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SUPERIOR COURT OF STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE-CIVIL COMPLEX CENTER

LOURDES VASQUEZ, as an individual and on behalf of other similarly situated employees, Plaintiff, vs. KRC SANTA MARGARITA, LLC., a California corporation, KISCO SENIOR LIVING, LLC, a California corporation, and DOES 1-50, inclusive, Defendants.	CASE NO: 30-2021-01238849-CU-OE-CXC Assigned For All Purposes To: Hon. Melissa McCormick Dept. CX104 **DECLARATION OF ARMOND M. JACKSON IN SUPPORT PLAINTIFF'S UNOPPOSED MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' MOTION FOR ORDER APPROVING SETTLEMENT UNDER CALIFORNIA LABOR CODE SECTION 2699 ET SEQ.** [*Concurrently filed with Notice of Motion; PAGA Motion; and Proposed Order*] **Hearing Date:** March 27, 2025 **Hearing Time:** 2:00 p.m. **Department:** CX104 Case filed: December 30, 2021 Trial date: TBD

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

1. I am the attorney of record for Plaintiff who filed the above-captioned case against and Defendant 12232 Chapman Ave, Inc. dba Chapman Care Center and Chapman Care Center (Collectively referred to herein as "Defendant"). I am licensed and admitted to practice law in all state courts of California. This declaration is submitted in support of Plaintiff's Unopposed memorandum of Points and Authorities in Support of Plaintiff's Motion for Order Approving Settlement Under California Labor Code section 2699 et seq. ("PAGA Motion"), filed concurrently herewith. The parties entered into a settlement agreement. Attached hereto as **Exhibit A** is a true and correct copy of the settlement agreement.

2. Pursuant to California Labor Code Section 2699(l)(2), on October 25, 2024. I submitted the Plaintiff's Memorandum of Points and Authorities in Support of Plaintiff's Motion for Order Approving Settlement Under California Labor Code Section 2699 et seq. and a copy of the parties' settlement agreement to the California Labor and Workforce Development Agency ("LWDA").

3. Plaintiff filed a civil action entitled *Vasquez v. KRC Santa Margarita, LLC,* filed in Orange Superior Court Case 30-2021-01238849-CU-OE-CXC (hereinafter referred to as "the Action"). During each phase of discovery, Plaintiff's counsel engaged in a detailed case analysis based on the information revealed. Calculations were performed, as well as an analysis of the risks and rewards of continued litigation. As part of the discovery process, Plaintiff performed an investigation in which it was determined that a total of approximately 293 aggrieved employees were subjected to purported Labor Code violations at Defendant. Throughout the course of the litigation, Plaintiff and Defendant engaged in discovery including informal discovery. Defendant produced a 15% sampling of payroll data and its wage and hour policies. This information allowed Plaintiff to evaluate the claims in preparation for mediation. The parties engaged in a full day mediation on January 30, 2024 with Marc Feder that ultimately resulted in a settlement through a mediator's proposal. Thereafter, the parties executed a long form settlement agreement.

Meal Break Violations

4. The maximum exposure amounted to $1,095,100 based upon proving one meal break violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

Rest Break Violations

5. The maximum exposure amounted to $1,095,100 based upon proving one rest break violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

Minimum Wage Violations

6. The maximum exposure amounted to $1,095,100 based upon proving one minimum wage violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

Overtime Wage Violations

7. The maximum exposure amounted to $1,095,100 based upon proving one overtime wage violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

Wage Statement Violations

8. The maximum exposure amounted to $1,095,100 based upon proving one wage statement violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

203 Penalty Violations

9. This penalty claim is based upon purported minimum wage or overtime violations. It was estimated that 169 employees were terminated, laid off, or resigned whom were subjected to Labor Code violations. A penalty of $100 would be accessed for each employee equating to $16, 900. There is a 50% chance of success on these claims with a merits base adjustment to $8,450. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $2,112,50.

2802 Penalty Violations

10. The maximum exposure amounted to $1,095,100 based upon proving one unreimbursed expense claim violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

210 Penalty Violations

11. The maximum exposure amounted to $1,095,100 based upon proving one failure to pay wages claim violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's

discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

<u>221 Penalty Violations</u>

12. The maximum exposure amounted to $1,095,100 based upon proving one unlawful receipt of wage claim violation per pay period for each aggrirved employee (10,951 pay periods * $100 per violation) pay periods during the relevant time period. There is a 50% chance of success on these claims with a merits base adjustment to $547,550. A further 75% discount given the court's discretion on reducing penalties and overcoming the risks of *Viking River* given the arbitration agreement in this case equating to a risk adjusted discount to $136,887.50.

13. Total exposure amounts to $8,777,700 without discounts. There is a 50% chance of success to prevail on all claims justifyuing a risk adjusted discount to $4,388,850. However, given the risks of the applicability of *Viking River Cruises, Inc. v. Moriana* (2022) 142 S. Ct. 1906 and the discretion to reduce penalties, the maximum exposure amount must be further discounted by 75% resulting in a realistic expected exposure of $1,097,212.50 ($4,388,850*.25) Here, the $205,000 settlement amount is 18.7% of the realistic maximum exposure while incorporating risks. If the Court grants Plaintiff's motion, the State and the aggrieved employees will share approximately $61,145.19 which is a substantial sum given the narrow release and extent of Labor Code violations.

14. I have been a California licensed attorney since November 2011. I began my career in law while still in law school when in I served as a law clerk for the Pedersen Law & Dispute and Resolution Corporation ("PLDRC") handling employment related litigation matters. While clerking for PLDRC I analyzed and organized discovery documents and researched employment litigation issues such as Sexual Harassment, Race Discrimination and Wrongful Termination. I worked as an associate attorney at Pedersen McQueen between March 2013 through January 2017 almost exclusively engaging in employment matters representing employees. I have litigated several wage and hour case to trial and currently litigating or have litigated cases valued in the six and seven figure dollar range, including representative actions. I had primary responsibility for approximately 20 litigation matters on average throughout my employment at PLDRC and

Pedersen McQueen and Pedersen Law. I regularly practice in state court and sometimes federal court. As an associate, my responsibilities included carrying primary case responsibility which includes tasks like taking depositions, conducting damages analysis, analyzing discovery documents, conducting client intake, developing discovery and litigation strategies, participating in mediations and arbitrations, engaging in settlement negotiations, trial preparation and trial work, as well as other responsibilities that commonly coincide with managing cases from start to finish. I have been a member of local bar associations, including the Orange County Bar Association, as well as the State Bar of California and American Bar Association and served in a number of leadership roles at all levels. Most notably, I served as a Committee Member of the Orange County Bar Association Young Lawyers' Education Committee and Social Committee.

15. In January 2017, I officially stated my own practice Jackson Law, APC. Throughout my career, I have litigated or currently litigating approximately over 100 wage and hour Private Attorney General Act cases and/or class action cases. I have litigated approximately over 200 employment cases, including wage and hour cases. I was also a member of the California Employment Law Association ("CELA") and argued before the Ninth Circuit and responsible for a published opinion. Based upon my experience, I believe the benefit conferred by the proposed Settlement is eminently fair and reasonable, and is in the best interests of the State of California and the PAGA Representative Group Members because (1) of the monetary benefits provided to the State such as (payroll taxes, income taxes etc.) for an ongoing business, (2) benefit to the PAGA Representative Group as Defendant changed its practices that appears to advise the employees of their rights enabling them to take their rest breaks and meal breaks as well as retain their jobs and receive some monies for penalties they would not have received but for this lawsuit; and (3) the risk, delay, and uncertainty of continued litigation on Plaintiff and Plaintiff's counsel.

16. To date, costs are approximately $9,769.01. Attached hereto as **<u>Exhibit B</u>**, is a true and correct copy of Plaintiff's costs spreadsheet maintained by Jackson Law, APC's law firm practice management software.

Attorneys' Fees

17. To date, attorneys' fees are approximately $63,147. Attached hereto as **Exhibit C**, is a true and correct copy of Plaintiff's attorneys' fees spreadsheet maintained by Jackson Law, APC's law firm practice management software.

18. Attached hereto as **Exhibit D** is a true and correct copy of the August 20, 2021, letter pursuant to the California Private Attorney General Act.

19. Attached hereto as **Exhibit E** is a true and correct copy of the August 24, 2021, amended letter pursuant to the California Private Attorney General Act.

20. Attached hereto as **Exhibit F** is a true and correct copy of the Laffey Matrix.

21. Below is a non-exhaustive list of prior wage and hour representative actions on which I have served as lead or co-counsel.

1. *Kim v. FNS, Inc.*, Los Angeles Superior Court, Case No. BC 578015
2. *Demery v. Pacific Rim Capital Alliance Corporation et al.*, San Diego Superior Court, Case No. 37-2017-00003415-CU-OE-CTL
3. *Goldbaum v. Dollarsmart et al.*, San Diego Superior Court, 30-2015-000077437-CU-WT-CLT
4. *Hernandez v. Personnel Staffing Group, LLC et al.*, Orange County Superior Court, Case No. 30-2017-00899277-CU-OE-CXC
5. *Sanchez, et al v. Pueblo Restaurant, Inc. dba Casa Torres*, Los Angeles Superior Court, Case No. BC697241
6. *Augusto v. HIOG Management Services, LLC, et al.*, San Bernardino Superior Court, Case No. CIVDS1610431
7. *Mendoza v. McNeal, Duckworth and McNeal, Inc.*, Orange County Superior Court, Case No. 30-2017-00899290-CU-OE-CXC
8. *Ortiz v. Bayside Insurance Associates, Inc. et al*, Orange County Superior Court, Case No. 30-2016-00895669-CU-OE-CXC
9. *Paramo v. Quest Nutrition LLC et al.*, Los Angeles County Superior Court, Case No. BC609306

10. *Luis v. Second Street Corporation dba Huntley House Hotel*, Los Angeles County Superior Court, Case No. BC691018

11. *Venegas, at al. v. Bergen Shippers Corp, et al*, Los Angeles County Superior Court, Case No. BC715217

12. *Bernal v. Bristol Equity Partners LP et al*, Orange County Superior Court, Case No. 30-2016-00854699-CU-OE-CXC

13. *Rowe v. Rasier-CA, LLC*, Orange County Superior Court, Case No. 30-2018-00989673-CU-OE-CXC

14. *Abarca v. Habit Restaurants, LLC, The et al*, Orange County Superior Court, Case No. 30-2016-00840385-CU-OE-CJC

15. *Radilla v. States Logistics Services, Inc*., Orange County Superior Court, Case No. 30-2018-00978231-CU-WT-CJC

16. *Rodriguez v. Lampson Sewing Incorporated et al*, Orange County Superior Court, Case No. 30-2017-00900653-CU-OE-CJC

17. *January v. Discovery Management Inc. et al*, Los Angeles Superior Court, Case No. BC635918

18. *Angel Hernandez v. Merchants Landscape Services, Inc. et al*., Los Angeles Superior Court, Case No. BC674131

19. *Quezada v. Garden Fresh Restaurant Corp. et al*, Orange County Superior Court, Case No. 30-2016-00840321-CU-OE-CJC

20. *Munoz v. Batten Down, Inc. et al*, Los Angeles County Superior Court, Case No. BC617880

21. *Salgado v. Resort at Pelican Hill, LLC et al*, Orange County Superior Court, Case No. 30-2016-00840386-CU-OE-CJC

22. *Darmawati v. Westview Services Inc*., Orange County Superior Court, Case No. 30-2015-00795449-CU-OE-CJC

23. *Escobar v. Westcoast Textiles, Inc. et al*, Orange County Superior Court, Case No. 30-2018-00979111-CU-OE-CXC

24. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case No. 30-2017-00900648-CU-OE-CXC

25. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case No. 8:19-cv-00564

26. *Plascencia v. RM HQ, LLC, dba Real Mex Restaurants*, Orange County Superior Court, Case No. 30-2017-00926015-CU-OE-CXC

27. *Casas v. PC Hospitality et al*., Orange County Superior Court, Case No. 30-2016-00877489-CU-OE-CXC

28. *Leon v. SWH Mimi's Café, LLC*, Orange County Superior Court, Case No. 30-2018-00978815-CU-OE-CXC

29. *Quintanilla v. Southwest Wine & Spirits, LLC*, Los Angeles Superior Court, Case No. BC653817

30. *Fabiola Rodriguez v. Second Floor Food, Drinks and Art, LLC*, Orange County Superior Court, Case No. 30-2018-00981362-CU-WT-CXC

31. *Santiseban v. Rod Fraser Enterprises, Inc. et al*, Orange County Superior Court, Case No. 30-2017-00904202-CU-OE-CXC

32. *Milano v. Lev Tambor dba Distractions Lounge*, Orange County Superior Court, Case No. 30-2018-00966582-CU-WT-CXC

33. *Ajin v. Lymi, Inc*, Los Angeles County Superior Court, Case No. BC696168

34. *Recinos v. Pacific American Fish Co., et al*, Los Angeles Superior Court, Case No. BC710735

35. *Valle-Valdez v. St. Jude Hospital Yorba Linda, et al*, Orange County Superior Court, Case No. 30-2015-00795457-CU-OE-CJC

36. *Juarez v. Arakelian Enterprises, Inc*., et al, Los Angeles Superior Court, Case No. BC710736

37. *Solarzano v. T&J Fresh Co. dba Chomp Sushi*, Orange County Superior Court, Case No. 30-2018-00981299-CU-OE-CXC

38.*Taylor v. G.I. Trucking Company dba Estes West et al*, Los Angeles Superior Court, Case No. BC722778

39. *Rendon v. L & L Foods Holdings, LLC, et al*, Orange County Superior Court, Case No. 30-2018-00982745-CU-OE-CXC

40. *Magana v. Zara USA, Inc., et al*, Orange County Superior Court, Case No. 8:18-cv-02249-AG (ADSx)

41. *Flores v. ABM Industry Groups, LLC et al*, Orange County Superior Court, Case No. 30-2018-00971152-CU-WT-CJC

42. *Diaz v. Macy's West Stores, Inc. dba Macy's*, Central District of California, Case No. SACV19-00303 ODW (MAAx)

43. *Aguirre v. Shelfmaster el al*, Orange County Superior Court, 30-2015-00787557-CU-OE-CJC

44. *Goldman v. Encore Energy, Inc.*, Los Angeles County Superior Court, BC606773

45. *Munoz v. 8947 Sunset Pizza, LLC et al*., Los Angeles Superior Court, Case No. BC646999

22. My hourly rate is $725. The other attorneys and staff whom worked on this matter are comprised of Andrea Fernandez- Jackson whom is an 10-year California licensed attorney with a billable rate of $515 per hour which should be considered reasonable. Another attorney at my office Anthony Filer Jr. also worked on this smatter whom is a 2-year California licensed attorney with a billable rate of $250 per hour which should be considered reasonable. Yesenia Villalba whom is a paralegal with over five years of legal experience with a billable rate of $145 which should be considered reasonable.

I declare under penalty of perjury and under the laws of the State of California that the foregoing statements are true and correct and stated of my own personal knowledge. I have signed this declaration on November 7, 2024, in Irvine, California.

/s/ Armond M. Jackson
Armond M. Jackson

EXHIBIT A

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between plaintiff Lourdes Vasquez ("Plaintiff") and defendants KRC Santa Margarita, LLC dba Park Terrace ("KRC") and Kisco Senior Living, LLC ("Kisco" and collectively with KRC, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties," or individually as "Party."

1. <u>DEFINITIONS</u>.

1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against Defendants captioned *Lourdes Vasquez v. KRC Santa Margarita, LLC dba Park Terrace* (Orange County Superior Court Case No. 30-2021-01238849-CU-OE-CXC) initiated on December 30, 2021.

1.2. "Administrator" means Phoenix Class Action Administration Solutions, the neutral entity the Parties have agreed to appoint to administer the terms of this Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.

1.4. "Aggrieved Employee" means a person employed by defendant KRC in California as an hourly, non-exempt employee at any time during the PAGA Period.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. "Court" means the Superior Court of California, County of Orange.

1.8. "Defense Counsel" means Fisher & Phillips LLP.

1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the day the Court enters Judgment.

1.10. "Gross Settlement Amount" means Two Hundred Five Thousand Dollars and Zero Cents ($205,000.00) which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel

Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.

1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid as PAGA Penalties, allocated 25% to the Aggrieved Employees as Individual PAGA Payments and 75% to the LWDA as the LWDA PAGA Payment.

1.16. "PAGA Counsel" means Armond M. Jackson and Andrea Fernandez-Jackson, of Jackson APC, the attorneys representing the Plaintiff in the Action.

1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee was employed by defendant KRC in California as an hourly, non-exempt employee during the PAGA Period. PAGA Pay Periods may be based on either: (1) pay periods during at least one shift was worked; or (2) hire dates and, where applicable, last dates worked or separation dates, re-hire dates, dates of any periods of leave, and dates of any transition between non-exempt and exempt status.

1.19. "PAGA Period" means the period from August 20, 2020 to April 11, 2024.

1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698 et seq.).

1.21. "PAGA Notice" means Plaintiff's PAGA Notice letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.

1.23. "Plaintiff" means Lourdes Vasquez, the named plaintiff in the Action.

1.24. "Approval Order" means the Court Order Granting Approval of PAGA Settlement.

1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.26. "Released Parties" means: Defendants and their former, present, and future owners, parents, and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.28. "Defendants" means named Defendants KRC Santa Margarita, LLC dba Park Terrace and Kisco Senior Living, LLC.

2. **RECITALS**.

2.1. On December 30, 2021, Plaintiff commenced this Action by filing a Class Action Complaint alleging causes of action against Defendants for: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to pay timely wages; (4) failure to unlawfully receive wages; (5) failure to provide compliant meal periods; (6) failure to provide compliant rest periods; (7) failure to provide accurate itemized wage statements and maintain accurate timekeeping/payroll records; (8) failure to timely pay final wages upon termination of employment; (9) failure to reimburse necessary expenses incurred; (10) unlawful/unfair business practices; and (11) violations of the California Private Attorneys General Act ("PAGA"). Plaintiff voluntarily dismissed her class claims pursuant to her arbitration agreement, and on May 4, 2022, Plaintiff filed a First Amended Complaint alleging a single cause of action against Defendants for violation of PAGA (and removing all non-PAGA individual and class claims), seeking PAGA civil penalties, on behalf of herself and all other aggrieved current and former similarly situated employees of defendant KRC in California, predicated on allegations that Defendants failed to pay minimum, regular, and overtime wages; unlawfully collected/received wages; failed to timely pay wages during employment; failed to provide compliant meal periods or premium pay in lieu thereof; failed to provide compliant rest periods or premium pay in lieu thereof; failed to provide accurate itemized wage statements; failed to maintain accurate timekeeping and payroll records; failed to reimburse necessary expenses incurred; and failed to timely pay final wages upon separation of employment. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint.").

2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice on August 20, 2021.

2.3. On September 16, 2022, Defendants filed a motion to compel arbitration of Plaintiff's individual (non-representative) PAGA claim and stay the Action. On December 21, 2022, the Parties filed a Joint Stipulation to arbitrate Plaintiff's individual (non-representative) PAGA claim and stay the Action. On November 18, 2022, Plaintiff submitted her individual PAGA claim to arbitration with JAMS.

2.4. On January 30, 2024, the Parties participated in an all-day mediation with experienced employment law mediator Marc Feder, Esq., which led to this Agreement to settle the Action.

2.5. Prior to mediation, Plaintiff obtained, through informal discovery, relevant information and documents, including, *inter alia*: (1) Plaintiff's personnel files and timekeeping/payroll records; (2) employee handbooks and written employment policies in effect during the PAGA Period; (3) a representative randomized sampling of corresponding time and pay records for 15% of Aggrieved Employees; (4) PAGA group composition data points, including, for both current and formerly-employed Aggrieved Employees between the start of the PAGA Period (August 20, 2020) and the date of mediation (January 30, 2024), total number pay periods.

2.6. The Parties, PAGA Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement, except for the JAMS Arbitration that Plaintiff's individual non-representative PAGA claim was submitted to. Plaintiff's individual PAGA claim (but not non-PAGA individual claims) in the JAMS Arbitration shall be released and extinguished as part of this Settlement.

3. MONETARY TERMS.

3.1. <u>Gross Settlement Amount</u>. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay Two Hundred Five Thousand Dollars and Zero Cents ($205,000.00) and no more as the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2. <u>Payments from the Gross Settlement Amount</u>. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. <u>To PAGA Counsel</u>: A PAGA Counsel Fees Payment of not more than 33.33% of the Gross Settlement Amount, which is currently estimated to be $68,326.50 and PAGA Counsel Litigation Expenses Payment of not more than $15,000. Defendants will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment. If the Court approves a PAGA Counsel

Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed Ten Thousand Dollars and Zero Cents ($10,000) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than Ten Thousand Dollars and Zero Cents ($10,000), the Administrator will retain the remainder in the Net Settlement Amount.

3.2.3. To the LWDA and Aggrieved Employees: After making the above deductions from the Gross Settlement Amount in amounts approved by the Court for the PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and Administration Expenses Payment, the remainder ("Net Settlement Amount") shall be paid as PAGA Penalties, which is currently estimated to be One Hundred Eleven Thousand Six Hundred Seventy-Three Dollars and Fifty Cents ($111,673.50), with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

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

3.2.3.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are 293 Aggrieved Employees who worked a total of approximately 10,951 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Not later than 30 days after the Court grants Approval of the Settlement, Defendants will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after Defendants funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee, leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure § 384(b).

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS**. Effective on the date when Defendants fully fund the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Plaintiff's Release. Plaintiff and her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims for PAGA penalties, including, but not limited to, all PAGA claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. This Agreement does not impact or affect the FEHA Action styled as *Lourdes Vasquez v. KRC Santa Margarita et al*, filed in the Superior Court of California, County of Orange (Case No.: 30-2022-01258883-CU-WT-CJC), or the non-PAGA individual claims in the Individual Arbitration with JAMS (JAMS Case No. 1200060305), which are subject to a separate settlement agreement that is contingent upon court approval of the instant PAGA Settlement.

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

> A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2. Release by Aggrieved Employees:

The State of California and all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

5.3. Release by PAGA Counsel:

PAGA Counsel release, on behalf of their present and former attorneys, employees, agents, successors, and assigns, the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel, or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), and this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement, except for the JAMS arbitration that Plaintiff's individual non-representative PAGA claim was submitted to (Plaintiff's individual PAGA claim in the JAMS arbitration shall be released and extinguished as part of this Settlement).

6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Approval Order to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

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

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE
Based on its records, Defendants estimate that, as of the date of this Settlement Agreement, there are 293 Aggrieved Employees who worked a total of approximately 10,951 Pay Periods (between the start of the PAGA Period on August 20, 2020 and the date of mediation on January 30, 2024). If the number of Pay Periods worked by the Aggrieved Employees is greater than 10% above that estimated by Defendant, or 12,046 Pay Periods worked, then Plaintiff shall have the right to request a pro-rata increase in the Gross Settlement Amount equal to the percentage increase in Pay Periods above 10% (i.e., if the total Pay Periods increases by 12%, then a 2% increase to the Gross Settlement Amount). However, if the escalator clause is triggered, Defendants may alternatively choose to end the PAGA Period on the date that the increase would otherwise be triggered.

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendants' defenses.

10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement. PAGA Counsel shall not report the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the PAGA Group or the Settlement on their website, and shall not contact any reporters or media regarding the Agreement. Nothing in this provision prevents PAGA Counsel from discussing the Settlement with Plaintiff, the Aggrieved Employees, and in any filings with the LWDA or the Court.

10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendants unless, prior to the Administrator's payment of all Settlement

Funds, Defendants make a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.16. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

PLAINTIFF: **LOURDES VASQUEZ**

Dated: 10/04/2024 ____________________

Lourdes Vasquez
Plaintiff

DEFENDANT: **KRC SANTA MARGARITA, LLC AND**

Dated: ____________________ ____________________

By: ____________________

Title: ____________________

[Additional signatures on following page]

DEFENDANT: **KISCO SENIOR LIVING, LLC**

Dated: ____________________ ________________________________

By: __________________________

Title: __________________________

APPROVED AS TO FORM BY COUNSEL

PAGA COUNSEL: **JACKSON APC**

Dated: October 4, 2024 Armond M. Jackson

Armond M. Jackson
Attorneys for Plaintiff

DEFENSE COUNSEL: **FISHER PHILLIPS LLP**

Dated: ____________________ ________________________________

Bret Martin
Attorneys for Defendants

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PLAINTIFF: **LOURDES VASQUEZ**

Dated: ____________________

____
Lourdes Vasquez
Plaintiff

DEFENDANT: **KRC SANTA MARGARITA, LLC AND**

Dated: 10/17/2024

____

By: John Hanna

Title: CFO

[Additional signatures on following page]

DEFENDANT:

KISCO SENIOR LIVING, LLC

Dated: Oct 15, 2024

David Hope
David Hope (Oct 15, 2024 16:03 PDT)

By: David Hope

Title: SVP of HR

APPROVED AS TO FORM BY COUNSEL

PAGA COUNSEL:

JACKSON APC

Dated: ____________________

____
Armond M. Jackson
Attorneys for Plaintiff

DEFENSE COUNSEL:

FISHER PHILLIPS LLP

Dated: October 29, 2024

____
Bret Martin
Attorneys for Defendants

Vasquez v. KRC - PAGA Settlement Agreement

Final Audit Report 2024-10-15

Created:	2024-10-15
By:	Elizabeth Abina (eabina@fisherphillips.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAj-IbsiVRrUhpq-EKqOukI_LABxhJt4SQ

"Vasquez v. KRC - PAGA Settlement Agreement" History

Document created by Elizabeth Abina (eabina@fisherphillips.com)
2024-10-15 - 8:47:56 PM GMT

Document emailed to david.hope@kiscosl.com for signature
2024-10-15 - 8:49:10 PM GMT

Email viewed by david.hope@kiscosl.com
2024-10-15 - 11:02:25 PM GMT

Signer david.hope@kiscosl.com entered name at signing as David Hope
2024-10-15 - 11:03:10 PM GMT

Document e-signed by David Hope (david.hope@kiscosl.com)
Signature Date: 2024-10-15 - 11:03:12 PM GMT - Time Source: server

Agreement completed.
2024-10-15 - 11:03:12 PM GMT

Vasquez v. KRC - PAGA Settlement Agreement - Partially Executed

Final Audit Report 2024-10-17

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By:	Elizabeth Abina (eabina@fisherphillips.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfiGCKhfjf7nSW0-O61Z-QlduRpKdRXcv

"Vasquez v. KRC - PAGA Settlement Agreement - Partially Executed" History

Document created by Elizabeth Abina (eabina@fisherphillips.com)
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Document emailed to John Hanna (john.hanna@kiscosl.com) for signature
2024-10-15 - 11:15:29 PM GMT

Email viewed by John Hanna (john.hanna@kiscosl.com)
2024-10-17 - 4:04:04 PM GMT

Document e-signed by John Hanna (john.hanna@kiscosl.com)
Signature Date: 2024-10-17 - 4:04:34 PM GMT - Time Source: server

Agreement completed.
2024-10-17 - 4:04:34 PM GMT

EXHIBIT B

INVOICE

Company Logo

Jackson APC,

BILL TO

Lourdes Vasquez
22482 alma aldea apt.138
Rancho Santa Margarita CA 92688

Invoice Number:	670
Invoice Date:	10/24/2024
Terms:	30
Due Date:	**11/23/2024**
Amount Due:	**$9,769.01**
Invoice Start Date:	
Invoice End Date:	

TIME

Date	Description	Team Member	Code	Code 2	Rate	Hours	Total
							$0.00

EXPENSES

Date	Description	Code	Code 2	Qty	Price	Unit	Total
05/10/21	Mailed out Letter to Request Personnel File			1	0.71	1	0.71
01/03/22	One Legal Invoice 13425777 (Court Fees)			1	1,449.25	1	1,449.25
03/09/22	Janney and Janney 5679916-02 (Process Service)			1	90.00	1	90.00
03/29/22	Janney and Janney 5679916-01 (Process Service)			1	45.00	1	45.00
05/05/22	One Legal Invoice 13698623 (Court Fees)			1	14.75	1	14.75
07/22/22	One Legal Invoice_13870418 (Court Fees)			1	14.75	1	14.75
08/02/22	CIVIL47869706 Court Document Download (Court Fees)			1	7.50	1	7.50

08/03/22	One Legal Invoice 13895312 (Court Fees)			1	14.75	1	14.75
07/18/23	Civil Doc Authorization Download - 066848 (Court Fees)			1	7.50	1	7.50
08/01/23	One Legal Invoice 14758662 (Court Fees)			1	15.20	1	15.20
11/21/23	One Legal Invoice 15062884 (Court Fees)			1	15.20	1	15.20
01/31/24	Mediation Fee			1	8,000.00	1	8,000.00
05/17/24	One Legal Invoice 15606129 (Court Fees)			1	17.20	1	17.20
08/30/24	One Legal Invoice 15900384 (Court Fees)			1	17.20	1	17.20
10/18/24	Motion Filing Costs (Court Fees)			1	60.00	1	60.00
							$9,769.01

FLAT FEE

Date	Description	Code	Code 2	Qty	Price	Unit	Total
							$0.00

Invoice Total:	$9,769.01
Amount Paid:	($0.00)
Amount Due:	**$9,769.01**

EXHIBIT C

INVOICE

Company Logo

Jackson APC,

BILL TO

Lourdes Vasquez
22482 alma aldea apt.138
Rancho Santa Margarita CA 92688

Invoice Number:	671
Invoice Date:	10/24/2024
Terms:	30
Due Date:	**11/23/2024**
Amount Due:	**$63,147.00**
Invoice Start Date:	
Invoice End Date:	

TIME

Date	Description	Team Member	Code	Code 2	Rate	Hours	Total
12/16/21	Reviewed case file and researched case facts.	Armond Jackson			725.00	2.10	1,522.50
12/20/21	Reviewed personnel produced as part of prelitigation process.	Armond Jackson			725.00	3.20	2,320.00
12/21/21	Researched potential wage and hour claims; i.e. minimum wage, overtime, rest breaks, meal breaks, wage statements, unreimbursed business expenses and failure to pay.	Armond Jackson			725.00	3.10	2,247.50
12/22/21	Researched Defendant entity's locations, prior lawsuits and litigation history.	Armond Jackson			725.00	3.10	2,247.50
12/29/21	Drafted Complaint.	Armond Jackson			725.00	3.00	2,175.00
02/07/22	Drafted email re: case status.	Armond Jackson			725.00	0.30	217.50
05/04/22	Drafted Amended Complaint.	Armond Jackson			725.00	0.80	580.00

05/04/22	Amended PAGA Complaint filing.	Armond Jackson	725.00	0.80	580.00
06/07/22	Met and conferred w/ AF re: arbitration issues.	Armond Jackson	725.00	0.50	362.50
07/22/22	Drafted Joint Statement.	Armond Jackson	725.00	0.50	362.50
07/29/22	Attended status conference.	Armond Jackson	725.00	0.50	362.50
08/02/22	Notice of Rulings	Yesenia Villalba	145.00	0.50	72.50
08/02/22	Reviewed and revised notice of ruling,	Armond Jackson	725.00	0.20	145.00
09/20/22	Drafted Joint Statement/ review court website.	Yesenia Villalba	145.00	0.60	87.00
09/20/22	Review drafted Joint Statement	Anthony Filer	250.00	0.60	150.00
09/20/22	Reviewed Defendant's motion to compel arbitration.	Armond Jackson	725.00	2.90	2,102.50
09/23/22	Reviewed arbitration agreement attached to Defendant's motion to compel.	Armond Jackson	725.00	2.40	1,740.00
09/28/22	Researched position re: arbitration and contemplated opposition.	Armond Jackson	725.00	2.10	1,522.50
11/07/22	Drafted Demand for Arbitration	Anthony Filer	250.00	0.30	75.00
11/09/22	Drafted Demand for Arbitration.	Anthony Filer	250.00	0.50	125.00
11/14/22	Drafted Demand for Arbitration	Anthony Filer	250.00	0.20	50.00
11/16/22	Drafted JAMS Demand for Arbitration	Anthony Filer	250.00	0.50	125.00
11/18/22	Review drafted Demand for Arbitration	Anthony Filer	250.00	0.20	50.00
12/14/22	Review Stipulation to Arbitrate	Anthony Filer	250.00	0.30	75.00
12/19/22	Reviewed email and crafted procedural status timelines of the case and brief report of same.	Armond Jackson	725.00	1.30	942.50

12/20/22	Review Joint Stipulation to Arbitrate	Anthony Filer	250.00	0.30	75.00
12/21/22	Review filed Stipulation / Signed Order	Anthony Filer	250.00	0.10	25.00
02/03/23	Prep for ADR review hearing	Anthony Filer	250.00	0.60	150.00
02/06/23	Prep for ADR Review Hearing	Anthony Filer	250.00	0.60	150.00
05/12/23	Prepared for and conducted call with oc.	Armond Jackson	725.00	0.50	362.50
05/15/23	Review emails re: mediators	Anthony Filer	250.00	0.10	25.00
05/16/23	Researched proposed mediators to confer with oc.	Armond Jackson	725.00	1.20	870.00
05/17/23	Review email re: proposed mediators	Anthony Filer	250.00	0.20	50.00
05/19/23	Review emails re: mediation	Anthony Filer	250.00	0.10	25.00
06/23/23	Review emails re: discovery exchange	Anthony Filer	250.00	0.10	25.00
06/30/23	Review informal discovery request	Anthony Filer	250.00	0.10	25.00
06/30/23	Researched and listed request for informal discovery and sent request to oc.	Armond Jackson	725.00	1.20	870.00
07/06/23	Prep for ADR Review Hearing	Anthony Filer	250.00	0.10	25.00
07/07/23	Reviewed emails re: mediation dates and conferred re: calendar and coordinating with potential mediators.	Armond Jackson	725.00	0.50	362.50
07/10/23	Prep for ADR Review Hearing	Anthony Filer	250.00	0.10	25.00
07/14/23	Follow up re: ADR Review Hearing	Anthony Filer	250.00	0.10	25.00
07/17/23	Review emails re: mediation	Anthony Filer	250.00	0.10	25.00
11/20/23	Review email re: change of address	Anthony Filer	250.00	0.10	25.00

12/13/23	Review minute order	Anthony Filer	250.00	0.10	25.00
01/09/24	Review email re: informal discovery	Anthony Filer	250.00	0.10	25.00
01/16/24	Review email re: informal discovery	Anthony Filer	250.00	0.20	50.00
01/17/24	Drafted and outlined mediation brief.	Armond Jackson	725.00	1.90	1,377.50
01/18/24	Review emails re: arbitration CMC continuance	Anthony Filer	250.00	0.30	75.00
01/18/24	Reviewed Defendant's wage and hour policies.	Armond Jackson	725.00	2.70	1,957.50
01/19/24	Continued drafted mediation brief.	Armond Jackson	725.00	2.80	2,030.00
01/19/24	Reviewed and researched pay codes on pay data production.	Armond Jackson	725.00	2.80	2,030.00
01/22/24	Draft mediation brief	Anthony Filer	250.00	1.30	325.00
01/22/24	Cont. reviewing and researched pay codes on pay data production.	Armond Jackson	725.00	2.30	1,667.50
01/22/24	Catalogued, reviewed and analyzed time data punch entries.	Armond Jackson	725.00	3.40	2,465.00
01/23/24	Cont. review of time data punch entries.	Armond Jackson	725.00	3.50	2,537.50
01/24/24	Review emails re: mediation brief	Anthony Filer	250.00	0.10	25.00
01/24/24	Cont. reviewing and researched pay codes on pay data production.	Armond Jackson	725.00	1.90	1,377.50
01/24/24	Crafted penalty matrix and analyzed penalties.	Armond Jackson	725.00	3.10	2,247.50
01/25/24	Sign confidentiality agreement	Anthony Filer	250.00	0.10	25.00
01/25/24	Review emails re: confidentiality agreement	Anthony Filer	250.00	0.10	25.00
01/25/24	Cont. review and analyze time data punch entries.	Armond Jackson	725.00	3.90	2,827.50

01/29/24	Review emails re: confidentiality agreement	Anthony Filer	250.00	0.10	25.00
01/29/24	Review emails re: confidentiality agreement	Anthony Filer	250.00	0.10	25.00
01/29/24	Cont. review of time data punch entries.	Armond Jackson	725.00	2.90	2,102.50
01/30/24	Review completed confidentiality agreement	Anthony Filer	250.00	0.10	25.00
01/30/24	Prepared for and attended mediation.	Armond Jackson	725.00	8.20	5,945.00
02/01/24	Review MOU redlines	Anthony Filer	250.00	0.20	50.00
02/05/24	Reviewed MOU and discussed MOU with counsel.	Armond Jackson	725.00	1.10	797.50
02/07/24	Reviewed email re: procedural status, researched status and confirmed email sent by oc.	Armond Jackson	725.00	0.30	217.50
03/22/24	Prep for Final Status Conference	Anthony Filer	250.00	0.20	50.00
03/25/24	Prep for final status conference hearing	Anthony Filer	250.00	0.20	50.00
03/29/24	Prep for / attend Status Conference	Anthony Filer	250.00	0.50	125.00
04/02/24	Drafted Settlement Agreement	Anthony Filer	250.00	0.40	100.00
05/16/24	Sent joint statement to oc.	Armond Jackson	725.00	0.20	145.00
05/17/24	Review Minute Order	Anthony Filer	250.00	0.10	25.00
05/20/24	Revised PAGA Settlement.	Armond Jackson	725.00	1.90	1,377.50
05/31/24	Review email re: settlement status	Anthony Filer	250.00	0.20	50.00
06/25/24	Responded to email re: settlement.	Armond Jackson	725.00	0.30	217.50
06/25/24	Review emails re: settlement status	Anthony Filer	250.00	0.10	25.00

07/17/24	Reviewed settlement agreement.	Armond Jackson	725.00	0.40	290.00
08/26/24	Drafted joint statement.	Armond Jackson	725.00	0.50	362.50
08/26/24	Reviewed email re: settlement agreement.	Armond Jackson	725.00	0.20	145.00
08/26/24	Researched procedural status and sent email to oc re: settlement administration process.	Armond Jackson	725.00	0.30	217.50
08/27/24	Reviewed email from oc re: finalization of settlement agreement.	Armond Jackson	725.00	0.20	145.00
08/27/24	Reviewed revised terms of the settlement agreement and responded to oc. Researched prior analysis to confirm position.	Armond Jackson	725.00	0.50	362.50
09/10/24	Reviewed email from oc re: long form settlement agreement revisions and release period.	Armond Jackson	725.00	0.20	145.00
09/10/24	Reviewed email from oc re: updates and reviewed and analyzed proposed revisions to the settlement agreement.	Armond Jackson	725.00	0.40	290.00
09/30/24	Reviewed email from oc re: settlement agreement.	Armond Jackson	725.00	0.20	145.00
10/03/24	Sent email to oc re: settlement agreement.	Armond Jackson	725.00	0.30	217.50
10/10/24	Drafted PAGA approval papers.	Armond Jackson	725.00	2.20	1,595.00
10/14/24	Drafted PAGA approval papers.	Armond Jackson	725.00	1.50	1,087.50
10/14/24	Finalized PAGA approval papers.	Armond Jackson	725.00	3.20	2,320.00
					$63,147.00

EXPENSES

Date	Description	Code	Code 2	Qty	Price	Unit	Total

$0.00

FLAT FEE

Date	Description	Code	Code 2	Qty	Price	Unit	Total
							$0.00

Invoice Total:	$63,147.00
Amount Paid:	($0.00)
Amount Due:	**$63,147.00**

EXHIBIT D

JACKSON APC

2 Venture Plaza, Ste. 240 * Irvine, CA 92618 * Tel: 949-281-6857 * Fax: 949-777-6218
Jackson APC

Armond Jackson
ajackson@jacksonapc.com

August 20, 2021

Sent By Certified Mail to KRC Santa Margarita, LLC and Kisco Senior Living, LLC

Submitted Via Online to Labor and Workforce Development Agency

KRC Santa Margarita, LLC
21952 Buena Suerte
Rancho Santa Margarita, California 92688

KRC Santa Margarita, LLC
5790 Fleet Street, Suite 300
Carlsbad, California 92006

Kisco Senior Living, LLC
5790 Fleet Street, Suite 300
Carlsbad California 92008

Corporation Service Company Which Will Do Business In California as CSC-Lawyer Incorporating Service Agent for Service of Process for KRC Santa Margarita, LLC
12710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Corporation Service Company Which Will Do Business In California as CSC-Lawyer Incorporating Service Agent for Service of Process for Kisco Senior Living, LLC
12710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Labor and Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

**PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE
PURSUANT TO LABOR CODE § 2699**

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 226.7, 510, 512, 558, 1194, 2802
Violations of California Labor Code Section 1198 Industrial Welfare Commission Order Nos. 4-2001 and 5-2001 ("Wage Orders 4 and 5"), Sections 3, 7, 11 12)
Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)
Lourdes Vasquez v. KRC Santa Margarita, LLC et al.

Dear KRC Santa Margarita, LLC, Kisco Senior Living, LLC and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator, KRC Santa Margarita, LLC and Kisco Senior Living, LLC by Lourdes Vasquez ("Ms. Vasquez" or "Plaintiff") on behalf of all aggrieved current and aggrieved former similarly situated employees of KRC Santa Margarita, LLC ("KRC") Kisco Senior Living, LLC ("KSL") collectively referred to herein as "Defendants" or "Defendant" located at 21952 Buena Suerte, Rancho Santa Margarita, California 92688 and all other Employer California locations, a private right of action under the Private Attorney General Act (PAGA) of 2004. As a prerequisite to filing this private action in superior court, Ms. Vasquez is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below. (Labor Code § 2699.3) If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson APC at 949-281-6857 or via email at ajackson@jacksonapc.com.

Facts and Theories

This letter encompasses violations for the employees working at Defendant throughout California as nonexempt employees.

Ms. Vasquez worked as a nonexempt employee to work at Defendants that performed job duties such as servicing guests at a senior living facilities and other tasks as assigned. Throughout Ms. Vasquez's employment, she worked 5, 6, 10 hour plus shifts and was not authorized or permitted to take a uninterrupted 30-minute meal break each five hours at a reasonably practicable time nor was she authorized or permitted to take a second meal break or third rest break which she was entitled to on the shifts when she worked above 10 and 12 hours shifts. Moreover, throughout Ms. Vasquez's employment, she worked above 4 hour plus shifts and was not authorized or permitted to take a uninterrupted 10-minute rest break each four hours at a reasonably practicable time. During their any meal breaks and rest breaks, Ms. Vasquez and similarly situated employees were required to report to work and answer COVID-19 related questions, undergo a temperature medical inspection before being permitted to clock in at the beginning of the shift and when returning to work after a meal break .This procedure interrupted and shortened their legally entitled 30-minute meal breaks and rest breaks. During unpaid meal breaks, this work would amount to off-the-clock work entitling Plaintiff and similarly situated employees to either minimum or overtime wages.

Defendants did not compensate Ms. Vasquez and similarly situated aggrieved employees with their premium wages or actual wages when she was subjected to late, short, missed, on-call, interrupted, on-premises or missed meal breaks and rest breaks in violation of California Labor Code section 226.7, 512, and Wage Order 4, Sections 11 and 12 and Wage Order 5, Sections 11 and 12 approximately 10 to 20 shifts each month per employee.

Moreover, Defendants failed to incorporate Plaintiff's premium wages and hours worth of work on his wage statements as required by California Labor Code section 226(a) 1-2, 4-5 and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks and rest breaks as stated above or paid premium wages nor were the hours worth of work or premium wages disclosed on their wage statements.

Moreover, Ms. Vasquez and similarly situated employees worked off-the-clock before being clocking in at the beginning of their work shift and unpaid meal periods when being required to undergo medical inspections and temperature checks as they had to and having to wait in line to go through next step then go through COVID-19 related questions and/or undergo temperature checks, and/or being pressured or encouraged to take on-premises meal breaks and/or returning early from meal breaks to go through medical inspection and temperature check process in violation of California Labor Code sections 510, 1194 and Wage Order 4, Section 3 and Wage Order 5, Section 3. Moreover, Ms. Vasquez and similarly situated employees were also required to put on uniforms including an apron, black pants, name badge and mask before clocking in and taking these items off after clocking out. This process is also in violation of California Labor Code sections 510, 1194 and Wage Order 4, Section 3 and Wage Order 5, Section 3 as this work time should have been paid.

Furthermore, Defendants did not provide Ms. Vasquez and similarly situated employees with face masks for work purposes as they were required to wear them due to the COVID-19 restrictions and required Ms. Vasquez and similarly situated employees to purchase their own face masks and not reimbursed for this expense incurred in order to perform their job duties in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s). Employees were also required to use their personal cell phones to answer text messages in which the Defendant failed to reimburse for usage of these personal devices.

Lastly, at the time of Ms. Vasquez's termination, Defendants refused to pay Ms. Vasquez her entitled wages and premium wages. Ms. Vasquez believes that Defendants do not pay premium wages to any of the similarly situated employees at the time of termination.

By virtue of requiring Ms. Vasquez to work off-the-clock at Defendant, not authorizing or permitting Ms. Vasquez and all other similarly situated employees to take their entitled meal breaks and rest breaks, failing to incorporate hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, hours worked at the applicable hourly rate and deductions that should have been taken out, and failing to pay out wages and premium wages at termination, Defendants are violating California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 510, 512, 1194 and 226.7, Wage Orders 4 and 5, Sections 3, 7, 11 and 12.

Violation of California Labor Code Section 203

An employer may not willfully fail to pay any wages owed to an employee who is either discharged or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. (See Lab. Code §203) Here, Defendants did not compensate Ms. Vasquez and does not compensate other similarly situated employees for the earned wages for off-the-clock work described above and premium wages at the time of termination, acquittal or resignation or end of employment.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide "accurate itemized statement in writing" each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (See Labor Code §226, subsection (a)) Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Ms. Vasquez's contention that Defendants are in violation of the following California Labor Codes.

<u>*Violation of 226 (a)(1)*</u>

Section a (1) requires gross wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees' wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their applicable rate at the corresponding number of hours worked by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out. .

Violation of California Labor Code Sections 201, 202, 203, 226.7, 510, 512, 1194, 1198, Wage Order 4, Sections, 3, 7, 11 and 12, Wage Order 5, Sections, 3, 7, 11 and 12

An employer must provide meal periods and rest periods pursuant to an applicable order of the Industrial Welfare Commission. (See Lab. Code §226.7, 512)

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission. Industrial Welfare Commission Order No. 4-2001 (hereinafter "Wage Order 4") covering the "Professional, Technical, Clerical, Mechanical and Similar Occupations" covering the employees at Defendants and Industrial Welfare Commission Order No. 5-2001 (hereinafter "Wage Order 5") covering the "Housekeeping" industry covering the employees at Defendants.

Under these circumstances, Ms. Vasquez's position at Defendants falls within Wage Order 4 and Wage Order 5 as Defendants employed Ms. Vasquez as a non-exempt employee classified as an employee in the "Housekeeping" industry and "Professional, Technical, Clerical, Mechanical and Similar Occupations". Thus below all sections and subsections that pertain to California Wage Orders 4 and 5 are applicable to Ms. Vasquez and all similarly situated aggrieved employees within these Wage Orders were employed or remain employed by Defendants.

California Labor Code sections 226.7, 512, Wage Order 4, Section 11 and Wage Order 5, Section 11 states no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ―on duty meal period and counted as time worked. An ―on duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Ms. Vasquez and other similarly situated employees did not receive their entitled uninterrupted meal periods during their employment at Defendants while regularly working above 5 and 10 hour shifts. Moreover, Ms. Vasquez and other similarly situated employees were not provided with their meal periods in the middle of each work period as required and reasonably practicable as stated above subjected to on-premises, on-call, short, interrupted, missed or late meal periods. Nor were they compensated for working through their meal periods or being provided with meal periods in violation of California Labor Code Section 226.7, 512 and Wage Orders 4 and 5, Section 11.

California Labor Code sections 226.7, 512, Wage Order 4, Section 12 and Wage Order 5, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided that were short, interrupted, on-premises, on-call, late or not taken at all.

Plaintiff and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendants while regularly working above 4, 5, 6, 7.5, 10 and 12 hour shifts.

California Labor Code Section 510, and 1194, Wage Order 4, Section 3, Wage Order 5, Section 3

Section 3 lays out the requirements for overtime pay applicable to employees working in restaurants and all similar establishments such as Defendant. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee's regular rate of pay.

Moreover, if any employee works (7) consecutive days, the employee shall be paid one and one-half (1.5) times his or her regular pay for the first eight (8) hours. Any hours worked in excess of eight (8) hours on the seventh consecutive day must be paid at twice the employee's regular rate of pay.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee's regular rate of compensation. (See Lab. Code §510)

"Double time" required after twelve hours in any workday, after eight hours on the seventh day of work. Plaintiff and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week because they worked through shifts above 8 hours per day and 40 hours per week and not paid overtime rates and minimum wage rates worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and due to having to put on and take off a uniform (including an apron, black pants, name badge and mask(when required)) before clocking in and taking these items off after clocking out before clocking-in and after clocking-out.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages. (See Lab. Code §558)

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit. (See Lab. Code §1194) Plaintiff and other similarly situated employees were not paid all overtime and minimum wages as a result of off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and due to having to put on and take off a uniform (including an apron, black pants, name badge and mask(when required)) before clocking in and taking these items off after clocking out before clocking-in and after clocking-out.

Wage Orders 4 and 5, Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to "keep accurate information with respect to each employee" regarding identification information, including their "[f]ull name, home address, occupation and social security number," "[time records showing when the employee begins and ends each work period," "[m]eal periods," and [t]otal hours worked in the payroll period and applicable rates of pay."

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendants failed to incorporate the extra hours worth of work when Ms. Vasquez and other similarly situated employees worked through their entitled meal breaks without being paid premium wages. The extra hours worth of work at the applicable rate of pay was not disclosed on the itemized wage statement s in violation of Wage Order 4, Section -7- and Wage Order 5, Section 7 Records. Also, Defendants failed to record all meal periods as all meal periods were not provided.

Violation of California Labor Code 2802

Under California Labor Code § 2802, an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. In violation of Lab. Code § 2802 Defendants required Ms. Vasquez sand similarly situated employees to purchase their own face masks and personal cell phone and not reimbursed for these expenses incurred in order to perform their job duties in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s).

Conclusion

As a consequence of Defendants violation of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 226.7, 510, 512, 558, 1194, 2802, and Wage Orders 4 and 5, Sections 3, 7, 11 and 12. Ms. Vasquez seeks penalties for each violation as an individual and on behalf of all aggrieved employees at Defendants.

Sincerely,

Jackson APC

/s/ Armond M. Jackson

Armond M. Jackson

EXHIBIT E

Armond Jackson
ajackson@jacksonapc.com

August 24, 2021

Sent By Certified Mail to KRC Santa Margarita, LLC and Kisco Senior Living, LLC

Submitted Via Online to Labor and Workforce Development Agency

KRC Santa Margarita, LLC
21952 Buena Suerte
Rancho Santa Margarita, California 92688

KRC Santa Margarita, LLC
5790 Fleet Street, Suite 300
Carlsbad, California 92008

Kisco Senior Living, LLC
5790 Fleet Street, Suite 300
Carlsbad California 92008

Corporation Service Company Which Will Do Business In California as CSC-Lawyer Incorporating Service Agent for Service of Process for KRC Santa Margarita, LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Corporation Service Company Which Will Do Business In California as CSC-Lawyer Incorporating Service Agent for Service of Process for Kisco Senior Living, LLC
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833

Labor and Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
(415) 703-4810

AMENDED PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE PURSUANT TO LABOR CODE § 2699

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 226.7, 510, 512, 558, 1194, 2802
Violations of California Labor Code Section 1198 Industrial Welfare Commission Order Nos. 4-2001 and 5-2001 ("Wage Orders 4 and 5"), Sections 3, 7, 11 12)
Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)
Lourdes Vasquez v. KRC Santa Margarita, LLC et al.

Dear KRC Santa Margarita, LLC, Kisco Senior Living, LLC and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator, KRC Santa Margarita, LLC and Kisco Senior Living, LLC by Lourdes Vasquez ("Ms. Vasquez" or "Plaintiff") on behalf of all aggrieved current and aggrieved former similarly situated employees of KRC Santa Margarita, LLC ("KRC") Kisco Senior Living, LLC ("KSL") collectively referred to herein as "Defendants" or "Defendant" located at 21952 Buena Suerte, Rancho Santa Margarita, California 92688 and all other Employer California locations, a private right of action under the Private Attorney General Act (PAGA) of 2004. As a prerequisite to filing this private action in superior court, Ms. Vasquez is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below. (Labor Code § 2699.3) If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson APC at 949-281-6857 or via email at ajackson@jacksonapc.com.

Facts and Theories

This letter encompasses violations for the employees working at Defendant throughout California as nonexempt employees.

Ms. Vasquez worked as a nonexempt employee to work at Defendants that performed job duties such as servicing guests at a senior living facilities and other tasks as assigned. Throughout Ms. Vasquez's employment, she worked 5, 6, 10 hour plus shifts and was not authorized or permitted to take a uninterrupted 30-minute meal break each five hours at a reasonably practicable time nor was she authorized or permitted to take a second meal break or third rest break which she was entitled to on the shifts when she worked above 10 and 12 hours shifts. Moreover, throughout Ms. Vasquez's employment, she worked above 4 hour plus shifts and was not authorized or permitted to take a uninterrupted 10-minute rest break each four hours at a reasonably practicable time. During their any meal breaks and rest breaks, Ms. Vasquez and similarly situated employees were required to report to work and answer COVID-19 related questions, undergo a temperature medical inspection before being permitted to clock in at the beginning of the shift and when returning to work after a meal break .This procedure interrupted and shortened their legally entitled 30-minute meal breaks and rest breaks. During unpaid meal breaks, this work would amount to off-the-clock work entitling Plaintiff and similarly situated employees to either minimum or overtime wages.

Defendants did not compensate Ms. Vasquez and similarly situated aggrieved employees with their premium wages or actual wages when she was subjected to late, short, missed, on-call, interrupted, on-premises or missed meal breaks and rest breaks in violation of California Labor Code section 226.7, 512, and Wage Order 4, Sections 11 and 12 and Wage Order 5, Sections 11 and 12 approximately 10 to 20 shifts each month per employee.

Moreover, Defendants failed to incorporate Plaintiff's premium wages and hours worth of work on his wage statements as required by California Labor Code section 226(a) 1-2, 4-5 and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks and rest breaks as stated above or paid premium wages nor were the hours worth of work or premium wages disclosed on their wage statements.

Moreover, Ms. Vasquez and similarly situated employees worked off-the-clock before being clocking in at the beginning of their work shift and unpaid meal periods when being required to undergo medical inspections and temperature checks as they had to and having to wait in line to go through next step then go through COVID-19 related questions and/or undergo temperature checks, and/or being pressured or encouraged to take on-premises meal breaks and/or returning early from meal breaks to go through medical inspection and temperature check process in violation of California Labor Code sections 510, 1194 and Wage Order 4, Section 3 and Wage Order 5, Section 3. Moreover, Ms. Vasquez and similarly situated employees were also required to put on uniforms including an apron, black pants, name badge and mask before clocking in and taking these items off after clocking out. This process is also in violation of California Labor Code sections 510, 1194 and Wage Order 4, Section 3 and Wage Order 5, Section 3 as this work time should have been paid.

Furthermore, Defendants did not provide Ms. Vasquez and similarly situated employees with face masks for work purposes as they were required to wear them due to the COVID-19 restrictions and required Ms. Vasquez and similarly situated employees to purchase their own face masks and not reimbursed for this expense incurred in order to perform their job duties in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s). Employees were also required to use their personal cell phones to answer text messages in which the Defendant failed to reimburse for usage of these personal devices.

Lastly, at the time of Ms. Vasquez's termination, Defendants refused to pay Ms. Vasquez her entitled wages and premium wages. Ms. Vasquez believes that Defendants do not pay premium wages to any of the similarly situated employees at the time of termination.

By virtue of requiring Ms. Vasquez to work off-the-clock at Defendant, not authorizing or permitting Ms. Vasquez and all other similarly situated employees to take their entitled meal breaks and rest breaks, failing to incorporate hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, hours worked at the applicable hourly rate and deductions that should have been taken out, and failing to pay out wages and premium wages at termination, Defendants are violating California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 510, 512, 1194 and 226.7, Wage Orders 4 and 5, Sections 3, 7, 11 and 12.

Violation of California Labor Code Section 203

An employer may not willfully fail to pay any wages owed to an employee who is either discharged or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days. (See Lab. Code §203) Here, Defendants did not compensate Ms. Vasquez and does not compensate other similarly situated employees for the earned wages for off-the-clock work described above and premium wages at the time of termination, acquittal or resignation or end of employment.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide "accurate itemized statement in writing" each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. (See Labor Code §226, subsection (a)) Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records must be maintained for a period of at least three years. It is Ms. Vasquez's contention that Defendants are in violation of the following California Labor Codes.

<u>*Violation of 226 (a)(1)*</u>

Section a (1) requires gross wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of the employees' wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Vasquez and other similarly situated employees' paystubs did not accurately reflect their applicable rate at the corresponding number of hours worked by virtue of excluding hours worked and wages earned because Ms. Vasquez and other similarly situated employees worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and putting on uniform before clocking-in and after clocking-out. .

Violation of California Labor Code Sections 201, 202, 203, 226.7, 510, 512, 1194, 1198, Wage Order 4, Sections, 3, 7, 11 and 12, Wage Order 5, Sections, 3, 7, 11 and 12

An employer must provide meal periods and rest periods pursuant to an applicable order of the Industrial Welfare Commission. (See Lab. Code §226.7, 512)

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission. Industrial Welfare Commission Order No. 4-2001 (hereinafter "Wage Order 4") covering the "Professional, Technical, Clerical, Mechanical and Similar Occupations" covering the employees at Defendants and Industrial Welfare Commission Order No. 5-2001 (hereinafter "Wage Order 5") covering the "Housekeeping" industry covering the employees at Defendants.

Under these circumstances, Ms. Vasquez's position at Defendants falls within Wage Order 4 and Wage Order 5 as Defendants employed Ms. Vasquez as a non-exempt employee classified as an employee in the "Housekeeping" industry and "Professional, Technical, Clerical, Mechanical and Similar Occupations". Thus below all sections and subsections that pertain to California Wage Orders 4 and 5 are applicable to Ms. Vasquez and all similarly situated aggrieved employees within these Wage Orders were employed or remain employed by Defendants.

California Labor Code sections 226.7, 512, Wage Order 4, Section 11 and Wage Order 5, Section 11 states no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ―on duty meal period and counted as time worked. An ―on duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Ms. Vasquez and other similarly situated employees did not receive their entitled uninterrupted meal periods during their employment at Defendants while regularly working above 5 and 10 hour shifts. Moreover, Ms. Vasquez and other similarly situated employees were not provided with their meal periods in the middle of each work period as required and reasonably practicable as stated above subjected to on-premises, on-call, short, interrupted, missed or late meal periods. Nor were they compensated for working through their meal periods or being provided with meal periods in violation of California Labor Code Section 226.7, 512 and Wage Orders 4 and 5, Section 11.

California Labor Code sections 226.7, 512, Wage Order 4, Section 12 and Wage Order 5, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided that were short, interrupted, on-premises, on-call, late or not taken at all.

Plaintiff and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendants while regularly working above 4, 5, 6, 7.5, 10 and 12 hour shifts.

<u>California Labor Code Section 510, and 1194, Wage Order 4, Section 3, Wage Order 5, Section 3</u>

Section 3 lays out the requirements for overtime pay applicable to employees working in restaurants and all similar establishments such as Defendant. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee's regular rate of pay.

Moreover, if any employee works (7) consecutive days, the employee shall be paid one and one-half (1.5) times his or her regular pay for the first eight (8) hours. Any hours worked in excess of eight (8) hours on the seventh consecutive day must be paid at twice the employee's regular rate of pay.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee's regular rate of compensation. (See Lab. Code §510)

"Double time" required after twelve hours in any workday, after eight hours on the seventh day of work. Plaintiff and other similarly situated employees were not paid any overtime for hours worked in excess of 8 hours per day or forty hours per week because they worked through shifts above 8 hours per day and 40 hours per week and not paid overtime rates and minimum wage rates worked off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and due to having to put on and take off a uniform (including an apron, black pants, name badge and mask(when required)) before clocking in and taking these items off after clocking out before clocking-in and after clocking-out.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages. (See Lab. Code §558)

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit. (See Lab. Code §1194) Plaintiff and other similarly situated employees were not paid all overtime and minimum wages as a result of off-the-clock during unpaid meal periods when being required/pressured or encouraged to return to work early and being required to wait at the front desk, go through COVID 19 related questions, and temperature check medical inspections as well as having to engage in pre-shift procedures such as sign-in process and questions, then undergoing temperature check medical inspections before being permitted to clocking-in and due to having to put on and take off a uniform (including an apron, black pants, name badge and mask(when required)) before clocking in and taking these items off after clocking out before clocking-in and after clocking-out.

Wage Orders 4 and 5, Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to "keep accurate information with respect to each employee" regarding identification information, including their "[f]ull name, home address, occupation and social security number," "[time records showing when the employee begins and ends each work period," "[m]eal periods," and [t]otal hours worked in the payroll period and applicable rates of pay."

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendants failed to incorporate the extra hours worth of work when Ms. Vasquez and other similarly situated employees worked through their entitled meal breaks without being paid premium wages. The extra hours worth of work at the applicable rate of pay was not disclosed on the itemized wage statement s in violation of Wage Order 4, Section -7- and Wage Order 5, Section 7 Records. Also, Defendants failed to record all meal periods as all meal periods were not provided.

Violation of California Labor Code 2802

Under California Labor Code § 2802, an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. In violation of Lab. Code § 2802 Defendants required Ms. Vasquez sand similarly situated employees to purchase their own face masks and personal cell phone and not reimbursed for these expenses incurred in order to perform their job duties in violation of California Labor Code section 2802 and the applicable California Industrial Welfare Commission wage order(s).

Conclusion

As a consequence of Defendants violation of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3, 226.7, 510, 512, 558, 1194, 2802, and Wage Orders 4 and 5, Sections 3, 7, 11 and 12. Ms. Vasquez seeks penalties for each violation as an individual and on behalf of all aggrieved employees at Defendants.

Sincerely,

Jackson APC

/s/ Armond M. Jackson

Armond M. Jackson

EXHIBIT F

LAFFEY MATRIX

History

Case Law

See the Matrix

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	$225	$413	$508	$733	$829	$997
6/01/21- 5/31/22	1.006053	$208	$381	$468	$676	$764	$919
6/01/20- 5/31/21	1.015894	$206	$378	$465	$672	$759	$914
6/01/19- 5/31/20	1.0049	$203	$372	$458	$661	$747	$899
6/01/18- 5/31/19	1.0350	$202	$371	$455	$658	$742	$894
6/01/17- 5/31/18	1.0463	$196	$359	$440	$636	$717	$864
6/01/16- 5/31/17	1.0369	$187	$343	$421	$608	$685	$826
6/01/15- 5/31/16	1.0089	$180	$331	$406	$586	$661	$796
6/01/14- 5/31/15	1.0235	$179	$328	$402	$581	$655	$789
6/01/13- 5/31/14	1.0244	$175	$320	$393	$567	$640	$771
6/01/12- 5/31/13	1.0258	$170	$312	$383	$554	$625	$753
6/01/11- 5/31/12	1.0352	$166	$305	$374	$540	$609	$734
6/01/10- 5/31/11	1.0337	$161	$294	$361	$522	$589	$709
6/01/09- 5/31/10	1.0220	$155	$285	$349	$505	$569	$686
6/01/08- 5/31/09	1.0399	$152	$279	$342	$494	$557	$671
6/01/07-5/31/08	1.0516	$146	$268	$329	$475	$536	$645
6/01/06-5/31/07	1.0256	$139	$255	$313	$452	$509	$614
6/1/05-5/31/06	1.0427	$136	$249	$305	$441	$497	$598
6/1/04-5/31/05	1.0455	$130	$239	$293	$423	$476	$574
6/1/03-6/1/04	1.0507	$124	$228	$280	$405	$456	$549
6/1/02-5/31/03	1.0727	$118	$217	$267	$385	$434	$522
6/1/01-5/31/02	1.0407	$110	$203	$249	$359	$404	$487
6/1/00-5/31/01	1.0529	$106	$195	$239	$345	$388	$468
6/1/99-5/31/00	1.0491	$101	$185	$227	$328	$369	$444
6/1/98-5/31/99	1.0439	$96	$176	$216	$312	$352	$424
6/1/97-5/31/98	1.0419	$92	$169	$207	$299	$337	$406
6/1/96-5/31/97	1.0396	$88	$162	$198	$287	$323	$389
6/1/95-5/31/96	1.032	$85	$155	$191	$276	$311	$375
6/1/94-5/31/95	1.0237	$82	$151	$185	$267	$301	$363

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

* ï¿½Years Out of Law Schoolï¿½ is calculated from June 1 of each year, when most law students graduate. ï¿½1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). ï¿½4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier ï¿½1-3" from June 1, 1996 until May 31, 1999, would move into tier ï¿½4-7" on June 1, 1999, and tier ï¿½8-10" on June 1, 2003.

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