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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

CHRIS BRONKEN, individually, and on
behalf of other aggrieved employees pursuant
to the California Private Attorneys General
Act;

Plaintiff,

vs.

MILLIE AND SEVERSON, INC., a Nevada
corporation; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 30-2021-01221405-CU-OE-CXC

Honorable William Cluster
Department CX-101
ROA # 108

**DECLARATION OF BRITTANY SHAW
IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PRIVATE
ATTORNEYS GENERAL ACT (CAL.
LABOR CODE § 2698, ET SEQ.)
SETTLEMENT AGREEMENT AND
AWARD OF ATTORNEYS' FEES AND
COSTS, AND SETTLEMENT
ADMINISTRATION COSTS**

[Notice of Motion and Motion for Approval of
Private Attorneys General Act (Cal. Labor
Code § 2698, *Et Seq.*) Settlement Agreement
and Award of Attorneys' Fees and Costs, and
Settlement Administration Costs; Declaration
of Plaintiff (Chris Bronken); and [Proposed]
Order and Judgment filed concurrently
herewith]

Reservation: 74436962
Date: December 27, 2024
Time: 9:00 a.m.
Department: CX-101

Complaint Filed: September 15, 2021
Trial Date: None Set

DECLARATION OF BRITTANY SHAW

I, Brittany Shaw, hereby declare as follows:

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

LITIGATION AND REPRESENTATIVE AND CLASS ACTION EXPERIENCE

2. For over a decade, Lawyers *for* Justice, PC has almost exclusively focused on the prosecution of consumer and employment class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or consumer fraud. Currently, Lawyers *for* Justice, PC is the attorney of record in well over a dozen employment-related putative class actions in both state and federal courts in the State of California. Lawyers *for* Justice, PC is comprised of attorneys who focus on litigating complex wage-and-hour class and Private Attorneys General Act (“PAGA”) representative actions. Lawyers *for* Justice, PC has successfully litigated cases involving the executive, administrative, and other overtime exemptions to the State of California and federal overtime compensation requirements. During a relatively short time, in association with other law firms, Lawyers *for* Justice, PC has recovered millions of dollars on behalf of thousands of individuals in California.

3. Edwin Aiwarzian is a Managing Member and Shareholder of Lawyers *for* Justice, PC. He received his Bachelor of Arts degree from Pepperdine University in April of 1999 and earned a Juris Doctor degree from Pepperdine University School of Law in May of 2004. He has extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, he has previously served as a pro bono mediator for the Los Angeles County Superior Court. In October of 2000, he obtained a Litigation Paralegal Certificate from the UCLA Extension Program. During the summer of 2000, he studied Legal Writing at Harvard University. From approximately September 2002 to approximately December 2002, he served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the United States Court of Appeals for the Ninth

1 Circuit. From approximately June 2002 to approximately August 2002, he served as a Judicial
2 Extern to the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second
3 Appellate District. In December of 2004, he obtained a license to practice law from the
4 California State Bar. Since in or around October of 2008, through his work at Lawyers *for*
5 Justice, PC, he has almost exclusively focused on the prosecution of consumer and employment
6 class actions, involving wage-and-hour claims, race discrimination, unfair business practices, or
7 consumer fraud. While employed by Lawyers *for* Justice PC, he has argued over one hundred
8 (100) motions, taken or defended over one hundred fifty (150) depositions, prepared dozens of
9 expert witnesses for deposition or trial, and attended over one hundred seventy-five (175)
10 mediations. Together with other attorneys at the firm, and in some cases in conjunction with
11 co-counsel, he has successfully litigated cases involving the executive, administrative, and other
12 overtime exemptions to the State of California and federal overtime compensation requirements.
13 Under his supervision, Lawyers *for* Justice, PC has successfully obtained class certification by
14 contested motion practice in approximately fifteen (15) cases in the last decade and litigated
15 over 1,000 class action or representative action cases.

16 4. Arby Aiwarzian is a Member and Shareholder of Lawyers *for* Justice, PC. He
17 received his Bachelor of Arts degree from University of California, Los Angeles and graduated
18 magna cum laude. He earned a Juris Doctor degree, cum laude, from Southwestern Law School.
19 From approximately May 2007 to approximately July 2007, he served as a Judicial Extern to
20 the Honorable Earl Johnson, Jr. of the California Court of Appeal for the Second Appellate
21 District. From approximately August 2008 to approximately December 2008, he served as a
22 Judicial Extern to the Honorable Kim McLane Wardlaw of the United State Court of Appeals
23 for the Ninth Circuit. He was admitted to practice law in California in 2010. He is admitted to
24 practice before all courts of the State of California and all United States District Courts in the
25 State of California. He has worked on many wage-and-hour class action and representative
26 action cases, taking the lead in taking and defending depositions, arguing motions, and attending
27 mediations. He has played an integral role in preparing matters for class certification, including
28 and not limited to, successful certification of a class in *Upson v. Sur La Table* (Los Angeles

County Superior Court Case No. BC424012), *Montazemi v. Regus Management* (Los Angeles County Superior Court Case No. BC478769), and *Abdulhaqq v. Urban Outfitters* (Alameda County Superior Court Case No. RG13680477). Under his supervision, dozens of class action or representative cases have resulted in settlements that have been granted court approval, including and not limited to, those listed in paragraph 7 herein. He has handled over one hundred and fifty (150) mediations and worked on over two hundred and fifty (250) class action or representative action cases which have resulted in settlement.

5. Joanna Ghosh is a Managing Member of Lawyers for Justice, PC. She received a Bachelor of Arts degree from California State University, Los Angeles in 2006, a Master of Science degree from the London School of Economics in 2007, and a Juris Doctor degree from Georgetown University Law Center in 2010. She is admitted to practice in California (since 2010) and in New York (since 2013) and admitted to practice in all U.S. District Courts in California, the U.S. Bankruptcy Court for the Central District of California, and the U.S. Supreme Court. She has taken and defended dozens of depositions and successfully handled motion practice in class action cases regarding discovery (including and not limited to, regarding class contact information), class certification (both contested class certification and stipulated class certification), arbitration agreements, coordination, and intervention. She has successfully handled briefing and oral argument on appeal and obtained notable decisions regarding the Private Attorneys General Act and employer efforts to compel arbitration, e.g., *Betancourt v. Prudential Overall Supply*, 9 Cal.App.5th 439 (Cal. Ct. App., Mar. 7, 2017), cert. denied (Cal., May 24, 2017), cert. denied (U.S., Dec. 11, 2017) and *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019). She has significant experience with class actions, including and not limited to working on cases to obtain class certification through contested motion practice and working on cases in the post-certification stage (e.g., post-certification discovery, appeal, statistical sampling and pilot study, and trial preparation in conjunction with co-counsel in a case involving a certified class consisting of approximately 2,600 individuals). She also has extensive experience with class action and/or representative action settlements, and has handled this process in over five hundred (500) cases. Under her, Edwin Aiwazian, and Arby Aiwazian's supervision, Lawyers

1 *for Justice*, PC has handled the class certification and court approval process for hundreds of
2 class action and/or representative action matters that have successfully resolved. She is a
3 member of the California Employment Lawyers Association and, on several occasions, has been
4 a speaker regarding topics in wage and hour law at the organization’s continuing legal education
5 events.

6 6. I am a senior attorney at *Lawyers for Justice*, PC. I received a Bachelor of Science
7 degree from Purdue University in 2010, and a Juris Doctor degree from Indiana University in
8 2015. I am admitted to practice in Indiana (since 2015) and in California (since 2020) and
9 admitted to practice in all U.S. District Courts in California and U.S. District Courts in Indiana.
10 I have taken and defended dozens of depositions and successfully handled motion practice in
11 class action cases regarding discovery (including and not limited to, regarding class contact
12 information), class certification (including contested class certification), arbitration agreements,
13 and coordination. I have successfully handled briefing and oral argument regarding the Private
14 Attorneys General Act and employer efforts to compel arbitration. I have significant experience
15 with class actions, including and not limited to working on cases to obtain class certification
16 through contested motion practice and working on cases in the post-certification stage. I also
17 have experience with class action and/or representative action mediations and settlements. I am
18 also a member of the California Employment Lawyers Association. Under Edwin Aiwazian,
19 Arby Aiwazian, and Joanna Ghosh’s supervision, I, along with attorneys at *Lawyers for Justice*,
20 PC, have handled the class certification and court approval process for hundreds of class action
21 and/or representative action matters that have successfully resolved.

22 **EXAMPLES OF RESULT IN REPRESENTATIVE AND CLASS ACTION CASES**

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

25 a) LFJ, in association with co-counsel therein, represented the plaintiffs in a
26 wage-and-hour class action against a major property management company involving
27 allegations of misclassification of various “manager” positions. On September 20, 2010, the
28

1 court granted final approval of the class action settlement. The Los Angeles County Superior
2 Court Case Number is BC400414.

3 b) LFJ, in association with co-counsel therein, represented the plaintiffs in a
4 wage-and-hour class action against a national retailer of household items involving allegations
5 of misclassification of the “Assistant Store Manager” position. On October 28, 2010, the court
6 granted final approval of the class action settlement. The Los Angeles County Superior Court
7 Case Number is BC413498.

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

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

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

23 f) LFJ, in association with co-counsel therein, represented the plaintiff in a
24 wage-and-hour class and PAGA representative action against a national wholesale distributor
25 of plumbing and builder supplies, involving allegations of misclassification of multiple salaried
26 “manager” positions. On May 22, 2014, the court granted final approval of the class and PAGA
27 representative action settlement. The Sacramento County Superior Court Case Number is 34-
28 2012-00136285.

1 g) LFI, in association with co-counsel therein, represented the plaintiff in a
2 wage-and-hour class action against a multinational corporation that provides global workplace
3 solutions, involving allegations of misclassification of the “Operations Manager” position. On
4 September 16, 2014, the court granted plaintiff’s motion for class certification. The Los Angeles
5 County Superior Court Case Number is BC478769.

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

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

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

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

27 l) LFI, in association with co-counsel therein, represented the plaintiffs in a
28 wage-and-hour class action against a national retailer of apparel, accessories, and home

products, involving allegations of misclassification of the “Department Manager” position. On August 12, 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. On August 6, 2019, the court granted final approval of the class action settlement. The Alameda County Superior Court Case Number is RG13680477.

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

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

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

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

q) LFJ, in association with co-counsel therein, represented the plaintiffs in a wage-and-hour class and PAGA representative action against a consumer packaging company, on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the

1 class and PAGA representative action settlement. The Los Angeles County Superior Court Case
2 Number is BC590429.

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

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

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

18 u) LFJ represented the plaintiff in a wage-and-hour class and PAGA
19 representative action against a food company on behalf of non-exempt employees. On June 30,
20 2017, the court granted final approval of the class and PAGA representative action settlement.
21 The Sacramento County Superior Court Case Number is 34-2015-00175871.

22 v) LFJ represented the plaintiffs in a wage-and-hour class and PAGA
23 representative action against a chocolate company on behalf of non-exempt employees. On July
24 19, 2017, the court granted final approval of the class and PAGA representative action
25 settlement. The Alameda County Superior Court Case Number is RG15764300.

26 w) LFJ represented the plaintiff in a PAGA representative action, against the
27 parent company of several restaurants, on behalf of hourly-paid, non-exempt employees. On
28 October 18, 2017, the court granted approval of the PAGA representative action settlement. The

Los Angeles County Superior Court Case Number is BC569664.

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

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

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

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

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

cc) LFJ represented the plaintiffs in a wage-and-hour class and PAGA representative action against a behavioral health service provider on behalf of non-exempt

employees. On November 13, 2018, the court granted final approval of the class and PAGA representative action settlement. The Alameda County Superior Court Case Number is RG16811450.

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

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

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

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

hh) LFJ, in association with co-counsel therein, represents the plaintiff in a wage-and-hour class and PAGA representative action against a medical equipment supplier on behalf of non-exempt employees. On February 13, 2020, the Court granted the plaintiff's motion for class certification and certified a class. On November 2, 2023, the court granted

1 final approval of the class and PAGA representative action settlement. The San Bernardino
2 County Superior Court Case Number is CIVDS1505744.

3 ii) Lfj, in association with co-counsel therein, on behalf of the plaintiff and
4 respondent in a PAGA representative action, successfully opposed in the trial court, and briefed
5 and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a
6 notable decision from the California Supreme Court clarifying the law regarding PAGA claims,
7 *ZB, N.A. v. Superior Court* (2019) 8 Cal.5th 175. On February 21, 2020, the court granted
8 approval of the PAGA representative action settlement. The San Diego County Superior Court
9 Case Number is 34-2015-00175330.

10 jj) Lfj, in association with co-counsel therein, represents the plaintiff in a
11 wage-and-hour class and PAGA representative action against a large national drug testing
12 laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the
13 plaintiff's motion for class certification and certified a class. On October 28, 2022, the court
14 granted final approval of the class and PAGA representative action settlement. The San Diego
15 County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

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

22 ll) Lfj, in association with co-counsel therein, represented the plaintiffs in a
23 wage-and-hour class and PAGA representative action against a plastic packaging company on
24 behalf of non-exempt employees. On June 8, 2020, the court granted in part the plaintiffs'
25 motion for class certification and certified a class. On November 8, 2021, the court granted
26 approval of the partial settlement of the action. On April 22, 2024, the court granted approval
27 of the PAGA settlement and entered an order dismissing the action. The San Bernardino County
28 Superior Court Case Number is CIVDS1507361.

mm) LFJ, in association with co-counsel therein, represents the plaintiffs in a wage-and-hour class action against manufacturer and supplier of power products and services on behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion for class certification and certified a class. On August 27, 2021, the court granted final approval of the class action settlement. The San Diego County Superior Court Case Number is 37-2015-00025968-CU-OE-CTL.

nn) LFJ represents the plaintiff in a wage-and-hour class action against a nutritional products manufacturer on behalf of non-exempt production line employees. On December 13, 2021, the court granted the plaintiff's motion for class certification in part and certified a class. On January 16, 2024, the court granted final approval of the class and PAGA representative action settlement. The Solano County Superior Court Case Number is FCS051001.

oo) LFJ represents the plaintiffs in a wage-and-hour class action against a manufacturer and distributor of commercial dish and glass cleaning machines and supplies for the restaurant and hospitality industries, on behalf of hourly-paid or non-exempt employees. On July 13, 2023, the court granted the plaintiffs' motion for class certification and certified a class. The Los Angeles County Superior Court Case Number is BC707670.

pp) LFJ represents the plaintiffs in a wage-and-hour class action against a chain of restaurants on behalf of non-exempt employees. On July 22, 2024, the court granted in part the plaintiffs' motion for class certification and certified a class. The San Francisco Superior Court Case Number is CGC-20-582809.

THE LAWSUIT

8. Defendant is headquartered in Los Alamitos, California and is a general contracting company that provides preconstruction and construction services, including design-assist and building information modeling to institutional clients. During the relevant time period, Defendant operated multiple locations in the United States, including approximately four locations in California. Plaintiff is a former employee of Defendant.

9. Plaintiff has satisfied the prerequisites under California Labor Code section

2699.3(a), including, and not limited to, providing the California Labor and Workforce Development Agency (“LWDA”) and the employer with written notice of the specific provisions of the California Labor Code that are alleged to have been violated, including the facts and theories to support the alleged violations, by way of written correspondence on behalf of Plaintiff that was dated July 12, 2021 (“Bronken PAGA Notice”). The PAGA Notice was sent by U.S. Certified Mail to the employers and submitted to the LWDA by way of online submission on the LWDA’s website. Aside from confirmation of receipt of the PAGA Notices, the LWDA did not respond to the PAGA Notices. A true and correct copy of the Bronken PAGA Notice is attached hereto as “**EXHIBIT 2.**”

10. On September 15, 2021, Plaintiff filed a Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. (“Operative Complaint”) against Defendant in the Orange County Superior Court (“Court”), Case No. 30-2021-01221405-CU-OE-CXC (the “Action”). Plaintiff’s core allegation is that Defendant has violated the California Labor Code by engaging in a uniform practice and procedure, with respect to Plaintiff and other Aggrieved Employees, of, *inter alia*, failing to pay minimum, regular, overtime, and reporting time wages, failing to provide compliant meal periods and associated premiums, failing to provide compliant rest periods and associated premiums, failing to timely pay wages during employment, failing to timely pay wages upon termination, failing to provide compliant and accurate wage statements, failing to maintain complete and accurate payroll records, failing to reimburse necessary business-related expenses and costs, failing to provide a day of rest, and failing to provide requisite written notice of material terms of employment (including regarding rate of pay, allowances, payday, name of employer, employer’s physical address, employer’s telephone number, employer’s workers’ compensation insurance carrier, and accrual and use of sick leave) at the time of hire and during employment.

11. On November 4, 2021, Defendant filed an Answer to the Operative Complaint. Defendant maintained, and continues to maintain, that it had, and continues to have, legally-compliant employment policies and practices throughout the time period at issue. Defendant denies that it ever violated any provision of the California Labor Code, including, but not limited

to, those sections for which Plaintiff seeks penalties under the PAGA.

12. As of the date of this filing, Plaintiff and Defendant are unaware of any other case, whether class, individual or PAGA (including pre-filing LWDA stage) that may impact this settlement.

THE SETTLEMENT REACHED IN THE ACTION

13. Marked and attached hereto as “**EXHIBIT 1**” is the Private Attorneys General Act Settlement Agreement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”), entered into between Plaintiff Chris Bronken, for himself and on behalf of the State of California with respect to other aggrieved employees pursuant to the Private Attorneys General Act, and Defendant Millie and Severson, Inc (“Defendant”). Plaintiff and Defendant (together, the “Parties”) have also drafted and agreed to the form and content of the proposed informational cover letter (“Cover Letter”) for mailing to Aggrieved Employees when Individual Settlement Shares are distributed to them, in substantially the form attached as “**EXHIBIT A**” to the [Proposed] Order and Judgment Granting Approval of Private Attorneys General Act Settlement Agreement and Release, Award of Attorneys’ Fees and Costs, and Settlement Administration Costs. The Court is respectfully requested to approve the proposed Cover Letter. Defendant has represented that no translation is necessary.

14. The Settlement pertains to the following allegedly aggrieved employees: all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the PAGA Period (“Aggrieved Employees”). The “PAGA Period” means the period July 12, 2020 to the date of Court approval of the Settlement. As reflected in Section 3(b) of the Settlement Agreement, Defendant has represented that there are approximately 147 Aggrieved Employees and 14,772 Compensable Pay Periods.

15. Defendant has agreed to pay the gross amount of \$337,500.00 (“Total Settlement Amount”), subject to possible increase under Section 3(b) of the Settlement Agreement, to settle this matter. The Settlement Agreement provides that the “Net Settlement Amount” will be the Total Settlement Amount less the following amounts: (1) Attorneys’ Fees and Costs consisting of attorneys’ fees of \$111,375.00 and reimbursement of litigation costs and expenses of up to

1 \$30,000.00 to Plaintiff's Counsel; (2) individual settlement agreement of \$12,500.00 to
2 Plaintiff; and (3) Settlement Administration Costs of up to \$10,000.00 to Atticus Administration
3 LLC. Plaintiff's Counsel only seeks an award of reimbursement of litigation costs and expenses
4 in the amount of \$12,619.39 (i.e., \$17,380.61 less than the maximum amount allocated), and
5 assuming that the requested Attorneys' Fees and Costs, and Settlement Administration Costs
6 are approved by the Court, the Net Settlement is estimated to be no less than \$197,605.61. The
7 Net Settlement Amount will be distributed to the LWDA and the Aggrieved Employees pursuant
8 to California Labor Code section 2699(i). Seventy-five percent (75%) of the Net Settlement
9 will be distributed to the LWDA, which is estimated to be \$143,254.21. ("LWDA Payment"),
10 and twenty-five percent (25%) of the Net Settlement, which is estimated to be \$47,751.40
11 ("Employees' Portion"), will be distributed to the Aggrieved Employees on a *pro rata* basis,
12 based on the number of pay periods they each worked during the PAGA Period ("Compensable
13 Pay Periods"). The parties have agreed to retain Atticus Administration LLC ("Atticus" or
14 "PAGA Settlement Administrator") to handle the administration of the Settlement, and the
15 Court is respectfully requested to appoint Atticus to serve as the PAGA Settlement
16 Administrator. At this time, the Settlement Administration Costs are estimated to be \$3,400.00
17 (\$6,600 less than the amount allocated in the Settlement Agreement) and will be paid out of the
18 Total Settlement Amount, subject to approval by the Court.

19 **THE LITIGATION AND WORK PERFORMED BY PLAINTIFF'S COUNSEL**

20 16. The effectiveness of Plaintiff's Counsel, Lawyers for Justice PC, in prosecuting
21 this case has translated into tangible monetary benefits for Plaintiff, Aggrieved Employees, and
22 the State of California in the following respects: (1) their recoveries over a reasonably short
23 period of time as opposed to waiting additional years for the same, or possibly, a worse, result;
24 (2) a guaranteed result that compares favorably with other similar representative action
25 settlements; and (3) significant savings in fees and costs which would have only increased
26 significantly had the case progressed through trial and/or appeals.

27 17. After engaging in extensive investigations, formal and informal discovery, and
28 exchange of information, data, and documents, the Parties participated in extensive settlement

1 discussions and negotiations to try to resolve the above-captioned lawsuit. These efforts
2 included participating in a full-day mediation on March 6, 2024, conducted by Hon. Daniel
3 Buckley (Ret.), a well-respected mediator experienced in mediating complex labor and
4 employment matters. While the case did not settle at mediation, the Parties agreed to continue
5 through supplemental mediation sessions on March 25, 2024, and March 26, 2024. With the aid
6 of the mediator, the Parties reached the Settlement described herein. In the course of mediation
7 and settlement negotiations, the Parties discussed all aspects of the case, including the risks and
8 delays of further litigation and proceeding with trial, as well as the law relating to representative
9 PAGA actions, off-the-clock theory, meal and rest periods, donning and doffing, meal waivers,
10 regular rate of pay calculations, reporting time pay, Industrial Welfare Commission Wage
11 Orders, arbitration agreements, wage-and-hour enforcement, the evidence produced and
12 analyzed, and the possibility of bifurcation of discovery and/or trial and appeals, among other
13 things. During all settlement discussions, the Parties conducted their negotiations at arm's
14 length in an adversarial position.

15 18. Prior to reaching the Settlement, the Parties investigated the veracity, strength,
16 and scope of the PAGA claim and allegations, and were preparing for trial. Plaintiff conducted
17 significant investigation, formal and informal discovery, and exchange of information,
18 documents, and data regarding the facts of the case, including and not limited to, the review,
19 consideration, and analysis of a large volume of information, documents, and data obtained from
20 Plaintiff, Defendant, and other sources. Plaintiff's Counsel propounded multiple sets of formal
21 written discovery requests onto Defendant (specifically, Requests for Production of Documents
22 (Sets One), Special Interrogatories (Sets One and Two), and Form Interrogatories – General (Set
23 One)), served notices of depositions of Defendant's Person Most Knowledgeable designees
24 regarding organizational structure and job duties along with requests for production of
25 documents. The information, documents, and data that were reviewed and analyzed by
26 Plaintiff's Counsel included, and were not limited to, Plaintiff's employment records; a detailed
27 sampling of Aggrieved Employees' time and pay data; job descriptions; various forms,
28 agreements, and acknowledgments (such as, Defendant's Acknowledgement of Receipt of

Employee Handbook and Separation Agreement and General Release), among other documents. Counsel for the parties undertook significant investigation and evaluation of the PAGA claim and related allegations, including, and not limited to, calculating the potential monetary recovery under PAGA. Other work performed by Plaintiff's Counsel included, but was not limited to: meeting and conferring with Defendant's counsel regarding the pleadings, case management, discovery, arbitration, mediation, and settlement negotiations, among other issues; case strategy and analysis; researching, drafting, reviewing, and revising the pleadings, court filings, the mediation brief, settlement agreement, and settlement approval motion papers, propounding written discovery requests and notices of depositions of Defendant's person most knowledgeable designees and reviewing Defendant's responses and objections thereto; claims evaluation and analysis; preparing for and participating in the mediation and settlement negotiations; and appearing for court proceedings. Counsel for the Parties have further invested time to research the applicable law, which is evolving as it relates to representative PAGA actions, off-the-clock theory, meal and rest periods, and wage-and-hour enforcement, Plaintiff's claims, and Defendant's defenses, as well as facts discovered.

19. Based on investigation and information discovered, Plaintiff's Counsel believes that there is sufficient evidence to support the allegations that Defendant violated the California Labor Code. While Plaintiff's Counsel believes that the PAGA claim has merit and that Plaintiff will ultimately succeed in this litigation and prevail at trial, Plaintiff and Plaintiff's Counsel also recognize Defendant's defenses, the costs of further litigation, and multiple risks to recovery. For example, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff, including, and not limited to, the issues of non-compliant meal periods, non-compliant rest periods, and unreimbursed business expenses, raise individualized issues and/or are not suitable for adjudication as to a group of employees.

20. Plaintiff and his counsel have also considered the uncertainty and risk of the outcome of further litigation, including the difficulties and delays inherent in such litigation. In order to prevail on the PAGA claim, Plaintiff would have to prove that Defendant engaged in

the alleged California Labor Code violations and demonstrate that Defendant’s conduct warrants the imposition of penalties.

THE STRENGTHS AND WEAKNESSES OF THE PAGA CLAIM, AND THE RANGE OF POSSIBLE OUTCOMES

21. In order for Plaintiff to prevail on the PAGA claim, he would have to prove that Defendant engaged in the alleged California Labor Code violations and demonstrate that Defendant's conduct warrants the imposition of penalties. Furthermore, although wage-and-hour actions are amenable to resolution as to a group of employees, some courts have also found that, for various reasons, the issues raised by Plaintiff raises individualized issues and/or are not suitable for adjudication as to a group of employees.

22. From the inception of this litigation, Defendant indicated that it would aggressively litigate this case and contended that it would ultimately succeed in the action. Defendant maintained several defenses to Plaintiff’s allegations, which, if successfully argued and proven, had the potential to eliminate or substantially reduce recovery. Throughout this litigation, Defendant maintained, and continues to maintain, that it did not engage in a uniform policy and systematic scheme of wage abuse against its non-exempt employees, and that it had, and continues to have, legally-compliant employment policies and practices throughout the time period at issue. Defendant denies that it ever violated any provision of the California Labor Code. Defendant further denied, and continues to deny, that the lawsuit is appropriate for representative adjudication for any purpose other than the Settlement.

23. Defendant also challenged Plaintiff's standing as an aggrieved employee and denied that any of its other employees whom Plaintiff seeks to represent are aggrieved. Also, multiple courts have taken an approach requiring a plaintiff to establish standing and face the possibility of bifurcation of discovery and/or trial of the PAGA claim. See *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court*. (2009) 46th Cal.4th 993, 1001 (noting that PAGA “require[s] a plaintiff to have suffered an injury resulting from an unlawful action”); *Stafford v. Dollar Tree Stores, Inc.* (E.D. Cal. Nov. 21, 2014) 2014 WL 6633396, at *4 (finding that judicial economy supported bifurcation because of the difficulties and inherent uncertainties

of being able to establish liability with respect to a large number of potentially aggrieved employees and noted that “PAGA’s public purpose would be ill-served if the court finds [the plaintiff] has not been aggrieved by a Labor Code violation”); *Grappo v. Coventry Fin. Corp.* (1991) 235 Cal.App.3d 496, 504 (Trial courts have “broad discretion to determine the order of proof in the interest of judicial economy”); see also Cal. Code Civ. Proc. § 598 (The court may “when the convenience of witnesses, the ends of justice, or the economy and efficiency of handling the litigation would be promoted thereby, on motion of a party, after notice and hearing, make an order. . . that the trial of any issue or any part thereof shall precede the trial of any other issue or any part thereof in the case[.]”); Cal. Code Civ. Proc. § 1048(b) (Court can separate trial of any cause of action or of any separate issue in the interest of convenience or to avoid prejudice); Cal. Code Civ. Proc. § 2019.020(b) (Courts have the power to “establish the sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice”); *Horton v. Jones* (1972) 26 Cal.App.3d 952, 955 (stating that bifurcation and sequencing of litigation is allowed to avoid wasting time and money on trial when litigation of issues could be rendered moot).

24. Defendant pointed to case law that held that, given the derivative nature of the PAGA claim, it would stand or fall based on whether Plaintiff could successfully demonstrate the requisite elements to establish the various alleged violations of the California Labor Code that the PAGA claim is predicated on and derives from, and the success of showing, *inter alia*, failure to properly pay wages, failure to provide compliant meal and rest periods, failure to reimburse for expenses, etc.

25. Further, Defendant also maintained that, in addition to its strong arguments against the underlying claims, taking the current unsettled state of law, it would be unjust to award the maximum potential PAGA penalties. There was also a dearth of law and guidance regarding trials and/or assessment of penalties under the PAGA statute, there is no clearly established methodology for the valuation and/or assessment of PAGA penalties, and case outcomes (such as those discussed below) have shown that the actual amount of civil penalties actually assessed by trial courts is far less than the amount sought.

26. Defendant also argued that an important feature of PAGA is that the Court retains discretion to lower the penalties if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is “unjust, arbitrary and oppressive, or confiscatory.” See Cal. Lab. Code § 2699(e)(2); see also *Thurman v. Bayshore Transit Management, Inc.* (2012) 203 Cal.App.4th 1112, 1136 (holding that a court may reduce the amount of PAGA penalties awarded to an employee based upon discretionary factors). Defendant maintained, and continues to maintain, that it had and continues to have, legally-compliant employment policies and practices throughout the time period at issue. Even if, *arguendo*, such violations occurred, which Defendant denies, Defendant contended that said violations would only be considered “initial violations” and thus heightened “subsequent violation” penalties were not warranted. See Cal. Lab. Code § 2699(f)(2); see also *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1208-09 (“Until the employer has been notified that it is violating a Labor Code provision [...], the employer cannot be presumed to be aware that its continuing underpayment of employees is a ‘violation’ subject to penalties.”). Defendant argued that it would be able to show a lack of willfulness in the violations, such that the alleged California Labor Code violations would not be considered “willful.” Defendant contended that, at best, even if a violation giving rise to a penalty was shown for each pay period, only the lower civil penalty associated with initial violations would apply. As discussed above, Defendant denied and continues to deny that it ever violated any provision of the California Labor Code. However, assuming, *arguendo*, that any violations occurred, Defendant argued the violations would not be viewed as subsequent violations giving rise to heightened penalties. Defendant also argued that the Court was unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory—especially where certain conduct may be regulated by multiple provisions of the California Labor Code that are interrelated and work in tandem. As such, Defendant contended that cumulative penalties and heightened penalties would be unjust, arbitrary, oppressive, and confiscatory.

27. Plaintiff's Counsel was also aware of case law indicating that courts have

1 attributed little separate value to PAGA claims, for example, allowing them to be resolved for
2 \$0 where the other underlying California Labor Code claims are being (or have been) resolved,
3 or, assessing much lower amounts of civil penalties against employers than are sought. See e.g.,
4 *Magadia v. Wal-Mart Assocs.* (N.D. Cal. 2019) 384 F. Supp. 3d 1058, 1100-1101, 1103-1104,
5 1111 (finding that, under Labor Code § 2699(e)(2), “the Court has broad discretion to award
6 PAGA penalties the Court sees fit” and reducing the PAGA penalty award significantly from
7 the maximum penalties possible); *Morales v Bridgestone Retail Operations LLC*, Orange
8 County Superior Court No. 30-2017-00900244 (Aug. 2, 2018) (of \$7 million PAGA penalties
9 requested, the court awarded \$425,000); *Carrington v Starbucks Corp.* (2018) 30 Cal.App.5th
10 504, 517, 529 (of \$75 million in penalties sought, the court affirmed the trial court’s \$150,000
11 PAGA penalty award based on 30,000 violations, which reduced the penalty rate to \$5 per
12 violation); *Arnold v San Diego Second Chance Program*, San Diego County Superior Court No.
13 37-2016-00018375 (Dec. 18, 2017) (no PAGA penalties awarded); *Felczer v Apple Inc.*, San
14 Diego County Superior Court No. 37-2011-00102593 (Sept. 13, 2017) (no PAGA penalties
15 awarded); *In re Taco Bell Wage and Hour Actions* (E.D. Cal. Apr. 8, 2016) No. 1:07-cv-01314-
16 SAB, 2016 U.S. Dist. LEXIS 48557 at *41 (the court declined to award PAGA penalties after
17 trial); *Allen v American Multi-Cinema*, Alameda County Superior Court No. RG11585502 (July
18 24, 2016) (no PAGA penalties awarded); *Atempa v Pama*, San Diego County Superior Court
19 (July 31, 2015) (of PAGA penalties of \$456,133 sought, the court awarded \$197,434.00);
20 *Driscoll v Granite Rock*, Santa Clara County Superior Court No. 1-08-cv-103426 (Sept. 20,
21 2011) (the court declined to award PAGA penalties); *Fleming v Covidien, Inc.*, No. ED CV10-
22 01487 RGK (OPx) (C.D. Cal. Aug. 12, 2011) 2011 U.S. Dist. LEXIS 154590 at **8-9 (of
23 \$2,800,000 PAGA penalties requested, the court awarded \$500,000); *Aguirre v Genesis*
24 *Logistics*, No. SACV 12-00687-JVS (ANx) (C.D. Cal. Dec. 30, 2013) 2013 U.S. Dist. LEXIS
25 189820 at **6-7 (of \$1,800,000 PAGA penalties requested, the court awarded \$500,000); *Halevi*
26 *v Aroma Bakery Café, Inc.*, Los Angeles County Superior Court No. 468146 (Aug. 30, 2013)
27 (the court declined to award PAGA penalties after trial awarding wages to class on the basis
28 that, inter alia, the lawsuit was not prompted by availability of PAGA penalties, penalties were

not necessary to remedy ongoing or future violations, corporate defendants corrected violations and were no longer in business, and plaintiffs did not offer evidence establishing imposition of penalties on individual defendants would not be confiscatory).

28. Importantly, Defendant also contended that the claims of Plaintiff and other Aggrieved Employees are subject to enforceable agreements that included, *inter alia*, binding individual arbitration and class and collective action waiver provisions. Defendant contended that, taken together, these agreements would have claim preclusive impact, or otherwise, could effectively be used to require Aggrieved Employees to engage in individual arbitration of their individual claims on which the PAGA claim is predicated. There is also uncertainty regarding PAGA claims due to decisions of the high courts and recent amendment of the PAGA statute. For example, as a result of a recent United States Supreme Court decision, it is more likely that employer agreements containing arbitration terms will impact the viability of adjudication of PAGA claims in the judicial forum. *Viking River Cruises, Inc. v. Moriana*, (2022) 142 S. Ct. 1906, 2022 U.S. LEXIS 2940. Although the substantive statutory right to pursue a PAGA claim has not been eviscerated and has been preserved, arbitration agreements may be used to select the forum and procedure to be used to resolve PAGA claims to some extent. Recently, the California Supreme Court confirmed that an aggrieved employee who has been compelled to arbitrate claims under PAGA that are premised on California Labor Code violations that were sustained by the aggrieved employee still maintains statutory standing to pursue a PAGA claim arising out of events involving other employees through a PAGA representative claim. *Adolph v. Uber Technologies* (2023) 14 Cal.5th 1104. Nevertheless, while the arbitrable and non-arbitrable components of an action are not severed from one another, it is still possible that trial courts will stay the representative/non-individual PAGA claims pending arbitration of a plaintiff's individual PAGA claims and if a plaintiff is determined to not be an "aggrieved employee" for PAGA purposes, issue preclusion may apply and, once reduced to a final judgment, trial courts are bound by the arbitrator's determination and the plaintiff may lose standing to pursue non-individual PAGA claims. *Id.* at 693.

29. Furthermore, the recent amendment of the PAGA statute enacted on July 1, 2024,

adopting, *inter alia*, modified standing requirements, codifying a manageability requirement, capping civil penalties that can be assessed against an employer if an employer meets certain conditions, and allowing an employer to cure violations to avoid the assessment of civil penalties if an employer meets certain conditions, has created uncertainty regarding the future of claims for civil penalties under PAGA. As such, at the time that the Parties reached the settlement, and also now, there is uncertainty regarding the PAGA claim.

30. While Plaintiff disagrees with Defendant's contentions and maintains that his PAGA claim has merit, in reaching the settlement, Plaintiff and his counsel took into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal.

31. The parties had the opportunity to review extensive information, documents, and data regarding Plaintiff and Aggrieved Employees employment with Defendant in an effort to determine the potential value of the PAGA claim. Counsel for the Parties invested time reviewing and analyzing the relevant information, documents, and data, and this information made it possible to calculate the potential value and strength of the PAGA claim (as discussed below). Accordingly, the Parties have conducted sufficient investigation and review of data, documents, and information to be sufficiently apprised of the nature and extent of the PAGA claim asserted in this lawsuit, and to enable both sides to fully evaluate the Settlement for its fairness, adequacy, and reasonableness. The Parties have also considered the settlement negotiations and the recommendations of the mediator, Hon. Daniel Buckley (Ret.), who is highly experienced in mediating complex labor and employment matters. The Parties have agreed that this case is well-suited for settlement given the legal issues relating to the PAGA claim, as well as the costs, risks, and delays to both sides that would attend further litigation. The Settlement takes into account the strengths and weaknesses of each side's position and the uncertainty of how the case might have concluded as litigation continued, at trial, and/or upon appeal.

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THE VALUE OF THE PAGA CLAIM

32. **Total Amount of Potential Penalties.** Under PAGA, as amended, civil penalties to be assessed and collected by the state labor agency, for a violation of the California Labor Code, may, as an alternative, be recovered by an aggrieved plaintiff. If the California Labor Code already specifies and provides a civil penalty for the violation of a provision of the California Labor Code, said civil penalty is recoverable by the aggrieved employee plaintiff. Additionally, the PAGA statute establishes a civil penalty that is recoverable by an aggrieved employee plaintiff, for violation of provisions of the California Labor Code for which the California Labor Code does not specifically provide for a civil penalty, as follows: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Cal. Lab. Code. § 2699(f). Pursuant to California Labor Code section 2699(i), seventy-five percent (75%) of the penalties recovered must be allocated to the State of California, with the remaining twenty-five percent (25%) allocated to the aggrieved employees. Arguably, the statute of limitations period applicable to such penalties is one year prior to the filing of the complaint. Cal. Civ. Proc. Code § 340. Plaintiff's Counsel estimates the following potential and risk-adjusted amounts for PAGA penalties:

A. Failure to Pay Overtime and Minimum Wages

33. Plaintiff contended that Defendant failed to compensate Plaintiff and the Aggrieved Employees at their applicable minimum, regular, overtime, and reporting time rates for their work, and failed to compensate them for all hours that they worked. Plaintiff contended that Plaintiff and other Aggrieved Employees were required to meet unreasonable workloads that were not capable of being completed within the work hours scheduled, and that Plaintiff and other Aggrieved Employees were required to perform work off-the-clock. Plaintiff further contended that Defendant failed to include non-discretionary bonuses, commissions, and incentives in its regular rate calculations.

34. California Labor Code section 510 provides that when an employee works more than eight (8) hours in any workday, more than forty (40) hours in any workweek, or the first

eight (8) hours on the seventh consecutive day of work, the employer must pay the employee at least one and one-half times the employee's regular rate of pay for such overtime hours worked. The employer must pay the employee no less than twice his or her regular rate of pay for hours worked in excess of twelve (12) hours in one day or in excess of eight (8) hours on the seventh consecutive day of work. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order(s) provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

35. California Labor Code section 1197 provides that it is unlawful to pay employees at a rate less than the minimum wage. California Labor Code section 1197.1 provides for penalties; the penalties that it provides for are civil penalties of one hundred dollars (\$100) for an initial violation for each pay period on which an employee was underpaid and two hundred fifty dollar (\$250) for each subsequent violation for each pay period on which an employee was underpaid. Cal. Lab. Code §§ 1197.1(a)(1)-(2).

36. Investigations show that Plaintiff and other Aggrieved Employees were regularly required to arrive to work early and begin working daily, and Plaintiff and other Aggrieved Employees would regularly have to stay after the end of their shifts for numerous hours to ensure that all construction projects were running efficiently. Further, Plaintiff and other Aggrieved Employees were also required to complete heavy workloads within their scheduled work times and were discouraged from working overtime hours due to strict company policy. As a result, Plaintiff and other non-exempt hourly paid employees were required to perform job duties such as supervising concrete pours and attending to construction emergencies off-the-clock.

37. Defendant contended, *inter alia*, that its overtime policies and practices comply with California law, and that its hourly-paid or non-exempt employees are paid over the California minimum wage for all hours worked. Defendant further contended that its hourly-paid or non-exempt employees were responsible for accurately recording their own hours and that it was not aware that any work had been performed off-the-clock. Defendant also produced

1 what it contended were records reflecting overtime compensation paid to many of the Aggrieved
2 Employees (including and not limited to Plaintiff). Defendant further contended that individual
3 liability issues predominate, including: (a) whether each employee worked off-the-clock; (b)
4 whether Defendant knew or should have known about each employee's off-the-clock work; (c)
5 whether each employee worked in excess of 8 hours in a day or 40 hours in a week; and (d)
6 whether Defendant knew or should have known that each Aggrieved Employee performed
7 overtime work. Defendant also contended that the Aggrieved Employees held different job
8 titles, worked at different locations, and performed different job duties. Defendant contended
9 that these circumstances would raise highly individualized questions of fact and would pose
10 challenges to the merits of alleged overtime and minimum wage violations.

11 38. Plaintiff's Counsel considered information obtained through investigations and
12 obtained from Plaintiff and other Aggrieved Employees, as well as data provided by Defendant,
13 and created valuation models. Based thereon and assuming that the Court would be satisfied
14 that the PAGA claim was susceptible to being efficiently tried and adjudicated on a
15 representative basis, and that it could be shown that civil penalties under California Labor Code
16 are owed for each of the Aggrieved Employees who were estimated to have worked 14,772 pay
17 periods during the PAGA Period (i.e., from July 12, 2020), in the statutorily-denominated
18 amounts, the PAGA penalties at issue for failure to pay overtime wages were estimated to be
19 \$1,469,850.00 (147 initial violations x \$50 + 14,625 subsequent violations x \$100) and the
20 PAGA penalties at issue for failure to pay minimum wages were estimated to be \$3,670,950.00
21 (147 initial violations x \$100 + 14,625 subsequent violations x \$250).

22 39. However, this assumes an exposure based on Plaintiff having demonstrated all
23 elements to prove wage violations, despite risks associated with continued litigation and trial.
24 While Plaintiff's Counsel disagreed with Defendant's arguments and factual contentions,
25 Plaintiff's Counsel recognized the realities of the case and took into consideration the evidence
26 and information obtained through investigations as well as from Defendant, applicable statutory
27 and case law, costs and expenses of further litigation, and risks to recovery, and applied
28 appropriate discounts for settlement purposes. With respect to the failure to pay overtime wages,

a discount of 80% was applied to account for the risks associated with Defendant's arbitration agreements which can be used to compel a PAGA representative's individual claims to arbitration, as was the case for Plaintiff before the parties decided to settle (bringing the value of PAGA penalties closer to \$293,970.00), a 65% discount was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of PAGA penalties closer to \$102,889.50), and a discount of 85% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties (bringing the value of PAGA penalties closer to \$15,433.43). With respect to the minimum wage claim, a discount of 85% was applied to account for the risks associated with Defendant's arbitration agreements which can be used to compel a PAGA representative's individual claims to arbitration, as was the case for Plaintiff before the parties decided to settle (bringing the value of PAGA penalties closer to \$550,642.50), a discount of 65% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of PAGA penalties closer to \$192,724.88), and a discount of 85% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties (bringing the value of PAGA penalties closer to \$28,908.73)

B. Failure to Provide Compliant Meal Periods and Associated Premiums

40. Plaintiff's theory of liability was also based on Defendant's failure to provide timely, full, and/or uninterrupted meal periods. Plaintiff contended, *inter alia*, that Plaintiff and other Aggrieved Employees regularly suffered short, late, or missed meal periods due to severe understaffing, heavy workloads, and strict deadlines.

41. Under California law, an employer must provide an employee with uninterrupted meal periods of not less than thirty (30) minutes before the employee works more than five (5) hours, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee. Cal. Lab. Code § 512(a). A second meal period of not less than thirty (30) minutes is required if an employee works more than ten (10) hours per day, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the

1 employer and employee only if the first meal period was not waived. *Id.* An “on-duty” meal
2 period is illegal unless “the nature of the work prevents an employee from being relieved of all
3 duty and when by written agreement between the parties an on-the-job paid meal period is
4 agreed to.” IWC Wage Orders 1 through 15, § 11; IWC Wage Order 16, § 10. An employer
5 must pay each employee to whom it fails to “provide” a meal period one hour of wages at his or
6 her regular rate of pay “for each work day that the meal or rest period is not provided.” Cal.
7 Lab. Code § 226.7(b). However, employees are exempt from the meal period requirements if
8 their duties and responsibilities qualify for one or more of the exemptions under California law.
9 See Cal. Lab. Code § 226.7(e); IWC Wage Orders 3 through 11, § 1(A).

10 42. Investigations show that Plaintiff and other Aggrieved Employees suffered non-
11 compliant meal periods (i.e., missed, short, late, and/or interrupted) due to severe understaffing
12 and heavy workloads. Furthermore, Plaintiff and other Aggrieved Employees were regularly
13 pressured to suffer short and/or completely missed meal breaks in order to ensure there was
14 sufficient coverage of the operations. In addition, Defendant implemented a policy and practice
15 where employees were required to “record” a meal period each day on a timecard and submit
16 hours worked once per week on a company-owned website. Plaintiff and other aggrieved
17 employees were forced to fill these forms in lieu of clocking in and out for meal periods.
18 Plaintiff’s Counsel’s analysis of a 25% sampling of time records produced by Defendant from
19 July 12, 2020 to February 2, 2024 indicated that of the 2,635 shifts analyzed, approximately
20 26.68% had a recorded meal violation, and approximately 72.78% of recorded meal periods
21 were exactly 30-minutes in length.

22 43. Defendant also contended that it had practices, policies, and procedures to provide
23 meal periods every workday to its employees that fully complied with the law. To the extent
24 that Aggrieved Employees failed to take their meal periods or took a short or late meal period,
25 Defendant contended that they did so voluntarily and that all applicable meal periods were still
26 provided to them. Thus, Defendant argued that it did not act unlawfully to deprive Aggrieved
27 Employees of meal periods. Defendant also contended that Aggrieved Employees signed meal
28 period waivers. Defendant further contended that there were multiple individual issues that

1 would pose challenges including and not limited to, (a) whether any meal periods were non-
2 compliant and (b) why they were noncompliant. Defendant also contended that the Aggrieved
3 Employees held different job titles and performed different job duties, and that as a result, there
4 was variation to the circumstances that could allegedly cause the employees to be deprived of
5 the opportunity to take legally-compliant, duty-free meal periods, and this variation in
6 circumstances raised highly individualized questions of fact.

7 44. Plaintiff's Counsel considered information obtained through investigations and
8 obtained from Plaintiff and other Aggrieved Employees, as well as data provided by Defendant,
9 and created valuation models. Based thereon, and assuming that a court would be satisfied that
10 the PAGA claim was susceptible to being efficiently tried and adjudicated on a representative
11 basis, and that it could be shown that civil penalties under the California Labor Code are owed
12 for each of the Aggrieved Employees during the PAGA Period, in the statutorily-denominated
13 amounts, the PAGA penalties at issue for failure to provide compliant meal periods and
14 associated premiums, which the Court could determine whether or not to assess and whether or
15 not to reduce, were estimated to be \$1,469,850.00 (147 initial violations x \$50 + 14,625
16 subsequent violations x \$100).

17 45. Plaintiff's Counsel considered the risk of further litigating the case, including the
18 significant additional costs that will be incurred by both sides if the case does not settle, as
19 litigating a representative action through trial and/or appeals is very expensive. Moreover,
20 litigating the meal period claim would be inherently difficult as it would need to be proven that
21 compliant meal periods were not provided, but time records would not indicate whether or not
22 a meal period was interrupted. While Plaintiff's Counsel disagreed with Defendant's arguments
23 and factual contentions, Plaintiff's Counsel recognized the realities of the case, statutory and
24 case law, costs and expenses of further litigation, and risks to recovery, and applied appropriate
25 discounts for settlement purposes. A discount of 85% was applied to account for the risks
26 associated with Defendant's arbitration agreements which can be used to compel a PAGA
27 representative's individual claims to arbitration, as was the case for Plaintiff before the parties
28 decided to settle (bringing the value of PAGA penalties closer to \$220,477.50), a 65% discount

1 was applied to account for the risks associated with succeeding on the merits and establishing
2 liability (bringing the value of PAGA penalties closer to \$77,167.13), and a discount of 85%
3 was applied to account for the risks associated with the Court exercising its discretion to reduce
4 and/or assess lower penalties (bringing the value of PAGA penalties closer to \$11,575.07).

5 **C. Failure to Provide Compliant Rest Periods and Associated Premiums**

6 46. Plaintiff's theory of liability was also based on Defendant's failure to provide its
7 employees with timely, full, and/or uninterrupted rest periods. Plaintiff contended that Plaintiff
8 and other Aggrieved Employees regularly suffered short, late, or missed rest periods due to
9 severe understaffing, heavy workloads, and strict deadlines. California law requires an employer
10 to provide rest periods to all employees at the rate of ten (10) minutes every four (4) hours of
11 work or major fraction thereof. Cal. Lab. Code § 226.7. When an employer fails to provide a
12 compliant rest period, the employer is required to either (a) provide another rest period or (b)
13 pay one additional hour of pay at the regular rate of pay "for each work day that the meal or rest
14 period is not provided." *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 271-
15 272; Cal. Lab. Code § 226.7(b). However, employees are exempt from the rest breaks law, if
16 their duties and responsibilities qualify for one or more of the exemptions under California law.
17 See Cal. Lab. Code § 226.7(e); IWC Wage Order, § 1(A).

18 47. Defendant argued that, consistent with *Brinker*, it did nothing to impede,
19 discourage, or dissuade employees from taking their rest periods, and it authorized and permitted
20 employees to take rest periods.

21 48. Plaintiff's Counsel considered information obtained through investigations and
22 obtained from Plaintiff and other Aggrieved Employees, as well as data provided by Defendant,
23 and created valuation models. Based thereon, and assuming that the Court would be satisfied
24 that the PAGA claim was susceptible to being efficiently tried and adjudicated on a
25 representative basis, and that it could be shown that civil penalties under the California Labor
26 Code are owed for each of the Aggrieved Employees during the PAGA Period, in the statutorily-
27 denominated amounts, the PAGA penalties at issue for failure to provide compliant rest periods
28 and associated premiums, which the Court could determine whether or not to assess and whether

1 or not to reduce, were estimated to be \$1,469,850.00 (147 initial violations x \$50 + 14,625
2 subsequent violations x \$100).

3 49. In assessing the value of the PAGA penalties for rest period violations, Plaintiff's
4 Counsel considered the risk of further litigating the case, as well as significant additional costs
5 that will be incurred by both sides if the case does not settle, as litigating a representative action
6 through trial and/or appeals is very expensive. Moreover, litigating the rest period claim would
7 be inherently difficult as it would first need to be proven that compliant rest periods were not
8 provided, but time records would not indicate whether a rest period is short, late, interrupted, or
9 missed entirely. While Plaintiff's Counsel disagreed with Defendant's arguments and factual
10 contentions, Plaintiff's Counsel recognized the realities of the case and applied discounts for
11 settlement purposes in light of applicable statutory and case law, the costs and expenses of
12 further litigation, and risks to recovery. A discount of 85% was applied to account for the risks
13 associated with Defendant's arbitration agreements which can be used to compel a PAGA
14 representative's individual claims to arbitration, as was the case for Plaintiff before the parties
15 decided to settle (bringing the value of PAGA penalties closer to \$220,477.50), a 65% discount
16 was applied to account for the risks associated with succeeding on the merits and establishing
17 liability (bringing the value of PAGA penalties closer to \$77,167.13), and a discount of 85%
18 was applied to account for the risks associated with the Court exercising its discretion to reduce
19 and/or assess lower penalties (bringing the value of PAGA penalties closer to \$11,575.07).

20 **D. Failure to Timely Provide Wages During Employment and Upon**
21 **Termination**

22 50. California Labor Code section 204 provides that wages earned by any person in
23 any employment between the 1st and 15th days, inclusive, of any calendar month, other than
24 those wages due upon termination of an employee, are due and payable between the 16th and
25 the 26th day of the month during which the labor was performed. Further, all wages earned by
26 any person in any employment between the 16th and the last day, inclusive, of any calendar
27 month, are due and payable between the 1st and the 10th day of the following month.
28

1 51. Plaintiff alleged that, as a result of the above-discussed alleged conduct,
2 Defendant failed to pay Plaintiff and the Aggrieved Employees all wages due to them while they
3 were employed by Defendant, within the time period permissible under California law. These
4 wages included, but were not limited to, minimum, regular, overtime, and reporting time wages
5 and meal and rest break premium wages. However, arguably, violations of this provision of the
6 California Labor Code overlap with and are already pursued as part of the allegations for the
7 failure to pay wages and meal and rest premiums (which are already discussed herein)—this
8 aspect may cause a court to exercise discretion to not assess separate penalties or to assess
9 significantly reduced penalties. (Cal. Lab. Code § 2699(e)(1)-(2)).

10 52. California Labor Code sections 201 and 202 provide that if an employer
11 discharges an employee, the wages earned and unpaid at the time of discharge are due and
12 payable immediately. If an employee quits his or her employment, his or her wages shall
13 become due and payable not later than seventy-two (72) hours of quitting, unless the employee
14 has given seventy-two (72) hours of notice of his or her intention to quit, in which case the
15 employee is entitled to his or her wages at the time of quitting.

16 53. Plaintiff alleged that Defendant failed to pay Plaintiff and the other Aggrieved
17 Employees all wages due to them upon termination, within the time period permissible under
18 California law. For example, Plaintiff alleged that she and other Aggrieved Employees are
19 entitled to unpaid wages arising from, *inter alia*, Defendant's failure to properly compensate
20 them for all hours worked, as well as, meal and rest period premiums, thereby triggering waiting-
21 time penalties under California Labor Code section 203.

22 54. Assuming that a court would be satisfied that the PAGA claim was susceptible to
23 being efficiently tried and adjudicated on a representative basis, the civil penalties under the
24 California Labor Code in connection with the alleged failure to timely pay all wages due upon
25 termination to the approximately 109 Aggrieved Employees who separated from employment
26 with Defendant, which the Court could determine whether or not to assess and whether or not
27 to reduce, were estimated to be \$10,900.00 (109 initial violations x \$100 civil penalties).
28 However, this presumes that Plaintiff would prevail on the allegations regarding unpaid wages

1 and meal and rest period non-compliance, which is necessary to show that Defendant failed to
2 timely pay wages that were due to the Aggrieved Employees.

3 55. Accordingly, in assessing the value of PAGA penalties premised on the failure to
4 timely pay wages, Plaintiff's Counsel took into consideration the chances of proving the alleged
5 wage-and-hour violations, as well as the costs and expenses of further litigation, applicable
6 statutory and case law, and risks to recovery, and applied appropriate discounts for settlement
7 purposes. A discount of 85% was applied to account for the risks associated with Defendant's
8 arbitration agreements which can be used to compel a PAGA representative's individual claims
9 to arbitration, as was the case for Plaintiff before the parties decided to settle (bringing the value
10 of PAGA penalties closer to \$1,635.00), a 65% discount was applied to account for the risks
11 associated with succeeding on the merits and establishing liability (bringing the value of PAGA
12 penalties closer to \$572.25), and a discount of 85% was applied to account for the risks
13 associated with the Court exercising its discretion to reduce and/or assess lower penalties
14 (bringing the value of PAGA penalties closer to \$85.84).

15 **E. Wage Statement Violations**

16 56. Plaintiff also alleged that Defendant violated California Labor Code section
17 226(a). That section states that an employer must provide an accurate and itemized wage
18 statement twice a month or each time wages are paid, whichever is the more frequent.

19 57. Based on information and data provided by Defendant, and assuming that an
20 injurious wage statement could be proven for each of the pay periods worked by Aggrieved
21 Employees during the PAGA Period, the PAGA civil penalties under the California Labor Code
22 (in the statutorily-denominated amounts) for failure to provide compliant wage statements,
23 which the Court could determine whether or not to assess and whether or not to reduce, were
24 estimated to be \$14,661,750.00 (147 initial violations x \$250 + 14,625 subsequent violations x
25 \$1,000).

26 58. Defendant contended that any wage statement violations are entirely derivative of
27 other alleged violations of the California Labor Code. In other words, Plaintiff would have to
28 prove, for example, that overtime was worked, that all hours of work had not been properly

recorded and compensated to demonstrate that the wage statements were inaccurate. Defendant further contended, *inter alia*, that no actual injury could be shown. When assessing the value of PAGA penalties for wage statement violations, Plaintiff's Counsel considered these factors, the derivative nature of this alleged wage-and-hour violation, the chances of proving each of other alleged wage-and-hour violations, applicable statutory and case law, costs and expenses of further litigation and trial, and risks to recovery, and applied appropriate discounts for settlement purposes. A discount of 85% was applied to account for the risks associated with Defendant's arbitration agreements which can be used to compel a PAGA representative's individual claims to arbitration, as was the case for Plaintiff before the parties decided to settle (bringing the value of PAGA penalties closer to \$2,199,262.50), a 65% discount was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of PAGA penalties closer to \$769,741.88), and a discount of 85% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties (bringing the value of PAGA penalties closer to \$115,461.28).

F. Failure to Maintain Requisite Payroll Records

59. Plaintiff alleged that Defendant had intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily by, and the wages paid to, Plaintiff and the Aggrieved Employees. Plaintiff also alleged that Defendant's intentional and willful failure to keep accurate payroll records violated the statutorily-protected right to accurate and complete payrolls records.

60. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the Labor Commissioner, but in any case, shall be kept on file for not less than three years. Under California Labor Code section 1174.5, a willful violation of

the employer's recordkeeping obligations set forth in California Labor Code 1174(d) is subject to a civil penalty of \$500.

61. Defendant contended that Plaintiff and Aggrieved Employees suffered no actual injury or damage from the alleged recordkeeping violations. Moreover, Defendant contended that individual liability issues predominated, including (a) whether each Aggrieved Employees' payroll records were not maintained properly, and (b) whether Defendant's alleged failure to keep requisite payroll records was "willful." Like the wage statement allegations, this allegation is entirely derivative of allegations regarding failure to pay wages and failure to provide compliant meal and rest periods and associated premiums.

62. If Plaintiff proved that Defendant willfully failed to maintain complete and accurate payroll records for one hundred and forty-seven (147) Aggrieved Employees, the PAGA civil penalties under the California Labor Code for said violations, which the Court could determine whether or not to assess and whether or not to reduce, would amount to \$73,500.00 (147 x \$500). However, this figure assumes that Plaintiff would be able to prove all elements of the underlying allegations. In other words, Plaintiff would have to prove, for example, that all hours of work had not been recorded and compensated properly and accurately, and that non-compliant meal and rest breaks did occur but Defendant did not provide premium pay for them, etc., in order to demonstrate that Defendant failed to maintain accurate and complete payroll records. It also assumed that Plaintiff would be able to recover the statutorily-denominated amount of penalties.

63. As such, when assessing the value of PAGA penalties for violation of California Labor Code section 1174(d), Plaintiff's Counsel took the foregoing factors into account, as well as Defendant's defenses and contentions, the derivative nature of this alleged wage-and-hour violation, the chances of proving the other alleged wage-and-hour violations, the inherent difficulty in proving the "willful" prong of California Labor Code section 1174.5, applicable statutory and case law, costs and expenses of further litigation and trial, and risks to recovery, and applied appropriate discounts for settlement purposes. A discount of 85% was applied to account for the risks associated with Defendant's arbitration agreements which can be used to

1 compel a PAGA representative's individual claims to arbitration, as was the case for Plaintiff
2 before the parties decided to settle (bringing the value of PAGA penalties closer to \$11,025.00),
3 a 65% discount was applied to account for the risks associated with succeeding on the merits
4 and establishing liability (bringing the value of PAGA penalties closer to \$3,858.75), and a
5 discount of 85% was applied to account for the risks associated with the Court exercising its
6 discretion to reduce and/or assess lower penalties (bringing the value of PAGA penalties closer
7 to \$578.81).

8 **G. Unreimbursed Business Expenses**

9 64. Plaintiff contended that Defendant had failed to reimburse Plaintiff and the other
10 Aggrieved Employees for necessary business expenses, including, but not limited to, the costs
11 associated with using personal cell phones for work duties, vehicle mileage expenses, and
12 purchasing and maintaining clothing to comply with Defendant's dress code.

13 65. California Labor Code section 2802 requires an employer to indemnify its
14 employees for all necessary expenditures made by the employee in direct consequence of the
15 discharge of his or her duties, or of his or her obedience to the directions of the employer.

16 66. Defendant contended that it had a policy and practice of reimbursing employees
17 for necessary business-related expenses. Defendant further contended that, with respect to the
18 alleged expenses for which Plaintiff and Aggrieved Employees never requested reimbursement
19 from Defendant, it did not know and had no reason to know that alleged business-related
20 expenses had been incurred. Defendant further contended that the reason for why an Aggrieved
21 Employee was required to undertake certain expenses, while not others, and failed to receive
22 reimbursement for certain expenses while receiving reimbursement for others, would raise
23 individual issues and pose challenges to manageability at trial.

24 67. Defendant also contended that the California Labor Code only requires
25 reimbursement of "necessary" expenses—as opposed to any expense that is incurred in the
26 course of performing work—and argued that distinguishing a necessary expense from an
27 unnecessary one would require individualized inquiry. See, Cal. Lab. Code § 2802; *Gattuso v.*
28 *Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Furthermore, Defendant contended that

whether or not an expense was necessary, would depend, in part, on the reasonableness of the employee's choice, and whether or not an expense was incurred, would have to be established by way of extensive individual factual inquiry and/or statistical evidence. *Cochran v. Schwan's Home Services, Inc.* (2014) 228 Cal.App.4th 1137.

68. By Plaintiff's calculation, if Plaintiff proved that Defendant willfully failed to reimburse necessary business-related expenses for each of the Aggrieved Employees each pay period during the PAGA Period, the PAGA civil penalties under the California Labor Code (in the statutorily-denominated amounts) for failure to reimburse business expenses, which the Court could determine whether or not to assess and whether or not to reduce, were estimated to be \$2,939,700.00 (147 initial violations x \$100 + 14,625 subsequent violations x \$200). Additionally, Plaintiff's Counsel took into consideration the additional costs attendant to, and risk of, establishing that expenses were incurred and that the nature of the expenses were such that Defendant was required to reimburse them. While Plaintiff's Counsel disagreed with Defendant's arguments and factual contentions, Plaintiff's Counsel considered the realities of Defendant's arguments, the costs and expenses of further litigation and trial, the statutory and case law, and the risks to recovery, and applied appropriate discounts for settlement purposes. A discount of 85% was applied to account for the risks associated with Defendant's arbitration agreements which can be used to compel a PAGA representative's individual claims to arbitration, as was the case for Plaintiff before the parties decided to settle (bringing the value of PAGA penalties closer to \$440,955.00), a 65% discount was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of PAGA penalties closer to \$154,334.25), and a discount of 85% was applied to account for the risks associated with the Court exercising its discretion to reduce and/or assess lower penalties (bringing the value of PAGA penalties closer to \$23,150.14).

H. Risks Considered in Reaching Settlement.

69. Although the potential PAGA penalties at issue in this matter are substantial, there are also significant risks. First, there is the risk that Defendant would be able to establish a defense or defenses to liability. From the inception of this litigation, Defendant indicated that

1 it would aggressively litigate this case and contended that it would ultimately succeed in the
2 action. Defendant maintained several defenses to Plaintiff’s allegations, which, if successfully
3 argued and proven, had the potential to eliminate or substantially reduce recovery. Throughout
4 this litigation, Defendant maintained and continues to maintain that it had legally-compliant
5 employment policies and practices throughout the PAGA Period. Defendant denied and
6 continues to deny that it ever violated any provision of the California Labor Code and argued,
7 that, even if, *arguendo*, such violations occurred, it will not be treated as having engaged in
8 subsequent violations giving rise to heightened penalties. In other words, Defendant argued that
9 heightened civil penalties for subsequent violations would not be assessed unless it could be
10 shown that Defendant had notice that it was violating the law, e.g. because it had already been
11 cited by a labor agency or adjudged by a court to have done so. *See, e.g., Amaral v. Cintas Corp.*
12 *No. 2* (2008) 163 Cal.4th 1157, 1209. Defendant argued that it would be able to show a lack of
13 willfulness in the violations, such that the alleged California Labor Code violations would not
14 be considered “willful.” Defendant contended that, at best, even if a violation giving rise to a
15 penalty was shown for each pay period, only the lower civil penalty associated with initial
16 violations would apply.

17 70. Importantly, Defendant also contended that the claims of Plaintiff and other
18 Aggrieved Employees are subject to enforceable arbitration agreements that included a waiver
19 of the right to join or participate in a class action or representative action or otherwise
20 consolidate a covered claim with others. Defendant contended that, taken together, these
21 agreements would have claim preclusive impact, or otherwise, could effectively be used to
22 require Aggrieved Employees to engage in individual arbitration of their individual claims on
23 which the PAGA claim is predicated. There is uncertainty regarding PAGA claims due to
24 decisions of the high courts and recent amendment of the PAGA statute. The decisions of the
25 high court include, and are not limited to, the U.S. Supreme Court’s decision in *Viking River*
26 *Cruises, Inc. v. Moriana*, (2022) 142 S. Ct. 1906, 2022 U.S. LEXIS 2940, and the California
27 Supreme Court’s in *Adolph v. Uber Technologies*, (2023) 14 Cal.5th 1104. The decision by the
28 California Supreme Court in *Adolph v. Uber Technologies*, confirmed that PAGA representative

claims are viable and can continue to be prosecuted, however it also suggests, that trial courts will stay the representative/non-individual PAGA claims pending arbitration of a plaintiff's individual PAGA claims. The *Adolph v. Uber Technologies* also suggests that, if a plaintiff is determined to not be an "aggrieved employee" for PAGA purposes, issue preclusion could apply and, once reduced to a final judgment, trial courts are bound by the arbitrator's determination and the plaintiff loses standing to pursue non-individual PAGA claims. Furthermore, the recent amendment of the PAGA statute enacted on July 1, 2024, adopting, *inter alia*, modified standing requirements, codifying a manageability requirement, capping civil penalties that can be assessed against an employer if an employer meets certain conditions, and allowing an employer to cure violations to avoid the assessment of civil penalties if an employer meets certain conditions, has created uncertainty regarding the future of claims for civil penalties under PAGA. As such, at the time that the Parties reached the settlement, and also now, there is uncertainty regarding the PAGA claim.

71. Second, even if Defendant failed on its defenses, Plaintiff would inevitably face other challenges in court. As discussed above, Plaintiff's individual claim was compelled to arbitration. Nevertheless, with respect to the non-individual PAGA claim, Defendant challenged Plaintiff's standing as an aggrieved employee and denied that any of Defendant's other employees, with respect to whom Plaintiff seeks civil penalties, were aggrieved. Aside from challenges relating to standing, Defendant would have likely sought bifurcation of discovery and/or trial of the PAGA claim — multiple courts have taken such an approach, for example, limiting discovery or trial of the issues to plaintiff. Defendant also contended that an important feature of the PAGA statute is that a court has discretion to reduce the penalties to be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). As discussed above, Defendant denied and continues to deny that it ever violated any provision of the California Labor Code. Defendant also argued that trial courts are unlikely to assess cumulative penalties for the maximum number of possible, separate California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or confiscatory—especially

1 where certain conduct may be regulated by multiple provisions of the California Labor Code
2 that are interrelated and work in tandem.

3 72. Counsel for the parties invested time reviewing, analyzing, and considering
4 relevant information, documents, and data regarding Plaintiff's and Aggrieved Employees'
5 employment with Defendant, and this information made it possible to calculate the potential
6 value and strength of the PAGA claim. Accordingly, the parties have conducted adequate
7 investigation and review of information to be sufficiently apprised of the nature and extent of
8 the PAGA claim asserted in this lawsuit, and to enable both sides to fully evaluate the Settlement
9 for its fairness, adequacy, and reasonableness. The parties have agreed that this case is well-
10 suited for settlement given the legal issues relating to the PAGA claim, as well as the costs,
11 risks, and delays to both sides that would attend future arbitration and court proceedings. The
12 Settlement takes into account the strengths and weaknesses of each side's position, the facts and
13 circumstances of the case, and the uncertainty of how the case might have concluded in
14 arbitration proceedings, at trial, and/or upon appeal.

15 **I. Alternate Valuation**

16 73. The manner in which civil penalties could be assessed involved some uncertainty,
17 for example, the Court could exercise its discretion to assess penalties on a per-pay-period basis
18 or, assess penalties on a per person basis, or some other methodology that still factors in the
19 statutorily-denominated dollar amounts of civil penalties at the outset. While the per-pay-period
20 valuation set forth above would seem to indicate a best case scenario, potential amount of
21 approximately \$25 million, if civil penalties were assessed on a per person basis instead, for
22 example, in the amount of \$2,950 for each of 147 individuals, this would yield potential civil
23 penalties in the amount of \$433,650, and discounting that amount of civil penalties by 55% for
24 risks associated with Defendant's arbitration agreements, succeeding on the merits and
25 establishing liability, and the possibility of the Court exercising its discretion to reduce and/or
26 assess lower penalties, brings the risk-adjusted value of civil penalties closer to \$195,143.00.

27 74. Another more conservative method of evaluating PAGA claims is to calculate
28 PAGA exposure on an unstacked basis. *Merante v. American Institute for Foreign Study, Inc.*

(N.D. Cal. 2022) 2022 WL 2918896, *6. Under this method, the default PAGA civil penalty of \$100 per pay period is applied to each pay period. Here, there are approximately 14,772 pay periods in the relevant PAGA period, which would generate an unstacked PAGA exposure of \$1,477,200.00, and discounting that amount of civil penalties by 85% for risks associated with Defendant's arbitration agreements, succeeding on the merits and establishing liability, and the possibility of the Court exercising its discretion to reduce and/or assess lower penalties, brings the risk-adjusted value of civil penalties closer to \$221,580.00. The evaluation and assessment of a PAGA claim and case is not an exact science, and there is room for a wide range of opinions regarding how such a claim and case should be valued, and Plaintiff's Counsel believes that the settlement reached falls within the range of value and ballpark of what would be considered a reasonable settlement amount.

J. Summary

75. The foregoing discussion confirms that the amount of the Settlement is adequate in light of the legal basis, facts, evidence, and circumstances in connection with Plaintiff's allegations and the PAGA claim. The conclusion to be drawn from the foregoing analysis is that neither liability nor the ability to adjudicate and/or recover civil penalties on a representative basis is clear-cut, which is why the parties elected to settle this matter. Plaintiff's Counsel considered the defenses asserted, information and evidence obtained, and circumstances in this case, which posed risks to representative adjudication and monetary recovery. Plaintiff's Counsel also considered the fact that, by law, the Court has the discretion to reduce and/or assess lower penalties, that it was not clear that heightened penalties would apply, and that stacking and/or cumulative penalties may not be allowed.

ATTORNEYS' FEES REQUESTED BY PLAINTIFF'S COUNSEL

76. As set forth more fully in the accompanying Motion, Plaintiff's Counsel seeks attorneys' fees in the amount of \$111,375.00, which represents approximately 33% of the Total Settlement Amount. Pursuant to the contingency-fee agreements entered into by and between Plaintiff and Plaintiff's Counsel, Plaintiff has agreed to contingency-fees of at least 33% of the recovery. The attorneys' fees sought are commensurate with: (1) the risk that Plaintiff's Counsel

1 took in commencing the case; (2) the time, effort, and expense that Plaintiff's Counsel dedicated
2 to the case; (3) the skill and determination that Plaintiff's Counsel has shown; (4) the results that
3 Plaintiff's Counsel has achieved throughout the litigation; (5) value of the settlement that
4 Plaintiff's Counsel has achieved in the case; and (6) the other cases that Plaintiff's Counsel has
5 turned down in order to devote its time and efforts to this case.

6 77. While not necessarily required to be demonstrated because a percentage fee is
7 proper for this settlement, it should be noted that Plaintiff's Counsel has performed many hours
8 of work in connection with prosecuting this matter such that the requested attorneys' fees award
9 is also justified under a lodestar analysis. Attorneys at Lawyers *for* Justice, PC have spent a
10 total of **193.3 hours** performing tasks to obtain a recovery on behalf of Plaintiff, the State of
11 California, and the Aggrieved Employees. Attached hereto as "**EXHIBIT 3**" is an Attorney
12 Task and Time Chart that sets forth in detail the nature of the legal services provided by attorneys
13 at Lawyers *for* Justice, PC and the time incurred in performing those services. These hours
14 include work done by several attorneys at the firm. Also, separate from the hours referenced
15 herein and in the chart, Lawyers *for* Justice, PC had litigation support personnel actively
16 engaged in assisting with the prosecution of the case.

17 78. The billing rates for each of the attorneys listed above, who worked on this matter,
18 are reasonable and commensurate with the individual backgrounds, training, and experience of
19 the attorneys, in litigating complex wage-and-hour actions, and in particular, employment class
20 actions and representative actions.

21 79. The work performed in this particular case, the background of Lawyers *for* Justice
22 PC, as well as the individual backgrounds, training, and experience of the attorneys who worked
23 on this matter, in litigating complex wage-and-hour class and PAGA representative actions,
24 support a reasonable blended hourly rate of compensation of at least \$850 for work performed
25 by Plaintiff's Counsel. Lawyers *for* Justice, PC has been awarded attorneys' fees, compensating
26 the firm at the rate of at least \$850 per hour for legal services performed, by courts granting
27 approval of wage and hour class action and/or representative action settlements in other cases:
28 final approval of the class and representative action settlement in *David Dugan v. TEC*

1 *Equipment, Inc., et al.* (Los Angeles Superior Court Case No. 19STCV01591) was granted on
2 July 8, 2021, and the award of attorneys' fees involved an hourly rate of \$936.47; final approval
3 of the class and representative action settlement in *Larry Greenwood, et al. v. Scan Health Plan*
4 (Los Angeles Superior Court Case No. BC715157) was granted on April 20, 2021, and the award
5 of attorneys' fees involved an hourly rate of \$919.57; final approval of the class and
6 representative action settlement in *Seth Swan v. Pace Supply Corp.* (Sonoma County Superior
7 Court Case No. SCV258764) was granted on February 6, 2019, and the award of attorneys' fees
8 involved an hourly rate of \$855.96; final approval of the class and representative action settlement
9 in *Stanley Bland, et al. v. Telecare Corporation* (Alameda County Superior Court Case No.
10 RG16811450) was granted on November 21, 2018, and the award of attorneys' fees involved
11 an hourly rate of \$831.38; final approval of the class and representative action settlement in
12 *Maryjo Ungerbuhler Anderson v. Boyett Petroleum* (Stanislaus County Superior Court Case No.
13 2020582) was granted on May 15, 2018, and the award of attorney's fees involved an hourly
14 rate of \$780.77; and final approval of the class and representative action settlement in *Demetrius*
15 *Camarillo v. Blue Diamond Growers* (Sacramento County Superior Court Case No. 34-2015-
16 00175871) was granted on June 30, 2017, and the award of attorneys' fees involved an hourly
17 rate of \$845.64.

18 **LITIGATION COSTS AND EXPENSES INCURRED BY PLAINTIFF'S COUNSEL**

19 80. The Settlement provides for reimbursement of litigation costs and expenses of up
20 to \$30,000.00. Plaintiff's Counsel seeks reimbursement of \$12,619.39 for litigation costs and
21 expenses incurred in this case, as reflected in the Case Cost Detail attached hereto as "EXHIBIT
22 4." It should be noted that Plaintiff's Counsel has borne all of the risks and costs of litigation to
23 date and will not receive any compensation until a recovery is obtained in this matter. These
24 costs and expenses were reasonable and necessary in the prosecution of this matter and to obtain
25 the Settlement, and the amount sought for reimbursement is less than the maximum amount
26 (\$30,000.00) allocated under the Settlement Agreement for reimbursement of litigation costs
27 and expenses. The cost savings of \$17,380.61 will be part of the Net Settlement Amount.

28 81. Plaintiff's Counsel submits that the Settlement fulfills the purpose of the PAGA

statute, is within the accepted range of recoveries for this type of litigation, and is fair, reasonable, and adequate given the substantial monetary benefits provided for by the Settlement, the strengths and weaknesses of this case, and the inherent delay, costs, risks, and uncertainty associated with continued litigation.

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

Executed this 27th day of November 2024, at San Diego, California.



Brittany Shaw

EXHIBIT 1

**PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND
RELEASE**

This Private Attorneys General Act Settlement Agreement and Release (“Settlement Agreement” or “Settlement”) is entered into by and between Chris Bronken (“Plaintiff”), for himself and as a representative of the State of California with respect to the Aggrieved Employees (as defined in Section 3(a)(5) below) and Millie and Severson, Inc. (“Defendant”), subject to approval by the Court. The term “Party” or “Parties” as used herein shall refer to Plaintiff, Defendant, or both, as may be appropriate.

1. **Recitals.** This Settlement Agreement is made with reference to the following facts:

(a) Plaintiff is a former employee of Defendant. Plaintiff was employed by Defendant from approximately July 2017 to approximately November 2020;

(b) On July 12, 2021, Lawyers *for* Justice, PC (“Plaintiff’s Counsel”), submitted a letter on behalf of Plaintiff to the California Labor and Workforce Development Agency (“LWDA”) and Defendant, to notify the LWDA and Defendant, pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”) of Plaintiff’s intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2810.5 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001, and 16-2001, thereby initiating LWDA Case Number LWDA-CM-837639-21 (the “PAGA Notice”);

(c) On September 15, 2021, Plaintiff filed his Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* (“Operative Complaint”), commencing a representative action under PAGA against Defendant, entitled *Chris Bronken v. Millie and Severson, Inc.*, Orange County Superior Court Case No. 30-2021-01221405-CU-OE-CXC (the “Action”). The Operative Complaint asserts a single cause of action for civil penalties under PAGA, for violations of multiple provisions of the California Labor Code and applicable Industrial Welfare Commission Wage Orders;

(d) On March 6, 2024, the Parties mediated the Action with the Honorable Daniel Buckley (Ret) and, while the case did not settle at mediation, the Parties agreed to continue negotiations through supplemental mediation sessions on March 25, 2024, and March 26, 2024. With the aid of the mediator’s evaluation, the Parties ultimately reached the Settlement described herein to resolve the Action in its entirety;

(e) There has been no determination on the merits of the Action or the PAGA Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the Action and Released PAGA Claims (as defined in Section 8(a) below).

2. **No Admission of Wrongdoing.** The Parties agree that neither this Settlement Agreement nor the furnishing of the consideration for this Settlement Agreement shall be deemed or construed at any time for any purpose as an admission by the Released Parties of wrongdoing or evidence of any liability or unlawful conduct of any kind.

3. **Consideration.**

(a) In consideration for Plaintiff signing this Settlement Agreement and complying with its terms, Defendant shall pay the maximum gross sum of Three Hundred Thirty-Seven Thousand Dollars and Zero Cents (\$337,500.00) (the “Total Settlement Amount”) to resolve the Action and Released PAGA Claims (as defined herein), which will be paid as follows:

(1) Attorneys’ fees in the amount of Thirty-Three Percent (33%) of the Total Settlement Amount, which is One Hundred Thirty-Five Thousand Dollars and Zero Cents (\$111,375.00) if the Total Settlement Amount remains \$337,500.00, and reimbursement of litigation costs and expenses in the amount of up to Thirty Thousand Dollars and Zero Cents (\$30,000.00) (collectively, “Attorneys’ Fees and Costs”) to Plaintiff’s Counsel, which Defendant will not contest.

(2) From the settlement proceeds as set forth above in section 3(a), Plaintiff will execute a separate individual settlement agreement in the amount of Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) in exchange for Plaintiff’s general release of claims, which Defendant will not contest.

(3) Costs and expenses of administration of the Settlement up to the amount of Ten Thousand Dollars and Zero Cents (\$10,000.00) (“Settlement Administration Costs”) to Atticus Administration LLC (the “PAGA Settlement Administrator”).

(4) The amounts stated in Sections 3(a)(1) – 3(a)(3) above, once approved by the Court, shall be paid from the Total Settlement Amount. The balance remaining after these deductions is referred to as the “Net Settlement Amount.”

(5) Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA (“LWDA Payment”); and the remaining twenty-five percent (25%) will be distributed to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the PAGA Period (the “Aggrieved Employees”). The period from July 12, 2020 to the date of Court approval of the Settlement is the “PAGA Period”. The 25% portion of the Net Settlement Amount payable to Aggrieved Employees is referred to as the “Employees’ Portion.”

(b) The Aggrieved Employees are estimated to consist of approximately 147 individuals who worked approximately 14,772 Compensable Pay Periods. If the actual number of Compensable Pay Periods during the PAGA Period is more than ten percent (10%) above 14,772, the Total Settlement Amount will be increased by the percentage that the actual number exceeds 16,249 Compensable Pay Periods.

(c) Because this is a settlement of PAGA claims for civil penalties only, no portion of the Settlement is allocated to unpaid wages. One Hundred Percent (100%) of the payments for Attorneys’ Fees and Costs, General Release Fee, and the Net Settlement Amount to be paid to the LWDA and Aggrieved Employees as described in Section 3(a) above will be treated and reported for tax purposes as non-wage payments and the PAGA Settlement Administrator will be responsible for issuing IRS Forms 1099 as required.

4. **Court Approval is Required.** Plaintiff understands and agrees that the State of California and Aggrieved Employees, including Plaintiff, would not receive the consideration specified in Section 3(a) above, except for Plaintiff's execution of this Settlement Agreement, and the fulfillment of the promises contained herein, as well as Court approval of the Settlement. If this Settlement Agreement is not approved by the Court, it shall be null and void.

5. **Disbursal of Settlement Funds.**

(a) Subject to Section 4 above, Defendant shall remit to the PAGA Settlement Administrator the sums described more fully in Section 3(a) above, after all of the following has occurred: (i) the Settlement Agreement is fully executed by all Parties and their counsel; and (ii) the Court has entered an order approving the Settlement Agreement.

(b) Upon complete distribution of the Total Settlement Amount by the PAGA Settlement Administrator in accordance with this Settlement Agreement, the PAGA Settlement Administrator will notify the Parties of distribution of the entire Total Settlement Amount.

6. **Approval and Implementation of the PAGA Settlement.**

(a) The Parties are aware that some courts have approved a PAGA settlement and entered an order approving the settlement and judgment and thereafter closed the case, while others have approved a PAGA settlement and entered only an order approving the settlement with later instructions to file a request for dismissal of the action. The Parties agree to cooperate and take any and all steps required by the Court in the Action to implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the Action by way of judgment or dismissal).

(b) The Parties further agree to cooperate in the drafting and/or filing of any further documents and/or filings reasonably necessary to be prepared and/or filed, and to take all steps that may be requested by the Court in order to obtain approval and implementation of this Settlement Agreement, and the payments described in Section 3(a) above.

(c) The Parties shall seek to obtain Court approval of this Settlement Agreement by way of an unopposed motion to be filed by Plaintiff's Counsel. Plaintiff's Counsel shall provide a draft of all documents to be submitted in connection with the motion to approve this Settlement Agreement to Allyson K. Thompson, Esq. and Rosely George, Esq. of Kaufman Dolowich LLP ("Defendant's Counsel") for review; Defendant's Counsel will be given an opportunity to comment on the papers prior to their being filed with the Court, and such comments will be implemented to the extent reasonable.

(d) The Parties expressly acknowledge that the Court's approval of the Settlement Agreement is a condition precedent to any payments described in this Settlement Agreement. Therefore, the Parties further acknowledge that, should the Court not grant approval of this Settlement Agreement and/or should the Court refuse to grant judgment or dismissal of the Action and close the Action based on the Settlement, the entirety of this Settlement Agreement shall be null and void.

7. **Payment of Total Settlement Amount / Notice to Recipients.**

(a) Subject to Court approval of this Settlement Agreement, payment of the sums described in Section 3(a) above shall be made by Defendant by transmitting the required sums to a qualified settlement account established by the PAGA Settlement Administrator for administration of this Settlement, within thirty (30) calendar days of the Court's order granting approval of this Settlement Agreement. If the date by which payment by Defendant is due falls on a Saturday, Sunday or legal holiday in the State of California, then the due date shall be extended the next following day which is not a Saturday, Sunday or legal holiday in the State of California.

(b) Each Aggrieved Employee will be entitled to a *pro rata* share of 25% of the Net Settlement Amount (i.e., the Employees' Portion) based upon the number of pay periods they each worked the PAGA Period ("Compensable Pay Periods"), which Defendant will include in the Aggrieved Employees List. Specifically, to calculate each Aggrieved Employee's share of the Employees' Portion ("Individual Settlement Share"), the PAGA Settlement Administrator shall: (i) for each Aggrieved Employee, divide the number of Compensable Pay Periods he or she individually worked by the total aggregate number of Compensable Pay Periods worked by all Aggrieved Employees, and then (ii) multiply this amount by the Employees' Portion to arrive at each Aggrieved Employee's Individual Settlement Share.

(1) One Hundred Percent (100%) of all Individual Settlement Shares are to be considered penalties and the PAGA Settlement Administrator will not undertake any deductions, withholding, or remittances for local, state, or federal taxes. Aggrieved Employees' Individual Settlement Shares will be reported on an IRS Form 1099, as required by the IRS.

(c) The PAGA Settlement Administrator shall distribute each Individual Settlement Share by way of check, along with a cover letter ("Cover Letter") agreed to by the Parties and approved by the Court, in substantially the form attached hereto as "Exhibit A", in the following manner:

(1) No later than seven (7) calendar days after the Court's order granting approval of the Settlement, Defendant shall provide the PAGA Settlement Administrator with a list of all Aggrieved Employees (the "Aggrieved Employees List"), containing the following information for each Aggrieved Employee: (i) first and last name; (ii) last known address; (iii) last known telephone number; (iv) Social Security number; (v) start and end dates of employment with Defendant as an hourly-paid or non-exempt employee in California during the PAGA Period; (v) Compensable Pay Periods.

(2) The PAGA Settlement Administrator shall conduct one (1) National Change of Address ("NCOA") search for all individuals identified on the Aggrieved Employees List, and update addresses for Aggrieved Employees to the extent updated addresses are located through the NCOA search.

(3) No later than thirty (30) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall mail the agreed-upon Cover Letter and Individual Settlement Share checks (together, the "PAGA Settlement Package") to all Aggrieved Employees by first-class United States mail. For each PAGA Settlement Package that is returned undeliverable within thirty

(30) calendar days of the initial mailing, the PAGA Settlement Administrator shall promptly attempt to locate an alternate, updated address for the Aggrieved Employee at issue, by using a skip-trace search and shall attempt one (1) re-mailing of the PAGA Settlement Package.

(4) The Individual Settlement Share checks issued to Aggrieved Employees shall remain valid for ninety (90) calendar days, and thereafter, shall be canceled. Funds associated with canceled checks shall be transmitted to the State Controller's Office Unclaimed Property Division in the name of the Aggrieved Employee(s) at issue and in the amount of his or her respective Individual Settlement Share(s).

(d) No later than thirty (30) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the LWDA Payment to the LWDA.

(e) No later than thirty (30) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Attorneys' Fees and Costs to Plaintiff's Counsel, unless instructed otherwise by Plaintiff's Counsel. At the request of Plaintiff's Counsel, the PAGA Settlement Administrator may purchase annuities, utilize United States Treasuries and bonds, or utilize any other attorney fee deferral vehicles and any additional expenses associated with doing so will be paid separately by Plaintiff's Counsel.

(f) No later than thirty (30) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the General Release Fee to Plaintiff.

(g) No later than thirty (30) calendar days after the PAGA Settlement Administrator receives the Aggrieved Employees List and Total Settlement Amount, the PAGA Settlement Administrator shall transmit the Settlement Administration Costs to itself, only after the PAGA Settlement Packages have been mailed to all Aggrieved Employees.

8. **Release of Claims by Plaintiff, Aggrieved Employees, and the State of California.**

(a) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff and the State of California with respect to Aggrieved Employees, will be deemed to have knowingly and voluntarily released and forever discharged Defendant, including Defendant's parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs (collectively, the "Released Parties"), to the full extent permitted by law, of and from the Action and from any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* ("PAGA") as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not limited to, for failure to pay minimum, regular, overtime, and reporting time wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages

during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, failure to provide a day of rest, and failure to provide requisite written notice of material terms of employment (including regarding rate of pay, allowances, payday, name of employer, employer's physical address, employer's telephone number, employer's workers' compensation insurance carrier, and accrual and use of sick leave) at the time of hire and during employment, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2810.5 and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001 and 16-2001 (collectively, the "Released PAGA Claims").

(b) Upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, and except as to the rights and obligations created by this Settlement Agreement, Plaintiff, individually and on behalf of his heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the full extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, which Plaintiff has or may have as of the date the Court has entered an order approving the Settlement Agreement. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiff's employment with Defendant and the termination of that employment, including without limitation claims arising under federal, state, or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

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

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by him to exist may hereafter be discovered. It is Plaintiff's intention to, upon the date the Court has entered an order approving the Settlement Agreement and full funding of the Total Settlement Amount, settle fully and release all claims he now has against the Released Parties, whether known or unknown, suspected or unsuspected. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law. Plaintiff expressly agrees that he can never serve as a collective action or class action representative again in any matter concerning Defendant or any of the Released

Parties.

9. **Governing Law and Interpretation.**

(a) This Settlement Agreement shall be governed and conformed in accordance with the laws of the State of California. Should any non-material provision of this Settlement Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable such provision immediately shall become null and void, leaving the remainder of this Settlement Agreement in full force and effect. The Court shall retain jurisdiction over this settlement pursuant to California Civil Code of Procedure Section 664.6.

(b) In the event of a breach of any provision of this Settlement Agreement, any Party reserves the right to institute an action specifically to enforce any term or terms of this Settlement Agreement or seek damages for breach. In an action to enforce any term or terms of this Settlement Agreement or to seek damages for breach of this Settlement Agreement, the prevailing Party in that action shall be entitled to recover reasonable attorney's fees and costs from the non-prevailing Party.

10. **Amendment.** This Settlement Agreement may not be modified, altered or changed except in writing and signed by both Parties' counsel, wherein specific reference is made to this Settlement Agreement, subject to approval by the Court.

11. **Miscellaneous.**

(a) The Parties agree to stay all proceedings in the Action, including with respect to California Code of Civil Procedure section 583.310, except such proceedings necessary to implement and complete the Settlement, pending approval of the Settlement.

(b) This Settlement Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically transmitted copy of the Settlement Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature.

(c) The section headings used in this Settlement Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify or otherwise be used in the interpretation of any of the provisions hereof.

(d) This Settlement Agreement was the result of negotiations between the Parties and their respective counsel under the auspices of mediator Honorable Daniel Buckley (Ret.) In the event of vagueness, ambiguity or uncertainty, this Settlement Agreement shall not be construed against the Party preparing it but shall be construed as if both Parties prepared it jointly, and the Parties may present their disputes to the mediator to resolve any vagueness, ambiguity, or uncertainty.

(e) If Plaintiff or Defendant fail to enforce this Settlement Agreement or to insist on performance of any term, that failure does not mean a waiver of that term or of the Settlement Agreement. The Settlement Agreement remains in full force and effect anyway.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: _____, 2024

Chris Bronken
Individually and On Behalf of
the State of California with Respect to Aggrieved
Employees

MILLIE AND SEVERSON, INC.

Date: September 26, 2024


Name: Clark Severson
Title: Chairman

Approved as to form and content.

LAWYERS FOR JUSTICE, PC

Date: _____, 2024

Arby Aiwazian
Joanna Ghosh
Brittany Shaw
Attorneys for Plaintiff Chris Bronken

KAUFMAN DOLOWICH, LLP

Date: October 15, 2024


Allyson K. Thompson
Rosely George
Attorneys for Defendant Millie and Severson, Inc.

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date set forth below:

Date: 09/03/2024, 2024

Electronically Signed 2024-09-03 16:40:11 UTC - 69.209.103.227
Nintex AssureSign® 05c5feda-1c3c-4ac1-a900-b1490183a8a3

Chris Bronken
Individually and On Behalf of
the State of California with Respect to Aggrieved
Employees

MILLIE AND SEVERSON, INC.

Date: _____, 2024

Name: _____

Title: _____

Approved as to form and content.

LAWYERS FOR JUSTICE, PC

Date: September 3, 2024

Brittany L Shaw

Arby Aiwarzian
Joanna Ghosh
Brittany Shaw
Attorneys for Plaintiff Chris Bronken

KAUFMAN DOLOWICH, LLP

Date: _____, 2024

Allyson K. Thompson
Rosely George
Attorneys for Defendant Millie and Severson, Inc.

Exhibit A

<<Mailing Date>>

To: <<First Name>><<Last Name>>
<<Street Address>>
<<City>> <<State>> <<Zip>>

Re: Settlement Payment from *Chris Bronken v. Millie and Severson, Inc.*, Orange County Superior Court Case No. 30-2021-01221405-CU-OE-CXC

Dear <<First Name>><<Last Name>>:

Please find enclosed a check in the amount of <<amount of payment>> (“Individual Settlement Share”). This check is your payment from the settlement in the lawsuit entitled *Chris Bronken v. Millie and Severson, Inc.*, Orange County Superior Court Case No. 30-2021-01221405-CU-OE-CXC (“Action”).

The lawsuit was filed on September 15, 2021 by Chris Bronken (“Plaintiff”) against his former employer, on behalf of the State of California, with respect to himself and other alleged aggrieved employees, to seek recovery of civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, *et seq.* (“PAGA”), for multiple alleged violations of the California Labor Code and Industrial Welfare Commission Wage Orders, including, *inter alia*, for failure to properly pay minimum and overtime wages, failure to provide compliant meal and rest periods and associated premiums, failure to pay wages during employment and upon termination, failure to provide compliant wage statements, failure to maintain requisite payroll records, and failure to reimburse business expenses. Prior to filing the lawsuit, on July 21, 2021, Plaintiff submitted a letter to the California Labor and Workforce Development Agency (“LWDA”), pursuant to PAGA, to provide notice of his intent to seek civil penalties under PAGA for Defendant’s alleged violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2810.5, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001, and 16-2001, thereby initiating LWDA Case Number LWDA-CM-837639-21 (the “PAGA Notice”).

Defendant denies all of Plaintiff’s allegations and denies any wrongdoing of any kind associated with Plaintiff’s allegations.

A settlement was reached between Plaintiff and Defendant Millie and Severson, Inc. (“Defendant”).

On << Date>>, the settlement was approved by the Court, with a portion to be paid to the LWDA and a portion to be paid to all current and former hourly-paid or non-exempt employees who worked for Defendant in the State of California during the period July 12, 2020 to <<the date of Court approval of the Settlement>> (“Aggrieved Employees”). The period July 12, 2020 to <<the date of Court approval of the Settlement>> is the “PAGA Period”.

You are receiving a portion of the settlement (the enclosed Individual Settlement Share) because you have been identified as an Aggrieved Employee. Your Individual Settlement Share is based on the total number of pay periods that you worked for Defendant in California during the PAGA Period. The Individual Settlement Share is considered to be 100% penalties, which will be reported on an IRS Form 1099. You are responsible for paying any and all taxes that may be due as a result of any payment issued to you under the settlement and should consult a tax advisor regarding the tax consequences of such payment.

Under the settlement, as of <<date of entry of order by the Court approving the Settlement>>, the Released Parties were fully released and forever discharged from any and all Released PAGA Claims.

“Released Parties” means Defendant, including Defendant’s parent corporation, affiliates, subsidiaries, divisions, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, directors and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries and insurers of such plans and programs.

“Released PAGA Claims” means any and all claims, arising during the PAGA Period, for civil penalties under California Labor Code section 2698, *et seq.* (“PAGA”) as well as any interest, fees, and costs available under PAGA, based on the factual allegations in the Operative Complaint, including but not limited to, for failure to pay minimum, regular, overtime, and reporting time wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to timely pay wages during employment, failure to timely pay wages upon termination, failure to provide compliant and accurate wage statements, failure to maintain complete and accurate payroll records, failure to reimburse necessary business-related expenses and costs, failure to provide a day of rest, and failure to provide requisite written notice of material terms of employment (including regarding rate of pay, allowances, payday, name of employer, employer’s physical address, employer’s telephone number, employer’s workers’ compensation insurance carrier, and accrual and use of sick leave) at the time of hire and during employment, in violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802, and 2810.5, and Industrial Welfare Commission Wage Orders, including *inter alia*, Wage Orders 4-2001, and 16-2001.

The enclosed check is valid for 90 days from the original date of issuance and mailing, and if it is not cashed, deposited, or otherwise negotiated within the 90-day timeframe, it will be canceled, and the funds associated with the canceled check

will be transmitted to the State Controller's Office Unclaimed Property Division in your name and in the amount of your respective Individual Settlement Share.

Do not call or write the Court, Office of the Clerk of the Court, Defendant, or Defendant's counsel to ask questions about the settlement or to ask tax-related questions. If you have any such questions, you may contact **PAGA Settlement Administrator** at **toll-free phone number**.

EXHIBIT 2

LAWYERS FOR JUSTICE[®]

July 12, 2021

BY ONLINE SUBMISSION

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

Re: Millie and Severson, Inc.

Dearest Representative:

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

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

The Company employed Mr. Bronken as an hourly-paid, non-exempt employee from approximately July 2017 to approximately November 2020, in the State of California.

The "aggrieved employees" that Mr. Bronken may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees who worked for the Company.

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

Company required aggrieved employees to perform work before their scheduled shifts, after their scheduled shifts, during off-the-clock meal breaks, and/or during rest breaks and failed to compensate aggrieved employees for this time. Such work included, but was not limited to, communicating using personal cell phones, driving personal vehicles, communicating in person with other employees regarding work, performing the typical daily job duties of the position, organizing the workplace, cleaning, purchasing items, donning and doffing personal protective equipment, health screening for covid, logging in scheduled hours. Company required that Mr. Bronken and the other aggrieved employees round the time being logged as worked and/or rounded the work time recorded by aggrieved employees in a manner that was not fair and neutral on its

face and/or that favored Company over time, resulting in aggrieved employees being underpaid for their time worked. The Company also required Mr. Bronken and the other aggrieved employees to indicate on their time logs that they received timely meal breaks that were at least 30 minutes in duration when in fact they were required to stay on work premises for meal breaks and often experienced short, late, interrupted, and/or completely missed meal breaks.

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

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

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

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

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

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

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

California Labor Code section 2810.5 requires an employer to provide written notice to an employee, at the time of hiring, containing the following information:

The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. The regular payday designated by the employer in accordance with the requirements of this code. The name of the employer, including any "doing business as" names used by the employer. The physical address of the employer's main office or principal place of business, and a mailing address, if different. The telephone number of the employer. The name, address, and telephone number of the

employer's workers' compensation insurance carrier. That an employee: may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates. Any other information the Labor Commissioner deems material and necessary.

Company failed to accurately provide aggrieved employees with the requisite notice in violation of California Labor Code section 2810.5.

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

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

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During the relevant time period, Mr. Bronken and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by Company. These costs include, but are not limited to, using personal cell phones for work-related purposes, incurring gasoline/mileage on personal vehicles for work-related purposes, and purchasing required personal protective equipment (PPEs) for work-related purposes.

Therefore, on behalf of all aggrieved employees, Mr. Bronken seeks all applicable penalties arising out of the above-referenced wage, hour, and payroll practices, or which could be assessed and

collected by the Labor and Workforce Development Agency, for violation of the California Labor Code pursuant to PAGA, including civil penalties pursuant to Labor Code section 558.

If you have any questions or require additional information, please do not hesitate to contact us.

With kind regards,



Edwin Aiwanian, Esq.

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

Millie and Severson, Inc.
c/o
CT Corporation System
Agent for Service of Process
330 N. Brand Blvd.
Glendale, CA 91203

EXHIBIT 3

CHRIS BRONKEN VS. MILLIE AND SEVERSON INC.
ORANGE COUNTY SUPERIOR COURT OF CALIFORNIA, CASE NUMBER NO. 30-2021-01221405-CU-OE-CXC
ATTORNEY TASK AND TIME CHART

TASK	LAWYERS <i>for</i> JUSTICE, PC
Investigation and Research / Due Diligence	
Pre-Lawsuit Investigation of the Key Facts with a Focus on the Merits of Plaintiff Chris Bronken’s (“Plaintiff”) Private Attorneys General Act (“PAGA”) Claim on Behalf of the State of California with Respect to Plaintiff and the Aggrieved Employees	5.90
Pre-Lawsuit Investigation of Potential Civil Penalties Exposure of Defendant Millie and Severson, Inc., (“Defendant”) with Respect to Plaintiff and the Aggrieved Employees	4.30
Based on the Facts Discovered During Pre-Lawsuit Investigation, Conducted Pre-Lawsuit Legal Research and Analysis of Latest Off-the-Clock, Meal and Rest Breaks, and Representative PAGA Decisions in California, Including all New Relevant DLSE Materials	4.10
Investigation of Defendant, Defendant’s Business Relationships, and the Industry in which Defendant Operate, Defendant’s Organizational and Corporate, and Executive Reporting Structures as They Relate to the Employment and Management of the Aggrieved Employees	3.7
Research and Investigation Re: Locations Owned, Managed or Operated by Defendant in California, Including Differences Between the Various Locations to Determine Whether Those Differences Will Cause Individual Issues to Predominate Over Common Issues, Workforce, Staffing Models, and Staffing Levels at Defendant’s Locations Throughout California	3.1
Research and Investigation Re: Defendant’s Written and Non- Written Policies, Practices, and Procedures Relating to Pre-Shift and Post-Shift Duties, Donning and Doffing, Safety, Scheduling and Shifts, Bonuses/ Incentive/ Shift Differential Pay, Timekeeping, Rounding,	4.8

Meal/ Rest Breaks, On-Premises Breaks, Meal Waivers, Overtime Pay, Uniforms, Footwear, PPE/ Supplies, Use of Personal Cell Phones, Use of Personal Vehicles, Transportation, and Reimbursement of Business- Related Expenses	
Research and Analysis of Potential Defenses Defendant May Raise, Including <i>De Minimis</i> Work, Non-Compensable Off-the-Clock Work, Waiver, and Compliant Policies	2.3
Research and Investigation Regarding Trial Manageability Issues, including Research Regarding Which Experts to Retain and For What Purpose	1
Research and Analysis of Defendant's Litigation History Involving Wage-and-Hour Issues and Other Related Employment Issues	.9
Prepare a Discovery Strategy Plan of Action, including Topics of Inquiry Important to Liability and Civil Penalties	2.6
Meet and Communicate with Plaintiff Chris Bronken Throughout During the Case	15.1
Investigate, Meet, Communicate with and/ or Interview Aggrieved Employees and/ or Percipient Witnesses	1.7
Pleadings and Court Filings	
Research and Draft Plaintiff's Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. and Legal Research and Analysis of All Allegations Involved (filed on September 15, 2021)	8.1
Review and Analyze Defendant's Answer to Plaintiff's Complaint and Research Affirmative Defenses in Answer (served on November 4, 2021)	1.2

Review Court's Minute Order Regarding Chambers Work and Case Management Order (filed on November 29, 2021)	.6
Draft Plaintiff's Case Management Statement (filed on January 14, 2022)	1.2
Review Defendant's Case Management Statement (served on January 18, 2022)	.4
Review Court's Minute Order Regarding Case Management Conference (filed on February 1, 2022)	.2
Meet and Confer with Defendant's Counsel and Draft Joint Status Conference Statement (submitted on April 26, 2022)	1.1
Review Court's Minute Order Regarding Status Conference (filed on April 27, 2022)	.2
Draft Plaintiff's Notice of Posting Jury Fees (filed on June 14, 2022)	.4
Review Defendant's Notice of Change of Address or Other Contact Information (served on June 30, 2022)	.2
Meet and Confer with Defendant's Counsel and Draft Joint Case Management Conference Statement (submitted on July 26, 2022)	1.4
Review Court's Minute Order Regarding Status Conference (filed on August 4, 2022)	.2
Review Court's Minute Order Regarding Nunc Pro Tunc (filed on August 4, 2022)	.2
Meet and Confer with Defendant's Counsel and Research and Draft Joint Stipulation to Stay the Case; [Proposed] Order Re: ROA #39 & 40 (submitted on August 30, 2022)	1.6
Review Court's Order Granting Stipulation to Stay the Case (filed on August 30, 2022)	.3

Meet and Confer with Defendant's Counsel and Draft Joint Stipulation to Continue Case Management Conference; [Proposed] Order (submitted on February 14, 2023)	.8
Review Court's Order Granting Stipulation to Continue Case Management Conference (filed on February 14, 2023)	.2
Meet and Confer with Defendant's Counsel and Draft Joint Stipulation to Continue Case Management Conference; [Proposed] Order (submitted on June 12, 2023)	.7
Review Court's Order Granting Stipulation to Continue Case Management Conference (filed on June 12, 2023)	.2
Meet and Confer with Defendant's Counsel and Draft Joint Stipulation to Continue Case Management Conference; [Proposed] Order (submitted on September 11, 2023)	.7
Review Court's Order Granting Stipulation to Continue Case Management Conference (filed on September 11, 2023)	.2
Meet and Confer with Defendant's Counsel and Draft Joint Stipulation to Continue Status Conference; [Proposed] Order (Related to ROA #68) (submitted on March 29, 2024)	.7
Review Court's Order Granting Stipulation to Continue Status Conference (filed on April 2, 2024)	.2
Review Court's Minute Order Regarding Status Conference (filed on April 2, 2024)	.2
Draft Plaintiff's Notice of Entry of Judgment or Order Re: Order Granting Joint Stipulation to Continue Status Conference (filed on April 4, 2024)	1.1
Draft Plaintiff's Notice of Settlement of Entire Case (filed on April 4, 2024)	.5

Meet and Confer with Defendant’s Counsel and Draft Joint Stipulation to Continue Status Conference, and [Proposed] Order Thereon (submitted on May 28, 2024)	.7
Review Court’s Order Granting Stipulation to Continue Status Conference (filed on May 28, 2024)	.2
Draft Plaintiff’s Notice of Entry of Judgement or Order Re: Order Granting Stipulation to Continue Status Conference (filed on June 5, 2024)	.9
Appearances	
Prepare for and Telephonically Attend Hearing on Initial Status Conference (February 1, 2022)	1.3
Prepare for and Telephonically Attend Hearing on Plaintiff’s Motion for Approval of Private Attorneys General Act (Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys’ Fees, Litigation Costs, General Release Fee, and Settlement Administration Costs (TBD)	2.8
Discovery and Deposition	
Draft Letter to Defendant Millie and Severson Inc. Re: Request for Personnel File, Pay Stubs, and Time Records for Plaintiff Chris Bronken (served on February 4, 2021)	1.9
Review and Analyze Documents Produced by Defendant in Response to Request for Personnel Files, Pay Stubs, and Time Records for Plaintiff Chris Bronken (served on February 18, 2021)	11.8
Review and Analyze Defendant’s Form Interrogatories – Employment Law (Set One), Form Interrogatories – General (Set One), Special Interrogatories (Set One), and Requests for Production of Documents (Set One) to Plaintiff Chris Bronken (served on January 21, 2022)	3

Draft Plaintiff's Responses to Defendant's Form Interrogatories – Employment Law (Set One), Form Interrogatories – General (Set One), Special Interrogatories (Set One), and Requests for Production of Documents (Set One) (served on June 8, 2022)	7.8
Draft Plaintiff's Form Interrogatories – General (Set One), Special Interrogatories (Set One), Special Interrogatories (Set Two), and Requests for Production of Documents (Set One) to Defendant Millie and Severson Inc. (served on June 10, 2022)	2.8
Draft Plaintiff's Notice of Deposition of Person Most Knowledgeable at Defendant Millie and Severson Inc. and Requests for Production of Documents (Organizational Structure; noticed for September 13, 2022) (served on June 10, 2022)	1.4
Draft Plaintiff's Notice of Deposition of Person Most Knowledgeable at Defendant Millie and Severson Inc. and Requests for Production of Documents (Job Duties; noticed for September 14, 2022) (served on June 10, 2022)	1.4
Letters and Correspondence	
Draft Notice to California Labor and Workforce Development Agency Re: Claims of Plaintiff Chris Bronken for Penalties Under California Labor Code section 2698, <i>et seq.</i> (served on July 12, 2021)	4.5
Review and Analyze Defendant's Letter Regarding Dismissal of PAGA Action and Research Precedence Cited by Defendant (served on July 25, 2022)	9.8
Meet with, Draft Correspondence to, and Review/ Respond to Correspondence from, Defendant's Counsel	6.7
Mediation/Settlement	
Review and Analyze Information, Data, and Obtained from Plaintiff, Defendant, and Other Sources and Prepare Valuation Models, Including, Inter Alia, Calculating PAGA Penalties for	8.8

Violation Rates for Non-Compliant Meal and Rest Breaks, Unpaid Wages, Failure to Pay Premium Pay, and Incomplete or Inaccurate Wage Statements • Employee Handbooks and Policies • Employee Time Records • Employee Payroll Records (served on February 9, 2024; February 13, 2024, February 20, 2024, and February 27, 2024)	
Prepare for Mediation Session, Including Researching Merits of Claims, Drafting the Mediation Brief, and Compiling the Mediation Exhibits in Support of Plaintiff's Mediation Brief (submitted on February 28, 2024)	9.8
Remotely Attend Mediation Session (March 6, 2024, March 25, 2024, and March 26, 2024; Zoom Video Conference)	18.6
Review, Revise, Negotiate, and Finalize Private Attorneys General Act Settlement Agreement and Release (fully executed on TBD)	5.4
Law and Motion	
Research and Draft Plaintiff's Motion for Approval of Private Attorneys General Act (Labor Code § 2698, Et Seq.) Settlement Agreement and Award of Attorneys' Fees, Litigation Costs, General Release Fee, and Settlement Administration Costs, Declaration of Brittany Shaw in Support Thereof, Declaration of Chris Bronken in Support Thereof, and [Proposed] Order and Judgment, and any potential supplemental briefing (Anticipated)	20.2
Review and Analyze Court's Order Granting Motion for Approval of Private Attorneys General Act (Labor Code § 2698, Et Seq.) Settlement Agreement	1.0
Total Hours:	193.3

EXHIBIT 4

LAWYERS for JUSTICE PC CASE COST DETAIL
Bronken vs. Millie & Severson Inc. (PAGA)

<u>Date</u>	<u>Payee</u>	<u>Expense Description</u>	<u>Amount</u>
2/4/2021	U.S. Postmaster	Postage	\$7.00
7/12/2021	Labor & Workforce Development Agency	PAGA Filing Fee	\$75.00
7/12/2021	U.S. Postmaster	Postage	\$7.50
9/20/2021	One Legal	Attorney Service	\$57.00
9/20/2021	Orange County Superior Court	Complaint Filing Fee	\$435.00
9/20/2021	Orange County Superior Court	Complex Filing Fee	\$1,000.00
10/4/2021	ProLegal	Attorney Service	\$59.80
11/22/2021	One Legal	Attorney Service	\$14.67
1/14/2022	Legal Document Server, Inc.	Attorney Service	\$13.25
1/14/2022	CourtCall, LLC	Attorney Service	\$94.00
1/21/2022	Veritex	Court Reporter	\$440.57
2/3/2022	General Logistics Systems US, Inc.	Courier Service	\$39.05
4/26/2022	Legal Document Server, Inc.	Attorney Service	\$13.25
6/15/2022	Legal Document Server, Inc.	Attorney Service	\$23.37
6/15/2022	Orange County Superior Court	Jury Fee	\$150.00
7/26/2022	Legal Document Server, Inc.	Attorney Service	\$14.00
8/30/2022	Orange County Superior Court	Stipulation & Order Fee	\$20.00
8/30/2022	Legal Document Server, Inc.	Attorney Service	\$15.35
1/14/2023	Legal Document Server, Inc.	Attorney Service	\$13.25
2/14/2023	Legal Document Server, Inc.	Attorney Service	\$14.00
2/15/2023	Legal Document Server, Inc.	Attorney Service	\$1.35
2/15/2023	Orange County Superior Court	Stipulation & Order Fee	\$20.00
6/12/2023	Legal Document Server, Inc.	Attorney Service	\$15.39
6/12/2023	Orange County Superior Court	Stipulation & Order Fee	\$20.00
9/11/2023	Legal Document Server, Inc.	Attorney Service	\$1.39
9/11/2023	Orange County Superior Court	Stipulation & Order Fee	\$20.00
9/11/2023	Legal Document Server, Inc.	Attorney Service	\$14.20
2/5/2024	Signature Resolution LLC	Mediation Fee	\$9,950.00
3/29/2024	Legal Document Server, Inc.	Attorney Service	\$14.20
4/10/2024	Legal Document Server, Inc.	Attorney Service	\$14.20
4/11/2024	Legal Document Server, Inc.	Attorney Service	\$14.20
5/28/2024	Legal Document Server, Inc.	Attorney Service	\$14.20
6/5/2024	Legal Document Server, Inc.	Attorney Service	\$14.20
Total:			<u>\$12,619.39</u>