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12 Attorneys for Plaintiff Lorenzo Calleros
13 and Proposed Class Counsel

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF MERCED**

16 LORENZO CALLEROS, on behalf of
17 himself and all "aggrieved employees"
18 pursuant to Labor Code § 2698 et seq.

19 Plaintiff,

20 v.

21 DIAL GENERAL ENGINEERING, a
22 California general partnership, and DOES
23 1 through 10, inclusive,

24 Defendants.

CASE NO: 22CV-00720

*Assigned to the Honorable Brian McCabe,
Department 8*

CLASS ACTION

**DECLARATION OF DANIEL F. GAINES IN
SUPPORT OF UNOPPOSED MOTION AND
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

DATE: June 1, 2022

TIME: 8:15 a.m.

DEPT.: 8

Action Filed: March 1, 2022

1 I, DANIEL F. GAINES, hereby declare and state as follows:

2 1. I am an attorney duly admitted to the practice of law in the State of California. I am
3 a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Lorenzo Calleros ("Calleros" or
4 "Plaintiff") and proposed Class Counsel in this action. I have personal knowledge of the facts set
5 forth herein and if called as a witness to testify to them, I could and would do so competently.

6 **Education and Experience:**

7 2. I obtained my BS degree from the University California at Berkeley in 2003. I
8 majored in Business Administration at the Haas School of Business.

9 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I was
10 a member of the editorial board of the Virginia Tax Review. I was also the recipient of the Lacy
11 Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused my
12 studies on tax and real estate. I earned my JD and became a member of the California Bar in 2007.

13 4. Since becoming a member of the Bar, and until his recent retirement, I practiced law
14 with my partner/father, Kenneth, at Gaines & Gaines, APLC. My father practiced law in
15 California for over 40 years, emphasizing litigation for the vast majority of his career. Our current
16 practice specializes in litigation, with an emphasis in employment disputes like this one. Over
17 95% of our practice is devoted to complex employment litigation.

18 5. My firm has represented employees in complex employment matters such as this
19 one, with an emphasis in wage and hour issues. I have participated in and have been certified as
20 class counsel in dozens of class action matters since my admission to the Bar. A list of the cases
21 in which I have been appointed as class counsel is attached hereto as **Exhibit A**.

22 **Factual and Procedural Background:**

23 6. On August 23, 2021, Plaintiff exhausted the pre-filing requirements of the Labor
24 Code Private Attorneys General Act of 2004 ("PAGA").

25 7. Settlement discussions ensued, and the parties tolled the statute of limitations from
26 October 29, 2021, to the date the action was filed.

27 8. On March 1, 2022 Plaintiff filed a Complaint on behalf of himself and all other Class
28 Members and Aggrieved Employees that asserts class and representative PAGA action claims

1 against Defendant for (1) knowing and intentional failure to comply with itemized employee wage
2 statement provisions (Labor Code §§ 226(a), (e), and 558.1), and (2) penalties pursuant to Labor
3 Code § 2699(f) for violations of Labor Code §§ 226(a), and pursuant to Labor Code §2699(a) for
4 violations of Labor Code §§ 226.3 and 558.1 (the “Complaint”).

5 9. Defendant denies any liability or wrongdoing of any kind associated with the claims
6 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
7 purpose other than this settlement. Defendant contends that it has complied at all times with the
8 California Labor Code. It is Defendant’s position that, if this case were to be litigated, class
9 certification would be inappropriate because Plaintiff is not an adequate class representative,
10 Plaintiff’s claims are not typical of putative class members, and individual issues predominate
11 over class issues. The Action, the negotiation and execution of this Settlement Agreement, and
12 all acts performed or documents executed pursuant to or in furtherance of the Settlement
13 Agreement (i) shall not be used as an admission or evidence of wrongdoing on behalf of
14 Defendant; (ii) shall not be an admission or evidence of fault on behalf of Defendant in any action
15 before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and may not
16 be used as, an admission or evidence of the appropriateness of these or similar claims for class
17 certification in the Action or with respect to any other proceeding.

18 10. The Class Representative contends that Defendant violated the California Labor
19 Code and that this case is appropriate for class certification.

20 **Investigation and Settlement Discussions**

21 11. My colleagues and I conducted a thorough investigation into the facts and law
22 during the prosecution of this class action case, including the exchange of extensive informal
23 discovery and the review and verification of statistical data and other facts and information
24 provided by Defendant. My colleagues and I investigated the applicable law as applied to the facts
25 discovered regarding the alleged claims of Plaintiff and potential defenses thereto, and the
26 damages claimed by Plaintiff.

27 12. In January 2022, following our exchange of information regarding the Settlement
28 Class and the claims and defenses asserted by the Parties, counsel for the Parties employed the

1 assistance of mediator David Phillips, Esq. for a full-day mediation to reach the basic terms of
2 their Settlement.

3 **Class Counsel's Assessment of the Fairness of the Settlement and the Risks of Continued**
4 **Litigation:**

5 13. Based on our own independent investigation and evaluation, my colleagues and I
6 are of the opinion that settlement for the consideration and on the terms set forth in this Settlement
7 Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in
8 light of all known facts and circumstances, including the risk of significant delay, the risk the
9 Settlement Class will not be certified by the Court, and the defenses asserted by Defendant.

10 14. The Parties agree that the Settlement Class described herein may be certified for
11 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
12 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
13 approved, the certification will have no force or effect and will immediately be revoked. The
14 Parties further agree that certification for purposes of the settlement is in no way an admission that
15 class certification is proper under the more stringent standard applied for litigation and that
16 evidence of this limited stipulation for settlement purposes only will not be admissible for any
17 purpose in this or any other proceeding.

18 15. The parties jointly prepared the Settlement Agreement and Release of Claims
19 ("Settlement Agreement", "Settlement", or "Stip."). A true and correct copy of the Settlement is
20 attached hereto as **Exhibit B**.

21 16. My office created a comprehensive damage analysis using sampling information
22 obtained through informal discovery. This damage analysis reveals that the negotiated settlement
23 falls within a realistic range of recovery on Class Members' claims.

24 17. Plaintiff alleges that Defendant failed to issue Plaintiff and Class Members
25 accurately itemized wage statements. The wage statements issued to Plaintiff and all Class
26 Members allegedly failed to set forth the name and address of the legal entity that is the employer,
27 in violation of Labor Code §§ 226(a)(8) and 226.3. "Dial General Engineering" as listed on the
28

1 wage statements is a company that no longer exists. Defendant's address is not set forth on the
2 wage statements.

3 18. The wage statements issued to Plaintiff and Class Members also list two separate
4 categories of hours: "hourly" and "health welfare." However, Plaintiff alleges that they failed to
5 set forth the total number of hours worked by the employee, in violation of Labor Code §§
6 226(a)(2). The hours reported for each rate are also allegedly misstated and inaccurate. Plaintiff
7 also contends that the wage statements also failed to accurately set forth the total hours worked,
8 in violation of Labor Code §§ 226(a)(2) and 226.3. When "hourly" and "health welfare" entries
9 are included, Defendant report more base hours worked than are actually worked, which Plaintiff
10 argues is inaccurate and confusing. There is no accurate summation of total hours worked
11 anywhere on the wage statements, and summing the hours listed for each rate of pay does not yield
12 the correct total hours worked.

13 19. The maximum value of these wage statement claims is approximately \$142,600,
14 divided equally between statutory penalties available under Labor Code section 226(e) and PAGA
15 civil penalties. The discount on the maximum value of the claims is nominal, with a nearly 95%
16 recovery rate. The discount negotiated for settlement here is a reasonable compromise,
17 particularly considering that the risk of obtaining class certification on all or any of Plaintiff's
18 claims involves a 50% or higher hurdle, to which Defendant maintains strong arguments to defeat
19 class certification (in addition to multiple defenses on the merits of the claims). Class certification
20 is a substantial risk in any class action case. Here, while Plaintiff maintains that the requirements
21 of class certification are met, Defendant proffers various arguments why class treatment is not
22 appropriate, including but not limited to that individualized inquires among class members
23 predominate over common ones. If Defendant was to defeat Plaintiff's class certification motion,
24 there would be no class wide relief whatsoever, and most class members would likely not file
25 individual claims.

26 20. Plaintiff also faced the risk of a loss on the merits on his claims. It is very possible
27 that the Court would agree with Defendant's position that its wage statements complied with the
28

1 requirements of California law or could not be certified. In such a case, the value Plaintiff's claims
2 would be zero.

3 21. Finally, Plaintiff faced the risk that she would not obtain a maximum
4 damage/penalty award on his claims. For example, Plaintiff seeks discretionary penalties pursuant
5 to the PAGA. Even if Plaintiff did prevail on these claims, it is possible that the Court would not
6 impose all penalties pursuant to its discretionary power to reduce them.

7 22. Defendant strongly contends that its policies and practices do not violate any laws.
8 It contends that the wage statements it provides to its employees are fully compliant with
9 California law.

10 23. When the costs and risks of non-certification and loss on the merits are considered,
11 my colleagues and I are of the opinion that the settlement reached is clearly a favorable one.

12 24. The settlement for each Class Member is fair, reasonable and adequate, given the
13 inherent risk of litigation, the risk relative to class certification and the costs of pursuing such
14 litigation. The settlement shall finally resolve all claims of the Class Members as alleged in the
15 Action.

16 **Class Certification Requirements:**

17 25. To date, no class has been certified. The Stipulation of Settlement contains a
18 provision pursuant to which we stipulate to the Court's provisional certification of the
19 approximately 37-member Settlement Class, but do so for purposes of this settlement only.

20 26. In this case, the Class Members are identifiable from Defendant's employment and
21 payroll records. Further, the Settlement Class is sufficiently numerous to warrant certification.
22 According to Defendant's records, the Class comprises approximately 37 members.

23 27. The Class Members' claims all stem from a common source: members of the
24 Settlement Class allege that Defendant violated the same Labor Code provisions in connection
25 with their employment. All members of the Class seek the same relief under the same California
26 laws (related to inaccurate and incomplete wage statements). Under these circumstances, the
27 commonality requirement is satisfied for purposes of certifying the Settlement Class for settlement
28 purposes.

28. In this case, named Plaintiff and proposed Class Representative Lorenzo Calleros is a former non-exempt employee who worked for Defendant in the State of California during the Class Period. He contends that Defendant failed to comply with itemized employee wage statement provisions, in violation of Labor Code §§ 226(a), 226.3, 558.1, 2698, and 2699, among other Labor Code provisions. He has the same claims as those that the members of the Settlement Class would reasonably be expected to bring based on the course of conduct alleged herein.

29. Plaintiff has also demonstrated that he will aggressively and competently assert the interests of the proposed Settlement Class; he has taken an active role in this litigation and has no apparent conflicts with other class members.

Settlement of Claims Pursuant to Labor Code § 2699 et seq. (PAGA)

30. Concurrently with the filing of this Motion, my office is transmitting the Settlement Agreement (and these approval documents) to the LWDA, in compliance with Labor Code § 2699(l)(2).

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 5th day of May, 2022 at Calabasas, California.

Daniel F. Gaines
DANIEL F. GAINES

EXHIBIT A

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer-v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277 DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT B

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

LORENZO CALLEROS, on behalf of
himself and all "aggrieved employees"
pursuant to Labor Code § 2698 *et seq.*

Plaintiff,

v.

DIAL GENERAL ENGINEERING, a
California general partnership, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: 22CV-00720

CLASS ACTION

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint Filed: March 1, 2022

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims ("Settlement Agreement") is made and entered into by and between Plaintiff Lorenzo Calleros ("Calleros" or "Plaintiff" or "Class Representative"), individually and on behalf of all others similarly situated, and Defendant DIAL General Engineering, a California general partnership ("Defendant"), subject to the terms and conditions herein and the Court's approval.

A. Definitions.

1. Plaintiff and the Settlement Class (as defined below) and Defendant are collectively referred to herein as "the Parties."

2. Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC are counsel of record for Plaintiff. For purposes of this settlement only, the firm of Gaines & Gaines, APLC shall be designated as "Class Counsel."

3. The "Action" means the case entitled *Lorenzo Calleros, Plaintiff, v. DIAL General Engineering, a California general partnership, And Does 1 Through 10, Inclusive, Defendants,* Case No. 22CV-00720, pending before the Superior Court of the State of California for the County of Merced.

4. The "Settlement Class" and "Aggrieved Employees" shall both be defined as "all current and former non-exempt California employees of Defendant employed at any time from August 23, 2020 through March 26, 2022." (the "Class Period" and the "PAGA Period").

5. Members of the Settlement Class shall collectively be referred to as a "Class Member" or "Class Members." Any Class Member who files a timely request for exclusion, as detailed below, will be excluded from the final Settlement Class but still be bound by the PAGA release.

6. The Effective Date of this Settlement Agreement ("Effective Date") is the date the Court signs an order granting final approval of the settlement and entering judgment thereon.

1 **B. General.**

2 1. On August 23, 2021, Plaintiff exhausted the pre-filing requirements of the Labor
3 Code Private Attorneys General Act of 2004 ("PAGA").

4 2. Settlement discussions ensued, and the parties tolled the statute of limitations from
5 October 29, 2021, to the date the action was filed.

6 3. On March 1, 2022 Plaintiff filed a Complaint on behalf of himself and all other Class
7 Members and Aggrieved Employees that asserts class and representative PAGA action claims
8 against Defendant for (1) knowing and intentional failure to comply with itemized employee wage
9 statement provisions (Labor Code §§ 226(a), (e), and 558.1), and (2) penalties pursuant to Labor
10 Code § 2699(f) for violations of Labor Code §§ 226(a), and pursuant to Labor Code §2699(a) for
11 violations of Labor Code §§ 226.3 and 558.1 (the "Complaint")

12 4. Defendant denies any liability or wrongdoing of any kind associated with the claims
13 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
14 purpose other than this settlement. Defendant contends that it has complied at all times with the
15 California Labor Code. It is Defendant's position that, if this case were to be litigated, class
16 certification would be inappropriate because Plaintiff is not an adequate class representative,
17 Plaintiff's claims are not typical of putative class members, and individual issues predominate over
18 class issues. The Action, the negotiation and execution of this Settlement Agreement, and all acts
19 performed or documents executed pursuant to or in furtherance of the Settlement Agreement (i)
20 shall not be used as an admission or evidence of wrongdoing on behalf of Defendant; (ii) shall not
21 be an admission or evidence of fault on behalf of Defendant in any action before a civil, criminal,
22 or administrative agency; and (iii) shall not be deemed to be, and may not be used as, an admission
23 or evidence of the appropriateness of these or similar claims for class certification in the Action or
24 with respect to any other proceeding.

25 5. The Class Representative contends that Defendant violated the California Labor
26 Code and that this case is appropriate for class certification.

27 6. Class Counsel represent that they have conducted a thorough investigation into the
28 facts and law during the prosecution of this class action case, including the exchange of extensive

1 informal discovery and the review and verification of statistical data and other facts and information
2 provided by Defendant. Counsel for the Parties also represent that they have investigated the
3 applicable law as applied to the facts discovered regarding the alleged claims of Plaintiffs and
4 potential defenses thereto, and the damages claimed by Plaintiff.

5 7. In January 2022, following their exchange of information regarding the Settlement
6 Class and the claims and defenses asserted by the Parties, counsel for the Parties employed the
7 assistance of mediator David Phillips in a full-day mediation to reach the basic terms of this
8 Settlement.

9 8. Based on their own independent investigation and evaluation, Class Counsel are of
10 the opinion (and will so represent to the Court) that settlement for the consideration and on the
11 terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
12 interest of the Settlement Class in light of all known facts and circumstances, including the risk of
13 significant delay, the risk the Settlement Class will not be certified by the Court, and the defenses
14 asserted by Defendant. Defendant and its counsel also agree (and will so represent to the Court)
15 that this settlement is fair and in the best interest of the Settlement Class.

16 9. The Parties agree that the Settlement Class described herein may be certified for
17 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
18 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
19 approved, the certification will have no force or effect and will immediately be revoked. The
20 Parties further agree that certification for purposes of the settlement is in no way an admission that
21 class certification is proper under the more stringent standard applied for litigation and that
22 evidence of this limited stipulation for settlement purposes only will not be admissible for any
23 purpose in this or any other proceeding.

24 **C. Terms of Settlement.**

25 1. The financial terms of the settlement are as follows:

26 (a) **Maximum Settlement Amount:** The Parties agree to settle this Action for
27 an "all-in," all-inclusive Maximum Settlement Amount of One Hundred Thirty-Five Thousand U.S.
28 Dollars (\$135,000.00) ("the Maximum Settlement Amount"). The Maximum Settlement Amount

1 includes the attorneys' fees of Class Counsel, litigation costs and expenses (which includes, without
2 limitation, all such fees and costs incurred to date, as well as such fees and costs to be incurred in
3 documenting the settlement, providing any notices required as part of the settlement, securing Court
4 approval of the settlement, and obtaining judgment in the Action), the service payment to the Class
5 Representative, as approved by the Court, the payment to the LWDA and Aggrieved Employees
6 pursuant to the PAGA claims in the Action, and all costs of administration, including, without
7 limitation, settlement administration fees and expenses. In no event shall Defendant be obligated
8 to pay or deposit with the Settlement Administrator more than \$135,000.00, except for any legally
9 required employer taxes and under the "escalator provision" set forth below in Section H.17.

10 (b) **Net Settlement Proceeds:** "Net Settlement Proceeds" is defined as the
11 Maximum Settlement Amount less the amounts approved and awarded by the Court for: attorneys'
12 fees and documented litigation costs and expenses incurred or advanced by Class Counsel, the
13 service payment to the Class Representative, the payment to the LWDA and Aggrieved Employees
14 pursuant to PAGA, and the costs of administering the settlement.

15 (c) **Calculation of the Individual Payment Amounts:** "Individual Payment
16 Amount" means the portion of the Net Settlement Proceeds distributable to each Class Member
17 who participates in the Settlement (i.e., who does not submit a timely, valid request for exclusion
18 form), together with the allocation from the PAGA payment distributable to each Aggrieved
19 Employee, whether they opt out or not. With respect to the Net Settlement Proceeds, the Individual
20 Payment Amounts will be calculated by dividing the Net Settlement Proceeds by the total weeks
21 worked by all participating Class Members in California in a non-exempt position during the Class
22 Period, which will yield the applicable weekly rate. The weekly rate shall be multiplied by the
23 number of weeks each individual participating Class Member worked for Defendant in California
24 in a non-exempt position during the Class Period to yield their Individual Payment Amount. Each
25 Participating Settlement Class Member who does not opt out will receive an Individual Payment
26 Amount equal to their individual weeks worked in California in a non-exempt position during the
27 Class Period multiplied by the Workweek Value. As to the PAGA payment allocated to Aggrieved
28

1 Employees, the PAGA allocation shall be apportioned among all Aggrieved Employees based on
2 the same formula as the Net Settlement Proceeds.

3 i. For tax purposes, each Individual Payment Amount will be
4 apportioned 100% as penalties and reported on an IRS Form 1099, if required, which shall be issued
5 by the Claims Administrator. The Individual Payment Amounts are being funded by Defendant as
6 part of this Settlement to come into compliance with the laws that were allegedly violated and as
7 part of the related inquiry by Plaintiff. All Individual Payment Amounts paid to Class Members
8 and Aggrieved Employees will be subject to any applicable wage garnishments, liens, or other
9 legally mandated treatment as required by law, with each Class Member responsible for the
10 payment of employee taxes and required withholdings with respect to his or her Individual Payment
11 Amount and PAGA payment and shall hold Defendant harmless from any liability with regard
12 thereto.

13 (d) **PAGA Payments:** The Parties agree that Ten Thousand Dollars
14 (\$10,000.00) shall be allocated to settle Plaintiff's claims brought pursuant to PAGA. Of this
15 amount, Seventy-Five percent (75%), or Seven Thousand Five Hundred Dollars (\$7,500.00) shall
16 be paid to the LWDA, and Twenty-Five percent (25%), or Two Thousand Five Hundred Dollars
17 (\$2,500.00) shall be paid to Aggrieved Employees.

18 (e) **Service Payment to Class Representative:** The amount awarded to the
19 Class Representative as a service payment will be set by the Court in its discretion, not to exceed
20 Twenty Thousand Dollars (\$20,000.00). This amount will be deducted from the Maximum
21 Settlement Amount. The Settlement Administrator shall issue to the Class Representative an IRS
22 Form 1099 for his service payment. The Class Representative shall be responsible for the payment
23 of any taxes related to the service payment and shall hold Defendant harmless from any liability
24 with regard thereto. Defendant agrees not to dispute or otherwise object to the service payment if
25 Plaintiff requests \$20,000 or less.

26 (f) **Attorneys' Fees:** An award to Class Counsel of attorneys' fees will be
27 deducted from the Maximum Settlement Amount in an amount to be set by the Court taking into
28 account the settlement award that has been made available for the Settlement Class by the efforts

1 of Class Counsel. The amount awarded shall not exceed Thirty-Five percent (35%) of the
2 Maximum Settlement Amount (projected to be Forty-Seven Thousand, Two Hundred Fifty Dollars
3 (\$47,250.00)). Any attorney fees and costs awarded to Class Counsel shall not constitute payment
4 to any Class Member, and the Settlement Administrator shall issue an IRS Form 1099 to Class
5 Counsel with respect to its award of attorneys' fees and costs. Defendant agrees not to dispute or
6 otherwise object to the attorneys' fee award requested by Class Counsel so long as the request does
7 not exceed Thirty-Five percent (35%) of the Maximum Settlement Amount.

8 (g) **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from
9 the Maximum Settlement Amount in an amount to be set by the Court for documented out-of-
10 pocket litigation costs and expenses, not to exceed Eleven Thousand Dollars (\$11,000.00). An IRS
11 Form 1099 will be issued to Class Counsel with respect to its award of costs and expenses.
12 Defendant agrees not to dispute or otherwise object to the attorneys' cost award requested by Class
13 Counsel so long as the request does not exceed \$11,000.

14 (h) **Settlement Administration Costs:** The fees and other charges of the
15 Settlement Administrator to administer the Settlement are expected to total no more than Three
16 Thousand Five Hundred Dollars (\$3,500.00), and will be paid from the Maximum Settlement
17 Amount. These fees shall include any costs associated with the required tax reporting on any
18 Individual Payment Amounts, and the issuing of IRS Forms 1099. Subject to approval of the Court,
19 the Parties agree that Simpluris will serve as a neutral third-party claims' administrator
20 ("Settlement Administrator") to perform all acts related to providing notice to the Settlement Class.
21 Settlement Administrator shall be responsible for (a) printing and distributing the Court-approved
22 Notice of Class Action Settlement ("Class Notice") to all Class Members (including locating Class
23 Members); (b) administering the settlement; (c) processing exclusions and objections; (d) resolving
24 disputes; (e) distributing the Maximum Settlement Amount as directed by the Court and set forth
25 herein; (f) tax reporting; (g) providing necessary weekly status reports; and (h) other duties and
26 responsibilities set forth herein.

27 (i) **No Warranty by Defendant / Circular 230 Disclosure:** Plaintiff
28 understands and agrees that Defendant is not providing Plaintiff or Class Members with tax or legal

1 advice and that Defendant makes no representations regarding tax obligations or consequences, if
2 any, related to this Settlement Agreement. Each Party acknowledges and agrees that (1) no
3 provision of this Agreement, and no written communication or disclosure between or among the
4 Parties or their attorneys and other advisers, is or was intended to be, nor shall any such
5 communication or disclosure constitute or be construed or be relied upon as, tax advice within the
6 meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the
7 Party (a) has relied exclusively upon her or its own independent legal and tax advisers for advice
8 (including tax advice) in connection with this Agreement, (b) has not entered into this agreement
9 based upon the recommendation of any other Party or any attorney or advisor to any other Party,
10 and (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to
11 any other Party to avoid any tax penalty; and (3) is not subject to any limitation that protects the
12 confidentiality of any tax strategies concerning any transaction (including any transaction
13 contemplated by this Settlement Agreement).

14 (j) **No Effect on Employee Benefit Plans.** Neither this Settlement Agreement nor any
15 amounts paid under it will modify any previously credited hours, days, or weeks of service under
16 any employee benefit plan, policy, or bonus program sponsored by Defendant, and such amounts
17 will not form the basis for additional contributions to, benefits under, or any other monetary
18 entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. Defendant
19 does not consider the Individual Payment Amounts or any other payments under this Settlement
20 Agreement to be "compensation" for purposes of determining eligibility for, or benefit accrual
21 within, any benefit plans, policies, or bonus programs, or any other plan sponsored by Defendant.

22 **D. Release of Claims.**

23 1. Release by Class Members: Upon the Effective Date, and subject to Defendant's
24 payment of the Maximum Settlement Amount, Plaintiff and all Settlement Class Members who
25 do not timely opt-out will be deemed (on their own behalf and on behalf of their dependents,
26 spouses, heirs, successors, assigns, and anyone else purporting to assert a claim under or through
27 them) to have fully released and discharged Defendant, and all of its present and former parent
28

1 companies, subsidiaries, divisions, and related or affiliated companies, an all of its partners
2 (including general and limited), owners, officers, directors, employees, agents, attorneys, insurers,
3 predecessors, successors, assigns, and any individual or entity which could be liable for any of the
4 Released Claims (hereinafter, "Released Parties") from any and all Released Claims which arose
5 during their employment in a non-exempt position in California during the Class Period.
6 "Released Claims" are those claims asserted, or which could have been asserted based on the facts
7 alleged, in the Complaint, and which pertain in any way to the wage statements provided to the
8 Class Members, including claims pursuant to Labor Code sections 226, 226.3, and 558.1, claims
9 under sections 7 and 20 of IWC Wage Order 5-2001 and any other applicable Wage Order, and
10 claims under PAGA (including claims for civil penalties) that are based on, arise from, or are
11 related in any way to the allegations in the Complaint.
12

13
14 2. Release by Aggrieved Employees: Upon the Effective Date, and subject to Defendant's
15 payment of the Maximum Settlement Amount, Plaintiff and all Aggrieved Employees will be
16 deemed to have fully released and discharged the Released Parties from claims under PAGA
17 (including claims for civil penalties), which arose during their employment in a non-exempt
18 position in California during the Class Period, that are based on, arise from, or are related in any
19 way to the allegations in the Complaint.
20

21 3. Release by Plaintiff Lorenzo Calleros and Waiver of Rights under Civil Code Section
22 1542: Upon the Effective Date, and subject to Defendant's payment of the Maximum Settlement
23 Amount, Plaintiff, on behalf of himself and his dependents, heirs and assigns, beneficiaries,
24 devisees, legatees, executors, administrators, agents, trustees, conservators, guardians, personal
25 representatives, and successors-in-interest, whether individual, class, representative, legal,
26 equitable, direct or indirect, or any other type or in any other capacity, shall and does hereby forever
27 release, discharge and agree to hold harmless the Released Parties from any and all charges,
28

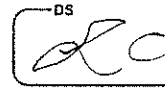
1 complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions,
2 causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorney fees
3 and costs), known or unknown, at law or in equity, which he may now have or may have after the
4 signing of this Settlement Agreement, arising out of or in any way connected with his employment
5 with Defendant including, the Released Claims, claims that were asserted or could have been
6 asserted in the Complaint, and any and all transactions, occurrences, or matters between the Parties
7 occurring prior to the date this Settlement Agreement is fully executed. Without limiting the
8 generality of the foregoing, this release shall include, but not be limited to, any and all claims under
9 the (a) Americans With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964,
10 as amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age
11 Discrimination in Employment Act, as amended; (f) the Fair Labor Standards Act, as amended; (g)
12 the Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the
13 Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the
14 Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair
15 Employment and Housing Act; (n) the California Constitution; (o) the California Labor Code; (p)
16 the California Government Code; (q) the California Civil Code; (r) the Industrial Welfare
17 Commission wage orders; and (s) any and all other federal, state and local statutes, ordinances,
18 regulations, rules and other laws, and any and all claims based on constitutional, statutory, common
19 law or regulatory grounds as well as any other claims based on theories of wrongful or constructive
20 discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or
21 intentional and/or negligent infliction of emotional distress, or damages under any other federal,
22 state or local statutes, ordinances, regulations, rules or laws. This release is for any and all relief,
23 no matter how denominated, including, but not limited to, back pay, front pay, vacation pay,
24 bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages,
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27
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1 damages for pain and suffering, and attorney fees and costs, and Plaintiff hereby forever releases,
2 discharges and agrees to hold harmless Defendants and the Released Parties from any and all claims
3 for attorney fees and costs arising out of the matters released in this Stipulation.

4
5 Plaintiff specifically acknowledges that he is aware of and familiar with the provisions of
6 California Civil Code Section 1542, which provides as follows:

7 **A general release does not extend to claims which the creditor**
8 **or releasing party does not know or suspect to exist in his or her**
9 **favor at the time of executing the release, and that, if known by**
10 **him or her, would have materially affected his or her settlement**
11 **with the debtor or released party.**

12 Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all
13 rights and benefits he may have under Section 1542 as well as any other statutes or common law
14 principles of a similar effect. Plaintiff may hereafter discover facts in addition to or different from
15 those which he now knows or believes to be true with respect to the subject matter of all the claims
16 referenced herein, but stipulates and agrees that, upon the Effective Date, Plaintiff shall and hereby
17 does fully, finally and forever settle and release any and all claims against the Released Parties,
18 known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or
19 could have been asserted upon any theory of law or equity without regard to the subsequent
20 discovery of existence of such different or additional facts.

21 Plaintiff's Initials: 

22 **E. Notice and Exclusion Process.**

23 1. Within twenty-one (21) calendar days after entry of the order granting preliminary
24 approval of this Settlement, Defendant shall provide to the Settlement Administrator a list of all
25 Class Members, including their last known addresses, telephone numbers, social security numbers,
26 and their dates of employment in a non-exempt position in California during the Class Period
27 ("Settlement Class Information"). The names, addresses, telephone numbers, and Social Security
28

1 numbers will only be disclosed to the Settlement Administrator and not to Plaintiff's Counsel. All
2 information provided to the Settlement Administrator will be marked CONFIDENTIAL. This
3 information shall be kept confidential and shall not be disclosed, either in writing or orally, by the
4 Settlement Administrator. The Settlement Administrator shall use due care with respect to the
5 storage, custody, use, and/or dissemination of the confidential information. Such information must
6 be stored in a secure fashion and all persons who access the data must agree to keep it confidential.

7 2. A notice of pendency of class action, proposed settlement and hearing date for Court
8 approval ("Class Notice") in the form attached hereto as Exhibit 1, and as approved by the Court,
9 shall be sent by the Settlement Administrator to the Class Members, by first class mail, within
10 fourteen (14) calendar days after receiving the contact information for the Class Members as set
11 forth in the preceding paragraph. Attached to the Class Notice will be a request for exclusion form
12 ("Request for Exclusion Form") in the form attached hereto as Exhibit 2.

13 3. The Settlement Administrator will make reasonable efforts to ensure that the Class
14 Notice and Request for Exclusion Form are sent to all Class Members. It will conclusively be
15 presumed that if an envelope has not been returned within thirty (30) days of the mailing that the
16 Class Member received the Class Notice. In the event of returned or non-deliverable notices, the
17 Settlement Administrator will make reasonable efforts to locate Class Members and re-send the
18 notices.

19 4. Each Class Member will be fully advised of the settlement, the ability to object to
20 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
21 inform the Class Members of the Court-established deadlines for filing objections and a Request
22 for Exclusion Form.

23 5. Each Class Notice will contain personalized information setting forth the number of
24 weeks each Class Member worked for Defendant in California in a non-exempt position during the
25 Class Period and their estimated Individual Payment Amount. To the extent a Class Member
26 disputes any of the information listed on his or her Class Notice, the Class Member may produce
27 evidence to the Settlement Administrator showing such information the Class Member contends
28 should be reflected in the Class Notice. Defendant's records will be presumed determinative,

1 however, and the Settlement Administrator's decision on these matters will be final. The Class
2 Notice will also set forth IRS W-9 information if required.

3 6. All Class Members who do not submit a Request for Exclusion Form will be eligible
4 to receive an Individual Payment Amount, which shall be mailed to them if and when the Effective
5 Date occurs. All Aggrieved Employees shall be paid a share of the PAGA penalties even if they
6 opt out of the Settlement.

7 7. In order to elect not to participate in the Settlement, a Class Member must submit a
8 Request for Exclusion Form, and mail it to the Settlement Administrator no later than forty-five
9 (45) calendar days after the initial mailing of the Class Notice and Request for Exclusion Form to
10 Class Members, unless the Court requires a longer period, in which case the Court ordered
11 exclusion period will apply. The date of the postmark shall be deemed the date of submission. The
12 timeliness of submitted Request for Exclusion Forms will be determined by valid postmark. If the
13 45th day falls on a Sunday or federal holiday, the time to request exclusion will be extended to the
14 next day on which the U.S. Postal Service is open.

15 8. The deadline for submission of Exclusion Forms shall be extended once by 30 days
16 for those Class Members whose Class Notice and Exclusion Form are returned as "undeliverable."
17 If the 30th day falls on a Sunday or federal holiday, this deadline will be extended to the next day
18 on which the U.S. Postal Service is open.

19 9. The Settlement Administrator will search for additional addresses on returned mail
20 and will re-mail the Class Notice and Exclusion Form to an updated address (if any) within 15 days
21 of receipt of the returned mail. The 30-day extended time limit will run from the date of the second
22 mailing for those Class Members. To the extent a Class Notice from the initial mailing is not
23 returned within 30 days, it shall be deemed to have been sent to a valid address even if it is thereafter
24 returned. It is the intent of the Parties that reasonable, but not extraordinary, efforts be used to
25 locate Class Members. If the initial Class Notice and Request for Exclusion Form is returned, the
26 Settlement Administrator will search using the social security number for a more current address.
27 If no address is found within 10 days, no further action is required.

1 10. The Settlement Administrator will notify the Parties of the total number of valid
2 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
3 Request for Exclusion Forms (fifty-five (55) days following the initial mailing of the Class Notice
4 and Request for Exclusion Forms to Class Members).

5 11. In order to object to the settlement, a Class Member must mail his or her objection
6 to the Settlement Administrator no later than forty-five (45) calendar days after the mailing of the
7 Class Notice and Request for Exclusion Form to Class Members, unless the Court requires a longer
8 period, in which case the Court ordered objection period will apply. If the 45th day falls on a
9 Sunday or federal holiday, the time to object to the settlement will be extended to the next day on
10 which the U.S. Postal Service is open. Under no circumstances shall the objection deadline be
11 extended for any reason.

12 12. The Settlement Administrator shall provide to the Parties, at least twelve (12)
13 calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a declaration
14 of due diligence and proof of mailing with regard to the mailing of the Class Notice and Request
15 for Exclusion Forms. The Settlement Administrator will also provide to the Parties, at least twelve
16 (12) calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a report
17 listing the amount of all payments to be made to each Class Member without names or personal
18 identifying information.

19 13. Defendant shall deposit the Maximum Settlement Amount with the Settlement
20 Administrator within twenty-one (21) days after the Effective Date.

21 14. The Settlement Administrator shall disburse the Maximum Settlement Amount
22 within fifteen (15) calendar days after its receipt thereof. Class Members must cash each of their
23 Individual Payment Amount checks within one hundred eighty (180) calendar days after they are
24 mailed by the Settlement Administrator. The value of any checks uncashed more than one hundred
25 eighty (180) days after mailing shall be paid to Disabled American Veterans, a cy pres recipient
26 proposed by the Parties pursuant to Code of Civil Procedure section 384.

27 15. In the event that four or more Class Members opt out of this Settlement Agreement,
28 Defendant has the right (but not the obligation) to void the Settlement Agreement. If the Settlement

1 Agreement gets voided for this or any other reason, then the Settlement and conditional class
2 certification shall be considered void, and neither the Settlement Agreement, conditional class
3 certification, nor any of the related negotiations or proceedings, shall be of any force or effect, and
4 the Parties shall stand in the same position, without prejudice, as if this Settlement Agreement had
5 been neither entered into nor filed with the Court.

6 **F. Duties of the Parties Prior to Court Approval.**

7 1. Promptly after execution of this Settlement Agreement, Plaintiff shall move the
8 Court for preliminary approval of this settlement and entry of an order accomplishing the
9 following:

- 10 (a) scheduling a fairness hearing on the question of whether the proposed
11 settlement should be finally approved as fair, reasonable and adequate as
12 to the Class Members;
- 13 (b) approving as to form and content the proposed Class Notice;
- 14 (c) approving as to form and content the proposed Request for Exclusion
15 Form;
- 16 (d) preliminarily certifying the Settlement Class for purposes of settlement;
- 17 (e) preliminarily approving the PAGA payment of \$10,000 to the LWDA
18 and Aggrieved Employees;
- 19 (f) preliminarily setting attorneys' fees and costs payable to Class Counsel;
- 20 (g) preliminarily setting the service payment to the Class Representative; and
- 21 (h) preliminarily approving Simpluris as the Settlement Administrator and its
22 estimated fees and costs of no more than \$3,500.

23 Plaintiff shall submit this Settlement Agreement to the Court and the LWDA in support of
24 Plaintiff's unopposed motion for preliminary approval of the settlement.

25 **G. Duties of the Parties in Connection with and Following Final Court Approval.**

26 1. In connection with the hearing on final approval of the settlement provided for in
27 this Settlement Agreement, Plaintiff will submit a proposed final order no later than ten (10)
28

1 calendar days prior to the scheduled date of the hearing on final approval (unless otherwise ordered
2 by the Court):

3 (a) approving the settlement, adjudging the terms thereof to be fair, reasonable
4 and adequate, and directing consummation of its terms and provisions;

5 (b) approving Class Counsel's application for an award of attorneys' fees and
6 reimbursement of documented litigation costs and expenses, the service payment to the Class
7 Representative, the payment to the LWDA, and the costs of administering the settlement; and

8 (c) Entering judgment in this Action in accordance with this Stipulation,
9 pursuant to Cal. Rules of Court, Rule 3.769(h).

10 2. Class Counsel shall file an application for attorneys' fees and reimbursement of
11 costs and expenses no later than ten (10) calendar days prior to the scheduled date of the hearing
12 on final approval (unless otherwise ordered by the Court).

13 **H. Miscellaneous Provisions:**

14 1. **Voiding the Agreement.**

15 A failure of the Court to approve any material condition of this Settlement Agreement which
16 effects "a fundamental change of the Parties' settlement," or if the settlement is reversed or
17 materially modified on appellate review, shall render the entire Stipulation of Settlement voidable
18 and unenforceable as to all Parties herein at the option of any Party.

19 2. **Parties' Authority.**

20 The signatories hereto represent that they are fully authorized to enter into this Settlement
21 Agreement and bind the Parties hereto to the terms and conditions hereof.

22 3. **Mutual Full Cooperation.**

23 The Parties agree to fully cooperate with each other to accomplish the terms of this
24 Stipulation of Settlement, including but not limited to, execution of such documents and such other
25 action as may reasonably be necessary to implement the terms of this Settlement Agreement. The
26 Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated
27 by this Settlement Agreement and any other efforts that may become necessary by order of the
28 Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As

1 soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the
2 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
3 Court's preliminary and final approval of the settlement.

4 **4. No Prior Assignments.**

5 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
6 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
7 entity any portion of any liability, claim, demand, action, cause of action or rights released and
8 discharged by this Stipulation of Settlement.

9 **5. No Admission.**

10 Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be
11 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
12 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
13 Settlement Agreement with the intention of avoiding further disputes and litigation with the
14 attendant inconvenience and expenses. This Settlement Agreement is a settlement document and
15 shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408
16 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or
17 proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.
18 Plaintiff and each Class Member who does not timely opt out will be deemed to have agreed that
19 Labor Code section 206.5 is not applicable to the Individual Payment Amounts.

20 **6. Notices.**

21 Unless otherwise specifically provided herein, all notices, demands or other
22 communications given hereunder shall be in writing and shall be deemed to have been duly given
23 as of the third business day after mailing by United States registered or certified mail, return receipt
24 requested, addressed:

25 **To Plaintiff and the Settlement Class:**
26 Daniel F. Gaines, Esq.
27 Alex P. Katofsky, Esq.
28 GAINES & GAINES, APLC
27200 Agoura Road, Suite 101
Calabasas, CA 91301

To Defendant:

Jay L. Rosenlieb, Esq.
Jeffrey Noe, Esq.
KLEIN DeNATALE GOLDNER
4550 California Ave., 2nd Floor
Bakersfield, CA 93309

7. Construction.

The Parties hereto agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arms' length negotiations between the Parties and mediation with the assistance of mediator David Phillips that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his or its counsel participated in the drafting of this Settlement Agreement.

8. Captions and Interpretations.

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.

9. Modification.

This Settlement Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by each of the Parties hereto on their attorneys.

10. Integration Clause.

This Settlement Agreement contains the entire agreement between the Parties relating to the settlement and transactions 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. No rights hereunder may be waived except in writing. No Party has relied on any representation by any other Party, and each Party assumes the

1 risk of the existence of different or presently unknown facts and this Settlement Agreement shall
2 be binding despite such difference.

3 **11. Binding on Assigns.**

4 This Settlement Agreement shall be binding upon and inure to the benefit of the Parties
5 hereto (except those Class Members who timely opt out) and their respective heirs, trustees,
6 executors, administrators, representatives, agents, successors and assigns.

7 **12. Governing Law.**

8 All terms of this Settlement Agreement and its exhibits shall be governed by and interpreted
9 according to the laws of the State of California, without giving effect to any conflict of law
10 principles or choice of law principles.

11 **13. Signatures of All Class Members Unnecessary to be Binding.**

12 It is agreed that, because the members of the Settlement Class are numerous, it is impossible
13 or impractical to have each Class Member execute this Settlement Agreement. The Class Notice,
14 attached hereto as Exhibit I, will advise all Class Members of the binding nature of the release
15 provided herein and such shall have the same force and effect as if this Settlement Agreement was
16 executed by each Class Member.

17 **14. Counterparts.**

18 This Settlement Agreement may be executed in counterparts, and when each Party has
19 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
20 and when taken together with other signed counterparts, shall constitute one fully signed Settlement
21 Agreement, which shall be binding upon and effective as to all Parties.

22 **15. Confidentiality**

23 Until Plaintiff files his motion for preliminary approval of the class action settlement, the
24 Parties and their Counsel agree to maintain confidentiality as to the Settlement, including the
25 amount and terms of the Settlement, except as to spouses, tax or financial advisors, attorneys, taxing
26 agencies, or as otherwise required by law.

27 **16. No Publicity**

28 Plaintiff and his Counsel will not contact the media about the settlement or respond to any

inquiries by the media regarding the Settlement, other than to state that the matter was amicably settled, and the Court did not find Defendant liable. Plaintiff and his Counsel also will not post any information about the settlement on social media or their firms' websites.

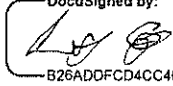
17. Escalator Provision.

Defendant represents that, as of late-November 2021, the Settlement Class contained approximately 37 members who worked approximately 713 biweekly pay periods during the Class Period. To the extent the number of proposed Class Members increases, as of March 26, 2022, to 42 or more, Defendant shall have the right to increase the Maximum Settlement Amount proportionately. Alternatively, in the event that this escalator provision is triggered, instead of proportionately increasing the Maximum Settlement Amount, Defendant has the option to adjust the end date of the Class/PAGA Period, i.e., to choose a date between January 26, 2022, and March 26, 2022, which will serve as the end date of the Class and PAGA Period in order to limit the number of Class Members/Aggrieved Employees to no more than 41.

18. Attorney Fees.

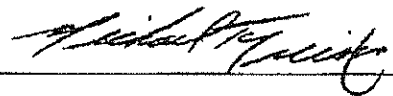
Except as otherwise expressly provided herein, each Party shall bear his or its own expenses related in any way to the Action and the proceedings or investigation leading up to the Action, including attorney fees, expert fees, mediation costs, and all other expenses.

Dated: April 7, 2022
March _____, 2022

DocuSigned by:
By: 
B26ADDFCD4CC408...
LORENZO CALLEROS
Plaintiff and Class Representative

Dated: March 24, 2022

DIAL GENERAL ENGINEERING, a
California general partnership

By: 
Its: _____

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APPROVED AS TO FORM AND CONTENT:

Dated: ~~March~~ 04/07, 2022

GAINES & GAINES, APLC

By: Daniel F. Gaines

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Counsel for Plaintiff and Class
Representative

Dated: ~~March~~ April 6, 2022

KLEIN DeNATALE GOLDNER

By: Jeffrey W. Noe

Jay L. Rosenlieb, Esq.
Jeff Noe, Esq.
Counsel for Defendant

EXHIBIT 1

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

LORENZO CALLEROS, on behalf of himself
and all "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*

Plaintiff,

v.

DIAL GENERAL ENGINEERING, INC., a
California general partnership, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: 22CV-00720

Assigned to the Hon. Brian McCabe

**NOTICE OF PENDENCY OF CLASS
ACTION SETTLEMENT AND FINAL
HEARING**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A settlement will provide \$135,000 to pay claims to all current and former non-exempt California employees of Defendant DIAL General Engineering, a California general partnership ("Defendant") employed from August 23, 2020 through March 26, 2022.
- The settlement resolves a lawsuit over whether Defendant failed to issue accurate and complete wage statements. It avoids costs and risks to you from continuing the lawsuit; pays money to employees; and releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$47,250 as attorneys' fees and \$11,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendant denies liability, and the Parties disagree on what would have been the result if this case went to trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If you move, you must notify the Settlement Administrator of your new address.
Exclude Yourself	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against DIAL General Engineering about the legal claims that were brought in this case. However, even if you do exclude yourself, you will still be bound by the PAGA release in the Settlement.
Object	Write to the Court about why you don't like the settlement.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On March 1, 2022, Plaintiff Lorenzo Calleros filed this lawsuit in the Merced County Superior Court. The lawsuit alleges violations of the California Labor Code. The Lawsuit seeks to certify a class of all current and former non-exempt, hourly California employees of Defendant employed from August 23, 2020, through March 26, 2022 ("Class Period"). The lawsuit alleges that members of the Class were not issued accurate and complete wage statements. It seeks recovery of damages, interest, statutory and civil penalties, attorneys' fees and costs. Defendant denies all of the material allegations in the Lawsuit.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.
 Alex P. Katofsky, Esq.
 Gaines & Gaines, APLC
 27200 Agoura Road, Suite 101
 Calabasas, CA 91301
 Phone: (866) 550-0855

Defendant's Attorneys

Jay L. Rosenlieb, Esq.
 Jeff Noe, Esq.
 KLEIN DE NATALE GOLDNER
 4550 California Ave., 2nd Floor
 Bakersfield, CA 93309
 Phone: (661) 485-2100

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes he would have prevailed on his claims at a trial. Defendant does not believe that Plaintiff would have won anything from a trial. But there was no trial. Instead, both sides agreed to a settlement. That way, they all avoid the costs, risks, and uncertainty of a trial, and the people affected will get compensation. Plaintiff and Plaintiff's Attorneys think the settlement is fair, reasonable and adequate and in the best interests of all Class members.

B. Who is in the Settlement Class?

The Settlement encompasses a class composed of all current and former non-exempt, hourly California employees of Defendant employed at any time from August 23, 2020, through March 26, 2022.

C. What does the Settlement provide?

1. Maximum Settlement Amount.

Defendant will pay \$135,000 (the "Maximum Settlement Amount") to settle the lawsuit. The following sums will be paid from the Maximum Settlement Amount: (1) \$7,500 to the California Labor and Workforce Development Agency; (2) Class Counsel's attorneys' fees in an amount set by the Court not to exceed \$47,250 and Class Counsel's documented litigation costs in an amount set by the Court not to exceed \$11,000; (3) a service payment to the Class Representative set by the court, not to exceed \$20,000, for his service in the Action; and (4) a reasonable amount set by the Court to the settlement administrator for administering the settlement, not to exceed \$3,500. The amount of the Maximum Settlement Amount remaining after these payments is the "Net Settlement Proceeds."

2. Individual Payment Amount.

Your share of the Net Settlement Proceeds will be determined by the formula detailed in section E, below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon the Effective Date, and subject to Defendant's payment of the Maximum Settlement Amount, Plaintiff and all Settlement Class members who do not timely opt-out will be deemed (on their own behalf and on behalf of their dependents, spouses, heirs, successors, assigns, and anyone else purporting to assert a claim under or through them) to have fully released and discharged Defendant, and all of its present and former parent companies, subsidiaries, divisions, and related or affiliated companies, an all of its partners (including general and limited), owners, officers, directors, employees, agents, attorneys, insurers, predecessors, successors, assigns, and any individual or entity which could be liable for any of the Released Claims (hereinafter, "Released Parties") from any and all Released Claims which arose during their employment in a non-exempt position in California during the Class Period.

"Released Claims" are those claims asserted, or which could have been asserted based on the facts alleged, in the Complaint, and which pertain in any way to the wage statements provided to the Class

Members, including claims pursuant to Labor Code sections 226, 226.3, and 558.1, claims under sections 7 and 20 of IWC Wage Order 5-2001 and any other applicable Wage Order, and claims under PAGA (including claims for civil penalties) that are based on, arise from, or are related in any way to the allegations in the Complaint.

Upon the Effective Date, and subject to Defendant's payment of the Maximum Settlement Amount, Plaintiff and all Aggrieved Employees will be deemed to have fully released and discharged the Released Parties from claims under PAGA (including claims for civil penalties), which arose during their employment in a non-exempt position in California during the Class Period, that are based on, arise from, or are related in any way to the allegations in the Complaint.

E. How Is My Share Of The Settlement Calculated?

Each participating claimant (those who do not opt out of the Settlement) shall receive an "Individual Payment Amount," which is a portion of the Net Settlement Proceeds distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form).

The Individual Payment Amounts will be calculated by dividing the Net Settlement Proceeds by the total weeks worked by all participating Class Members in California in a non-exempt, hourly position during the Class Period ("Qualifying Weeks Worked"), which will yield the applicable weekly rate. The weekly rate shall be multiplied by the number of weeks each individual participating Class Member worked for Defendant in California in a non-exempt, hourly position during the Class Period to yield their Individual Payment Amount. Each Participating Settlement Class Member who does not opt out will receive an Individual Payment Amount equal to their individual weeks worked in California in a non-exempt position during the Class Period multiplied by the Workweek Value.

The PAGA Payment of \$2,500 shall be apportioned among the Aggrieved Employees, including those who opt out of the settlement class, based on each employee's number of Qualifying Weeks Worked in a non-exempt position in California during the Class Period

For tax purposes, each Individual Payment Amounts will be apportioned 100% as penalties and reported on an IRS Form 1099, if required. All Individual Payment Amounts paid to Class Members will be subject to any applicable wage garnishments, liens, or other legally mandated treatment as required by law.

According to the records of Defendant, you worked [____] weeks while employed in a non-exempt position in California from August 23, 2020 through March 26, 2022. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[____], and a share of the PAGA payment of \$[____]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than ____, 2022. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the "Final Settlement Hearing") on October 31, 2022, at 8:30 a.m., in the Courtroom of Judge Brian McCabe of the Merced County Superior Court, Department 8, located at 627 West 21st Street, Merced, California 95340. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorneys' fees and costs to be awarded to Plaintiff's Attorneys; and (v) the amount that should be awarded to Plaintiff as a service payment. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than ____, 2022. The Settlement Administrator's address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. If you object in writing, you may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Objections must be postmarked no later than ____, 2022.

- **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement. You will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Class by completely filling out and mailing the enclosed Request for Exclusion Form to the Settlement Administrator at the above-stated address, such that it is postmarked no later than ____, 2022. Even if you opt out of the Settlement Class, you will still be bound by the PAGA release of claims and be issued a share of the PAGA payment.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed "Settlement Agreement and Release of Claims" which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Merced County Superior Court, located at 627 West 21st Street, Merced, California 95340.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number] and tell them you are inquiring about the DIAL General Engineering Class Action Settlement.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT 2

REQUEST FOR EXCLUSION

ONLY COMPLETE THIS REQUEST FOR EXCLUSION FORM IF YOU WANT TO OPT OUT OF (NOT PARTICIPATE IN) THE SETTLEMENT OF THE ACTION KNOWN AS *Lorenzo Calleros, Plaintiff, v. DIAL General Engineering, Inc., a California general partnership, And Does 1 Through 10, Inclusive, Defendants, Merced County Superior Court, Case No. _____*. **IF YOU OPT OUT OF THE SETTLEMENT, YOU WILL NOT RECEIVE ANY PORTION OF THE SETTLEMENT AMOUNT.**

I confirm that I was employed by Defendant DIAL General Engineering, as a non-exempt, hourly employee in California during the period from August 23, 2020 through March 26, 2022.

I do not wish to receive any payment under the terms of the proposed class action settlement or to otherwise participate in the proposed settlement.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

Last four digits of Social Security Number: XXX-XX-_____

IN ORDER TO BE VALID, THIS REQUEST FOR EXCLUSION FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE [45 days after mailing of Notice]. Send this signed request for exclusion form to the Settlement Administrator:

DIAL General Engineering, Claims Administrator
c/o ILYM Group, Inc.

