proposed release which will
12 bind those Class Members who do not opt out of the Class.

13 Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

14 8. The motion is granted. The Court preliminarily finds that the proposed
15 settlement is fair and reasonable to the proposed Class.

16 9. The class action settlement, as set forth in the Settlement Agreement, is
17 preliminarily approved pursuant to Rules of Court 3.766 and 3.769.

18 10. The proposed class is provisionally certified as an opt-out class action under
19 Section 382 of the Code of Civil Procedure solely for the purpose of the settlement of this
20 matter, with the class defined as specified above and in the Settlement Agreement.

21 11. Plaintiff Bernabe Parrilla is appointed as the class representative for the
22 provisionally certified class.

23 12. Aaron C. Gundzik, Rebecca G. Gundzik and Daniel Holzman are appointed
24 as Class Counsel for the provisionally certified class.

25 13. Phoenix Settlement Administrators is approved as the Settlement
26 Administrator.

14. The Class Notice in substantially the form attached hereto as Exhibit A is approved and the Settlement Administrator is authorized to send the Class Notice to the provisionally certified Class.

15. The Court directs the settlement administrator to mail the Class Notice to the Class Members in a manner consistent with the Settlement Agreement.

16. The Court preliminarily approves of the Class Member and Aggrieved Employee release in the Settlement Agreement.

17. The Court directs that all objections to the Settlement be sent to the Settlement Administrator and postmarked no later than March 4, 2024.

18. The Court directs that all requests for exclusion must be sent to the Settlement Administrator and postmarked no later than March 4, 2024.

19. A Final Approval Hearing on the question of whether the proposed class settlement should be finally approved as fair, reasonable, and adequate as to the members of the proposed settlement class, for approval of Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, for approval of the Class Representative Service Payment, for approval of the Administrative Expenses Payment and for approval of the PAGA Penalties and payment of such penalties to the LWDA and Aggrieved Employees is set for April 4, 2024 at 9:00 a.m. in Department 6 of the above-entitled Court.

20. The Court orders that the papers in support of the final approval of the settlement and Plaintiff's award of attorneys' fees and costs shall be filed no later than February 2, 2024.

21. Based on the forgoing and the terms of the Settlement Agreement, the following sets forth the proposed schedule of events to occur with respect to the effectuation of the settlement:

Event	Date
Deadline for Defendant to provide Class data to settlement administrator	December 21, 2023

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Event	Date
Deadline to mail Notice of Settlement to Class Members	January 4, 2024
Deadline to challenge Workweeks, opt out of or object to settlement	March 4, 2024
Deadline to file motion for final approval of the settlement and award of attorneys' fees and costs	February 2, 2024
Deadline to file responses to any objections and for filing of settlement administrator's report on notice process	March 21, 2024
Hearing on motion for final approval of the settlement, granting of final approval, and entry of judgment	April 4, 2024 at 9:00 a.m. in Department SSC-6

Dated: 12/4/2023



Elihu M. Berle

Hon. Elihu M. Berle

Elihu M. Berle / Judge

Exhibit A

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

Bernabe Parrilla v. Monster Energy Company
(Los Angeles Superior Court Case No. 21STCV25855)

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Monster Energy Company (abbreviated name: “MEC” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by MEC employee Bernabe Parrilla (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class consisting of Field Sales Representatives, including Club Field Sales Representatives (“Class Members”) who worked for MEC during the Class Period (July 14, 2017 to April 4, 2023); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all Field Sales Representatives who worked for MEC during the PAGA Period (July 14, 2020 to April 4, 2023) (“Aggrieved Employees”).

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

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

The above estimates are based on MEC’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against MEC that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is March 4, 2024	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. MEC must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written Objections Must be Submitted by March 4, 2024 	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the April 4, 2024, Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on <u>April 4, 2024, at 9:00 a.m.</u> You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by March 4, 2024	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period PayPeriods you worked according to MEC’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by March 4, 2024 . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is an MEC employee. The Action accuses MEC of violating California labor laws by failing to pay overtime wages, wages due upon termination and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Aaron Gundzik and Rebecca Gundzik of Gundzik Gundzik Heeger LLP and Daniel Holzman of Caskey & Holzman (“Class Counsel.”)

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

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

So far, the Court has made no determination whether MEC or Plaintiff is correct on the merits. In the meantime, Plaintiff and MEC hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and MEC have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, MEC does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) MEC has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. MEC Will Pay \$285,000 as the Gross Settlement Amount (Gross Settlement). MEC has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator Expense Payment, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, MEC will fund the Gross Settlement not more than 21 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$95,000 (one-third of the Gross Settlement to Class Counsel for attorneys' fees and up to \$25,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$5,500 to the Administrator for services administering the Settlement.
 - D. Up to \$12,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

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

Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and MEC are asking the Court to approve an allocation of one-third of each Individual Class Payment to taxable wages (“Wage Portion”) and two-thirds to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. MEC will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than March 4, 2024, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the March 4, 2024, Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against MEC.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and MEC have agreed that, in either case, the Settlement will be void: MEC will not pay any money and Class Members will not release any claims against MEC.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and MEC has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against MEC or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, causes of action, demands, damages, or liabilities arising at any time during the Class Period that were pled or which could have been pled based on the factual allegations contained in the operative Complaint in the Action, including but not limited to claims for: (i) violation of Labor Code §§ 226.7 and 512; (ii) violation of Labor Code §§ 510 and 1194; (iii) violation of Labor Code §§ 201, 202, 203, and 204; (iv) violation of Labor Code § 226; and (v) violation of Business & Professions Code §§ 17200, which are premised on the violations described above (collectively, the “Released Claims”). The Released Claims extend to all theories of relief, whether under California law, federal law, state law or common law (including, without limitation, as alleged violations of the California Labor Code, the IWC Wage Orders, applicable regulations, or California’s Business and Professions Code §§ 17200). The Released Claims include all types of relief available for the Released Claims, including without limitation any claims for damages, restitution, losses, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages. This Settlement shall constitute, and may be pleaded as, a complete and total defense to any Released Claims if raised in the future. Class Members shall not waive section 1542 of the California Civil Code.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and MEC has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against MEC, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against MEC or its related entities based on the PAGA Period facts alleged in the

Action and resolved by this Settlement.

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

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from any liability for civil penalties recoverable under PAGA for violations of the following California Labor Code sections: 201, 202, 203, 226(a), 226(b), 226.7, 510 and 512. PAGA Employees shall not waive section 1542 of the California Civil Code.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$3,000 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in MEC's records, are stated in the first page of this Notice. You have until March 4, 2024, to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Parrilla v Monster Energy Company, STCV25855, and include your identifying information (full name, address, telephone number, approximate dates of employment, and last four digits of your social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by March 4, 2024, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and MEC are asking the Court to approve. At least three weeks before the April 4, 2024, Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website

_____ (url) or the Court's website <http://www.lacourt.org/casesummary>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is March 4, 2024.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action Parrilla v. Monster Energy Company, STCV25855 and include your name, current address, telephone number, and approximate dates of employment for MEC and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on April 4, 2024, at 9:00 a.m. in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LA Court Connect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything MEC and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to Phoenix Settlement Administrators' website at _____ (url) _____. You can also telephone or send an email to Class Counsel, MEC's counsel, or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary>) and entering the Case Number for the Action, Case No. 21STCV25855. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

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Settlement Administrator:
Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
(800) 523-5773
(949) 209-2503
notice@phoenixclassaction.com

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund [Unclaimed Property \(ca.gov\)](#) for instructions on how to retrieve the funds

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 3



Gundzik | Gundzik | Heeger
Attorneys at Law LLP

14011 Ventura Blvd., Ste. 206E
Sherman Oaks, CA 91423
818.290.7461

February 01, 2024

Bernabe Parrilla

Invoice Number: 1770
Invoice Period: 06-08-2021 - 01-31-2024

Payment Terms: Upon Receipt

RE: Bernabe Parrilla v. Monster Energy Company-6210

Time Details

Date	Professional	Description	Hours	Rate	Amount
06-08-2021	ACG	Interview client regarding facts; research other actions against Monster.	1.50	725.00	1,087.50
06-29-2021	ACG	Draft interview notes.	1.10	725.00	797.50
07-01-2021	ACG	Confer with R. Gundzik regarding issues for Complaint.	0.30	725.00	217.50
07-07-2021	RGG	Review client documents; research regarding defendant.	2.30	675.00	1,552.50
07-13-2021	ACG	Draft Complaint; draft PAGA letter.	3.00	725.00	2,175.00
07-14-2021	ACG	Revise and finalize Complaint and PAGA letter.	0.50	725.00	362.50
07-14-2021	RGG	Review and revise Complaint and PAGA letter.	0.50	675.00	337.50
08-16-2021	RGG	Review Notice of Appearance; confer with co-counsel regarding strategy.	0.50	675.00	337.50
08-17-2021	ACG	Email defense counsel regarding Initial Status Conference.	0.20	725.00	145.00
08-19-2021	ACG	Emails with defense counsel regarding Initial Status Conference.	0.20	725.00	145.00
08-30-2021	ACG	Emails with defense counsel regarding Initial Status Conference.	0.20	725.00	145.00

We appreciate your business

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Date	Professional	Description	Hours	Rate	Amount
08-31-2021	ACG	Draft Initial Status Conference Report.	1.10	725.00	797.50
09-01-2021	ACG	Prepare for and participate in Initial Status Conference call with defense counsel; revise Joint Initial Status Conference Report; review arbitration agreement; email defense counsel regarding report and arbitration agreement.	2.00	725.00	1,450.00
09-04-2021	ACG	Review defendant's comments to Joint Status Conference Report; email defense counsel regarding same.	0.50	725.00	362.50
09-08-2021	RGG	Review correspondence regarding Joint Status Conference Report; review Joint Status Conference Report.	0.80	675.00	540.00
09-13-2021	ACG	Emails with court regarding Initial Status Conference.	0.10	725.00	72.50
09-14-2021	ACG	Prepare for and attend Initial Status Conference; email regarding Initial Status Conference result; draft First Amended Complaint; review and revise Notice of Ruling.	2.10	725.00	1,522.50
10-07-2021	ACG	Emails with defense counsel.	0.10	725.00	72.50
10-11-2021	ACG	Prepare for and confer with defense counsel regarding Motion to Compel Arbitration.	0.50	725.00	362.50
10-26-2021	RGG	Research regarding Motion to Compel Arbitration.	5.80	675.00	3,915.00
10-27-2021	RGG	Draft Opposition to Motion to Compel Arbitration.	3.40	675.00	2,295.00
10-28-2021	RGG	Draft Opposition to Motion to Compel Arbitration.	5.10	675.00	3,442.50
10-29-2021	RGG	Revise and finalize Opposition to Motion to Compel Arbitration.	2.60	675.00	1,755.00
10-29-2021	ACG	Review and revise Opposition to Motion to Compel Arbitration.	1.10	725.00	797.50
11-01-2021	ACG	Review, revise and finalize Opposition.	1.50	725.00	1,087.50
11-17-2021	ACG	Prepare for and attend hearing on Motion to Compel Arbitration; revise Notice of Ruling.	2.10	725.00	1,522.50
11-18-2021	ACG	Draft Requests for Production of Documents and Special Interrogatories; draft Belaire Notice and Stipulation.	2.90	725.00	2,102.50
11-18-2021	RGG	Confer with co-counsel regarding Motion to Compel Arbitration; review Notice of Ruling.	0.50	675.00	337.50
11-29-2021	ACG	Email defense counsel regarding Belaire Notice.	0.10	725.00	72.50

Date	Professional	Description	Hours	Rate	Amount
12-01-2021	ACG	Emails with defense counsel regarding Belaire West notice.	0.20	725.00	145.00
12-06-2021	ACG	Review comments to Belaire documents; emails with defense counsel regarding Belaire documents; research regarding MEC job positions; email client regarding status.	1.20	725.00	870.00
12-09-2021	ACG	Confer with client regarding status and facts; email defense counsel regarding Belaire notice.	1.10	725.00	797.50
12-16-2021	ACG	Emails with defense counsel regarding Belaire notice and discovery.	0.50	725.00	362.50
12-21-2021	ACG	Confer with B. Parrilla regarding status and facts.	0.80	725.00	580.00
12-22-2021	ACG	Confer with defense counsel regarding Belaire Notice and class scope.	0.40	725.00	290.00
12-24-2021	RGG	Review emails regarding First Amended Complaint and Belaire Notice.	0.30	675.00	202.50
12-27-2021	ACG	Email with defense counsel regarding class scope; research regarding outside sales exemption.	1.80	725.00	1,305.00
12-28-2021	ACG	Emails with defense counsel regarding Belaire documents; revise Belaire documents.	0.80	725.00	580.00
12-29-2021	ACG	Confer with and email L. Hernandez; review and revise records authorization.	0.80	725.00	580.00
01-06-2022	ACG	Emails with defense counsel regarding Belaire Notice; revise and finalize Stipulation and Notice.	0.30	725.00	217.50
01-26-2022	RGG	Review emails regarding Belaire Notice.	0.30	675.00	202.50
01-31-2022	RGG	Confer with co-counsel regarding discovery and mediators.	0.20	675.00	135.00
02-07-2022	ACG	Draft Joint Status Conference Report; emails with defense counsel regarding same.	0.80	725.00	580.00
02-08-2022	ACG	Review defendant's discovery responses.	1.10	725.00	797.50
02-09-2022	ACG	Review defendant's discovery responses; draft meet and confer letter.	3.90	725.00	2,827.50
02-14-2022	ACG	Emails with defense counsel regarding Joint Status Conference Report.	0.20	725.00	145.00
02-16-2022	ACG	Emails with defense counsel regarding mediation and Joint Status Conference Report; review and revise Joint Status Conference Report.	0.80	725.00	580.00
02-17-2022	ACG	Emails regarding Belaire notice; emails with defense	0.40	725.00	290.00

Date	Professional	Description	Hours	Rate	Amount
		counsel regarding discovery and meet and confer.			
02-22-2022	ACG	Emails with defense counsel regarding mediation.	0.30	725.00	217.50
02-23-2022	ACG	Emails with defense counsel regarding discovery.	0.10	725.00	72.50
02-25-2022	ACG	Confer with defense counsel regarding discovery issues.	0.70	725.00	507.50
03-01-2022	ACG	Revise Notice of Ruling.	0.20	725.00	145.00
03-09-2022	ACG	Emails with defense counsel regarding discovery.	0.10	725.00	72.50
03-14-2022	ACG	Emails with defense counsel regarding discovery.	0.20	725.00	145.00
03-14-2022	RGG	Review correspondence regarding discovery.	0.40	775.00	310.00
03-21-2022	RGG	Confer with co-counsel regarding status and strategy.	0.30	775.00	232.50
03-28-2022	ACG	Review L. Hernandez employment documents; email co-counsel regarding review.	2.10	725.00	1,522.50
03-29-2022	ACG	Work on responses to form interrogatories.	1.20	725.00	870.00
03-30-2022	ACG	Work on responses to Requests for Production of Documents and Special Interrogatories; emails with defense counsel regarding discovery; review and revise email to class members; emails with B. Parrilla regarding discovery.	2.90	725.00	2,102.50
03-31-2022	ACG	Review draft Protective Order; email defense counsel regarding same; review and analyze supplemental discovery responses; review workweek information and prepare preliminary damages calculations.	2.80	725.00	2,030.00
04-01-2022	ACG	Prepare for and confer with B. Parrilla regarding discovery issues and mediation.	1.50	725.00	1,087.50
04-04-2022	ACG	Work on responses to written discovery.	2.50	725.00	1,812.50
04-14-2022	ACG	Emails with B. Parrilla regarding document production.	0.20	725.00	145.00
04-14-2022	RGG	Research regarding outside sales exemption applicability.	2.60	775.00	2,015.00
04-15-2022	ACG	Review and revise discovery responses; emails with B. Parrilla; email defense counsel regarding discovery.	1.10	725.00	797.50
04-18-2022	ACG	Emails with B. Parrilla regarding discovery.	0.30	725.00	217.50
04-18-2022	RGG	Review client pictures.	0.30	775.00	232.50
04-19-2022	RGG	Review additional client pictures.	0.20	775.00	155.00

Date	Professional	Description	Hours	Rate	Amount
04-19-2022	ACG	Emails with B. Parrilla regarding discovery.	0.40	725.00	290.00
04-20-2022	ACG	Review final document production.	0.50	725.00	362.50
05-02-2022	ACG	Emails with defense counsel regarding discovery.	0.30	725.00	217.50
05-12-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
05-23-2022	ACG	Emails with defense counsel regarding discovery.	0.30	725.00	217.50
06-02-2022	ACG	Review email from defense counsel regarding discovery issues; review relevant discovery responses and requests; prepare email to defense counsel.	1.10	725.00	797.50
06-08-2022	ACG	Work on supplemental responses to Requests for Production of Documents; prepare document production index; confer with B. Parrilla.	8.80	725.00	6,380.00
06-20-2022	ACG	Emails with defense counsel regarding discovery.	0.20	725.00	145.00
06-22-2022	ACG	Emails with defense counsel regarding discovery; finalize Supplemental Requests for Production of Documents Responses.	0.70	725.00	507.50
06-28-2022	ACG	Preliminary review of document production; emails with defense counsel regarding same.	0.90	725.00	652.50
07-08-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
07-12-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
07-12-2022	ACG	Emails with defense counsel regarding discovery.	0.30	725.00	217.50
07-13-2022	ACG	Emails with defense ocunsel regarding discovery.	0.30	725.00	217.50
07-18-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
07-19-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
07-20-2022	NS	Call to class members; interview 1 class member and prepare notes regarding same	1.50	125.00	187.50
08-02-2022	ACG	Confer with B. Parrilla regarding case status.	0.40	725.00	290.00
08-03-2022	ACG	Prepare for and confer with defense counsel regarding discovery.	0.20	725.00	145.00
08-03-2022	ACG	Confer with defense counsel regarding discovery.	0.40	725.00	290.00

Date	Professional	Description	Hours	Rate	Amount
08-23-2022	ACG	Email defense counsel regarding information needed for mediation.	0.40	725.00	290.00
09-14-2022	ACG	Email and confer with defense counsel regarding mediation and discovery.	0.30	725.00	217.50
09-22-2022	ACG	Email defense counsel regarding mediation.	0.20	725.00	145.00
09-27-2022	ACG	Confer with defense counsel regarding mediation and discovery; confer with B. Parrilla regarding mediation issues.	0.80	725.00	580.00
10-06-2022	ACG	Review documents produced by Defendant; work on mediation brief.	3.40	725.00	2,465.00
10-06-2022	NS	Call to class members; interview 3 class members and prepare notes regarding same	4.50	125.00	562.50
10-07-2022	ACG	Emails with defense counsel regarding mediation data and production; begin working on damages analysis; review Outlook screen shots.	1.80	725.00	1,305.00
10-10-2022	ACG	Prepare for and meet with B. Parrilla; work on mediation brief.	6.60	725.00	4,785.00
10-10-2022	RGG	Review and analyze correspondence regarding class data.	0.80	775.00	620.00
10-11-2022	ACG	Work on mediation brief; related legal research.	4.60	725.00	3,335.00
10-12-2022	ACG	Work on mediation brief; review policies; related legal research.	3.80	725.00	2,755.00
10-12-2022	RGG	Confer with co-counsel regarding facts and law.	1.60	775.00	1,240.00
10-13-2022	RGG	Prepare mediation brief.	2.30	775.00	1,782.50
10-13-2022	ACG	Work on mediation brief; related legal research.	4.20	725.00	3,045.00
10-14-2022	ACG	Revise and finalize mediation brief.	1.50	725.00	1,087.50
10-18-2022	ACG	Prepare draft settlement Memorandum of Understanding; related emails with defense counsel.	1.20	725.00	870.00
10-19-2022	RGG	Prepare for mediation.	2.30	775.00	1,782.50
10-20-2022	RGG	Prepare for and attend mediation; confer with co-counsel regarding same.	7.20	775.00	5,580.00
10-20-2022	ACG	Prepare for and participate in mediation.	7.20	725.00	5,220.00
10-24-2022	ACG	Draft Joint Status Conference Report; email defense counsel regarding same.	0.70	725.00	507.50

Date	Professional	Description	Hours	Rate	Amount
10-25-2022	ACG	Emails with defense counsel regarding Joint Status Conference Report.	0.30	725.00	217.50
10-25-2022	RGG	Confer with co-counsel regarding certification; revise joint report and email with opposing counsel regarding same.	0.50	775.00	387.50
11-01-2022	RGG	Review discovery responses and documents produced; begin meet and confer letter regarding discovery.	4.30	775.00	3,332.50
11-01-2022	ACG	Confer with R. Gundzik regarding discovery issues; confer with B. Parrilla regarding status and discovery.	0.60	725.00	435.00
11-02-2022	RGG	Draft meet and confer letter; review notes from mediation and documents produced; draft Supplemental Special Interrogatories, Supplemental Request for Production of Documents, Second Set of Special Interrogatories and Second Set of Request for Production of Documents.	4.70	775.00	3,642.50
11-03-2022	ACG	Prepare for and attend status conference.	1.20	725.00	870.00
11-14-2022	RGG	Email to opposing counsel regarding meet and confer regarding discovery responses.	0.40	775.00	310.00
11-21-2022	RGG	Confer with co-counsel regarding discovery and additional plaintiff.	0.60	775.00	465.00
11-21-2022	ACG	Confer with L. Hernandez.	0.30	725.00	217.50
11-22-2022	RGG	Prepare for meet and confer with opposing counsel.	0.50	775.00	387.50
11-26-2022	ACG	Meeting with B. Parrilla.	1.10	725.00	797.50
11-29-2022	RGG	Meet and confer with opposing counsel regarding discovery and additional class representative; prepare email to opposing counsel regarding same; confer with mediator.	1.20	775.00	930.00
11-30-2022	RGG	Email with mediator; confer with co-counsel regarding settlement negotiations.	0.50	775.00	387.50
12-06-2022	RGG	Email with opposing counsel regarding discovery set two, meet and confer letter and additional plaintiff.	0.40	775.00	310.00
12-15-2022	RGG	Email with opposing counsel regarding meet and confer.	0.30	775.00	232.50
12-15-2022	RGG	Meet and confer with opposing counsel regarding discovery and amendment to complaint; confer with co-counsel regarding same; prepare confirming letter to meet and confer.	1.10	775.00	852.50
12-19-2022	RGG	Confer with mediator regarding status.	0.30	775.00	232.50

Date	Professional	Description	Hours	Rate	Amount
12-20-2022	RGG	Email with opposing counsel regarding discovery.	0.40	775.00	310.00
01-04-2023	ACG	Contact L. Hernandez.	0.20	725.00	145.00
01-05-2023	ACG	Review documents from B. Parrilla's computer for production to defendant.	3.50	725.00	2,537.50
01-05-2023	RGG	Email with opposing counsel regarding document production; email with mediator.	0.50	775.00	387.50
01-06-2023	RGG	Email with opposing counsel regarding discovery; telephone call with opposing counsel regarding same.	0.50	775.00	387.50
01-13-2023	RGG	Email with opposing counsel regarding discovery and settlement issues; review client documents for key documents to give to mediator.	2.50	775.00	1,937.50
01-17-2023	RGG	Draft email to mediator regarding key documents; prepare documents for review by mediator; review correspondence regarding status conference; emails with opposing counsel regarding stipulation to continue status conference.	1.70	775.00	1,317.50
01-17-2023	ACG	Confer with mediator; call with L. Hernandez.	0.60	725.00	435.00
01-23-2023	RGG	Review correspondence from opposing counsel regarding discovery responses.	0.20	775.00	155.00
01-24-2023	RGG	Review meet and confer letter regarding discovery responses; confer with co-counsel regarding same.	0.40	775.00	310.00
01-25-2023	RGG	Email to opposing counsel regarding discovery.	0.20	775.00	155.00
01-30-2023	RGG	Review discovery responses and prepare for meet and confer.	0.50	775.00	387.50
02-01-2023	RGG	Initial review of recent production; meet and confer with opposing counsel regarding discovery and other case management issues; prepare email to opposing counsel regarding same.	2.40	775.00	1,860.00
02-02-2023	ACG	Messages with mediator.	0.20	725.00	145.00
02-02-2023	ACG	Review documents produced to identify weblinks for production by Defendant.	0.80	725.00	580.00
02-06-2023	ACG	Work on list of search terms; email mediator.	1.10	725.00	797.50
02-06-2023	RGG	Review and revise search terms list; prepare email to opposing counsel regarding search terms and website information.	0.90	775.00	697.50
02-07-2023	ACG	Confer with B. Parrilla regarding software used; confer with mediator.	0.50	725.00	362.50

Date	Professional	Description	Hours	Rate	Amount
02-09-2023	RGG	Review email from opposing counsel regarding search terms and computer links requested.	0.20	775.00	155.00
02-13-2023	RGG	Draft Joint Status Conference Report; email with opposing counsel regarding same.	1.20	775.00	930.00
02-13-2023	ACG	Draft Request for Production of Documents Set Three to defendant.	0.50	725.00	362.50
02-14-2023	ACG	Emails with defense counsel regarding L. Hernandez and Joint Status Conference Report; confer with L. Hernandez.	0.70	725.00	507.50
02-14-2023	RGG	Draft Joint Status Conference Report; confer with client regarding other claims; email with opposing counsel regarding Joint Status Conference Report and second class representative issues; review and revise opposing counsel's changes to Joint Status Conference Report.	2.70	775.00	2,092.50
02-15-2023	RGG	Confer with mediator; review L. Hernandez documents; prepare email to mediator regarding key documents; confer with co-counsel regarding same.	3.20	775.00	2,480.00
02-15-2023	ACG	Emails with mediator; confer with L. Hernandez; emails with L. Hernandez wrongful termination counsel.	0.70	725.00	507.50
03-06-2023	RGG	Confer with co-counsel regarding status conference and status; email opposing counsel regarding discovery issues.	0.50	775.00	387.50
03-06-2023	ACG	Emails with mediator regarding status.	0.20	725.00	145.00
03-07-2023	RGG	Email with opposing counsel regarding meet and confer; prepare for meet and confer; meet and confer call; confer with co-counsel regarding same; draft follow up email to opposing counsel.	2.40	775.00	1,860.00
03-08-2023	RGG	Confer with co-counsel regarding further status conference; review Notice of Ruling.	0.60	775.00	465.00
03-08-2023	ACG	Prepare for attend status conference; travel to and from court; review and revise class notice.	2.20	725.00	1,595.00
03-13-2023	ACG	Email with class member regarding status.	0.20	725.00	145.00
03-14-2023	RGG	Email with opposing counsel regarding discovery and production; contact mediator.	0.60	775.00	465.00
03-31-2023	RGG	Telephone call with opposing counsel regarding discovery; email with opposing counsel regarding same.	0.40	775.00	310.00
04-10-2023	RGG	Review Memorandum of Understanding and correspondence regarding same.	0.80	775.00	620.00

Date	Professional	Description	Hours	Rate	Amount
04-10-2023	ACG	Revise Memorandum of Understanding; email defense counsel regarding same.	1.80	725.00	1,305.00
04-17-2023	ACG	Emails with defense counsel regarding Memorandum of Understanding.	0.20	725.00	145.00
04-27-2023	RGG	Review redlined Memorandum of Understanding from opposing counsel; confer with co-counsel regarding same.	0.90	775.00	697.50
04-28-2023	RGG	Confer with co-counsel regarding Memorandum of Understanding terms; email with opposing counsel regarding same.	0.60	775.00	465.00
04-28-2023	ACG	Confer with B. Parrilla regarding settlement Memorandum of Understanding; email co-counsel regarding same.	0.40	725.00	290.00
05-05-2023	ACG	Confer with B. Parrilla regarding settlement Memorandum of Understanding; review and analysis of defense comments to Memorandum of Understanding.	0.70	725.00	507.50
05-08-2023	ACG	Emails with R. Gundzik regarding revisions to Memorandum of Understanding.	0.40	725.00	290.00
05-08-2023	RGG	Review and revise Memorandum of Understanding; email with opposing counsel regarding same.	1.40	775.00	1,085.00
05-30-2023	ACG	Review and revise settlement Memorandum of Understanding; email defense counsel regarding same.	1.50	725.00	1,087.50
06-01-2023	ACG	Revise and finalize Memorandum of Understanding and email defense counsel; work on long form settlement agreement.	3.50	725.00	2,537.50
06-02-2023	RGG	Review emails regarding Memorandum of Understanding with opposing counsel and client.	0.40	775.00	310.00
06-05-2023	ACG	Continue working on settlement agreement and class notice.	3.30	725.00	2,392.50
06-06-2023	ACG	Revise settlement agreement.	0.30	725.00	217.50
06-06-2023	RGG	Review and revise settlement agreement and class notice.	2.40	775.00	1,860.00
06-15-2023	RGG	Review settlement agreement.	0.80	775.00	620.00
06-15-2023	ACG	Review and revise settlement agreement.	1.50	725.00	1,087.50
06-16-2023	ACG	Revise and finalize draft of settlement agreement and notice; email defense counsel regarding same.	1.10	725.00	797.50
06-16-2023	RGG	Review and revise settlement agreement and notice;	0.90	775.00	697.50

Date	Professional	Description	Hours	Rate	Amount
		review emails regarding same.			
06-29-2023	RGG	Review Joint Status Conference Report and emails regarding same.	0.40	775.00	310.00
06-29-2023	ACG	Prepare Joint Status Conference Report; email counsel regarding same.	0.50	725.00	362.50
07-10-2023	ACG	Prepare for and attend status conference.	0.80	725.00	580.00
07-11-2023	ACG	Work on declaration for Motion for Preliminary Approval.	4.30	725.00	3,117.50
07-21-2023	ACG	Work on Motion for Preliminary Approval and declaration.	5.40	725.00	3,915.00
07-24-2023	ACG	Work on Motion for Preliminary Approval.	2.80	725.00	2,030.00
07-31-2023	ACG	Draft B. Parrilla declaration and D. Holzman declarations for Motion for Preliminary Approval.	1.10	725.00	797.50
08-01-2023	ACG	Revise settlement agreement; emails with defense counsel regarding same.	2.30	725.00	1,667.50
08-02-2023	ACG	Revise MPA declaration and motion; draft order.	2.80	725.00	2,030.00
08-03-2023	ACG	Revise Motion for Preliminary Approval papers; emails with defense counsel regarding same.	1.10	725.00	797.50
08-04-2023	ACG	Revise and finalize settlement agreement and TPA declaration; emails with defense counsel and B. Parrilla.	1.90	725.00	1,377.50
08-08-2023	ACG	Review, revise and finalize Motion for Preliminary Approval; related emails with defense counsel.	1.80	725.00	1,305.00
11-30-2023	ACG	Prepare for and attend Motion for Preliminary Approval hearing; travel to and from court; emails regarding deadlines; revise notice and proposed order; confer with B. Parrilla regarding hearing.	3.50	725.00	2,537.50
01-23-2024	RGG	Draft A. Gundzik declaration regarding Motion for Final Approval.	5.30	775.00	4,107.50
01-24-2024	RGG	Finish draft of A. Gundzik declaration; begin drafting Motion for Final Approval.	6.80	775.00	5,270.00
01-25-2024	RGG	Draft Motion for Final Approval; review time records for exhibit to Motion for Final Approval; draft Plaintiff's declaration; draft D. Holzman's declaration; draft TPA declaration; draft [Proposed] Judgment; draft [Proposed] Order Granting Final Approval.	11.70	775.00	9,067.50
				Total	201,625.00

Time Summary

Professional	Hours	Amount
Aaron C. Gundzik	161.80	117,305.00
Nicole Salazar	13.50	1,687.50
Rebecca G. Gundzik	109.50	82,632.50
Total		201,625.00

Expenses

Date	Expense	Description	Amount
07-14-2021	Filing fee	LWDA	75.00
07-14-2021	Express Network	Cover Sheet; Summ; Addendum; Complaint	1,635.50
07-15-2021	Express Network	Summons and Complaint	195.00
07-20-2021	Express Network	POS	35.00
07-27-2021	Express Network	Notice of Initial	40.00
09-14-2021	Express Network	Notice of Ruling	54.00
09-14-2021	Express Network	First Amended Complaint	54.75
09-14-2021	Express Network	Amended Notice	59.00
09-28-2021	Express Network	Notice	43.00
11-01-2021	Express Network	Memo of Points	43.00
11-17-2021	Express Network	Notice of Ruling	43.00
11-30-2021	Corporate Research	Case Anywhere 9/2/21-11/30/21	172.80
01-06-2022	Express Network	Stip and Order	74.00
01-19-2022	Express Network	Notice of Entry of Order	49.00
02-16-2022	Express Network	Joint Status	49.00
02-28-2022	Corporate Research	Case Anywhere 12/1/21-2/28/22	138.00
03-01-2022	Express Network	Notice of Ruling	49.00
06-01-2022	Corporate Research	Case Anywhere 3/1/22-5/31/22	170.00
08-31-2022	Corporate Research	Case Anywhere 6/1/22-8/31/22	146.00
09-27-2022	Mediation Services	Kyriacou Mediation	4,500.00
10-25-2022	Express Network	Joint Status Conference Report	49.00
11-04-2022	Express Network	Notice of Ruling and Further Status Conference	49.00
11-30-2022	Corporate Research	Case Anywhere 9/1/22-11/30/22	156.00
01-17-2023	Express Network	Stip and Order	74.00

Date	Expense	Description	Amount
01-19-2023	Express Network	Notice of Entry of Order	49.00
01-24-2023	Filing fee	Superior Court of San Bernardino	24.00
02-15-2023	None	Joint Status Conference Report	No Charge
02-28-2023	Corporate Research	Case Anywhere 12/1/22-2/28/23	164.00
03-08-2023	Express Network	Notice of Ruling and Further Status Conference	51.00
04-17-2023	Federal Express	Federal Express	71.89
05-31-2023	Corporate Research	Case Anywhere 3/1/23-5/31/23	126.00
06-29-2023	Express Network	Joint Status Conference Report	51.00
07-03-2023	Mediation Services	Kyriacou Mediation	1,000.00
07-11-2023	Express Network	Notice of Ruling and Hearing on Plaintiff's Motion	51.00
08-09-2023	Express Network	Dec (x3); Proposed Order	117.00
08-31-2023	Corporate Research	Case Anywhere 6/1/23-8/31/23	168.00
09-11-2023	Express Network	Notice of Continuance	51.00
11-30-2023	Corporate Research	Case Anywhere 9/1/23-11/30/23	132.00
11-30-2023	Parking	Parking	20.00
12-01-2023	Express Network	Proposed Order	51.00
01-04-2024	Express Network	Notice of Entry of Order	51.00
Total Expenses			10,130.94
Total for this Invoice			211,755.94
Total Amount to Pay as of 02-01-2024			211,755.94

Matter Statement of Account

As of 02-01-2024

Matter	Invoices / Credits	Trust	Balance Due
Bernabe Parrilla v. Monster Energy Company-6210	211,755.94		211,755.94
	Total Amount to Pay		211,755.94

Bernabe Parrilla v. Monster Energy Company-6210

Transactions

Date	Transaction	Applied	Invoice	Amount
02-01-2024	Invoice 1770			211,755.94
			Balance	211,755.94

Open Invoices and Credits

Date	Transaction	Amount	Applied	Balance
02-01-2024	Invoice 1770	211,755.94		211,755.94
			Balance	211,755.94

Exhibit 4



National Association of Legal Fee Analysis
Specializing in Attorney Fees & Legal Billing
— *The Nation's Top Attorney Fee Experts*

News Release

FOR IMMEDIATE RELEASE

March 4, 2020

Survey: Defense Rates Keep Pace with Plaintiffs' Rates in Class Action Litigation

Chicago, IL -- Defense rates keep pace with plaintiffs' rates in class action litigation at partner and associate levels in 2020. That's just one of the findings from a recent survey, The 2020 Class Action Hourly Rate Survey, conducted by the National Association of Legal Fee Analysis (NALFA). This billing rate survey, conducted via email over a two month period, asked class action litigators from the nation's 16 largest legal markets if their current regular hourly rate falls within a given range.

The NALFA survey shows that 95 percent of all class actions fall within the \$200-\$1,200 hourly rate range for both defense and plaintiffs' counsel at partner and associate levels. In short, only 5 percent of class action hourly rates are less than \$200 and over \$1,200. Thus, nearly all class action hourly rates fall within a \$1,000 hourly rate statistical variance.

This survey is the first in a series of hourly rate surveys that NALFA will be conducting in specific practice areas. NALFA also conducts custom hourly rate surveys for clients such as law firms, corporate legal departments, and government agencies. NALFA surveys provide the most accurate and current hourly rate ranges within a given geography and practice area.

"This survey data may be the nation's first and only quantitative class action hourly rate data of its kind," said Terry Jesse, NALFA Executive Director. With more class action hourly rate data to follow, here are some of the top level findings from NALFA's 2020 Class Action Hourly Rate Survey:

The 2020 Average Hourly Rate Range in Class Actions		
	Plaintiffs' Rate	Defense Rate
Senior Partner (20+ Years in Practice)	\$801-\$900	\$801-\$900
Partner (16-19 Years in Practice)	\$701-\$800	\$601-\$700
Junior Partner (12-15 Years in Practice)	\$501-\$600	\$401-\$500
Senior Associate (9-11 Years in Practice)	\$401-\$500	\$301-\$400
Associate (5-8 Years in Practice)	\$201-\$300	\$201-\$300
Junior Associate (2-4 Years in Practice)	\$201-\$300	\$201-\$300
Estimated Margin of Error: +/- \$25.00		

For more information on this survey, visit <http://www.thenalfa.org/blog/survey-class-action-defense-rates-keep-pace-with-plaintiffs-rates-in-2020/> or contact Terry Jesse, NALFA Executive Director at terry@thenalfa.org or call us at (312) 907-7275.



The National Association of Legal Fee Analysis (NALFA) is a 501(c)(6) non-profit professional association for the legal fee analysis field. Our members provide a range of services on attorney fee and legal billing matters.

Courts and clients turn to us for expertise when attorney fees and expenses are at issue in large, complex cases. NALFA members are fully qualified attorney fee experts, special fee masters, bankruptcy fee examiners, fee dispute neutrals, and legal bill auditors. Our members follow

Best Practices in Legal Fee Analysis. Our services include: Custom Hourly Rate Surveys and Fee Dispute Mediation. For more on NALFA, visit www.thenalfa.org. Follow us on Twitter at [@AttorneyFees](https://twitter.com/AttorneyFees).

NALFA | 1336 W. Greenleaf Ave, #3E, Chicago, IL 60626

[Unsubscribe agundzik@gghslaw.com](mailto:unsubscribe_agundzik@gghslaw.com)

[Update Profile](#) | [About Constant Contact](#)

Sent by info@thenalfa.org

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) and not a party to the within action. My business address is 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423.

On February 2, 2024, I served the following document described as

**DECLARATION OF AARON GUNDZIK IN SUPPORT OF PLAINTIFF'S
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

on the interested parties in this action:

(X) by serving () the original (X) true copies thereof as follows:

Please see attached service list

() BY MAIL I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.	() BY FACSIMILE TRANSMISSION I caused said document(s) to be transmitted by facsimile transmission to the name(s) and facsimile telephone number(s) of the person(s) named on the attached service list. The facsimile machine telephone number of the sending facsimile machine was (818) 918-2316. A transmission report was issued by the sending facsimile machine confirming that the transmission was completed without error. A true and correct copy of said transmission report is attached hereto.
() BY OVERNIGHT DELIVERY Said document was placed in an envelope designated by the express service center and placed for collection in a box regularly maintained by said carrier with whom we have a direct billing account, to be delivered to the office of the addressee listed above on the next business day.	(XX) BY ELECTRONIC TRANSMISSION I caused the above-described document to be electronically served through Case Anywhere pursuant to the Court's Order Authorizing Electronic Service dated _____, to the names and email addresses listed on the Service List attached hereto.

(X) STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

() FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

(X) EXECUTED on February 2, 2024, at Sherman Oaks, California.



Nicole Salazar

Case Anywhere Electronic Service List

Case Name: **Parrilla, et al. v. Monster Energy Company, et al.**

Case Info: **21STCV25855, Los Angeles Superior Court**

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Representing:

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Representing:

Monster Energy Company

The Service List is compiled from information provided to Case Anywhere and is not independently reviewed for accuracy.

Only attorneys are listed. Other authorized users may also receive case notifications by email.