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11 **Attorneys for Plaintiff Jessica Collard and the Putative Class**

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF HUMBOLDT**

14 **JESSICA COLLARD,**

15 **Plaintiff,**

16 **v.**

17 **MURPHY'S MARKETS, INC., a**
18 **corporation; and DOES 1-100, inclusive,**

19 **Defendants.**

Case No.: CV2101368

**DECLARATION OF JOHN P. BRISCOE
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT**

Date: June 24, 2023

Time: 10:30 a.m.

Dept.: 4

20 I, John P. Briscoe, declare:

21 1. I am an attorney duly licensed to practice before all the courts of this state and am a
22 shareholder of Mayall Hurley P.C., attorneys for Plaintiff Jessica Collard ("Plaintiff"). Plaintiff
23 and Defendant Murphy's Markets, Inc. ("Defendant") are collectively herein referred to as "the
24 Parties."

25 2. I have personal knowledge of the matters set forth herein and, if called upon to do
26 so, could and would competently testify thereto under oath.

27 3. Attached hereto as **Exhibit 1** is a true and correct copy of the Class and
28 Representative Action Settlement and Release of Claims ("Settlement Agreement"), executed by

1 (1) myself, on behalf of Mayall Hurley P.C., counsel for Plaintiff and the Class; (2) Jessica Collard,
2 Plaintiff and Class Representative; (3) Laurie E. Yoon, counsel for Defendant; and (4) Patrick J.
3 Murphy, CEO of Defendant. A true and correct copy of the proposed Notice of Proposed Class
4 Action Settlement, and Hearing Date for Final Court Approval of Settlement (which is also itself
5 Exhibit A to the Settlement Agreement) is attached hereto as **Exhibit 2**.

6 4. The Settlement Agreement provides for a classwide settlement for any and all
7 claims based upon the allegations supporting the First through Eighth Causes of Action as set forth
8 in the Second Amended Class Action and Individual Complaint. Plaintiff contends that she and
9 other Class Members were not provided with rest or meal periods or paid premiums (and, to the
10 extent premiums were paid, they were not paid at the appropriate rate), were not paid overtime or
11 paid sick days at the correct rate of pay, were not furnished with accurate itemized wage
12 statements, and were not paid all wages due upon cessation of employment.

13 5. Before filing this action, on August 31, 2021, I sent written notice to the Labor and
14 Workforce Development Agency (“LWDA”) and Defendant, alleging violations of the Labor
15 Code. (See **Exhibit 3**.) The LWDA did not provide written notice that it intended to investigate
16 the alleged wage statement violations. (See Lab. Code, § 2699.3.) As such, Plaintiff was and is
17 authorized by the Private Attorneys General Act (“PAGA”, Lab. Code, § 2698 *et seq.*) to recover
18 civil penalties on her behalf and on behalf of other “aggrieved employees”.

19 6. I caused this action to be filed on September 23, 2021. On November 8, 2021, I
20 caused to be filed a First Amended Complaint, adding a cause of action pursuant to the PAGA. The
21 LWDA was provided with a copy of the First Amended Complaint. On or around January 18,
22 2022, Defendant filed its Answer to the First Amended Complaint.

23 7. Shortly after Defendant filed its Answer, *supra*, I served an initial round of written
24 discovery. Soon thereafter, Plaintiff and Defendant (the “Parties”) agreed to attend private
25 mediation so as to reach a global resolution for not only Collard’s individual claims, but also for
26 the class and PAGA claims. It was agreed that the Parties would, on September 15, 2022, attend
27 mediation before Daniel Ben-Zvi, an experienced and renowned mediator of employment class
28 actions. It was additionally agreed that the Parties would also discuss a classwide settlement for

1 potential rest/meal period violations, though such claims had not theretofore been alleged in this
2 Action.

3 8. In advance of mediation, and at my office's request, Defendant disclosed thousands
4 of pages of wage statements and other payroll records, as well as other key data pertaining to the
5 size and composition of the Class. Due to the size and complexity of the documents provided, and
6 so as to ensure that we evaluated this case's potential settlement value to the absolute extent
7 possible, my office retained an economics expert—Melissa Daniels of EconOne—so as to analyze
8 the data and documents and create a damages model. Ms. Daniels' report yielded the following
9 estimations and extrapolations for the period of September 23, 2017 through September 15, 2022:

- 10 a. Defendant underpaid its employees overtime wages by only \$126.
- 11 b. Defendant faced exposure for failure to provide meal and rest periods (or pay
12 premiums) in the maximum amount of approximately \$998,000 (approximately
13 \$350,000 and \$648,000, respectively)
- 14 c. Defendant faced exposure for waiting time penalties under Labor Code section
15 203 in the maximum amount of approximately \$901,336.
- 16 d. Defendant faced exposure for statutory penalties for failure to furnish accurate
17 wage statements (Lab. Code, § 226(e) in the maximum amount of approximately
18 \$726,736.
- 19 e. Potential prejudgment interest on unpaid wages, including rest and meal period
20 premiums, amounted to \$174,583.
- 21 f. Premised largely upon the alleged failure to provide rest and meal periods or pay
22 premiums, Defendant faced exposure for civil penalties under the PAGA in the
23 maximum amount of approximately \$2.4 million.

24 9. The foregoing, all-in figures assume, of course, a 100 percent probability of
25 prevailing at certification, defeating any motion for summary judgment/adjudication, maintaining
26 certification through trial, and prevailing *completely* after a trial on the merits.

27 10. Under the circumstances, and considering the legal and factual defenses asserted by
28 Defendant), 100 percent success is unlikely. Accordingly, Class Counsel also determined a more

1 realistic estimate for the potential recovery of the Class. Under this more measured approach, Class
2 Counsel (1) applied a 33 percent discount to the meal period claim to account for the fact that the
3 ostensibly missed meal breaks were evidenced by only timecards, and that many of the missed
4 meal breaks were likely voluntarily foregone by the Class Members; (2) applied a 50 percent
5 discount to the rest period claim to account for the fact that most of the timecards produced by
6 Defendant were initialed by the employee to reflect “all breaks taken” and that, as with meal
7 periods, it was likely that a portion of the missed rest periods were voluntarily foregone by the
8 Class Members; (3) applied a 50 percent discount to the waiting time penalty claim (Lab. Code, §
9 203) to account for the potential that some of the Class Members who are also Former Employee
10 Subclass Members would be unable to demonstrate any compensable damages that were actually
11 unpaid during employment, as well as Defendant’s anticipated argument that its failure to pay rest
12 and meal period premiums was not willful and that the law was unsettled at the time of the alleged
13 non-payments (see *Naranjo v. Spectrum Security Svcs., Inc.* (2022) 13 Cal.5th 93, 102); and (4)
14 applied a 50 percent discount to the wage statement claim to account for the potential that “injury”,
15 as defined by Labor Code section 226, could not be demonstrated due to the wholly derivative
16 nature of the alleged inaccuracies in the wage statements.

17 11. Under this more measured approach, I determined the Class’ total realistic
18 recoverable damages and statutory penalties to be approximately \$1,313,000. The Maximum
19 Settlement Amount of \$400,000 represents approximately 30.5 percent of this realistic recovery.
20 Considering all of the risks attendant with proceeding with class litigation, I believe that this
21 recovery is fair, adequate, and reasonable.

22 12. Defendant and Plaintiff, represented by counsel of record, attended mediation with
23 Mr. Ben-Zvi on September 15, 2022. At all times, the negotiations were at arms’-length and non-
24 collusive. Thanks in no small part to the diligent efforts of Mr. Ben-Zvi and his expertise in
25 resolving cases of this nature, and following considerable meeting and conferring on the particular
26 terms, Defendant and Plaintiff were ultimately able to agree to a total Settlement in the amount of
27 \$400,000. This Settlement included claims for not only those wage-and-hour claims set forth in the
28 then-operative First Amended Complaint, but also for failure to provide rest and meal periods or

1 pay premiums.¹ Following intensive meeting and conferring over the particular terms of the
2 Settlement, it was executed by both Parties on May 5, 2023.

3 13. I estimate that the average payment to each Participating Settlement Class Member
4 will be approximately \$314. This is an estimate only and could go up or down depending on what
5 the court decides at the final approval hearing, the number of valid requests for exclusion that are
6 received by the Settlement Administrator, and the actual costs of counsel as incurred/approved.
7 After deducting from the Maximum Settlement Amount (\$400,000) the (1) fees and costs of the
8 Claims Administrator (\$9,000), (2) the fees and costs of Class Counsel (up to \$133,333 and
9 \$20,000, respectively), and (3) the Service Payment to Plaintiff (up to \$7,500), I estimate that the
10 Net Settlement Amount to be distributed to Participating Class Members will be approximately
11 \$190,167.

12 14. While I believe evidence exists from which the trier of fact could conclude that
13 Defendants engaged in a pattern and practice failing to provide rest and meal periods, to pay
14 rest/meal premiums, overtime/doubletime, and paid sick leave at the correct rate, and to furnish
15 accurate wage statements and pay all wages upon cessation of employment, continued litigation is
16 guaranteed to be costly, time consuming and uncertain. Appellate proceedings would only further
17 delay and jeopardize recovery by the Class. By contrast, the proposed Settlement Agreement
18 ensures timely, meaningful and substantial relief to the Class.

19 15. Absent settlement, I anticipate a vigorous and lengthy challenge to both class
20 certification and the merits of this class action. Defendant asserted and would continue to assert,
21 through certification, trial, and the appellate process, legal and factual grounds to defend itself.
22 Among other things, Defendant would continue to assert that statutory penalties for inaccurate
23 wage statements are not recoverable in this instance, and that waiting time penalties under Labor
24 Code section 203 are not recoverable where the failure to pay all wages is not “willful”, or when
25 the alleged failure is premised on a failure to pay rest/meal premiums. (See *Bettencourt v. OS*

26
27 ¹ It was stipulated that Plaintiff would have leave to file a Second Amended Complaint to add such claims. Plaintiff
28 also sent amended written notice to the LWDA regarding such violations; a true and correct copy of that letter, which
was submitted to the LWDA on March 30, 2023, is attached hereto as **Exhibit 4**.

1 *Restaurant Services, LLC* (2020) 49 Cal.App.5th 420, 247.) Defendant would have also continued
2 to maintain that it provided employees the opportunity to take rest/meal breaks and that it is not
3 liable for breaks the employees elected to forgo. (See *Brinker v. Superior Court* (2012) 53 Cal.4th
4 1004.) Defendant also argued and would continue to argue that any denial of rest or meal periods
5 were in fact aberrations to a compliant policy and that Plaintiff would be unable to demonstrate any
6 common policy or practice leading to the denial of such periods. Defendant contends it maintained
7 a timekeeping system designed to capture all time recorded, required its employees to record all
8 time worked, and paid them for all time they reported and/or Defendant was otherwise aware of
9 being performed. Defendant also intended to demonstrate and argue that it reasonably relied on
10 guidance from the Division of Labor Standards and Enforcement regarding the calculation of the
11 “regular rate of pay” for purposes of overtime, since the subject employees rarely earned a portion
12 of a service charge on the same day that they (1) worked overtime, (2) were paid for sick leave, or
13 (3) were paid a meal or rest period premium. (See DLSE Opinion Letter 1994.01.07.) Additionally,
14 Defendant argued that there is no private right of action under the Healthy Workplaces, Healthy
15 Families Act (providing for paid sick leave) such that liability could not be imposed and that class
16 certification would thus be improper. Defendant also argued Class Members could not establish the
17 “injury” or “knowing and intentional” elements of their Labor Code section 226(a)(1), (2), (5), and
18 (9) claim where (i) the alleged inaccuracies did not themselves cause any distinct injury and are
19 frowned upon by some courts², (ii) Defendant accurately listed the amounts actually paid to its
20 non-exempt California employees, and (iii) case law suggests such does not create derivative wage
21 statement violations³. Furthermore, continued litigation—through a motion for certification, a
22 classwide trial on the merits of the claims, post-trial motions, and an appeal—would probably take
23 in excess of two years, during which time the Class Members would receive nothing. On the other
24

25 ² See e.g., *Elliott v. Spherion Pacific Workforce, LLC* (C.D. Cal. 2008) 572 F.Supp.2d 1169, 1179 (shortening the term
26 “Workforce” to “Work” while otherwise stating the full name of the employer); *York v. Starbucks Corp.* (C.D. Cal.
27 2009) 2009 WL 8617536 *7-8 (showing the registered dba “Starbucks Coffee Company” instead of “Starbucks
Corporation”); and *Hurst v. Buczek Enters. LLC* (N.D. Cal. 2012) 2012 WL 1564733 *17 (granting summary judgment
to defendant on the plaintiff’s Labor Code § 226 claim on the basis of the good faith dispute defense).

28 ³ See e.g., *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308 and *Naranjo v. Spectrum Sec. Svcs., Inc.*
(2019) 40 Cal.App.5th 444, on review in California Supreme Court Case No. S258966.

1 hand, the Settlement Agreement provides for relatively immediate relief to the Participating Class
2 Members, at a *very* reasonable portion of the maximum case value, and providing a substantial
3 payment to the average Participating Class Member. Given the time value of money, it is likely
4 that the increased class disbursement a Class Member *might* receive (following trial and a likely
5 appeal) would be substantially *if not entirely* offset by the considerable length of time it would take
6 to get to that point.

7 16. Due not least to my own experience litigating and settling numerous similar cases,
8 and the input my colleagues at Mayall Hurley (with whom I conferred extensively regarding this
9 matter, from its inception to date), I strongly believe that the proposed settlement is a fair,
10 adequate, and reasonable resolution of the Class's disputes with Defendant and is definitely
11 preferable to continued litigation. The Settlement Agreement will result in substantial benefit to all
12 Participating Class Members.

13 17. There was no fraud or collusion in the settlement negotiations, all which were
14 adversarial and conducted at arm's-length.

15 18. Plaintiff worked diligently with my office throughout this entire litigation, including
16 providing the necessary factual intake and documents, responding promptly to all of our
17 communications, and executing the subject Settlement Agreement. She evinced a thorough
18 understanding of her duties as Class Representative, never put her personal interests ahead of those
19 of the Class, and at all times showed a genuine commitment to obtaining just relief for the other
20 Class Members. She should be rewarded for taking the initiative to pursue these claims on behalf
21 of her former coworkers, and for her instrumental role in reaching a substantial settlement
22 providing valuable relief to the Settlement Class.

23 19. Mayall Hurley P.C. diligently prosecuted this Action on behalf of Plaintiff and the
24 putative class.

25 20. I obtained from Phoenix Settlement Administrators a bid for claims administration
26 for an amount not to exceed \$9,000. I believe this to be eminently reasonable in relation to a class
27 this size and the work to be performed. I have considerable experience using Phoenix Settlement
28

Administrators as claims administrator for multiple, similar employment class actions and have found their services excellent and rates competitive.

Experience of Class Counsel

21. In 2007, I received a Bachelor of Arts degree from the University of California, Santa Barbara. In 2010, I received a J.D. from University of California, Davis School of Law (King Hall). Later that same year, I was admitted to the State Bar of California.

22. I began working for the firm of Mayall Hurley in July 2011. From that point through August 2016, I practiced (almost exclusively) employment law, on behalf of plaintiffs. This practice included working on a number of wage-and-hour class actions and representative cases under the Private Attorneys General Act. In August 2016 I left Mayall Hurley for a short while, in which time I worked for the firms of Burton Employment Law and Gordon Rees Scully Mansukhani LLP, both in Oakland, California. For both firms, I worked exclusively in employment law. While working for Gordon & Rees, I worked on a number of employment class actions (from the defense perspective) involving alleged multistate violations of wage-and-hour laws. Notably, my work in this regard largely entailed analyzing and quantifying potential class liability. In April 2017, I returned to the plaintiffs' side at Mayall Hurley, and have continued to concentrate much of my practice in employment class actions, chiefly under the California Labor Code but also in cases under the Fair Labor Standards Act. In 2020 I became a shareholder at Mayall Hurley and have continued to dedicate my practice, in overwhelming part, to representing plaintiffs in employment cases.

23. Mayall Hurley P.C., primarily through attorneys Robert J. Wasserman and myself, has pursued this action aggressively, as well as many other similar representative actions.

24. For instance, Mayall Hurley P.C. has recently been approved as class counsel in *Mansur v. Owens-Brockway Glass Container, Inc.*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-14631; *Garcia v. Host International, Inc.*, United States District Court, Northern District of California, Case No. 3:17-cv-02069-RS; *Grady, et al. v. People 2.0 dba The Hire Source, et al.*, San Joaquin County Case No. STK-CV-UOE-2017-13867; *Kumar v. Forty Niners Stadium Management Company*, Santa Clara County Superior Court, Case No.

1 17CV3121427; *Russell v. KeHe Distributors, Inc.*, United States District Court, Eastern District of
2 California, Case No. 2:17-at-00592; *Smith v. Wal-Mart Stores, Inc. et al.*, United States District
3 Court, Northern District of California, Case No. 3:16-cv-02832-JD; *Van Lith v. iHeartmedia +*
4 *Entertainment, Inc. et al.*, United States District Court, Eastern District of California, Case No. 1-
5 16-cv-00066-SKO; *Titus v. The Martin-Brower, LLC*, United States District Court, Eastern District
6 of California, Case No. 2:17-cv-00558-JAM-GGH; *Ahmed v. Beverly Health and Rehabilitation*
7 *Services, Inc., et al.*, United States District Court, Eastern District of California, Case No. 2:16-cv-
8 01747-WBS-KJN; *Hugues v. The Morning Star Trucking Company, LLC, et al.*, Yolo County
9 Superior Court Case No. CV16-1215; *Guzman-Padilla, et al. v. Gerard Van De Pol, et al.*, United
10 States District Court, Eastern District of California, Case No. 2:17-cv-00196-JAM-KJN; *Davis v.*
11 *Balfour Beatty Infrastructure, Inc.*, Los Angeles County Superior Court, Case No. BC592580;
12 *Jaime v. Walt Disney Parks and Resorts U.S., Inc.*, United States District Court, Central District of
13 California, Case No. SACV 15-01618-CJC(DFMx); *Moser v. O'Connor Woods Housing*
14 *Corporation*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2014-0009861;
15 *Bastami v. Semiconductor Components Industries, LLC*, Santa Clara County Superior Court, Case
16 No. 16cv297447; *Clark v. Arrow Sign Co.*, San Joaquin County Superior Court, Case No. STK-
17 CV-UOE-2016-6457, *Moreno v. B.R. Funsten & Co.*, Solano County Superior Court Case No.
18 FCS046149, *Taylor v. Meadowbrook Meat Company, Inc.*, United States District Court, Northern
19 District of California, Case No. 3:15-cv-00132-LB, *Terry v. Mare Island Dry Dock Company,*
20 *LLC*, Solano County Superior Court Case No. FCS051650, *Alderson v. Alameda County*
21 *Agricultural Fair Association*, Alameda County Superior Court Case No. RG18912654, *Wilk v.*
22 *Skechers U.S.A., Inc.*, United States District court, Central District of California, Case No. 5-18-
23 CV-01921-JGB-SP; *Titus v. Paramount Equity Mortgage, LLC*, United States District Court,
24 Eastern District of California, Case No. 2:17-cv-00349-MCE-KJN; *Solati v. RPM Mortgage, LLC*,
25 Solano County Superior Court Case No. FCS048401; *LeBarre v. Rowtown, Inc., et al.*, Monterey
26 County Superior Court Case No. 21CV002021; and *Perez et al. v. Abbate Family Farms Limited*
27 *Partnership et al.*, San Joaquin County Superior Court, Case No. 39-2012-00288653-CU-OE-STK,
28 all wage-and-hour class actions with claims similar to the instant matter.

25. Not including this matter, Mayall Hurley P.C. has a number of other wage-and-hour class actions currently pending final approval in which we have been preliminarily approved as class counsel. My law firm and I have also represented plaintiffs in numerous representative employment actions, settlements in which have been approved by multiple California and federal courts, and are currently prosecuting dozens more.

26. I am also co-lead counsel in four other employment class action cases, in addition to approximately a dozen cases with a PAGA wage-and-hour component.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this twenty-third day of June, 2023, in Lodi, California.

John P. Moore

JOHN P. BRISCOE

EXHIBIT 1

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10 **Website: www.mavallaw.com**

11 **Attorneys for Plaintiff Jessica Collard**

12 **SUPERIOR COURT OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF HUMBOLDT**

14 **JESSICA COLLARD, an individual,**

Case No.: CV2101368

15 **Plaintiff,**

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AND RELEASE OF
CLAIMS**

16 **vs.**

17 **MURPHY'S MARKETS, INC., a corporation;
18 and DOES 1-100, inclusive,**

19 **Defendants.**

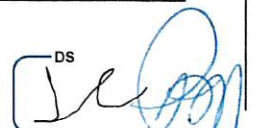
20 This Class and Representative Action Settlement Agreement and Release of Claims, is entered
21 into between Plaintiff Jessica Collard ("Plaintiff"), on behalf of herself and on behalf of the Class
22 Members, and Defendant Murphy's Markets, Inc. ("Defendant"). Plaintiff and Defendant are
23 collectively referred to herein as the "Parties."

24 **I. RECITALS.**

25 1. On August 31, 2021, Plaintiff provided written notice to the Labor and Workforce
26 Development Agency ("LWDA") and Defendant regarding the specific provisions of the Labor Code
27 alleged to have been violated, including the facts and theories to support those alleged violations.

28 2. On September 23, 2021, Plaintiff filed the initial complaint in the above-captioned
Court. On November 8, 2021, Plaintiff filed the First Amended Complaint.

3. Prior to filing Plaintiff's motion for preliminary approval, Plaintiff will file the
operative Second Amended Class and Representative Action Complaint stating causes of action for (1)
Failure to Pay Overtime at Correct Rate; (2) Failure to Provide Paid Sick Leave at Correct Rate; (3)
Failure to Provide Rest Periods or Pay Premiums at the Correct Rate; (4) Failure to Provide Meal
Periods or Pay Premiums at the Correct Rate; (5) Unfair Competition; (6) Failure to Pay All Wages

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1 Due at End of Employment; (7) Failure to Furnish Accurate Itemized Wage Statements; and (8)
2 Private Attorneys General Act. Plaintiff also asserted individual claims relating to her former
3 employment with Defendant, namely: (9) Disability Discrimination; (10) Failure to Accommodate;
4 (11) Failure to Engage in Interactive Process; (12) Retaliation for Taking Protected Medical Leave;
5 (13) Retaliation for Requesting Accommodation for Disability; and (14) Failure to Prevent
6 Discrimination and Retaliation.

7 4. Defendant denies and continues to deny all of Plaintiff's material allegations.
8 Specifically, Defendant contends (1) it did not fail to pay the Class overtime compensation at the
9 required rate; (2) it did not fail to pay sick leave at the required rate; (3) it did not fail to provide
10 rest and meal periods or to pay premiums at the required rate; (4) it did not fail to pay the Class
11 wages due and owing upon separation; (5) it provided the Class with accurate itemized wage
12 statements, consistent with Labor Code Section 226; (6) it did not violate Business & Professions
13 Code Section 17200, *et seq.*; (7) the PAGA Group is not entitled to penalties under PAGA; and (8)
14 Defendant is not liable for damages, penalties, attorney's fees, or costs of litigation to the Class.

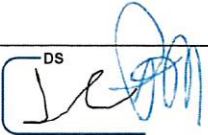
15 5. The Parties agreed to participate in an early mediation.

16 6. Between February 2022 and March 2023, and as part of the informal discovery process
17 and the Parties' settlement negotiations, Defendant provided Class Counsel with key data points,
18 hundreds of pages of documents relating to its policies, practices and procedures as well as
19 voluminous amounts of payroll data constituting the time and payroll records for an agreed upon
20 sampling of the putative class for the period September 23, 2017 through September 2022. In
21 conjunction with those same negotiations, the Parties spoke at length about the strengths and
22 weaknesses of each sides' claims and defenses, Defendant's likelihood of success on its planned
23 motion to compel arbitration, the certifiability of the claims, and the scope of Defendant's alleged
24 liability. Class Counsel retained an expert to analyze the data produced by Defendant, and separately
25 completed its own analysis of the data, including calculating the damages of a number of individual
26 class members, in order to confirm the accuracy of their expert's calculations.

27 7. On September 15, 2022, the Parties participated in mediation. The Parties reached an
28 agreement to settle the matter. Over the months that followed, the Parties continued to engage in
further information exchange so as to further confirm the size and composition of the Class, and to
ensure that they were in agreement as to certain critical terms including, but not limited to, the number
workweeks and Class Members at issue to ensure the accuracy of their respective analyses and
appropriateness of the settlement.

8. For purposes of this Settlement only, Plaintiff contends and Defendant does not dispute
that there is sufficient evidence to support the requirements for Class certification for settlement
purposes, specifically:

- a. There are approximately 605 Class Members, which is so numerous as to make it impractical to join all Class Members;
- b. The Class is ascertainable from Defendant's records;
- c. Common questions of law and fact exist;

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- 1 d. Plaintiff's claims are typical of the claims of the Settlement Class Members and that
2 she is an adequate representative of the Class and should be appointed as such;
- 3 e. Plaintiff and her counsel, Mayall Hurley P.C., are adequate to represent the Class and
4 should be appointed as Class Representative and Class Counsel, respectively;
- 5 f. The prosecution of separate actions by individual members of the Class would create
6 the risk of inconsistent or varying adjudications, which could establish incompatible
7 standards of conduct; and
- 8 g. Questions of law and fact common to the members of the Class predominate over
9 questions affecting individual members of the Class and a class action is superior to
10 other available means for the fair and efficient adjudication of the controversy.

11 9. By entering into this Settlement, Defendant admits no liability, and explicitly denies
12 liability or wrongdoing of any kind arising from the claims alleged in the Class Action. This
13 Settlement shall not constitute an admission by Defendant as to any interpretation of laws or as to the
14 merits, validity, or accuracy of any of the claims made against it in the Class Action, or that the claims
15 alleged are suitable for class-wide or collective treatment.

16 **II. DEFINITIONS.**

17 10. "Class", "Class Members", and "Settlement Class Members" means all current and
18 former non-exempt employees who worked directly for Defendant in California during the Class
19 Period as defined below (or if any such person is incompetent, deceased, or unavailable due to military
20 service, the person's legal representative or successor in interest evidenced by reasonable verification).
21 The term "Class Members" shall not include any person who submits a timely and valid request for
22 exclusion.

23 For distribution purposes, the Parties have agreed to the following subclass:

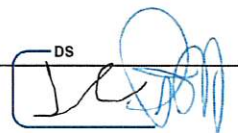
24 The Former Employee Subclass: All former non-exempt employees who
25 worked directly for Defendant in California at any time from September 23,
26 2018, through January 31, 2023.

27 11. "Class Action" refers to this class action lawsuit, *Collard v. Murphy's Markets, Inc.*,
28 Humboldt County Superior Court, Case No. CV2102368.

12. "Class Counsel" refers Mayall Hurley P.C., by and through Lead Counsel Robert J.
Wassermann and John P. Briscoe.

13. "Class List" refers to the list of Class Member information to be provided to the
Settlement Administrator by Defendant.

14. "Class Notice" refers to the class notice, substantially in the form attached here to as
Exhibit A, as it may be modified by agreement of the Parties or upon order of the Court, which will be
sent to the California Class Members.

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1 15. "Class Period" shall be defined as the time frame of September 23, 2017 through
2 January 31, 2023.

3 16. "Class Representative" refers to Plaintiff Jessica Collard.

4 17. "Defendant" refers to Murphy's Markets, Inc.

5 18. "Defense Counsel" refers to Laurie E. Yoon and Kenneth H. Moreno of Murchison
6 Cumming LLP.

7 19. "Effective Date" as defined below is a condition of performance of the obligations
8 under this Settlement. The Effective Date is determined as follows. If no Class Member or any
9 person claiming to have standing submits an objection or otherwise purports to object to the
10 Settlement Agreement, then the Effective Date is the date of the Court's entry of a final approval order
11 and judgment finally approving the Settlement Agreement ("Order of Final Approval"). If any Class
12 Member or any person claiming to have standing submits an objection or otherwise purports to object
13 to the Settlement Agreement, then the Effective Date is the date after (a) the Court's entry of a final
14 approval order and judgment finally approving the Settlement Agreement ("Order of Final Approval"),
15 and (b) the first to occur of the following: (1) the date for seeking appellate review of the Court's
16 Order of Final Approval has passed without a timely appeal or request for review having been made
17 (i.e., 61 days after entry of the trial court's Order of Final Approval and Judgment); or (2) if an appeal,
18 review, or writ is sought from the Order of Final Approval, the day after the Order of Final Approval
19 is affirmed or the appeal, review or writ is dismissed or denied, and the Order of Final Approval is no
20 longer subject to further judicial review.

21 20. "Employee-side Taxes and Withholdings" shall mean the employee's share of any and
22 all applicable federal, state or local payroll taxes including, but not limited to those collected under
23 authority of the Federal Insurance Contributions Act ("FICA"), FUTA and/or SUTA on the portion of
24 any Participating Class Member's Settlement Share that constitutes wages. The Employee-side Taxes
25 and Withholdings will be withheld from and paid out of the Net Settlement Amount.

26 21. "Employer-side Taxes" shall mean and refer to Defendant's share of corporate federal,
27 state and/or local payroll taxes that is owed on the portion of any Participating Class Member's
28 Settlement Share that constitutes wages. The Employer-side Taxes shall be separately paid by
29 Defendant and shall not be paid from the Maximum Settlement Amount or Net Settlement Amount.

30 22. "Final Approval Hearing" means the hearing set by the Court for the purpose of
31 determining, *inter alia*, (1) the fairness, adequacy, and reasonableness of the Settlement, (2) the
32 Service Payment to Plaintiff, and (3) the fees and costs of Class Counsel.

33 23. "Final Approval Order" or "Order of Final Approval" refers to the order of the Court
34 granting final approval of this Settlement and entering a judgment approving this Settlement on
35 substantially the same terms provided herein or as may be modified by subsequent agreement of the
36 Parties.

37 24. "Individual PAGA Group Member Workweeks" shall mean the number of
38 workweeks worked by each PAGA Group Member during the PAGA Period.

1 25. "Individual Workweeks" shall mean the number of workweeks worked by each
2 Class Member during the Class Period.

3 26. "Former Employee Subclass Member" means any Class Member whose employment
4 with Defendant ended at any point during the Class Period.

5 27. "LWDA Payment" shall mean the payment to the California Labor and Workforce
6 Development Agency ("LWDA") constituting seventy-five percent (75%) of the value assigned to
7 the claim for penalties under the California Labor Code Private Attorneys General Act, California
8 Labor Code Section 2698, *et seq.* ("PAGA"). Specifically, Thirty Thousand Dollars and Zero Cents
9 (\$30,000.00), which shall constitute the LWDA's seventy-five percent (75%) share of Forty
10 Thousand Dollars and Zero Cents (\$40,000.00) in civil penalties paid under this Settlement. The
11 remaining Ten Thousand Dollars and Zero Cents (\$10,000.00) in civil penalties shall be distributed
12 on a *pro rata* basis based upon the number of workweeks worked by each PAGA Group Member
13 ("PAGA Payment").

14 28. "Maximum Settlement Amount" refers to the maximum amount which Defendant is
15 obliged to pay under this Agreement, exclusive of Employer-side Taxes, i.e., \$400,000.

16 29. "Net Settlement Amount" refers to the Maximum Settlement Amount, less (a) the fees
17 and costs of the Settlement Administrator, (b) the payment to the California Labor and Workforce
18 Development Agency ("LWDA"), (c) the payments to the PAGA Group, (d) the Service Payment of
19 Plaintiff, and (e) Class Counsel's Fees and Costs.

20 30. "Order of Preliminary Approval" or "Preliminary Approval Order" refers to the order
21 of the Court granting preliminary approval of this Settlement.

22 31. The "PAGA Group" shall mean all persons who, during the PAGA Period, have
23 previously been or currently are employed in California by Defendants, as an hourly-paid, non-
24 exempt employee. "PAGA Group Member" shall mean an individual who is a member of the
25 PAGA Group (or if any such person is incompetent, deceased, or unavailable due to military
26 service, the person's legal representative or successor in interest evidenced by reasonable
27 verification).

28 32. "PAGA Payment Share" shall mean the value of each PAGA Group Member's
29 share of the PAGA Payment as provided by this Agreement.

30 33. "PAGA Period" shall be defined as the time frame of September 4, 2020, through
31 January 31, 2023.

32 34. "Participating Class Members" refers to all Class Members who choose to participate in
33 this Settlement and who do not timely and validly exclude themselves from the Settlement in
34 accordance with the procedures set forth herein.

35 35. "Participating Former Employee Subclass Members" refers to all Former Employee
36 Subclass Members who choose to participate in this Settlement and who do not timely and validly
37 exclude themselves from the Settlement in accordance with the procedures set forth herein.

38 36. "Parties" refers to Plaintiff and Defendant.

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2 37. "Qualified Settlement Fund" or "QSF" means an account that will qualify and be
3 characterized as a Qualified Settlement Fund under the provisions of the U.S. Treasury Regulations
4 1.486B-1 and 1.468B-5, to be set up as provided below, and into which the Net Settlement Amount is
to be deposited as agreed herein, to be administered in a manner consistent with law and the terms of
this Settlement.

5 38. "Released Claims" refers collectively to the claims released by Participating Class
6 Members, as appropriate, and as defined in Paragraph 69.

7 39. "Released Former Employee Subclass Claims" means the claims released by
8 Participating Waiting Time Subclass Members as defined in Paragraph 69, subsection (i) and (ii).

9 40. "Released PAGA Claims" means the PAGA claims released by Plaintiff on behalf of
10 herself and the other allegedly aggrieved employees and the LWDA, described in detail in Paragraph
70, as against Defendant.

11 41. "Released Parties" means Defendant and Defendant's parents, predecessors, successors,
12 subsidiaries, affiliates, partners, owners, assigns, franchisors, and trusts, and all of its employees,
13 officers, agents, attorneys, stockholders, fiduciaries, and other service providers including, but not
limited to, Murchison Cumming LLP.

14 42. "Response Deadline" or "Response Period" means the final date, forty-five (45) days
15 after the Settlement Administrator mails the Class Notice, upon which Class Members may submit a
request for exclusion or objection to the Settlement.

16 43. "Settlement" or "Settlement Agreement" refer to this Class and Representative Action
17 Settlement Agreement and Release of Claims.

18 44. "Settlement Administrator" refers to Phoenix Class Action Administration Solutions,
19 the third-party administrator whom the Parties have selected to administer the Settlement in
accordance with the terms set forth herein and as approved by the Court.

20 45. "Settlement Share" refers to the value of the Net Settlement Amount which an
21 individual Class Member is entitled to receive pursuant to the Settlement.

22 46. "Workweek" shall mean any week in which a Class Member actually performed
23 paid work for Defendants during the Class Period as an hourly-paid, non-exempt employee.

24 **III. APPLICATION FOR APPROVAL OF THE SETTLEMENT, CLASS**
25 **CERTIFICATION, DISSEMINATION OF NOTICE, AND SETTING OF FINAL**
APPROVAL HEARING.

26 47. Promptly upon the full execution of this Agreement, Plaintiff's shall apply to the Court
27 for approval of the Settlement, including an Order of Preliminary Approval that, amongst other things,
28 (a) preliminarily approves the Settlement under the legal standards relating to the approval of class and
collective action settlements; (b) preliminarily certifies the Settlement Class for settlement purposes
only; (c) approves the Class Notice and authorizes dissemination of the same; (d) preliminarily

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1 approves Plaintiff as Class Representative; (e) preliminarily approves Mayall Hurley, P.C. as Class
2 Counsel; (f) preliminarily approves Phoenix Class Action Administration Solutions to serve as
3 Settlement Administrator; and (g) sets a Final Approval Hearing and briefing schedule. Should this
4 Settlement not become effective for any reason, the fact that the Parties stipulated to certification of a
Class shall have no bearing on and shall not be admissible on the question of whether a class/collective
action should be certified in a non-settlement context.

5 **IV. CONSIDERATION FOR THE SETTLEMENT.**

6 48. Maximum Settlement Amount.

7 The Parties agree to settle this Class Action for the Maximum Settlement Amount of Four
8 Hundred Thousand Dollars and Zero Cents (\$400,000). The Maximum Settlement Amount and other
9 actions and forbearances taken by Defendant are paid in full and final settlement of (a) the Released
10 Claims, (b) the PAGA Released Claims; (c) the fees and costs of the Settlement Administrator, (d) the
11 payment to the LWDA, (e) the Service Payment to Plaintiff, and (f) Class Counsel's Fees and Costs.
The Maximum Settlement Amount shall be deposited into the QSF within 10 calendar days of the
Effective Date. The Maximum Settlement Amount does not include the Employer-side Taxes which
also must be paid by Defendant.

12 49. Allocation of the Maximum Settlement Amount.

13 Subject to Court approval, the Maximum Settlement Amount will be credited or allocated as
14 follows:

- 15 (i) \$9,000 for the fees and costs of the Settlement Administrator;
16 (ii) \$30,000 payment to LWDA under the PAGA;
17 (iii) \$10,000 for payment to the PAGA Group Members;
18 (iv) \$7,500 Service Payment to Plaintiff;
19 (v) \$20,000 payment to Class Counsel for Costs; and
20 (vi) \$133,333.00 payment to Class Counsel for attorneys' fees.

21 The remainder constitutes the Net Class Settlement Amount: \$190,167.00.

22 50. Escalator Clause.

23 Defendant represents that, as of the date this Agreement is signed, there are approximately 605
24 Class Members who worked an approximate total of 44,888 workweeks during the Class Period. If the
number of Workweeks exceeds the foregoing estimate by 10% through the end of the Class Period, the
Maximum Settlement Amount shall increase pro rata with a 10% grace margin (e.g., if the number of
workweeks increases by 11%, the Maximum Settlement Amount shall increase by 1%).

25 51. Non-Monetary Relief.

26 Although Defendant denies it ever acted illegally and that as noted herein nothing in this
27 agreement constitutes an admission of liability, in addition to the Maximum Settlement Amount,
28 Defendant also agrees that it has reviewed and audited its policies, practices, and procedures

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1 associated Labor Code violations alleged to have occurred in this matter, to ensure compliance with
2 California law.

3 52. Reasonable Fees and Costs of the Settlement Administrator.

4 All of the Settlement Administrator's fees and costs, which are estimated not to exceed \$9,000
5 unless otherwise approved by the Court, will be paid out of the Maximum Settlement Amount from
6 the QSF.

7 53. Payment to the LWDA under the PAGA.

8 The Parties allocate \$40,000 to the PAGA claims. Of that amount, 75% – or \$30,000 – will be
9 paid to the LWDA, and 25% – or \$10,000 – will be returned to the portion of the Net Settlement
10 Amount allocated to the Settlement Class Members. The Parties believe such amount is reasonable
11 and sufficient under the circumstances and serves the punitive and deterrent purposes of the PAGA.
12 The Settlement Administrator shall make the payment to the LWDA within 10 calendar days after
13 Defendant funds the QSF or the Effective Date, whichever is later.

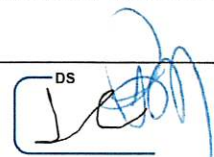
14 54. Service Payment to Plaintiff.

15 Subject to Court approval, Plaintiff will apply for a Service Payment of not to exceed \$7,500 or
16 1.875% of the Maximum Settlement Amount, in consideration for her efforts on behalf of the Class
17 including, but not limited to, assisting in the investigation and consulting with Class Counsel,
18 providing critical information and documents to Class Counsel, and participating in settlement
19 negotiations, the Zoom mediation, and in the drafting of the Settlement Agreement. Any Service
20 Payment approved by the Court will be paid out of the Maximum Settlement Amount and shall be in
21 addition to Plaintiff's Settlement Share under the terms of the Settlement. The Settlement
22 Administrator will issue an IRS Form 1099 for any Service Payment approved by the Court. The
23 Settlement Administrator shall mail the Service Payment to Plaintiff within 10 calendar days after
24 Defendant funds the QSF or the Effective Date, whichever is later. Defendant will not oppose
25 Plaintiff's request for a Service Payment of equal to or less than \$7,500.

26 55. Reasonable Attorneys' Fees and Costs to Class Counsel.

27 Subject to Court approval, Class Counsel will apply to the Court for an award of attorneys'
28 fees and costs incurred in connection with the prosecution of this matter; all of the work remaining to
be performed including, but not limited to, documenting the Settlement; drafting the Class Notice;
soliciting bids from, negotiating with, and retaining the Settlement Administrator; preparing all of the
motions and documents necessary to secure Court approval of the Settlement Agreement (including all
related appellate work if necessary); carrying out their duties to see that the Settlement Agreement is
fairly administered and implemented; responding to questions from Settlement Class Members; and
obtaining judgment.

Class Counsel will apply to the Court for an award of attorneys' fees in an amount not to
exceed one-third of the Maximum Settlement Amount, or \$133,333.00, and declared costs of up to
\$20,000. Defendant will not oppose Class Counsel's request of equal to or less than the amounts
referenced above. The fees and costs awarded to Class Counsel by the Court shall be paid out of the
Maximum Settlement Amount from the QSF. The Settlement Administrator shall issue an IRS Form



1 1099 to Class Counsel in connection with this payment. The Settlement Administrator shall mail the
2 attorneys' fees and costs awarded to Class Counsel within 10 calendar days after Defendant funds the
3 QSF or the Effective Date, whichever is later.

4 In the event that a lesser sum is awarded for the attorneys' fees and costs referenced above, or
5 for the Service Payment referenced in Paragraph 54, the approval by the Court of any such lesser
6 sum(s) shall not be grounds for Plaintiff and/or Class Counsel to terminate the Settlement, but such an
7 order shall be appealable by them. In the event that such an appeal is filed, final funding and
8 administration of the portion of the attorneys' fees and/or costs award and/or service payment in
9 dispute will be segregated and stayed pending the exhaustion of appellate review. If, after the
10 exhaustion of any such appellate review, additional amounts are distributable to the Participating Class
11 Members, the cost of administration of the payments to them will be paid out of such additional
12 amounts and not by Defendant. Any amount not awarded in attorneys' fees, costs and Service
13 Payments shall be added to the Net Settlement Amount and distributed to the Participating Class
14 Members in accordance with the terms of the Settlement.

15 As of the date the QSF is funded or the Effective Date, whichever is later, and except as
16 otherwise provided by this Settlement, Class Counsel and any counsel associated with Class Counsel
17 waive any further claims to costs and attorney's fees and expenses against Defendant or the Released
18 Parties arising from or related to the Action, including but not limited to claims based on the Labor
19 Code, the Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the Business and
20 Professions Code, or any other contract, statute or law.

21 56. Tax Treatment of Settlement Shares.

22 For the purpose of taxes and required withholdings, the Parties agree that (i) payments to
23 Participating Waiting Time Subclass Members shall be considered 100% penalties (for which an IRS
24 Form 1099 will be issued) (ii) Payments to Class Members shall be considered 25% wages (for which
25 an IRS Form W-2 shall be issued) and 75% interest and penalties (for which an IRS Form 1099 shall
26 be issued); and (iii) Payments to PAGA Group Members shall be considered 100% penalties (for
27 which an IRS Form 1099 will be issued)

28 Prior to the distribution of Settlement Shares, the Settlement Administrator shall calculate the
total taxes and withholdings required as a result of the wage portion of the Settlement Share and such
actual amount will be deducted from therefrom. Additionally, within 5 days of the Effective Date, or
earlier upon Defendant's request, the Settlement Administrator shall calculate the Employer-side
Taxes due on the wage portion of the Settlement Shares and issue instructions to Defendant to
separately fund these obligations. The Parties understand that Participating Class Members who
receive Settlement Shares under this Settlement shall be solely responsible for any and all individual
tax obligations on the non-wage portion of their Settlement Share, and will indemnify and hold
harmless Defendant for any taxes, interest or penalties that may be incurred by Defendant on the non-
wage portion of the Participating Class Member's Settlement Share if any taxing authority disputes the
allocation of the settlement payment.

1 57. No Effect on Employee Benefit Plans.

2 Neither this Settlement nor any amounts paid hereunder will modify any previously credited
3 hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored
4 by Defendant.

5 58. Undistributed Funds.

6 In the event that any checks mailed to Participating Class Members remain uncashed after the
7 expiration of 180 days, or an envelope mailed to a Participating Class Member is returned and no
8 forwarding address can be located for the Participating Class Member after reasonable efforts have
9 been made (including but not limited to skip tracing), then any such funds shall be distributed as
10 follows in accordance with California Code of Civil Procedure section 384:

11 100% to Court Appointed Special Advocates for Children of Humboldt
12 County (a nonprofit legal services organization that advocates for abused,
13 neglected, and other identified children within the court system).

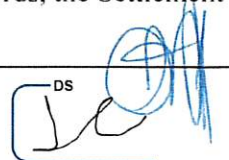
14 **V. ADMINISTRATION OF THE SETTLEMENT.**

15 59. Duties of the Settlement Administrator.

16 The Settlement Administrator shall perform the duties required by this Settlement by, among
17 other things, and without limitation, (i) receiving and updating through normal and customary
18 procedures the list of Class Members to be produced by Defendant, so that it is updated prior to the
19 mailing of the Class Notice, (ii) populating, printing and mailing the Court-approved Class Notice, (iii)
20 responding to Class Member inquiries as appropriate, (iv) performing necessary additional skip traces
21 on any notices and/or checks returned as undeliverable, (v) calculating the Settlement Shares of the
22 Participating Class Members, (vi) resolving disputes during the administration process in the manner
23 described below, (vii) reporting to Class Counsel and Defense Counsel regarding administration of the
24 Settlement, (viii) establishing the QSF in the manner described below, (ix) preparing and mailing
25 settlement checks to the Participating Class Members, (x) preparing and mailing the Court-approved
26 payments to itself, the LWDA, the Class Representatives, and Class Counsel, (xi) preparing all
27 appropriate tax forms required in connection with the payments called for by this Settlement and
28 remitting those forms and all required payments to the appropriate governmental agencies, (xii)
generally performing all normal and customary duties associated with the administration of such
settlements.

29 60. Dispute Resolution.

30 The Settlement Administrator shall have the initial responsibility for resolving any disputes
31 that arise during the administration of the Settlement including, without limitation, disputes regarding
32 whether a Class Member is entitled to a Settlement Share and, if so, the amount thereof. In resolving
33 such disputes, Defendant's employment records shall be presumed accurate and correct, and shall be
34 final and binding unless the information submitted by the individual (e.g., time records, wage
35 statements, employment records, etc.) proves otherwise. In the event that the Settlement
36 Administrator cannot resolve a dispute based upon a review of Defendant's records, the Settlement



1 Administrator will schedule a call with Class Counsel and Defense Counsel to discuss and resolve the
2 dispute. After such call, the Settlement Administrator will resolve the dispute and such resolution will
3 be final and binding on the Class Member.

4 61. Establishing the Qualified Settlement Fund.

5 The Settlement Administrator shall be responsible for establishing a QSF upon the Court's
6 approval to do so, which approval the Parties will jointly seek. The QSF will be taxed as a separate
7 entity for purposes of all federal, state, and local taxes, and the Parties agree to treat the QSF on a basis
8 consistent therewith. Any interest accrued shall inure to the benefit of the Settlement Class. The
9 Maximum Settlement Amount shall be deposited into the QSF within 10 calendar days of the Effective
10 Date. Defendant may, at its discretion, deposit the Maximum Settlement Amount at an earlier date.

11 **VI. CLASS LIST, NOTICE TO SETTLEMENT CLASS MEMBERS, PARTICIPATION IN**
12 **THE SETTLEMENT, AND SETTLEMENT SHARES.**

13 62. Provision of the Class List.

14 Within ten (10) days after the Motion for Preliminary Approval is granted, Defendant will
15 provide to the Settlement Administrator the "PAGA Group" and "Class Members' Data," which shall
16 consist of an electronic database containing (i) each Class Member's first and last name, (ii) last
17 known mailing address, (ii) the Class Member's Social Security number or Tax ID, (iii) the Class
18 Member's employee identification number, if applicable, based on Defendants' payroll records, (iv)
19 the Class Member's total number of Individual Class Member Workweeks, and (v) PAGA Group
20 Members' total number of Individual PAGA Group Member Workweeks. If any or all of the Class
21 Members' Data are unavailable to Defendants, Defendants will so inform Class Counsel prior to the
22 date on which Defendants are required to submit the Class Members' Data to the Settlement
23 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the
24 Class Members' Data prior to when it must be submitted to the Settlement Administrator. If the
25 Parties are unable to agree, the dispute will be resolved by the Settlement Administrator as provided in
26 Paragraph 65. This information will otherwise remain confidential and will not be disclosed to
27 anyone, except as required to applicable taxing authorities, as required to carry out the reasonable
28 efforts to identify

Class Member information as described in this Paragraph 62, pursuant to Defendant's express written
authorization, or by order of the Superior Court.

63. Notice to Settlement Class Members.

Promptly upon receipt of the Class List, the Settlement Administrator shall access the National
Change of Address Database ("NCOA") and update the addresses provided by Defendant. The
Settlement Administrator shall also determine the number of pay periods worked, as appropriate, for
each Class Member, determine whether the Class Member is a member of the Waiting Time Subclass,
and populate the Class Notice accordingly. Within 10 calendar days after receipt of the Class List, the
Settlement Administrator shall mail the Class Notice to each Class Member via first-class mail. For
each Class Notice that is returned as undeliverable before the Response Deadline, the Settlement
Administrator shall promptly attempt to determine a correct address using its best efforts and shall
resend the notice to any new address determined thereby.

64. Participation in the Settlement and Calculation of Settlement Shares.

Class Members are not required to file claims in order to be eligible to participate in this Settlement and receive their Settlement Share. In accordance with the formulas set forth below, \$190,167 shall be paid to Participating Class Members, \$37,539 of which shall be distributed Participating Former Employee Subclass Members. Additionally, \$10,000 (which is not included within the Net Settlement Amount, *supra*) shall be distributed to PAGA Group Members. The amount of each Participating Class Member, Participating Former Employee Subclass Member, and PAGA Group Member's Settlement Share shall be determined by the Settlement Administrator as follows:

(i) Class Members.

The workweeks worked during the Class Period by each Participating Class Member will be divided by the total workweeks worked all Participating Class Members during the Class Period, resulting in a payment ratio for each Participating Class Member. Each Participating Class Member's payment ratio is then multiplied by the portion of the Net Settlement Amount allocated to the Class to determine his or her individual Settlement Share.

(ii) Participating Former Employee Subclass Members.

Participating Waiting Time Subclass Members shall each receive an equal share of the portion of the \$37,539 set aside for them in addition to their payment under paragraph 64(i) above.

(iii) PAGA Group Members.

The workweeks worked during the PAGA Period by each PAGA Group Member will be divided by the total workweeks worked by all PAGA Group Members during the PAGA Period, resulting in a payment ratio for each PAGA Aggrieved Employee. Each PAGA Aggrieved Employee's payment ratio is then multiplied by the \$10,000 allocated to the PAGA Group Members to determine his or her individual payment.

The Settlement Administrator shall pay to each Participating Class Member his or her Settlement Share and to each PAGA Group Member his or her PAGA Payment Share from the QSF. The Settlement Administrator shall pay each Settlement Share by sending a check in the appropriate amount after withholdings to the Participating Class Member at the address indicated in the Class Member's Data. The Settlement Administrator shall pay each PAGA Payment Share by sending a check in the appropriate amount to the PAGA Group Member at the address indicated in the PAGA Group Member's Data. Such payment shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14) calendar days of its receipt of the Settlement Account Deposit from Defendant, or within fourteen (14) calendar days of the Effective Date, whichever is later.

65. Procedures for Challenges.

A Class Member may, before the Response Deadline, dispute the amount of his or her Settlement Share, and the data used to calculate it, by timely sending a written notice to the Settlement Administrator informing the Settlement Administrator of the nature of the dispute and providing any records or documentation supporting their position. In response to such a challenge, Defendant will first verify the accuracy of the information contained in its records. Next, Class Counsel and Defense Counsel will make a good faith effort to resolve the dispute informally. If Class Counsel and Defense Counsel are unable to agree, the dispute shall be resolved by the Settlement Administrator after examination of the records provided by the Settlement Class Member and Defendant. The Settlement Administrator's determination will be final and binding.

If, before the Response Deadline, an individual not previously identified in the Class List asserts his or her membership in the Settlement Class and seeks recovery under the Settlement, the Settlement Administrator shall provide Class Counsel and Defense Counsel with the evidence submitted by the individual. To be eligible for recovery under this Settlement, individuals must provide sufficient proof to the Settlement Administrator supporting his or her request for inclusion, including specific evidence establishing that he or she qualifies as a Settlement Class Member as defined herein. If Class Counsel and Defense Counsel agree an individual is not a Settlement Class Member, the Settlement Administrator will inform the individual that their request for inclusion has been rejected. If Class Counsel and Defense Counsel are unable to agree, the dispute shall be resolved by the Settlement Administrator after examination of the records provided by the Settlement Class Member and Defendant. The Settlement Administrator's determination will be final and binding.

VII. EXCLUSIONS, OBJECTIONS AND BINDING EFFECT OF SETTLEMENT.

66. Right of Class Members to Opt-Out of Settlement.

The Class Notice will advise each Class Member of their right exclude themselves or opt-out of the Settlement. To be effective, requests for exclusion must (a) be submitted in writing to the Settlement Administrator, postmarked before the Response Deadline (i.e., no later than 45 calendar days from the date of mailing of the Class Notice), (b) contain the individual's full name, current home (or mailing address), and the last four digits of his or her social security number, and (c) include written affirmation of his or her desire to exclude themselves containing the following or substantially similar language:

"I elect to opt-out of the *Collard v. Murphy's Markets, Inc.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement, and will not receive a share of the settlement."

The Settlement Administrator shall email copies of any Opt-Outs received to all counsel within 48 hours of its receipt of same. The Class Notice shall include the specific address to which requests for exclusion must be mailed as well as a summary of the foregoing. Any Class Member who timely requests exclusion from this Settlement shall not have any rights under the Settlement, shall not be entitled to receive a Settlement Share, shall not be bound by the Settlement or the Order of Final Approval, and shall not have the right to file an objection to the Settlement. A Class Member who timely submits a valid Exclusion Request will not participate in, or be bound by, the Settlement of the Judgment and will not receive any payment pursuant to the Settlement except for a payment from the

portion of the PAGA Payment to the PAGA Group if the Class Member is a PAGA Group Member, and will not be bound by the terms of the Settlement, except for the release of the Released PAGA Claims if the Class Member is a PAGA Group Member, and will not have any right to object, appeal, or comment thereon.

67. Right of Class Members to Object to Settlement.

The Class Notice will advise each Class Member of their right to object to the Settlement. To be effective, objections must (a) be mailed to the Settlement Administrator, postmarked before the Response Deadline (i.e., no later than 45 calendar days from the date of mailing of the Class Notice), (b) clearly identify the case name and number, (c) contain the objector's full name, current home (or mailing address), and the last four digits of his or her social security number, (d) clearly and concisely state all grounds for the objection, (e) indicate whether the objector is represented by counsel and, if so, identify such counsel, (f) indicate whether the objector his or her counsel intend to appear at the Final Approval Hearing, and (g) be signed by the objector or his or her counsel.

The Notice will include the specific address to which objections must be mailed as well as a summary of the foregoing. Absent good cause found by the Court, no Class Member may be heard at the Final Approval Hearing unless he or she has complied with these requirements, and any Class Member who fails to comply with these requirements shall be deemed to have waived his or her right to object to the Settlement. Any Class Member whose objection is overruled will be deemed to be a Participating Class Member and subject to the terms of this Settlement and the Court's Order of Final Approval.

68. Binding Effect on Participating Class Members.

All Participating Class Members will bound by the terms and conditions of this Settlement, the Court's Order of Final Approval, and the releases set forth herein.

VIII. RELEASES

69. Released Claims.

As of the date the QSF is funded or the Effective Date, whichever is later, each Participating Class Member, and without the need to manually sign a release document, in exchange for the consideration recited in this Agreement, on behalf of herself or himself and on behalf of his/her current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and finally release the Released Parties from any and all claims, demands, rights, liabilities, and causes of action that were or could have been brought against the Releasees in the Action based on the facts and allegations set forth in the Action (the "Released Claims"). The Released Claims include all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the operative complaint, including, but not limited to, all of the following claims for relief:

- (i) All causes of action and claims that were alleged in the Class Action or reasonably could have been alleged based on the facts and legal theories contained in the Second Amended Class and Representative Complaint which arose during the Class Period, including all of the following claims for relief: (i)

failure to pay and timely pay overtime wages and double time wages due during the course of employment; (ii) failure to provide paid sick leave; (iii) failure to provide meal periods or compensation in lieu thereof; (iv) failure to provide rest periods or compensation in lieu thereof; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (viii) all claims under PAGA that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in Plaintiff's Complaint; (ix) any claim for costs and attorneys' fees and expenses, and any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders. Participating Class Members who cash their checks are deemed to have waived all claims under the Settlement.

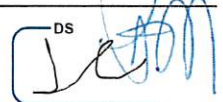
- (ii) Participating Class Members who are currently employed by Defendant and who participate in the Settlement and receive a payment thereunder shall, by virtue of the same, release any Labor Code section 203 claims for failure to pay wages due and owing at the end of employment based upon the claims set forth above in Paragraph 69(i).

The Parties also agree that this release constitutes a resolution of a good faith dispute concerning wages and complies with Labor Code Section 206.5(a), which reads:

"An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor."

70. Released PAGA Claims.

As of the date the QSF is funded or the Effective Date, whichever is later, each PAGA Group Member, and without the need to manually sign a release document, in exchange for the consideration recited in this Agreement, on behalf of herself or himself and on behalf of his/her current, former, and future heirs, executors, administrators, attorneys, agents, and assigns, shall and does hereby fully and finally release Released Parties from any and all claims, demands, rights, liabilities, and causes of action that were or could have been brought against the Released Parties in the Action for civil penalties pursuant to the PAGA that were alleged or could have been alleged under the Labor Code, state or local wage and hour laws and Wage Orders, whether known or unknown, based on the facts and legal theories contained in the Action, including but not limited to (a) failure to pay and timely pay all overtime wages due during the course of employment; (b) failure to provide paid sick leave; (c) failure to provide meal periods or compensation in lieu thereof; (d) failure to provide rest periods or compensation in lieu thereof; (e) failure to pay wages timely at time of termination or resignation; and (f) failure to provide complete, accurate wage

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statements, that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint (the "PAGA Released Claims"). Following the Effective Date and Defendants funding the settlement, all PAGA Group Members will release the Releasees from the PAGA Released Claims that accrued during the PAGA Period. PAGA Group Members cannot opt out of or object to the foregoing PAGA Release.

71. Non-Disparagement.

Plaintiff and Class Counsel agree not to make any untruthful, malicious, disparaging or defamatory statements, allegations, comments or communications, regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp, or otherwise), regarding the Released Parties. Plaintiff and Class Counsel further agree not to encourage authorize or permit any such statements, allegations, comments or communications to be made by others on their behalf. Defendant agrees not to make any untruthful, malicious, disparaging or defamatory statements, allegations, comments or communications, regardless of form (whether written, oral, electronic, including but not limited to Glassdoor, Yelp, or otherwise), regarding Plaintiff. Defendant further agree not to encourage authorize or permit any such statements, allegations, comments or communications to be made by others on their respective behaves.

72. No Admission of Liability.

Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his claims were non-meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).

IX. FINAL SETTLEMENT APPROVAL.

73. A Final Approval Hearing shall be held for the purpose of purpose of considering, *inter alia*, (a) the fairness, adequacy, and reasonableness of the Settlement, (b) the Service Payment to Plaintiff, (c) the fees and costs of Class Counsel, and (d) the propriety of any timely objections as well as Class Counsel and Defense Counsel's response thereto. The date of the Final Approval Hearing shall be set by the Court and notice of such shall be provided to Class Members in the Class Notice.

Upon final approval of the Settlement, the Parties will respectfully request the Court enter an Order of Final Approval:

- (i) Approving the Settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- (ii) Approving payment to the Settlement Administrator;
- (iii) Approving the Service Payment to the Plaintiff for her service as Class Representative;
- (iv) Approving Class Counsel's application for fees and costs;

- (v) Permanently enjoining and restraining Participating Class Members from and against initiating or pursuing against Defendant any individual, representative, or class claims released by this Settlement;
- (vi) Entering judgment in this Class Action consistent with the terms of this Settlement; and
- (vii) Retaining jurisdiction to the extent necessary over the subject matter of the Class Action and over the Parties and Settlement Class Members to enforce the terms of the Settlement.

X. TERMINATION OF THE SETTLEMENT.

74. Grounds for Termination of the Settlement.

If the Superior Court ultimately does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement that is not agreed to by one of the Parties, then either Party will have the right to void the Settlement. Further, if 10 percent or more of the Class Members timely and validly exclude themselves from the Settlement, Defendant may, at its election, have the right to void the Settlement (but it must do so within 10 calendar days after the Settlement Administrator notifies the Parties of the total number of Class Members who are excluding themselves from the Settlement). If the Settlement is voided in this manner, the Parties will have no further obligations under the Settlement, including any obligation by Defendants to pay any amounts that otherwise would have been payable under this Settlement, except that the voiding Party will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the Party exercises the right to void the Settlement under this paragraph. However, an award by the Superior Court of a lesser amount than that sought by Plaintiff and Class Counsel for the Service Payment, and/or Class Counsel's Attorney's Fees and Costs, will not constitute a material change to the Settlement within the meaning of this paragraph.

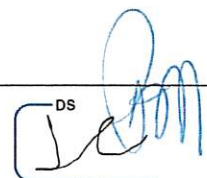
XI. MISCELLANEOUS TERMS.

75. Mutual Cooperation.

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing and amending such documents and taking such other actions as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. Neither party, nor their counsel, employees, or agents, shall solicit or encourage any Settlement Class Member to exclude themselves from the Settlement, object to the Settlement, or decline to opt into the Settlement.

76. Modification.

This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by counsel for the Parties, and approved by the Court, provided however that changes solely to the timing and deadlines herein may be made for administrative convenience by written agreement of counsel for all Parties without Court approval. This Settlement Agreement may not be discharged



except by performance in accordance with its terms or by a writing signed by the Parties hereto and approved by the Court.

77. Integration Clause.

This Settlement Agreement contains the entire agreement between the Parties relating to the settlement of the Class Action and the transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. In entering into this Settlement Agreement, none of the Parties has relied on any representation or promise not expressly set forth in this Settlement Agreement. No rights hereunder may be waived except in writing.

78. Class Counsel Signatories.

It is agreed that because of the anticipated large number of Participating Class Members, it will be impossible or impractical to have each Participating Class Member execute this Settlement Agreement. As such, Class Counsel is signing on behalf of the Participating Class Members. In addition, the California Class Notice will advise Settlement Class Members of the binding nature of the Settlement, and their right to Opt-Out and/or object, and shall have the same force and effect as if it were executed individually by each Participating Class Member.

79. Interim Stay of Proceedings.

Pending the completion of the approval process, the Parties agree to a stay of all proceedings in the Class Action except those necessary to implement the Settlement itself.

80. Notices.

Any notices, requests, requests, demands, or other communications required or necessitated by this Settlement Agreement shall be in writing and, except as provided elsewhere in this Settlement Agreement, shall be delivered as follows:

(i) If to Plaintiff or Class Counsel, then to:

<u>If to Plaintiff or Class Counsel, then to:</u>	<u>If to Defendant or Defense Counsel, then to:</u>
Robert J. Wassermann John P. Briscoe Mayall Hurley, P.C. 2453 Grand Canal Blvd. Stockton, CA 95207 rwassermann@mayalllaw.com jbriscoe@mayalllaw.com	Laurie E. Yoon Kenneth H. Moreno Murchison Cumming LLP 2175 N. California Blvd. Suite 900 Walnut Creek, CA 94596 lyoon@murchisonlaw.com kmoreno@murchisonlaw.com

81. Resolution of Disputes Arising from Preparation of Settlement Agreement.

Should the Parties be unable to resolve disputes regarding the preparation of this Settlement Agreement informally, the Parties agree to seek the guidance of their mediator, Daniel Ben-Zvi.

82. Retention of Jurisdiction by the Court.

Following approval of the Settlement and the Court's entry of the Order of Final Approval, the Court shall retain jurisdiction for the purpose of addressing any issues which may arise with respect to the administration of the Settlement or the enforcement of the Settlement's terms.

83. Choice of Law.

This Settlement shall be governed by and construed, enforced and administered in accordance with the laws of the State of California.

84. Construction.

This Agreement is entered into freely and voluntarily without duress or undue pressure or influence of any kind or nature whatsoever and neither Party has relied on any promises, representations or warranties regarding the subject matter hereof other than as set forth in this Agreement. Each Party has been represented by counsel in the settlement negotiations leading up to, and in connection with the preparation and execution of, this Settlement Agreement. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Agreement so that it shall not be deemed to have been prepared or drafted by one Party or another. All Parties waive the provisions of California Civil Code section 1654 (and any other equivalent state, federal, or local provision), which provides, in part, that "the language of a contract should be interpreted most strongly against the Party who caused the uncertainty to exist."

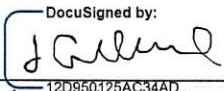
85. Execution in Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Any signature to this Agreement transmitted by facsimile and any copies of any signatures are valid and binding.

86. Authority.

The individuals signing this Agreement represent and warrant that they are authorized to do so. Those individuals likewise represent and warrant that they have the authority to executed this Agreement and to take all appropriate action required and permitted to be taken by this Agreement, except such action that is the prerogative of the Court.

DATED: 5/5/2023

By 
DocuSigned by:
120950125AC34AD...
 Jessica Collard

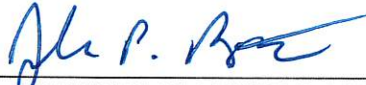
DATED: 5-3-2023

By 
 Defendant Murphy's Markets, Inc.

APPROVED AS TO FORM AND CONTENT:

MAYALL HURLEY P.C.

DATED: 5/5/2023

By 
ROBERT J. WASSERMANN
JOHN P. BRISCOE
Attorneys for Plaintiff and the Putative Class

MURCHISON & CUMMING LLP

DATED: 5-3-2023

By 
LAURIE E. YOON
KENNETH H. MORENO
Attorneys for Defendant Murphy's Markets, Inc.

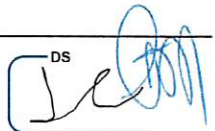


EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF HUMBOLDT

JESSICA COLLARD,

Plaintiff,

vs.

MURPHY'S MARKETS, INC., a corporation;
and DOES 1-100, inclusive,

Defendants.

CASE NO. CV2101368

CLASS ACTION

NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF
SETTLEMENT

ATTENTION: ALL CURRENT AND FORMER CALIFORNIA NON-EXEMPT EMPLOYEES OF MURPHY'S MARKETS, INC. WHO WORKED AT LEAST ONE SHIFT FROM SEPTEMBER 23, 2017 THROUGH JANUARY 31, 2023:

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION AND PAGA LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO RECEIVE PAYMENT OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

IF YOU DO NOT WISH TO RECEIVE PAYMENT UNDER THE SETTLEMENT OR PARTICIPATE IN THE SETTLEMENT YOU MUST REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS ON OR BEFORE [REDACTED], 2023.

Pursuant to the Order Granting Preliminary Approval of Class Action and PAGA Settlement of the Superior Court of the State of California for Humboldt County entered [REDACTED], 2023, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A class action settlement has been reached between the Parties in the above-captioned lawsuit pending in the Superior Court of the State of California for the County of Humboldt on behalf of all current and former California non-exempt employees of Murphy's Markets, Inc. who worked at least one shift at any time between September 23, 2017 through January 31, 2023 (the "Settlement Class" or "Class Members"); the Settlement Class does not include persons who submit valid Requests for Exclusion (as explained below), or who previously settled, released or received awards for claims covered by the Settlement. Included within the Settlement Class is the Former Employee Subclass, consisting of all former non-exempt employees who worked directly for Murphy's Markets, Inc. from September 23, 2018 through January 31, 2023.

Additionally, and for purposes of a release of claims for civil penalties under the Private Attorneys General Act ("PAGA", Lab. Code § 2698 et seq.), the Parties have stipulated to the PAGA Group, consisting of persons who were employed in California by Murphy's Markets, Inc. as nonexempt employees at any time from September 4, 2020 through January 31, 2023.

"Released Parties" means Murphy's Markets, Inc. and its parents, predecessors, successors, subsidiaries, affiliates, partners, owners, assigns, franchisors, and trusts, and all of its employees, officers, agents, attorneys, stockholders, fiduciaries, and other service providers including, but not limited to, Murchison Cumming LLP.

You have received this notice because records indicate you are a Class Member. This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement.

I. BACKGROUND OF THE CASE

On September 23, 2021, Plaintiff Jessica Collard filed a complaint in the Humboldt County Superior Court. This complaint included class action wage and hour allegations on behalf of all non-exempt employees who worked for Murphy's Markets, Inc. within California. Plaintiff has also asserted individual discrimination claims arising from her former employment (those claims have been settled separately). On November 28, 2021, Plaintiff filed her First Amended Complaint to include a representative PAGA claim. On [DATE], and pursuant to the terms of this Settlement, Plaintiff filed a Second Amended Complaint to add additional allegations regarding rest and meal periods. The term "Action" means this putative class and PAGA action pending in Humboldt County Superior Court, Case No. CV2101368. The Class Period is between September 23, 2017, through January 31, 2023 (the "Class Period").

Plaintiff alleges in the Action that Murphy's Markets, Inc. failed to properly calculate and pay overtime and double time wages, failed to provide meal and rest periods or pay premiums at the correct rate, failed to provide accurate wage statements, failed to properly calculate and pay sick pay, failed to timely pay final wages, engaged in unfair competition, and violated the Private Attorneys General Act ("PAGA"), on behalf of Class Members during the Class Period. Plaintiff's Second Amended Complaint seeks recovery of unpaid wages, penalties, interest, and attorneys' fees and costs. Murphy's Markets, Inc. denies all claims, and denies that Plaintiff and the Class Members are entitled to any recovery.

The Action has been actively litigated. There have been ongoing investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties participated in private mediation before well-respected class action mediator Daniel Ben-Zvi, Esq. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Murphy's Markets, Inc. continue to deny all allegations and claims.

The Parties have entered into a Joint Stipulation of Class Action and PAGA Settlement and Release, which has been preliminarily approved by the Court.

If you are part of the Settlement Class, you have the opportunity to participate in the Settlement, to exclude yourself ("opt out") from the Settlement, or to object to the Settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Settlement, Murphy's Markets, Inc. agrees to pay a Maximum Settlement Amount of \$400,000 for all claims asserted on behalf of Class Members, damages, attorneys' fees, costs, the enhancement award, penalties, and claims administration expenses ("Maximum Settlement Amount"). Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed one third of the Maximum Settlement Amount, or \$133,333, reasonable costs of suit up to \$20,000, an Enhancement Award to the Class representative not to exceed \$7,500, the fees and expenses of the Settlement Administrator, not to exceed \$9,000, and \$30,000 payable to the California Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties, which will result in a "Net Settlement Amount" for distribution to all Class Members. As explained further below, the amount of each Class Member's Settlement Award will depend on the number

of weeks worked by Class Members during the Class Period. The entire Net Settlement Amount will be paid out to Class Members. The employer taxes on the wage portion of the Settlement Awards will be paid separately by Murphy's Markets, Inc.

The Notice of Settlement Award Form enclosed herewith lists, for each Class Member, the number of weeks each Class Member worked during the Class Period and his/her estimated Settlement Award. The value of the actual Settlement Awards may be more or less depending upon the total number of weeks worked by participating Class Members and the Court's final approval order.

B. Settlement Formula, and Settlement Awards

Murphy's Markets, Inc. will pay Settlement Awards through the Settlement Administrator, Phoenix Class Action Administration Solutions, to each Class Member who has not submitted a Request for Exclusion from the Settlement ("Participating Class Members"). All Settlement Awards will be subject to appropriate taxation. Settlement Awards to Class Members will be based on the ratio of the number of weeks worked by each individual Class Member during the Class Period in proportion to the total number of weeks worked by all Participating Class Members during the Class Period. The number of workweeks will be determined by reference to Murphy's Markets, Inc.'s records. Partial workweeks will not be counted, meaning incomplete workweeks will be rounded down; however, if a Class Member worked only one day, such Class Member will be credited with having worked one workweek for purposes of the Settlement.

The amounts distributed to the Class will be allocated as follows: 25 percent will be allocated to alleged unpaid wages and 75 percent will be allocated to statutory penalties and interest. IRS Forms W-2 and 1099-MISC will issue, as appropriate.

Receipt of the Settlement Awards will not entitle any Class Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during the period covered by the Settlement.

D. Release of Claims

On the Effective Date, each Class Member who has not submitted a valid Request for Exclusion fully releases and discharges the Released Parties from (i) causes of action and claims that were alleged in the Class Action or reasonably could have been alleged based on the facts and legal theories contained in the Second Amended Class and Representative Complaint which arose during the Class Period, including all of the following claims for relief: (i) failure to pay and timely pay overtime wages and double time wages due during the course of employment; (ii) failure to provide paid sick leave; (iii) failure to provide meal periods or compensation in lieu thereof; (iv) failure to provide rest periods or compensation in lieu thereof; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (viii) all claims under PAGA that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in Plaintiff's Complaint; (ix) any claim for costs and attorneys' fees and expenses, and any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders. Participating Class Members who cash their checks are deemed to have waived all claims under the Settlement. Participating Class Members who are currently employed by Defendant and who participate in the Settlement and receive a payment thereunder shall, by virtue of the same, release any Labor Code section 203 claims for failure to pay wages due and owing at the end of employment based upon the claims set forth above in Paragraph 69(i).

E. Resolution of Workweek Disputes

If a Class Member disputes the accuracy of Murphy's Markets, Inc.'s records as to the number of workweeks worked, any documentation supporting such dispute must be submitted to the Settlement Administrator with the Notice of Settlement Award Form on or before [Response Deadline]. All workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all disputes will be final and binding.

F. Enhancement Award for the Class Representative

Subject to approval by the Court, Class Representative will receive an Enhancement Award up to \$7,500. This payment will be made for her service as Class Representative, including active participation in prosecution of the Action, as well as willingness to accept the risk of incurring Class Counsel's costs or paying Murphy's Markets, Inc.'s attorneys' fees and costs for an unsuccessful outcome in the Action.

G. Attorneys' Fees and Costs

As consideration for the Settlement and in exchange for the release by the Settlement Class, Murphy's Markets, Inc. agree to pay Class Counsel's attorneys' fees and costs to be set by the Court, up to a maximum of one-third of the Maximum Settlement Amount, or \$133,333 and reasonable attorneys' costs of up to \$20,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Maximum Settlement Amount.

H. Reasonableness of Settlement

All attorneys for the Parties to the Action believe the amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the complete defenses to liability potentially available to Murphy's Markets, Inc., the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Excluding Yourself from the Settlement

If you do not wish to participate in the Settlement, you may be excluded (i.e., "opt out") by submitting a timely written request to the Settlement Administrator stating you have received notice of the Settlement, decided not to participate in the Settlement, and desire to be excluded from the Settlement, or words to that effect ("Request for Exclusion"). Your Request for Exclusion must also state your full name, address, date of birth, and the dates you were employed by Murphy's Markets, Inc. as a non-exempt employee in California. The Request for Exclusion must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

Murphy's Markets, Inc. Settlement Administrator

"I elect to opt-out of the *Collard v. Murphy's Markets, Inc.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement, and will not receive a share of the settlement."

Telephone: 1 (800) 000-0000

The Request for Exclusion must be postmarked no later than [redacted], 2023. If you submit a Request for Exclusion which is not postmarked by [redacted], 2023, your Request for Exclusion will be rejected and you will be bound by the Release and all other Settlement terms. If the Request for Exclusion is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or

the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Request for Exclusion.

Any person who submits a complete and timely Request for Exclusion shall, upon receipt by the Settlement Administrator, no longer be a Class Member, shall be barred from participating in any portion of the Settlement, shall not be entitled to object to the Settlement, shall receive no benefits from the Settlement, shall not be deemed to have relinquished the Released Claims against the Released Parties, and, at his or her own expense, may pursue any claims he or she may have against the Released Parties. If an individual submits both an executed Claim Form and a Request for Exclusion, the Request for Exclusion will be deemed invalid, and the individual will be included in the Settlement Class and will be bound by the terms of the Settlement.

B. Objecting to Settlement

If you do not exclude yourself from the Settlement, you can object to the terms of the Settlement before Final Approval. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. To object, you must file a written objection and a notice of intention to appear at the Final Approval hearing currently set for [DATE] at [TIME]. (Pacific Time) in Courtroom 4. You must file the written objection and notice of intention to appear at the Final Approval Hearing with the Clerk of the Court, Humboldt County Superior Court, 925 Fifth St., Eureka, CA 95501, and send copies to the Settlement Administrator, and Counsel as follows:

CLASS COUNSEL
ROBERT J. WASSERMANN
JOHN P. BRISCOE
MAYALL HURLEY P.C.
112 S. Church St.
Lodi, CA 95240

COUNSEL FOR MURPHY'S MARKETS,
INC.
LAURIE E. YOON
KENNETH H. MORENO
MURCHISON CUMMING LLP
2165 N. California Blvd.
Walnut Creek, CA 94596

Any written objection must state each specific reason in support of your objection and any legal support for each objection. Your objection must also state your full name, address, date of birth, and the dates of you were employed as a non-exempt employee in California by Murphy's Markets, Inc. To be valid and effective, any objections to approval of the Settlement must be filed with the Clerk of the Court and delivered to the Settlement Administrator and each of the above-listed attorneys no later than 45 calendar days after the Settlement Administrator mails the Notice and the Notice of Settlement Award Form to the Class Members, or [REDACTED], 2023. **DO NOT TELEPHONE THE COURT.**

If you choose to file an objection to the terms of this Settlement, you may enter an appearance *in propria persona* (meaning you choose to represent yourself) or through your own attorney at your own expense. To do so, you must file an Entry of Appearance with the Clerk of the Humboldt County Superior Court, and deliver copies to the Settlement Administrator and each of the attorneys listed above. Such Entry of Appearance must be filed with the Court and delivered to the above attorneys no later than 45 days after the Settlement Administrator mails the Notice and the Notice of Settlement Award Form to Class Members. You will then continue as a Class Member either *in propria persona* or with representation by your own attorney, and you will be solely responsible for the fees and costs of your own attorney. The final fairness hearing at which the Court will be asked to approve the Settlement will be at [TIME] (Pacific Time) on [DATE], in Courtroom 4, or such other later date as the Court may authorize.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

Upon Final Approval being granted by the Court, each and every Class Member who does not opt out of the Settlement, will release Murphy's Markets, Inc. and the Released Parties from the Released Claims as described above. In other words, if you were employed as a Class Member by Murphy's Markets, Inc. in California during the Class Period, and you do not exclude yourself from the Settlement Class, you will be deemed to have entered into this release and to have released the above-described Released Claims. In addition, you will be barred from ever suing Murphy's Markets, Inc. and the Released Parties with respect to the Released Claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a remote hearing via Zoom in Courtroom 4 of the Superior Court of the State of California for the County of Humboldt, 925 Fifth St., Eureka, CA 95501, on **DATE** at **TIME** (Pacific Time), to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Zoom link to appear at the hearing is **.....** The Department 10B Zoom ID is: **.....** To appear at the hearing telephonically, call **NUMBER** and enter the Zoom ID. The Court also will be asked at the Final Approval Hearing to approve Class Counsel's request for attorneys' fees and costs, the costs of administration, and the Enhancement Award to be paid to the Class Representative. Class Counsel's application for attorneys' fees and litigation costs will be on file with the Court no later than **DATE**, and will be available for review after that date. Class Counsel are seeking approval of a total of not more than one-third of the Maximum Settlement Amount for attorneys' fees not to exceed \$133,333 and reasonable costs not to exceed \$20,000.

The hearing may be continued without further notice to the Settlement Class. It is not necessary for you to appear at this hearing, unless you wish to object to the Settlement.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed "Joint Stipulation of Class Action and PAGA Settlement and Release" between Plaintiff and Murphy's Markets, Inc. which is on file with the Clerk of the Court. The pleadings and other records in this Action, including the Joint Stipulation of Settlement, may be examined by visiting the Court Clerk at any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court Holidays, in the Clerk's Office located at the 925 Fifth St., Eureka, CA 95501.

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel:

ROBERT J. WASSERMANN
JOHN P. BRISCOE
MAYALL HURLEY P.C.
112 S. Church St.
Lodi, CA 95240
Telephone: (209) 477-3833
Facsimile: (209) 473-4818
rwassermann@mayallaw.com
jbriscoe@mayallaw.com
www.mayallaw.com

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK
FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.**

BY ORDER OF THE SUPERIOR COURT

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF HUMBOLDT

JESSICA COLLARD,

Plaintiff,

vs.

MURPHY'S MARKETS, INC., a corporation;
and DOES 1-100, inclusive,

Defendants.

CASE NO. CV2101368

CLASS ACTION

NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT, AND HEARING DATE FOR
FINAL COURT APPROVAL OF
SETTLEMENT

ATTENTION: ALL CURRENT AND FORMER CALIFORNIA NON-EXEMPT EMPLOYEES OF MURPHY'S MARKETS, INC. WHO WORKED AT LEAST ONE SHIFT FROM SEPTEMBER 23, 2017 THROUGH JANUARY 31, 2023:

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION AND PAGA LITIGATION. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO RECEIVE PAYMENT OR TO OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

IF YOU DO NOT WISH TO RECEIVE PAYMENT UNDER THE SETTLEMENT OR PARTICIPATE IN THE SETTLEMENT YOU MUST REQUEST TO BE EXCLUDED FROM THE SETTLEMENT CLASS ON OR BEFORE [REDACTED], 2023.

Pursuant to the Order Granting Preliminary Approval of Class Action and PAGA Settlement of the Superior Court of the State of California for Humboldt County entered [REDACTED], 2023, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

A class action settlement has been reached between the Parties in the above-captioned lawsuit pending in the Superior Court of the State of California for the County of Humboldt on behalf of all current and former California non-exempt employees of Murphy's Markets, Inc. who worked at least one shift at any time between September 23, 2017 through January 31, 2023 (the "Settlement Class" or "Class Members"); the Settlement Class does not include persons who submit valid Requests for Exclusion (as explained below), or who previously settled, released or received awards for claims covered by the Settlement. Included within the Settlement Class is the Former Employee Subclass, consisting of all former non-exempt employees who worked directly for Murphy's Markets, Inc. from September 23, 2018 through January 31, 2023.

Additionally, and for purposes of a release of claims for civil penalties under the Private Attorneys General Act ("PAGA", Lab. Code § 2698 et seq.), the Parties have stipulated to the PAGA Group, consisting of persons who were employed in California by Murphy's Markets, Inc. as nonexempt employees at any time from September 4, 2020 through January 31, 2023.

"Released Parties" means Murphy's Markets, Inc. and its parents, predecessors, successors, subsidiaries, affiliates, partners, owners, assigns, franchisors, and trusts, and all of its employees, officers, agents, attorneys, stockholders, fiduciaries, and other service providers including, but not limited to, Murchison Cumming LLP.

You have received this notice because records indicate you are a Class Member. This notice is to advise you of how you can either participate in the Settlement or be excluded from the Settlement.

I. BACKGROUND OF THE CASE

On September 23, 2021, Plaintiff Jessica Collard filed a complaint in the Humboldt County Superior Court. This complaint included class action wage and hour allegations on behalf of all non-exempt employees who worked for Murphy's Markets, Inc. within California. Plaintiff has also asserted individual discrimination claims arising from her former employment (those claims have been settled separately). On November 28, 2021, Plaintiff filed her First Amended Complaint to include a representative PAGA claim. On [DATE], and pursuant to the terms of this Settlement, Plaintiff filed a Second Amended Complaint to add additional allegations regarding rest and meal periods. The term "Action" means this putative class and PAGA action pending in Humboldt County Superior Court, Case No. CV2101368. The Class Period is between September 23, 2017, through January 31, 2023 (the "Class Period").

Plaintiff alleges in the Action that Murphy's Markets, Inc. failed to properly calculate and pay overtime and double time wages, failed to provide meal and rest periods or pay premiums at the correct rate, failed to provide accurate wage statements, failed to properly calculate and pay sick pay, failed to timely pay final wages, engaged in unfair competition, and violated the Private Attorneys General Act ("PAGA"), on behalf of Class Members during the Class Period. Plaintiff's Second Amended Complaint seeks recovery of unpaid wages, penalties, interest, and attorneys' fees and costs. Murphy's Markets, Inc. denies all claims, and denies that Plaintiff and the Class Members are entitled to any recovery.

The Action has been actively litigated. There have been ongoing investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties participated in private mediation before well-respected class action mediator Daniel Ben-Zvi, Esq. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Murphy's Markets, Inc. continue to deny all allegations and claims.

The Parties have entered into a Joint Stipulation of Class Action and PAGA Settlement and Release, which has been preliminarily approved by the Court.

If you are part of the Settlement Class, you have the opportunity to participate in the Settlement, to exclude yourself ("opt out") from the Settlement, or to object to the Settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Settlement, Murphy's Markets, Inc. agrees to pay a Maximum Settlement Amount of \$400,000 for all claims asserted on behalf of Class Members, damages, attorneys' fees, costs, the enhancement award, penalties, and claims administration expenses ("Maximum Settlement Amount"). Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed one third of the Maximum Settlement Amount, or \$133,333, reasonable costs of suit up to \$20,000, an Enhancement Award to the Class representative not to exceed \$7,500, the fees and expenses of the Settlement Administrator, not to exceed \$9,000, and \$30,000 payable to the California Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties, which will result in a "Net Settlement Amount" for distribution to all Class Members. As explained further below, the amount of each Class Member's Settlement Award will depend on the number

of weeks worked by Class Members during the Class Period. The entire Net Settlement Amount will be paid out to Class Members. The employer taxes on the wage portion of the Settlement Awards will be paid separately by Murphy's Markets, Inc.

The Notice of Settlement Award Form enclosed herewith lists, for each Class Member, the number of weeks each Class Member worked during the Class Period and his/her estimated Settlement Award. The value of the actual Settlement Awards may be more or less depending upon the total number of weeks worked by participating Class Members and the Court's final approval order.

B. Settlement Formula, and Settlement Awards

Murphy's Markets, Inc. will pay Settlement Awards through the Settlement Administrator, Phoenix Class Action Administration Solutions, to each Class Member who has not submitted a Request for Exclusion from the Settlement ("Participating Class Members"). All Settlement Awards will be subject to appropriate taxation. Settlement Awards to Class Members will be based on the ratio of the number of weeks worked by each individual Class Member during the Class Period in proportion to the total number of weeks worked by all Participating Class Members during the Class Period. The number of workweeks will be determined by reference to Murphy's Markets, Inc.'s records. Partial workweeks will not be counted, meaning incomplete workweeks will be rounded down; however, if a Class Member worked only one day, such Class Member will be credited with having worked one workweek for purposes of the Settlement.

The amounts distributed to the Class will be allocated as follows: 25 percent will be allocated to alleged unpaid wages and 75 percent will be allocated to statutory penalties and interest. IRS Forms W-2 and 1099-MISC will issue, as appropriate.

Receipt of the Settlement Awards will not entitle any Class Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during the period covered by the Settlement.

D. Release of Claims

On the Effective Date, each Class Member who has not submitted a valid Request for Exclusion fully releases and discharges the Released Parties from (i) causes of action and claims that were alleged in the Class Action or reasonably could have been alleged based on the facts and legal theories contained in the Second Amended Class and Representative Complaint which arose during the Class Period, including all of the following claims for relief: (i) failure to pay and timely pay overtime wages and double time wages due during the course of employment; (ii) failure to provide paid sick leave; (iii) failure to provide meal periods or compensation in lieu thereof; (iv) failure to provide rest periods or compensation in lieu thereof; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (viii) all claims under PAGA that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in Plaintiff's Complaint; (ix) any claim for costs and attorneys' fees and expenses, and any claim arising from the claims described above under applicable federal, state, local or territorial law as well as applicable regulations and Wage Orders. Participating Class Members who cash their checks are deemed to have waived all claims under the Settlement. Participating Class Members who are currently employed by Defendant and who participate in the Settlement and receive a payment thereunder shall, by virtue of the same, release any Labor Code section 203 claims for failure to pay wages due and owing at the end of employment based upon the claims set forth above in Paragraph 69(i).

E. Resolution of Workweek Disputes

If a Class Member disputes the accuracy of Murphy's Markets, Inc.'s records as to the number of workweeks worked, any documentation supporting such dispute must be submitted to the Settlement Administrator with the Notice of Settlement Award Form on or before [Response Deadline]. All workweek disputes will be resolved and decided by the Settlement Administrator, and the Settlement Administrator's decision on all disputes will be final and binding.

F. Enhancement Award for the Class Representative

Subject to approval by the Court, Class Representative will receive an Enhancement Award up to \$7,500. This payment will be made for her service as Class Representative, including active participation in prosecution of the Action, as well as willingness to accept the risk of incurring Class Counsel's costs or paying Murphy's Markets, Inc.'s attorneys' fees and costs for an unsuccessful outcome in the Action.

G. Attorneys' Fees and Costs

As consideration for the Settlement and in exchange for the release by the Settlement Class, Murphy's Markets, Inc. agree to pay Class Counsel's attorneys' fees and costs to be set by the Court, up to a maximum of one-third of the Maximum Settlement Amount, or \$133,333 and reasonable attorneys' costs of up to \$20,000. Class Counsel's attorneys' fees and costs will be paid and deducted from the Maximum Settlement Amount.

H. Reasonableness of Settlement

All attorneys for the Parties to the Action believe the amounts for attorneys' fees and costs requested are fair and reasonable. The Class Representative and Class Counsel support this Settlement. Among the reasons for support are the complete defenses to liability potentially available to Murphy's Markets, Inc., the inherent risk of trial on the merits, the risk of denial of class certification, and the delays associated with litigation.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Excluding Yourself from the Settlement

If you do not wish to participate in the Settlement, you may be excluded (i.e., "opt out") by submitting a timely written request to the Settlement Administrator stating you have received notice of the Settlement, decided not to participate in the Settlement, and desire to be excluded from the Settlement, or words to that effect ("Request for Exclusion"). Your Request for Exclusion must also state your full name, address, date of birth, and the dates you were employed by Murphy's Markets, Inc. as a non-exempt employee in California. The Request for Exclusion must be signed, dated and mailed by First Class U.S. Mail or the equivalent, to:

Murphy's Markets, Inc. Settlement Administrator

"I elect to opt-out of the *Collard v. Murphy's Markets, Inc.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement, and will not receive a share of the settlement."

Telephone: 1 (800) 000-0000

The Request for Exclusion must be postmarked no later than [redacted], 2023. If you submit a Request for Exclusion which is not postmarked by [redacted], 2023, your Request for Exclusion will be rejected and you will be bound by the Release and all other Settlement terms. If the Request for Exclusion is sent from within the United States it must be sent through the United States Postal Service by First Class Mail, or

the equivalent. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your Request for Exclusion.

Any person who submits a complete and timely Request for Exclusion shall, upon receipt by the Settlement Administrator, no longer be a Class Member, shall be barred from participating in any portion of the Settlement, shall not be entitled to object to the Settlement, shall receive no benefits from the Settlement, shall not be deemed to have relinquished the Released Claims against the Released Parties, and, at his or her own expense, may pursue any claims he or she may have against the Released Parties. If an individual submits both an executed Claim Form and a Request for Exclusion, the Request for Exclusion will be deemed invalid, and the individual will be included in the Settlement Class and will be bound by the terms of the Settlement.

B. Objecting to Settlement

If you do not exclude yourself from the Settlement, you can object to the terms of the Settlement before Final Approval. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. To object, you must file a written objection and a notice of intention to appear at the Final Approval hearing currently set for [DATE] at [TIME]. (Pacific Time) in Courtroom 4. You must file the written objection and notice of intention to appear at the Final Approval Hearing with the Clerk of the Court, Humboldt County Superior Court, 925 Fifth St., Eureka, CA 95501, and send copies to the Settlement Administrator, and Counsel as follows:

CLASS COUNSEL

ROBERT J. WASSERMANN
JOHN P. BRISCOE
MAYALL HURLEY P.C.
112 S. Church St.
Lodi, CA 95240

COUNSEL FOR MURPHY'S MARKETS, INC.

LAURIE E. YOON
KENNETH H. MORENO
MURCHISON CUMMING LLP
2165 N. California Blvd.
Walnut Creek, CA 94596

Any written objection must state each specific reason in support of your objection and any legal support for each objection. Your objection must also state your full name, address, date of birth, and the dates of you were employed as a non-exempt employee in California by Murphy's Markets, Inc. To be valid and effective, any objections to approval of the Settlement must be filed with the Clerk of the Court and delivered to the Settlement Administrator and each of the above-listed attorneys no later than 45 calendar days after the Settlement Administrator mails the Notice and the Notice of Settlement Award Form to the Class Members, or [REDACTED], 2023. **DO NOT TELEPHONE THE COURT.**

If you choose to file an objection to the terms of this Settlement, you may enter an appearance *in propria persona* (meaning you choose to represent yourself) or through your own attorney at your own expense. To do so, you must file an Entry of Appearance with the Clerk of the Humboldt County Superior Court, and deliver copies to the Settlement Administrator and each of the attorneys listed above. Such Entry of Appearance must be filed with the Court and delivered to the above attorneys no later than 45 days after the Settlement Administrator mails the Notice and the Notice of Settlement Award Form to Class Members. You will then continue as a Class Member either *in propria persona* or with representation by your own attorney, and you will be solely responsible for the fees and costs of your own attorney. The final fairness hearing at which the Court will be asked to approve the Settlement will be at [TIME] (Pacific Time) on [DATE], in Courtroom 4, or such other later date as the Court may authorize.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

Upon Final Approval being granted by the Court, each and every Class Member who does not opt out of the Settlement, will release Murphy's Markets, Inc. and the Released Parties from the Released Claims as described above. In other words, if you were employed as a Class Member by Murphy's Markets, Inc. in California during the Class Period, and you do not exclude yourself from the Settlement Class, you will be deemed to have entered into this release and to have released the above-described Released Claims. In addition, you will be barred from ever suing Murphy's Markets, Inc. and the Released Parties with respect to the Released Claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a remote hearing via Zoom in Courtroom 4 of the Superior Court of the State of California for the County of Humboldt, 925 Fifth St., Eureka, CA 95501, on **DATE** at **TIME** (Pacific Time), to determine whether the Settlement should be finally approved as fair, reasonable and adequate. The Zoom link to appear at the hearing is **....** The Department 10B Zoom ID is: **.....** To appear at the hearing telephonically, call **NUMBER** and enter the Zoom ID. The Court also will be asked at the Final Approval Hearing to approve Class Counsel's request for attorneys' fees and costs, the costs of administration, and the Enhancement Award to be paid to the Class Representative. Class Counsel's application for attorneys' fees and litigation costs will be on file with the Court no later than **DATE**, and will be available for review after that date. Class Counsel are seeking approval of a total of not more than one-third of the Maximum Settlement Amount for attorneys' fees not to exceed \$133,333 and reasonable costs not to exceed \$20,000.

The hearing may be continued without further notice to the Settlement Class. It is not necessary for you to appear at this hearing, unless you wish to object to the Settlement.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed "Joint Stipulation of Class Action and PAGA Settlement and Release" between Plaintiff and Murphy's Markets, Inc. which is on file with the Clerk of the Court. The pleadings and other records in this Action, including the Joint Stipulation of Settlement, may be examined by visiting the Court Clerk at any time between 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court Holidays, in the Clerk's Office located at the 925 Fifth St., Eureka, CA 95501.

If you want additional information about this lawsuit and its proceedings, you can contact Class Counsel:

ROBERT J. WASSERMANN
JOHN P. BRISCOE
MAYALL HURLEY P.C.
112 S. Church St.
Lodi, CA 95240
Telephone: (209) 477-3833
Facsimile: (209) 473-4818
rwassermann@mayallaw.com
jbriscoe@mayallaw.com
www.mayallaw.com

**PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK
FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.**

BY ORDER OF THE SUPERIOR COURT

EXHIBIT 3

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253

FAX (209) 473-4818
TELEPHONE (209) 477-3833

WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

August 31, 2021

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Murphy's Markets, Inc.
785 Bayside Rd.
Arcata, CA 95521

Re: Jessica Collard

To whom it may concern:

This firm represents Jessica Collard ("Collard") in relation to her prior employment with Murphy's Markets, Inc. ("MMI"). In accordance with Labor Code section 2699.3, this letter shall serve as Collard's written notice to the Labor and Workforce Development Agency ("LWDA") and MMI regarding the following violations, and facts and theories supporting those violations, on Collard's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of MMI.

Collard was hired by MMI on or around April 15, 2019 as a supervisor at the Murphy's Market in Arcata, California. In or around October 2019, Collard was promoted and transferred to the Murphy's Market in Trinidad, California. Collard's employment ended on or around July 6, 2021. At all times during her employment with MMI, Collard was eligible (nonexempt) for overtime under California law, and indeed earned overtime on a regular basis.

Additionally, beginning in 2020 Collard and other California employees of MMI were paid nondiscretionary bonuses and/or other items of compensation in addition to their hourly pay. (**Exhibit A.**) These bonuses were referred to as "hazard pay" and were paid to employees for working during the COVID-19 pandemic. MMI promised Collard and other employees that they would receive these bonuses for working during the pandemic; thus, they were nondiscretionary bonuses, owed pursuant to a contract, agreement, or promise, and were not determined at the sole discretion of the employer. (See *Ferra v. Loews Hollywood Hotel, LLC*

Labor and Workforce Development Agency
Murphys Markets, Inc.
Re: Jessica Collard
August 31, 2021
Page 2 of 3

(2021) 280 Cal.Ptr.3d 783, 786; see also Division of Labor Standards Enforcement (DLSE), Update of the DLSE Enforcement Policies and Interpretations Manual (rev. 2019) § 49.1.2.4.(e), p. 49-3 (2019 DLSE Manual), citing 29 CFR §§ 778.211, 778.213 (2021); see also *Alvarado v. Dart Container Corp. of Cal.* (2018) 4 Cal.5th 542, 561.) To the extent that these payments did not constitute nondiscretionary bonuses, they were not discretionary bonuses but “other items of compensation”.

However, and although Collard earned overtime while also earning hazard pay, MMI failed to incorporate the value of those payments when calculating their “regular rate of pay” for purposes of paying overtime and doubletime; instead, MMI merely took the employees’ base hourly rate and multiplied it by 1.5 or 2, as appropriate. **(Exhibit A.)** Accordingly, MMI violated Labor Code section 510.

Similarly, MMI failed to properly calculate and pay sick leave to Collard and other California employees of MMI. MMI did provide paid sick leave; however, when calculating and paying such sick leave, MMI again failed to account for the value of earned nondiscretionary bonuses and other items of compensation; instead, it paid sick leave at only its employees’ base hourly rate. **(Exhibit B.)** Accordingly, MMI violated Labor Code section 246.

Because Collard and other employees were not paid all overtime, doubletime, and sick leave at the appropriate rate, *supra*, the itemized wage statements issued to them did not accurately show gross wages earned, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

At no point since the cessation of Collard’s employment has she been paid the full balance of unpaid overtime and paid sick leave, *supra*. Accordingly, MMI violated Labor Code sections 201 and 202. Furthermore, and because Collard was not timely paid all wages due and owing upon the close of each pay period (because she was not paid the full balance of unpaid overtime, doubletime, and paid sick leave), MMI violated Labor Code section 204.

The foregoing violations, and each of them, were committed as against current and other former employees of MMI, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Collard intends to file a civil complaint against MMI pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on her behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Labor and Workforce Development Agency
Murphys Markets, Inc.
Re: Jessica Collard
August 31, 2021
Page 3 of 3

Sincerely,

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE

Exhibit A

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD
1099 A COACH WAY
MCKINLEYVILLE, CA 95519

Soc Sec #: XXX-XX-XXXX Employee ID: 1158
Hire Date: 04/15/19
Status: FT
Filing Status:
Federal: Single, 1
State: CA, Single, 1
Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: 26964

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount	182.70	365.40
CHECKING1	0.00	9668.51
Net Pay	182.70	10033.91

EARNINGS

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR				603.50	12673.50
OVERTIME				18.00	567.00
BONUS			200.00		400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED				621.50	
ADJ EARNINGS			200.00		14207.50
GROSS EARNINGS			200.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA		1262.56
TOTAL	0.00	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL W/H		1298.48
OASDI	12.40	880.87
MEDICARE	2.90	206.00
STATE W/H CA		383.60
STATE SDI CA	2.00	142.08
TOTAL	17.30	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
182.70	10033.91

Payrolls by Paychex, Inc.

0485-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD

Soc Sec #: XXX-XX-XXXX Employee ID: 1158

Hire Date: 04/15/19

Status: FT

Filing Status:

Federal: Single, 1

State: CA, Single, 1

Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: Direct Deposit

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount	0.00	365.40
CHECKING1	1462.15	9668.51
Net Pay	1462.15	10033.91

EARNINGS

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR	80.00	21.0000	1680.00	603.50	12673.50
OVERTIME	6.00	31.5000	189.00	18.00	567.00
BONUS					400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED	86.00			621.50	
ADJ EARNINGS			1869.00		14207.50
GROSS EARNINGS	86.00		1869.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA	7.07	1262.56
TOTAL	7.07	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL W/H	180.72	1298.48
OASDI	115.88	880.87
MEDICARE	27.10	206.00
STATE W/H CA	57.39	383.60
STATE SDI CA	18.69	142.08
TOTAL	399.78	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
1462.15	10033.91

Payrolls by Paychex, Inc.

0485-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

Exhibit B

PERSONAL AND CHECK INFORMATION

Jessica Collard

Soc Sec #: xxx-xx-xxxx Employee ID: 1158

Home Department: 100 GROCERY / 5 TRINIDAD

Pay Period: 08/02/20 to 08/15/20

Check Date: 08/21/20 Check #: 28543

NET PAY ALLOCATIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Check Amount	0.00	21874.19
Chkg	1001.20	1001.20
NET PAY	1001.20	22875.39

TIME OFF (Based on Policy Year)

DESCRIPTION	TOTAL BAL
PAID SICK	5.575 hrs

EARNINGS

DESCRIPTION	HRS/UNITS	RATE	THIS PERIOD (\$)	YTD HOURS	YTD (\$)
Regular	67.00	21.0000	1407.00	1225.50	25735.50
Overtime	3.00	31.5000	94.50	43.25	1362.38
Bonus			200.00		2200.00
Holiday				8.00	168.00
Holiday Worked				16.50	866.25
Sick Leave	8.00	21.0000	168.00	43.00	903.00
Vacation				18.50	388.50
Total Hours	78.00			1354.75	
Gross Earnings			1869.50		31623.63
Total Hrs Worked	70.00				

WITHHOLDINGS

DESCRIPTION	FILING STATUS	THIS PERIOD (\$)	YTD (\$)
Social Security		110.33	1949.52
Medicare		25.83	455.94
Fed Income Tax	S 1	168.58	2835.35
CA Income Tax	SMI2 0 1	51.49	835.29
CA Disability		17.80	314.44

TOTAL

374.03

6390.54

DEDUCTIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Dental Ins	4.05	8.10
Medical Ins	84.95	169.90
Roa	404.40	2177.96
Vision Ins	0.87	1.74

TOTAL

494.27

2357.70

NET PAYTHIS PERIOD (\$)
1001.20YTD (\$)
22875.39

Payrolls by Paychex, Inc.

0942 Y485-2936 MURPHYS MARKETS- INC • 785 Bayside Road • Arcata CA 95521 • (916) 759-5633

EXHIBIT 4

NORTHERN CALIFORNIA

118 WEST OAK STREET
LODI, CALIFORNIA 95240
[BY APPT. ONLY – NO SERVICE ACCEPTED]

2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

SOUTHERN CALIFORNIA

450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91206
[BY APPT. ONLY – NO SERVICE ACCEPTED]

LAW OFFICES OF

MAYALL HURLEY

A PROFESSIONAL CORPORATION

112 SOUTH CHURCH STREET
LODI, CALIFORNIA 95240

TELEPHONE: (209) 477-3833
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM, III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMANN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA

March 30, 2023

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Murphy's Markets, Inc.
C/o Laurie E. Yoon
Murchison & Cumming LLP
2175 N. California Blvd., Suite 900
Walnut Creek, CA 94596

Re: *Collard v. Murphy's Markets Inc.*
LWDA Case No. LWDA-CM-843088-21
Humboldt County Superior Court Case No. CV2101368

To whom it may concern:

As disclosed previously, this firm represents Jessica Collard ("Collard") in relation to her prior employment with Murphy's Markets, Inc. ("MMI"). On August 31, 2021, Collard provided written notice to the Labor and Workforce Development Agency ("LWDA") and MMI, pursuant to the Private Attorneys General Act (Lab. Code, § 2698 *et seq.*), regarding Labor Code violations alleged to have occurred during her employment with MMI. That initial written notice is attached hereto as **Exhibit A** and incorporated by reference, in full. In accordance with Labor Code section 2699.3, this letter shall serve as Collard's *further* written notice to the Labor and Workforce Development Agency ("LWDA") and MMI regarding the following violations, and facts and theories supporting those violations, on Collard's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of MMI.

In addition to those Labor Code violations alleged in our written notice of August 31, 2021, Collard was also, during her employment with MMI, denied rest and meal breaks to which she was entitled. She was not relieved of all duty and given the chance to

LWDA

Re: *Collard v. Murphy's Markets, Inc.*

March 30, 2023

Page 2 of 2

(1) take a ten-minute rest period for every four hours worked and (2) take a thirty-minute meal period for every workshift of six hours or more. She was not paid premiums for all of these denied breaks and, to the extent premiums were paid, they were not paid at the “regular rate of compensation”, inclusive of nondiscretionary bonuses and other items of compensation (e.g., hazard pay). See *Ferra v. Loews Hollywood Hotel LLC* (2019) 40 Cal.App.5th 1239, 1246. Accordingly, MMI violated Labor Code sections 226.7 and 512.

The foregoing violations, and each of them, were committed as against current and other former employees of MMI, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Collard intends to further amend her civil complaint against MMI pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on her behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.



By _____

JOHN P. BRISCOE

Attachment

EXHIBIT A

LAW OFFICES
MAYALL HURLEY

A PROFESSIONAL CORPORATION

SOUTHERN CALIFORNIA OFFICE
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91203
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BLVD.
STOCKTON, CALIFORNIA 95207

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207-8253

FAX (209) 473-4818
TELEPHONE (209) 477-3833

WWW.MAYALLLAW.COM

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NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
RACHAEL ALLGAIER

OF COUNSEL
J. ANTHONY ABBOTT

August 31, 2021

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Murphy's Markets, Inc.
785 Bayside Rd.
Arcata, CA 95521

Re: Jessica Collard

To whom it may concern:

This firm represents Jessica Collard ("Collard") in relation to her prior employment with Murphy's Markets, Inc. ("MMI"). In accordance with Labor Code section 2699.3, this letter shall serve as Collard's written notice to the Labor and Workforce Development Agency ("LWDA") and MMI regarding the following violations, and facts and theories supporting those violations, on Collard's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of MMI.

Collard was hired by MMI on or around April 15, 2019 as a supervisor at the Murphy's Market in Arcata, California. In or around October 2019, Collard was promoted and transferred to the Murphy's Market in Trinidad, California. Collard's employment ended on or around July 6, 2021. At all times during her employment with MMI, Collard was eligible (nonexempt) for overtime under California law, and indeed earned overtime on a regular basis.

Additionally, beginning in 2020 Collard and other California employees of MMI were paid nondiscretionary bonuses and/or other items of compensation in addition to their hourly pay. (**Exhibit A.**) These bonuses were referred to as "hazard pay" and were paid to employees for working during the COVID-19 pandemic. MMI promised Collard and other employees that they would receive these bonuses for working during the pandemic; thus, they were nondiscretionary bonuses, owed pursuant to a contract, agreement, or promise, and were not determined at the sole discretion of the employer. (See *Ferra v. Loews Hollywood Hotel, LLC*

Labor and Workforce Development Agency
Murphys Markets, Inc.
Re: Jessica Collard
August 31, 2021
Page 2 of 3

(2021) 280 Cal.Ptr.3d 783, 786; see also Division of Labor Standards Enforcement (DLSE), Update of the DLSE Enforcement Policies and Interpretations Manual (rev. 2019) § 49.1.2.4.(e), p. 49-3 (2019 DLSE Manual), citing 29 CFR §§ 778.211, 778.213 (2021); see also *Alvarado v. Dart Container Corp. of Cal.* (2018) 4 Cal.5th 542, 561.) To the extent that these payments did not constitute nondiscretionary bonuses, they were not discretionary bonuses but “other items of compensation”.

However, and although Collard earned overtime while also earning hazard pay, MMI failed to incorporate the value of those payments when calculating their “regular rate of pay” for purposes of paying overtime and doubletime; instead, MMI merely took the employees’ base hourly rate and multiplied it by 1.5 or 2, as appropriate. **(Exhibit A.)** Accordingly, MMI violated Labor Code section 510.

Similarly, MMI failed to properly calculate and pay sick leave to Collard and other California employees of MMI. MMI did provide paid sick leave; however, when calculating and paying such sick leave, MMI again failed to account for the value of earned nondiscretionary bonuses and other items of compensation; instead, it paid sick leave at only its employees’ base hourly rate. **(Exhibit B.)** Accordingly, MMI violated Labor Code section 246.

Because Collard and other employees were not paid all overtime, doubletime, and sick leave at the appropriate rate, *supra*, the itemized wage statements issued to them did not accurately show gross wages earned, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

At no point since the cessation of Collard’s employment has she been paid the full balance of unpaid overtime and paid sick leave, *supra*. Accordingly, MMI violated Labor Code sections 201 and 202. Furthermore, and because Collard was not timely paid all wages due and owing upon the close of each pay period (because she was not paid the full balance of unpaid overtime, doubletime, and paid sick leave), MMI violated Labor Code section 204.

The foregoing violations, and each of them, were committed as against current and other former employees of MMI, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Collard intends to file a civil complaint against MMI pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on her behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Labor and Workforce Development Agency
Murphys Markets, Inc.
Re: Jessica Collard
August 31, 2021
Page 3 of 3

Sincerely,

MAYALL HURLEY P.C.

By



JOHN P. BRISCOE

Exhibit A

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD

Soc Sec #: XXX-XX-XXXX Employee ID: 1158

Hire Date: 04/15/19

Status: FT

Filing Status:

Federal: Single, 1

State: CA, Single, 1

Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: 26964

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount†	182.70	365.40
CHECKING1	0.00	9668.51
Net Pay	182.70	10033.91

EARNINGS

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR				603.50	12673.50
OVERTIME				18.00	567.00
BONUS			200.00		400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED				621.50	
ADJ EARNINGS			200.00		14207.50
GROSS EARNINGS			200.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA		1262.56
TOTAL	0.00	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL W/H		1298.48
OASDI	12.40	880.87
MEDICARE	2.90	206.00
STATE W/H CA		383.60
STATE SDI CA	2.00	142.08
TOTAL	17.30	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
182.70	10033.91

Payrolls by Paychex, Inc.

0485-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD

Soc Sec #: XXX-XX-XXXX Employee ID: 1158

Hire Date: 04/15/19

Status: FT

Filing Status:

Federal: Single, 1

State: CA, Single, 1

Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: Direct Deposit

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount	0.00	365.40
CHECKING1	1462.15	9668.51
Net Pay	1462.15	10033.91

EARNINGS

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR	80.00	21.0000	1680.00	603.50	12673.50
OVERTIME	6.00	31.5000	189.00	18.00	567.00
BONUS					400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED	86.00			621.50	
ADJ EARNINGS			1869.00		14207.50
GROSS EARNINGS	86.00		1869.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA	7.07	1262.56
TOTAL	7.07	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL W/H	180.72	1298.48
OASDI	115.88	880.87
MEDICARE	27.10	206.00
STATE W/H CA	57.39	383.60
STATE SDI CA	18.69	142.08
TOTAL	399.78	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
1462.15	10033.91

Payrolls by Paychex, Inc.

0485-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

Exhibit B

PERSONAL AND CHECK INFORMATION

Jessica Collard

Soc Sec #: xxx-xx-xxxx Employee ID: 1158

Home Department: 100 GROCERY / 5 TRINIDAD

Pay Period: 08/02/20 to 08/15/20

Check Date: 08/21/20 Check #: 28543

NET PAY ALLOCATIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Check Amount	0.00	21874.19
Chkg	1001.20	1001.20
NET PAY	1001.20	22875.39

TIME OFF (Based on Policy Year)

DESCRIPTION	TOTAL BAL
PAID SICK	5.575 hrs

EARNINGS

DESCRIPTION	HRS/UNITS	RATE	THIS PERIOD (\$)	YTD HOURS	YTD (\$)
Regular	67.00	21.0000	1407.00	1225.50	25735.50
Overtime	3.00	31.5000	94.50	43.25	1362.38
Bonus			200.00		2200.00
Holiday				8.00	168.00
Holiday Worked				16.50	866.25
Sick Leave	8.00	21.0000	168.00	43.00	903.00
Vacation				18.50	388.50
Total Hours	78.00			1354.75	
Gross Earnings			1869.50		31623.63
Total Hrs Worked	70.00				

WITHHOLDINGS

DESCRIPTION	FILING STATUS	THIS PERIOD (\$)	YTD (\$)
Social Security		110.33	1949.52
Medicare		25.83	455.94
Fed Income Tax	S 1	168.58	2835.35
CA Income Tax	SMI2 0 1	51.49	835.29
CA Disability		17.80	314.44
TOTAL		374.03	6390.54

DEDUCTIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Dental Ins	4.05	8.10
Medical Ins	84.95	169.90
Roa	404.40	2177.96
Vision Ins	0.87	1.74
TOTAL	494.27	2357.70

NET PAY
THIS PERIOD (\$)
1001.20
YTD (\$)
22875.39

Payrolls by Paychex, Inc.

0942 Y485-2936 MURPHYS MARKETS- INC • 785 Bayside Road • Arcata CA 95521 • (916) 759-5633

PROOF OF SERVICE

I, the undersigned, certify and declare as follows:

I am over the age of eighteen years and not a party to this action. My business address is 112 S. Church Street, Lodi, California 95240 that is located in the county where the mailing and/or delivery below took place.

On June 23, 2023, I served the following document:

**DECLARATION OF JOHN P. BRISCOE IN SUPPORT OF PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION
SETTLEMENT**

addressed to:

Laurie E. Yoon
Murchison & Cumming LLP
Mt. Diablo Plaza
2175 N. California Blvd., Ste. 900
Walnut Creek, CA 94596
Lyoon@murchisonlaw.com
Ken H. Moreno
kmoreno@murchisonlaw.com

☐ **BUSINESS PRACTICE TO ENTRUST DEPOSIT TO OTHERS:** I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified below, at my place of business at Stockton, California a copy of the document described above was placed for deposit in the United States Postal Service in a sealed envelope, with postage fully prepaid addressed to the individuals and/or entities mentioned above; and that envelope was placed for collection and mailing on that date following ordinary business practice.

☐ **BY EXPRESS SERVICE CARRIER:** On the date specified below, I directed to be deposited in a box or other facility regularly maintained by Federal Express or delivered to a courier or driver authorized by said express service carrier to receive documents, a copy of the document mentioned above, in an envelope designed by the said express service carrier, with delivery fees paid or provided for, addressed to the individuals and/or entities mentioned above.

☒ **BY EMAIL:** In accordance with Code of Civil Procedure, Section 1010.6, on the date specified below, I caused a copy of the document described above to be sent to the person(s) at the e-mail address(es) listed above. My business e-mail address is riley@mayallaw.com.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 23, 2023, at Lodi, California.


LINDSAY RILEY SHIELDS