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Attorneys for Plaintiffs

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

KASIAA THOMAS and TONI DURIO-
ADAMS, on behalf of themselves, the State
of California, and all Aggrieved Employees,

Plaintiffs,

vs.

RESERVE NATIONAL INSURANCE
COMPANY d.b.a. KEMPER NATIONAL
LIFE INSURANCE COMPANY, an
Oklahoma corporation; UNITED
INSURANCE COMPANY OF AMERICA,
an Illinois corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 21CV001780

*[Assigned for all purposes to the Hon. Evelio
Grillo, Dept. 21]*

**DECLARATION OF PAUL K. HAINES
IN SUPPORT OF PLAINTIFFS'
MOTION FOR APPROVAL OF
SETTLEMENT OF CLAIMS
BROUGHT UNDER THE PRIVATE
ATTORNEYS' GENERAL ACT AND
REASONABLE ATTORNEYS' FEES,
COSTS, AND ENHANCEMENT
PAYMENTS**

Date: November 16, 2022
Time: 10:00 a.m.
Dept.: 21

Reservation ID: 138528220757

Complaint Filed: November 4, 2021
Trial Date: None set

1 I, PAUL K. HAINES, declare as follows:

2 1. I am a shareholder and principal of Haines Law Group, APC, and counsel for the
3 named Plaintiffs Kasiaa Thomas and Toni Durio-Adams (“Plaintiffs”) and the Aggrieved
4 Employees in the above-captioned matter. I am a member in good standing of the bar of the State
5 of California and am admitted to practice in this Court. I have personal knowledge of the facts
6 stated in this declaration and could testify competently to them if called upon to do so.

7 2. I am a 2006 graduate of Pepperdine University School of Law, where I graduated
8 *cum laude*. During law school, I worked as a law clerk for the appellate firm of Horvitz & Levy,
9 located in Encino, California. I also spent a semester in law school working as an extern for the
10 Honorable Edward Rafeedie, District Judge for the United States District Court for the Central
11 District of California.

12 3. Since graduating from law school, my practice has focused almost exclusively on
13 employment litigation. In September 2007, I began working as an associate attorney at the
14 international law firm of Littler Mendelson P.C., at its Los Angeles office, which according to its
15 website is the “largest U.S.-based law firm exclusively devoted to representing management in
16 every aspect of labor and employment law.” While at Littler Mendelson, I was primarily staffed
17 on wage and hour class actions venued in both state and federal courts, and I also worked on a
18 number of single and multi-plaintiff wage and hour matters as well.

19 4. During my employment at Littler Mendelson, I played a significant role in the
20 class actions that I was staffed on, as I was often the only associate staffed on such cases. In
21 particular, I received a wide-array of wage and hour class action experience performing the
22 following types of tasks: drafting demurrers, motions to strike and/or dismiss; removing actions
23 from state court to federal court; drafting and responding to written discovery; drafting and
24 opposing discovery related motions; arguing discovery related motions; drafting motions to
25 consolidate related matters; interviewing putative class members and obtaining declarations in
26 connection with class certification; drafting oppositions to motions for class certification; drafting
27 motions for decertification following class certification; conducting exposure analyses to assess
28 the strengths and weaknesses of asserted claims, the likelihood of prevailing at class certification

1 and potential damages resulting from such claims; drafting mediation briefs; serving as the
2 primary contact to in-house counsel; deposing named plaintiffs and putative class members;
3 deposing retained expert witnesses; and defending the depositions of corporate witnesses. In
4 short, I played an integral role in all aspects of litigation from the inception of a matter through
5 and beyond class certification. I also supervised the work of several junior attorneys who were
6 staffed on the same wage and hour class actions.

7 5. In June 2011, I voluntarily resigned from Littler Mendelson in order to accept an
8 associate attorney position with the international law firm of Morgan, Lewis & Bockius LLP, at
9 its Los Angeles office, where I began working in July 2011. During my employment at Morgan,
10 Lewis & Bockius LLP, I worked exclusively on the defense of wage and hour class and collective
11 actions. For the vast majority of these cases, I was the only associate staffed on the matter, and I
12 performed the same job duties as described in the immediately preceding paragraph. In addition
13 to working on wage and hour class actions, at Morgan, Lewis & Bockius I also worked on a
14 number of “hybrid” actions asserting nationwide wage and hour claims under the Fair Labor
15 Standards Act (“FLSA”), as well as California-specific claims under Rule 23 of the Rules of Civil
16 Procedure.

17 6. In July 2012, I transitioned into litigating wage and hour class actions from the
18 Plaintiff’s side, first as a Partner with the law firm of Boren, Osher & Luftman, LLP, and since
19 February 2016, as a Shareholder of the Haines Law Group, APC. Currently, over ninety percent
20 (90%) of my practice is dedicated exclusively to the prosecution of wage and hour class and
21 representative actions, and my law firm is currently responsible for prosecuting over fifty (50)
22 wage and hour class and representative actions filed in both State and Federal courts throughout
23 California. A few examples of the matters in which I have been appointed as Class Counsel, all
24 of which have been granted final approval, include the following: *Sanchez v. Res-Care, Inc.*, Case
25 No. BC526175, California Superior Court, County of Los Angeles, Honorable John S. Wiley,
26 presiding; *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United
27 States District Court, Central District of California, Honorable Judge John F. Walter, presiding;
28 *Tesla Motors Wage and Hour Litigation*, JCCP 4792, California Superior Court, Santa Clara

County, Judge Peter H. Kirwan presiding; *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable Judge Haywood S. Gilliam, Jr. presiding; *Longstreth v. PAQ, Inc., dba Food 4 Less*, Case No. 15CV-0206, California Superior Court, County of San Luis Obispo, Honorable Judge Charles S. Crandall, presiding; *Nunez v. CompuCom Systems, Inc.*, Case No. BC618385, California Superior Court, County of Los Angeles, Honorable Judge John Shepard Wiley, Jr. presiding; *Mansilla v. Haeco Americas Line Services, LLC, et al*, Case No. BC615310, Superior Court of California, County of Los Angeles, Honorable Judge Elihu M. Berle presiding. *Morales v. Caremeridian, LLC, et al.*, Case No. BC593191, California Superior Court, County of Los Angeles, Judge William F. Highberger presiding; *Rodrigues v. CP Kelco U.S., Inc.*, Case No. 37-2017-00004339-CU-OE-CTL, California Superior Court, County of San Diego, Honorable Judge Joel R. Wohlfeil, presiding; *Sandoval v. Rotational Molding, Inc.*, Case No. BC640678, Superior Court of California, County of Los Angeles, Honorable Judge William F. Highberger presiding; *Gooding v. Vita-Mix Corp., et al*, Case No. 2:16-cv-03898-ODW (JEMx), United States District Court for the Central District of California, Honorable Judge Otis D. Wright II presiding.

7. I have also moved to certify and have received an order certifying a class action and/or conditionally certifying a collective action, in the following cases: *Medeiros v. Vortex Financial Management Inc.*, Case No. 30-2013-00644741-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge Gail A. Andler, presiding (certifying a class of employees who were misclassified as independent contractors); *Javine v. San Luis Ambulance Service, Inc.*, Case No. CV13-07480 BRO (SSx), United States District Court, Central District of California, Honorable Judge Beverly Reid O'Connell, presiding (conditionally certifying an unpaid FLSA overtime wage class); *Prado v. Warehouse Demo Services, Inc.*, Case No. CV14-3170 JFW (Ex), United States District Court, Central District of California, Honorable Judge John F. Walter, presiding (certifying a rest period violation class and conditionally certifying an FLSA unpaid overtime wage class); *Bower v. Cycle Gear, Inc.*, Case No. CV14-2712 HSG, United States District Court, Northern District of California, Honorable Judge Haywood S. Gilliam, Jr., presiding (conditionally certifying an unpaid FLSA overtime wage class); *Vega v. Weatherford*

1 *U.S., Limited Partnership*, Case No. CV14-1790-JLT, United States District Court, Eastern
2 District of California, Honorable Jennifer L. Thurston, presiding (conditionally certifying an
3 unpaid FLSA overtime wage class); *Galvan v. AMVAC Chemical Corporation*, Case No. 30-
4 2014-00716103-CU-OE-CXC, California Superior Court, County of Orange, Honorable Judge
5 William Claster, presiding (certifying unpaid overtime wage class and waiting time penalty class);
6 *Camacho v. Residential Fire Systems, Inc.*, Case No. 30-2015-775372-CU-OE-CXC, California
7 Superior Court, County of Orange, Honorable Glenda Sanders, presiding (certifying piece rate
8 pay plan classes, expense reimbursement class, wage statement class, and waiting time penalties
9 class); *Ontiveros v. Safelite Fulfillment, Inc.*, et al, Case No. CV 15-7118-DMG (RAOx), United
10 States District Court, Central District of California, Honorable Dolly M. Gee presiding (certifying
11 six classes of employees for rest period violations, wage statement violations, meal period
12 violations, and overtime and double-time violations); *Vazquez, et al v. Kraft Heinz Foods*
13 *Company*, Case No. 16-cv-2749-WQH-BLM, United States District Court, Southern District of
14 California, Honorable William Q. Hayes presiding (certifying six classes of employees for unpaid
15 wages, meal period violations, wage statement violations, and waiting time penalties); *Caudle, et*
16 *al. v. Sprint/United Management Company, et al.* Case No. C 17-06874-WHA, United States
17 District Court, Northern District of California, Honorable William H. Alsup presiding (certifying
18 three classes of employees for unlawful wage deductions, wage statement violations, and waiting
19 time violations); *Perez v. Sunbelt Rentals, Inc.* Case No. 37-2018-00026405-CU-OE-CTL,
20 California Superior Court, County of San Diego, Honorable Eddie C. Sturgeon presiding
21 (certifying class of employees for wage statement violations); *Staublein v. Wells Fargo Bank,*
22 *N.A.*, Case No. CIV DS1712267, San Bernardino Superior Court, Hon. David S. Cohn presiding
23 (certifying wage statement class); and *Bowlin-Burdick, et al v. Life Care Centers of America, Inc.*,
24 Case No. BC657139, Los Angeles County Superior Court, Honorable Maren E. Nelson presiding
25 (certifying four classes for meal period violations, rest period violations, wage statement
26 violations, and waiting time penalties).

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1 8. Of particular relevance to this case, I served as lead or co-lead counsel for the
2 plaintiff and aggrieved employees in several PAGA-only settlements, including but not limited
3 to:

- 4 • *Pentinio v. Southern Wine and Spirits of America, Inc.*, Case No. BC570234,
5 California Superior Court, County of Los Angeles, Honorable Judge Maureen
6 Duffy-Lewis, presiding, approved by the Court on January 19, 2016;
- 7 • *Resendez v. Bridgestone Retail Operations, LLC*, Case No. BC596892, California
8 Superior Court, County of Los Angeles, Honorable Judge Marc Marmaro
9 presiding, approved by the Court on June 13, 2016;
- 10 • *Canul v. Basmat, Inc.*, Case No. BC674940, California Superior Court, County of
11 Los Angeles, Honorable Judge Teresa A. Beaudet presiding, approved by the
12 Court on August 22, 2018;
- 13 • *Silva v. CitiStaff Solutions, Inc.*, Case No. BC620115, California Superior Court,
14 County of Los Angeles, Honorable Judge David S. Cunningham III presiding,
15 approved by the Court on November 19, 2018;
- 16 • *Cruz v. Fleetwash, Inc.*, Case No. 19STCV03033, California Superior Court,
17 County of Los Angeles, Honorable Judge Stuart M. Rice presiding, approved by
18 the Court on October 7, 2019; and
- 19 • *Ibarra v. Baker Commodities, Inc.*, Case No. 19STCV06148, California Superior
20 Court, County of Los Angeles, Honorable Yolanda Orozco presiding, approved
21 by the Court on September 30, 2020.

22 9. In 2015, 2016, and 2017, Thomson Reuters recognized me as a Top Young
23 Attorney in Southern California in the annual Rising Star Edition of Super Lawyer. This is an
24 honor awarded to no more than two and a half percent of attorneys under the age of forty in
25 Southern California each year. In 2018, 2019, and 2020, Thomson Reuters recognized me as a
26 “Super Lawyer,” an honor awarded to no more than five percent of attorneys in Southern
27 California each year.

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1 10. As counsel for Plaintiffs and Aggrieved Employees in this case, I have been
2 intimately involved in every aspect of this case from its inception through the present, and I
3 believe the proposed Settlement is fair, reasonable and adequate for the Aggrieved Employees
4 and the State of California.

5 11. Defendants Reserve National Insurance Company dba Kemper National Life
6 Insurance Company and United Insurance Company of America (“United Insurance”) are in the
7 business of selling insurance to individuals, families, and businesses throughout the United States.

8 12. On August 12, 2021, Plaintiffs provided written notice to the LWDA and United
9 Insurance, thereby giving notice of their intent to pursue civil penalties under PAGA for alleged
10 Labor Code violations, as required by Labor Code § 2699.3. A true and correct copy of Plaintiffs’
11 August 12, 2021 LWDA letter is attached hereto as **Exhibit 2**.

12 13. On November 4, 2021, after the prescribed 65-day waiting period under Labor
13 Code §2699.3(a)(2)(A), Plaintiffs filed their Representative Complaint titled *Kasiaa Thomas and*
14 *Toni Durio-Adams v. Reserve National Insurance Company dba Kemper National Life Insurance*
15 *Company and United Insurance Company of America*, Alameda County Superior Court Case No.
16 21CV001780, alleging a single cause of action for civil penalties under the PAGA.

17 14. On November 12, 2021, Plaintiffs submitted a supplemental notification letter to
18 the LWDA and United Insurance asserting an additional theory of liability for PAGA civil
19 penalties as a result of United Insurance’s alleged failure to provide sick leave in violation of
20 Labor Code § 246. A true and correct copy of Plaintiffs’ August 12, 2021 LWDA letter is attached
21 hereto as **Exhibit 3**.

22 15. On February 3, 2022, Plaintiffs filed the operative First Amended Representative
23 Action Complaint.

24 16. In connection with mediation, United Insurance informally produced information
25 and documents pertaining to Plaintiffs and other Aggrieved Employees, including, but not limited
26 to, United Insurance’s compensation pay plans, a sampling of pay records for Aggrieved
27 Employees, a list of Aggrieved Employees’ hire dates and termination dates in order for Plaintiffs’
28 counsel to investigate Plaintiffs’ allegations and value the claims prior to mediation. Plaintiffs

1 also retained an expert economist to assist in creating a comprehensive damages model.

2 17. On May 25, 2022, the Parties attended a full-day mediation with mediator Lisa
3 Klerman, Esq., a highly experienced wage and hour mediator. During mediation, the Parties
4 vigorously debated Plaintiffs' ability to proceed on a representative basis, the legal basis for
5 Plaintiffs' claims and United Insurance's defenses, the impact of *Viking River* on this case, the
6 potential amount of civil penalties, and the Parties' data analyses and conclusions based thereon.
7 With the assistance of Ms. Klerman, the Parties agreed to fully and finally resolve Plaintiffs'
8 PAGA claim, and subsequently negotiated and finalized the Settlement now before the Court.

9 18. A true and correct copy of the fully-executed Settlement Agreement is attached
10 hereto as **Exhibit 1**. The proposed Explanatory Letter to be mailed to Aggrieved Employees with
11 their settlement payments is attached as **Exhibit A** to the Settlement Agreement. The Settlement
12 provides for United Insurance to pay a Gross Settlement Amount ("GSA") of \$375,000.00. After
13 deducting amounts for requested attorneys' fees (\$125,000.00), litigation costs (\$12,109.76),
14 Plaintiffs' enhancement payments (totaling \$10,000.00), and administration costs (\$2,995.00),
15 the Settlement provides for distribution of a Net Settlement Amount ("NSA") of approximately
16 \$224,895.24 to be paid to Aggrieved Employees and the California Labor and Workforce
17 Development Agency ("LWDA"). The NSA shall be distributed 75% to the LWDA and 25% to
18 Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to Aggrieved
19 Employees shall be distributed based on each Aggrieved Employee's proportional number of pay
20 periods worked for United Insurance in California during the PAGA Period. The settlement is
21 non-reversionary, and does not require Aggrieved Employees to submit claim forms to reap
22 financial benefit from the Settlement. Based on an NSA of \$224,895.24, the total amount paid to
23 Aggrieved Employees is estimated at \$56,223.81, with approximately \$168,671.43 paid to the
24 LWDA. According to information provided by United Insurance, the number of Aggrieved
25 Employees is approximately 132. Thus, the average payment to Aggrieved Employees is
26 estimated at \$425.94.

27 19. Plaintiffs acknowledge that there are substantial risks and uncertainty in
28 proceeding to trial. First and foremost was the risk that the United States Supreme Court would

1 issue its opinion in *Viking River*, which could have resulted in the outright dismissal of Plaintiffs’
2 representative PAGA claim. At the time that this settlement was reached, the U.S. Supreme Court
3 had granted certiorari in *Viking River*. Shortly after Plaintiffs entered into this Settlement, this
4 risk became a reality and the Supreme Court issued its opinion in *Viking River*, which overturned
5 the California Supreme Court’s holding in *Iskanian v. CLS Transportation Los Angeles, LLC*
6 which held that a representative PAGA claim could not be compelled to arbitration. As a result,
7 absent this settlement, it is likely that **no** representative PAGA recovery would be possible at all.

8 20. United Insurance also presented multiple defenses with respect to the merits of
9 Plaintiffs’ claims. For example, United Insurance argues that it maintained lawful commission
10 compensation policies which complied with California law. United Insurance further contends
11 that deductions for policy lapses were contemplated and agreed to in United Insurance’s
12 Commission Agreements, which were entered into by Plaintiffs and Aggrieved Employees.
13 Moreover, United Insurance argues that it is difficult to determine how frequently such
14 chargebacks occur (i.e., where the servicing agent experiences a chargeback for an account that
15 was written by a different issuing agent).

16 21. As a result of United Insurance’s failures to pay all wages owed, Plaintiffs allege
17 derivative PAGA claims for failure to issue accurate and itemized wage statements and failure to
18 pay all wages owed at separation of employment. In response, United Insurance argues that
19 Plaintiffs’ underlying claims will fail and, as a result, the derivative claims will also fail. United
20 Insurance also maintain that any “derivative” PAGA claims for violations of Labor Code Sections
21 226 or 203 would be entirely duplicative and would be unlikely to be awarded in any significant
22 manner by a Court. United Insurance also argues that it paid all wages owed each pay period, and
23 paid sick leave and accrued paid time off owed to Aggrieved Employees, and thus the Court
24 would not award significant penalties for Plaintiffs’ direct wage statement claims.

25 22. United Insurance further maintains that even if the Court awarded PAGA penalties
26 for any of the alleged violations, it would substantially reduce the penalties based on the
27 discretionary factors in Labor Code § 2699(e)(2) (authorizing reduction in penalties “if, based on
28 the facts and circumstances of the particular case, to do otherwise would result in an award that

1 is unjust, arbitrary and oppressive, or confiscatory.”). Indeed, United Insurance argues, many
2 courts have reduced PAGA penalties drastically where, as here, the employer presented good-
3 faith defenses and attempted to comply with the law.

4 23. Based on data provided by United Insurance, there were approximately 12,100 pay
5 periods worked by the Aggrieved Employees during the PAGA Period. Therefore, assuming that
6 Plaintiffs could prove at least one Labor Code violation in each pay period, Plaintiffs calculated
7 United Insurance’s maximum PAGA exposure at \$1,210,000.00 (12,100 pay periods * \$100 per
8 violation). However, as discussed above, United Insurance raised numerous defenses to the merits
9 of Plaintiffs’ claims, and argued that even if found liable, the Court would exercise its discretion
10 to reduce any potential PAGA penalties given United Insurance’s good-faith defenses.
11 Additionally, at the time of mediation, there was a looming threat that a forthcoming decision in
12 *Viking River* could preclude any representative PAGA recovery at all. In the face of United
13 Insurance’s defenses on the merits, the Court’s discretion to reduce PAGA penalties, and the
14 threat (which has since become reality) of an adverse *Viking River* ruling, Plaintiffs felt that the
15 negotiated settlement of \$375,000.00, which was equivalent to approximately 31% of the
16 maximum PAGA exposure, was clearly in the best interests of the LWDA and the Aggrieved
17 Employees and was well within the range of reasonableness.

18 24. Plaintiffs’ counsel is requesting attorneys’ fees of one-third of the Gross
19 Settlement Amount (i.e., \$125,000.00). Based on my experience in similar wage and hour class
20 and representative actions in California state courts, fee awards in matters such as this one
21 generally equal about one-third of the gross recovery. In addition, and as explained below and in
22 the accompanying Motion, this case presented significant risks to Plaintiffs, including the risk
23 that an adverse *Viking River* decision could effectively conclude the case. It is fair and reasonable
24 to account for these risks in compensating Plaintiffs’ counsel, as well as the risks involved in
25 undertaking this litigation and expending considerable effort while working on a pure
26 contingency basis. Since undertaking representation of Plaintiffs, my office has dedicated
27 substantial resources to this litigation, including expending \$12,109.76 in litigation costs, without
28 receiving any compensation to date.

25. Plaintiffs' counsel conducted extensive research regarding the merits of Plaintiffs' claims, their ability to recover PAGA civil penalties, and United Insurance's potential defenses. Plaintiffs' counsel conducted informal discovery, and also performed extensive analysis of data and information produced by United Insurance, retained an expert economist to assist with in creating a comprehensive damages model, and drafted a comprehensive mediation brief. Plaintiffs' counsel also attended a private mediation, and expended significant effort in preparing settlement documents, this Motion and supporting documents, and will oversee the settlement administration process. Given the considerable potential for adverse outcomes in this case, the contingent risk borne by Plaintiffs' counsel was great.

26. Since undertaking representation of Plaintiffs, my firm has dedicated substantial resources to this litigation without receiving any compensation to date. My office is requesting reimbursement of up to \$12,109.76 in total costs, which includes \$60.00 of anticipated costs for filing and serving the instant Motion. A summary of the costs incurred by my office to date in connection with this case is attached hereto as **Exhibit 4**. These costs include filing fees, copying costs, mediation fees, expert fees, service fees, and other expenses that were all reasonably incurred in the prosecution of this litigation on behalf of Plaintiff and the Aggrieved Employees.

27. In this case, Plaintiffs' counsel has a lodestar of approximately \$114,332.50, resulting in a modest multiplier of 1.09 compared to the \$125,000.00 fee request. Below is a general summary showing the number of hours of work performed by each attorney and paralegal in my firm on this case:

Name	Rate	Hours	Pre-Multiplier Lodestar
Paul K. Haines (17th Year Attorney)	\$675	30.2	\$20,385.00
Tuvia Korobkin (14th Year Attorney)	\$650	72.5	\$47,125.00
Neil M. Larsen (11th Year Attorney)	\$550	80.2	\$44,110.00
Firm Paralegals	\$175	15.5	\$2,712.50
Total Lodestar			\$114,332.50

28. My proposed hourly rate of \$675, Mr. Korobkin's proposed hourly rate of \$650, and Mr. Larsen's proposed hourly rate of \$550 are reasonable in light of our respective skills, wage and hour class action litigation experience, reputation, and fee awards to other attorneys of similar experience in California. Moreover, our requested hourly rates are in line with the *Laffey* Matrix, a true and correct copy of which is attached hereto as **Exhibit 5**.

29. I believe the requested \$5,000 enhancement payment to each Plaintiff (totalling \$10,000.00) is reasonable given Plaintiffs' efforts in this case and the risks they undertook on behalf of Aggrieved Employees. Plaintiffs provided substantial factual information and documents to counsel, assisted in identifying potential witnesses, and participated in numerous discussions with Plaintiffs' counsel regarding the case. Accordingly, I believe Plaintiffs' requested enhancement payments are reasonable and should be approved.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 20, 2022, at El Segundo, California.


Paul K. Haines

EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement” or “Settlement”) is made and entered into between Plaintiffs Kasiaa Thomas and Toni Durio-Adams (“Plaintiffs”), acting in a private attorney general capacity, and Defendants Reserve National Insurance Company dba Kemper National Life Insurance Company and United Insurance Company of America (collectively “United Insurance” or “Defendants”) (together with Plaintiffs, the “Parties”).

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter titled *Kasiaa Thomas and Toni Durio-Adams v. Reserve National Life Insurance Company dba Kemper National Life Insurance Company, et al.*, Alameda County Superior Court Case No. 21CV001780.
2. “Aggrieved Employees” consist of all current and former commission paid outside sales agents of United Insurance in California who worked pursuant to United Insurance’s “Field Representatives Agreement” at any time during the PAGA Period. United Insurance represents that there are approximately 132 Aggrieved Employees as of the date of Mediation.
3. “United Insurance” or “Defendants” means, collectively, Reserve National Insurance Company dba Kemper National Life Insurance Company and United Insurance Company of America.
4. “Settlement Administrator” means Phoenix Settlement Administrators.
5. “Complaint” means the operative First Amended Complaint in the Action.
6. “Court” means the Superior Court of California for the County of Alameda.
7. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.
8. “LWDA” means the California Labor and Workforce Development Agency.
9. “Gross Settlement Amount” is the non-reversionary sum of Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00), which represents the total amount payable under this Settlement Agreement by United Insurance (subject to the Escalator Clause described below), including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiffs’ attorneys’ fees and costs, payment of Plaintiffs’ enhancement payment, and payment to the Settlement Administrator for administration costs.
10. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts, if approved by the Court, are subtracted from the Gross Settlement Amount: (a) Plaintiffs’ attorneys’ fees up to one third of the Gross Settlement Amount; (b) Plaintiffs’ costs up to \$20,000.00; (c) Plaintiffs’ enhancement payment up to \$5,000.00 each; and (d) administration costs up to \$5,000.00.

11. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

12. “PAGA Period” means the time period from February 15, 2020 through the earlier of (i) July 25, 2022 or (ii) the date of approval of this settlement by the Court.

13. “PAGA Released Claims” mean all claims for civil penalties under the PAGA, that were alleged in the Action or that could have been alleged based on the facts alleged in Plaintiffs’ PAGA notices and in the Action, arising from Aggrieved Employees’ employment with Defendants during the PAGA Period, including claims for PAGA civil penalties based on alleged violations of Labor Code §§ 201-204, 221-223, 226, 246, 558, 1174, 1198, 2802, and 2804.

14. “Parties” means, collectively, Plaintiffs and United Insurance.

15. “Plaintiffs’ Counsel” means Paul K. Haines, Tuvia Korobkin, and Neil M. Larsen of Haines Law Group, APC.

16. “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, partners, shareholders, joint venturers, successors, assigns, accountants, insurers, or legal representatives.

17. “Effective Date” means the following: (i) if there are no objectors or proposed intervenors who have objected to the Settlement or asserted a right to appeal, then the date the Court approves the Settlement and enters judgment thereon; or (ii) if there are objectors or proposed intervenors who have objected to the Settlement or asserted a right to appeal, then the expiration date for any appeal, without any appeal having been filed, or, if an appeal has been filed, the date after the conclusion of the appellate process (i.e., where the deadline to file any further appeal has passed), with the settlement having been affirmed on appeal or any appeal having been dismissed.

II. RECITALS

1. Plaintiffs performed work for United Insurance as commission-based employees pursuant to United Insurance’s Field Representatives Agreement in California during the PAGA Period, and are therefore Aggrieved Employees.

2. On August 12, 2021 Plaintiffs provided written notice to the LWDA and United Insurance asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of various Labor Code sections and their intent to file a civil lawsuit under the PAGA.

3. On November 4, 2021, Plaintiffs filed their representative complaint titled *Kasiaa Thomas and Toni Durio-Adams v. Reserve National Life Insurance Company dba Kemper National Life Insurance Company, et al.*, Alameda County Superior Court Case No. 21CV001780, asserting a claim for PAGA civil penalties against United Insurance for violations of the Labor Code on a representative basis. Plaintiffs later submitted a second letter to the LWDA asserting an additional theory of liability for PAGA civil penalties, and filed the operative Complaint on February 3, 2022.

4. In response to Plaintiffs' Counsel's informal discovery requests, United Insurance provided Plaintiff's Counsel with information and documents pertaining to Plaintiffs and other Aggrieved Employees in order for Plaintiffs' Counsel to investigate Plaintiffs' allegations and value the claims prior to mediation.

5. On May 25, 2022, the Parties participated in mediation before mediator Lisa Klerman, Esq. With the assistance of Ms. Klerman, the Parties agreed to fully and finally resolve the PAGA Released Claims as to Plaintiffs and Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** The Parties agree that this Settlement Agreement is not evidence that the allegations in the Action have any merit, nor does it constitute an admission of any wrongdoing by Defendants. Defendants do not admit to liability or to the suitability of this case for representative litigation other than for purposes of settlement. This Settlement Agreement will not be deemed admissible in any other proceeding or in this proceeding other than to effectuate this settlement. If the Court does not grant approval of this settlement, then the Parties revert to their previous positions with respect to the Plaintiffs' PAGA claims. However, to the extent the Court does not approve the Settlement, the Parties agree to work together in good faith to amend the settlement to address any concerns of the Court.

2. **Gross Settlement Amount.** United Insurance shall pay Three Hundred Seventy-Five Thousand Dollars and Zero Cents (\$375,000.00) as the non-reversionary Gross Settlement Amount. United Insurance will not pay more than the Gross Settlement Amount (subject to the Escalator Clause below). United Insurance shall deposit the Gross Settlement Amount into a Qualified Settlement Account and agrees to fund the settlement within thirty (30) days of the Effective Date.

The Gross Settlement Amount shall be used to pay: (1) Amounts distributable to the LWDA and Aggrieved Employees; (2) Plaintiffs' attorneys fees and costs; (3) Plaintiffs' enhancement payments; and (4) Settlement administration costs.

3. **Escalator Clause.** United Insurance represents that as of the date of Mediation there are approximately 12,100 pay periods worked by Aggrieved Employees during the PAGA Period ("Affected Pay Periods"). If the actual number of Affected Pay Periods as of the date of Mediation is more than 5% greater than this number (i.e., if there are 12,705 or more Affected Pay Periods as of the date of Mediation), United Insurance shall increase the GSA in proportion to the increase in Affected Pay Periods over 5% (e.g., if the number of Affected Pay Periods as of the date of Mediation is 12% greater than 12,100, United Insurance will increase the GSA by 7%).

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiffs' Attorneys' Fees and Costs.** United Insurance will not oppose Plaintiffs' request for attorneys' fees in the amount up to one third of the Gross Settlement Amount

(currently estimated to be \$125,000) and costs up to \$20,000.00 incurred in prosecuting this Action. In the event the Court approves less than these amounts, the difference will be added to the Net Settlement Amount. United Insurance, via the Settlement Administrator, will report these payments on an IRS Form 1099 issued to Plaintiffs' Counsel.

b. Plaintiffs' Enhancement Payment. United Insurance will not oppose Plaintiffs' request for an enhancement payment of up to \$5,000.00 each for serving as the representative plaintiffs in this Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. United Insurance, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to Plaintiffs.

c. Administration Costs. United Insurance will not oppose the Settlement Administrator's costs in the amount up to \$5,000.00 for administering the settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. United Insurance, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. One hundred percent (100%) of the Net Settlement Amount shall be designated as "civil penalties" and shall be distributed 75% to the LWDA and 25% to Aggrieved Employees, pursuant to Lab. Code § 2699(i). The 25% portion to be paid to Aggrieved Employees shall be paid to all Aggrieved Employees pro rata based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period.

a. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. PAGA Released Claims. Upon the occurrence of the Effective Date and the Settlement being fully funded, Plaintiffs and all Aggrieved Employees will release the PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon the occurrence of the Effective Date and the Settlement being fully funded, Plaintiffs and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

7. Confidentiality. Except as provided below to the extent necessary to effectuate the settlement or as required by court or legal process, Plaintiffs and Plaintiffs' Counsel will keep the terms of this Settlement Agreement confidential. Neither Plaintiffs nor Plaintiffs' Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or through any social media or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court. However, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiffs' counsel may reference the Action by name and case number in a declaration establishing adequacy as class or representative counsel.

To permit judicial review and approval of the Settlement, as required by Labor Code section 2698, *et seq.*, Plaintiffs' Counsel will file the Settlement Agreement with the Court and submit the Settlement to the LWDA as part of seeking Court approval of the Settlement, per Labor Code § 2699(1)(2).

8. **Motion for Approval of PAGA Settlement by Plaintiffs' Counsel.** Plaintiffs' Counsel shall be responsible for preparing and filing the Motion for Approval of the PAGA Settlement.

9. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. However, before any Party may invoke the right to terminate the Settlement, the Party shall meet and confer in good faith with the other Parties in an effort to modify the Settlement in order to obtain Court approval.

10. **Judgment.** As part of the Motion to approve the Settlement, Plaintiffs shall submit a proposed judgment which enters judgment in the Action in accordance with the terms of the Settlement, retains jurisdiction over the Action under Cal. Code Civ. Proc. § 664.6 for the purpose of enforcing the terms of the Settlement following approval of the Settlement, and enjoins the prosecution of any of the PAGA Released Claims against any of the Released Parties upon the occurrence of the Effective Date and the Settlement being fully funded. This Settlement Agreement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiffs and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to ask the Court to approve Phoenix Settlement Administrators to handle the administration of this settlement.

2. **Provision of Information for Aggrieved Employees.** Within five (5) business days after the Effective Date, United Insurance shall provide the Settlement Administrator with information for Aggrieved Employees. United Insurance will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, dates of employment or number of Affected Pay Periods worked during the PAGA Period, and Social Security numbers to the extent available from United Insurance's records. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement. Within the same 5 business-day period, United Insurance shall also send Plaintiffs' Counsel a redacted list of Aggrieved Employees with dates of employment or Affected Pay Period information, so that Plaintiffs' Counsel can determine whether the Escalator Clause has been triggered. Within 7 calendar days of receiving the Aggrieved Employees' information from United Insurance, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual PAGA Payments to each Aggrieved Employee and the data used to

calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses. Within twenty-one (21) calendar days after the Settlement has been fully funded and after receiving approval from Plaintiffs' Counsel and Defendants' counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed 100% penalties and reported using IRS Form 1099, with no withholdings taken.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check-cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other reputable search method using the name, address and/or Social Security number of the Aggrieved Employee involved, and will perform up to a single re-mailing if a new address is located.

Funds represented by checks returned as undeliverable after a re-mailing, checks for whom the Settlement Administrator could not locate an updated address after performing a skip trace, and funds represented by checks remaining un-cashed more than 180 days after issuance (collectively, "Uncashed Checks"), shall escheat to the California State Controller's Office for deposit in the Unclaimed Property Fund, in the name of the Aggrieved Employee.

5. **Distribution of Payments.** Within twenty-one (21) calendar days of the Settlement being fully funded, the Settlement Administrator shall issue payments to (1) Aggrieved Employees; (2) the LWDA; (3) Plaintiffs' Counsel for Plaintiffs' Counsel's Court-approved attorneys' fees and litigation costs; (4) Plaintiffs for the Court-approved enhancement payments; and (5) the Settlement Administrator for Court-approved Settlement administration costs incurred in connection with the Settlement.

6. **Accounting.** Within 45 days after all payments have been made under the Settlement, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the settlement.

7. **Tax Consequences.** Neither Plaintiffs nor United Insurance, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. **Drafting.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs and attorneys' fees incurred in connection with this Settlement Agreement, the Action and Plaintiffs' claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the Alameda County Superior Court. The prevailing party in any motion or other legal action to enforce this Settlement Agreement shall be entitled to recover his/her/its reasonable attorneys' fees and costs incurred in connection with such legal action.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them with respect to the subject matter of this Settlement Agreement, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim in the Action.

6. **Judgment and Continued Jurisdiction.** As noted above, after approval of this settlement, the Court will have continuing jurisdiction under Cal. Code Civ. Proc. § 664.6 for purposes of addressing: (i) the interpretation and enforcement of the terms of the settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

7. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest, or by counsel for all Parties, and subject to any necessary Court approval.

8. **Authorization to Enter into Settlement Agreement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute

any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement.

9. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate and reasonable settlement of the Action, and have arrived at this settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this settlement.

11. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement Agreement valid and enforceable.

12. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

14. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

15. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

[SIGNATURES ON FOLLOWING PAGE]

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS THEREOF, the Parties each acknowledge that he/she/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

Dated: _____, 2022

Kaisaa Thomas, Plaintiff

Dated: 08/09, 2022

Toni Durio-Adams
Toni Durio-Adams (Aug 9, 2022 18:24 PDT)

Toni Durio-Adams, Plaintiff

**RESERVE NATIONAL INSURANCE COMPANY
dba KEMPER NATIONAL LIFE INSURANCE
COMPANY**

Dated: _____, 2022

By:
Its:

UNITED INSURANCE COMPANY OF AMERICA

Dated: _____, 2022

By:
Its:

APPROVED AS TO FORM:

Dated: _____, 2022

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Sean M. Blakely
Neil M. Larsen
Attorneys for Plaintiff

Dated: _____, 2022

LITTLER MENDELSON P.C.

By: _____
Robert S. Blumberg
Attorneys for Defendants

IN WITNESS THEREOF, the Parties each acknowledge that he/she/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

Dated: 8-12, 2022


KASIAA THOMAS (Aug 12, 2022 08:32 PDT)
Kaisaa Thomas, Plaintiff

Dated: _____, 2022

Toni Durio-Adams, Plaintiff

**RESERVE NATIONAL INSURANCE COMPANY
dba KEMPER NATIONAL LIFE INSURANCE
COMPANY**

Dated: 08/24, 2022


By:
Its:

UNITED INSURANCE COMPANY OF AMERICA

Dated: 08/24, 2022


By:
Its:

APPROVED AS TO FORM:

Dated: August 12, 2022

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Sean M. Blakely
Neil M. Larsen
Attorneys for Plaintiff

Dated: August 26, 2022

LITTLER MENDELSON P.C.

By: 
Robert S. Blumberg
Attorneys for Defendants

EXHIBIT A

**Re: Payment from Kasiaa Thomas, et al v. Reserve National Insurance Company, et al
Superior Court of California for the County of Alameda; Case No. 21CV001780**

Date: [REDACTED]/[REDACTED]/2022

SIMID
Name
Address

Dear **Name:**

Enclosed, please find a check made payable to you. This is your payment from the settlement of the lawsuit titled *Kasiaa Thomas, et al v. Reserve National Life Insurance Company dba Kemper National Life Insurance Company, et al*, Case No. 21CV001780, pending in the Superior Court of the State of California for the County of Alameda (the “Action”).

The Action was filed against Reserve National Life Insurance Company dba Kemper National Life Insurance Company and United Insurance Company of America (“United Insurance”) and includes a claim pursuant to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.* (“PAGA”). The Action was brought by Plaintiffs Kasiaa Thomas and Toni Durio-Adams (“Plaintiffs”), who are current and former employees of Kemper, on behalf of the State of California and other alleged aggrieved employees. You have been identified as one of the employees on whose behalf the case was brought.

Plaintiffs claimed that Kemper owed civil penalties under PAGA for alleged violations of the California Labor Code. The parties have reached a settlement of Plaintiffs’ claims, and on [DATE], the Court approved the settlement, including the amount of civil penalties to be paid under the settlement. A portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency. Another portion of the civil penalty settlement amount goes to employees of United Insurance who were allegedly affected by the alleged violations of the Labor Code. In agreeing to this settlement, United Insurance does not admit that it is liable in any way to current or former employees for any violations of the California Labor Code or any penalties. The Court has not decided the merits of Plaintiffs’ claims.

Pursuant to the settlement, enclosed is a check for your share of a portion of the civil penalties. This check will remain valid for 180 days from the date of issuance. If you do not cash your check within 180 days of issuance, the funds will be deposited by the Settlement Administrator with the California State Controller to be deposited in the Unclaimed Property Fund in your name. If you are still employed by United Insurance, your decision to cash the check will not affect your employment.

While you were not a party to the Action, you and the State of California have been bound by the settlement entered in this matter and approved by the Court, including the release contained in the settlement. The release pertains to civil penalties under PAGA only. The release includes all claims under the PAGA that were alleged in, or could have been alleged based on the facts alleged in, Plaintiff’s PAGA notices and complaint in the Action, including claims for civil penalties under the PAGA based on United Insurance alleged violations of Labor Code sections 201-204, 221-223, 226, 246, 558, 1174, 1198, 2802, and 2804, including claims related to the payment of wages and commission, paid sick leave, and expense reimbursement, during the time period February 15, 2020 through <<END OF PAGA PERIOD>> (the “PAGA Period”). No underlying claims for wages or reimbursement are released under the Settlement.

If you have any questions, you can contact Phoenix Settlement Administrators, the Settlement Administrator, at 1-[REDACTED]-[REDACTED].

Questions? Call toll-free () - [REDACTED]

EXHIBIT 2

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 12, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Kasiaa Thomas and Toni Durio-Adams vs. Reserve National Insurance Company dba Kemper National Life Insurance Company, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Kasiaa Thomas (“Ms. Thomas”) and Toni Durio-Adams (“Ms. Adams”) in claims arising from their employment with Reserve National Insurance Company dba Kemper National Life Insurance Company, United Insurance Company of America, and Does 1 through 100 (collectively, “Kemper”). Ms. Thomas and Ms. Adams are “aggrieved employees” as defined by Labor Code Section 2698 *et seq.*, due to Kemper’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for the violations described herein is one year plus 178 days prior to the date of this letter. The “aggrieved employees” whom Ms. Thomas and Ms. Adams seek to represent include all employees who worked for Kemper in California at any time from one year plus 178 prior to the date of this letter through the present.

Kemper is in the business of selling insurance to individuals, families, and businesses throughout the United States. Ms. Thomas has been employed by Kemper in the position of “Insurance Agent” or “Territorial Manager” from approximately May 2015 to the present. Ms. Adams has been employed by Kemper from 2012 to the present in the position of “Insurance Agent.” As insurance agents, Ms. Thomas’ and Ms. Adams’ duties consist of selling policies and other services to customers as well as contacting customers to collect on premiums owed. In order to complete these duties, Ms. Thomas and Ms. Adams are required to travel to and from customers’ homes using their personal vehicles.

Throughout their employment with Kemper, Ms. Thomas, Ms. Adams, and other aggrieved employees have been paid pursuant to a commission pay plan, whereby they are

paid based on the premiums collected and/or policies and services sold. Upon information and belief, Ms. Thomas', Ms. Adams', and other aggrieved employees' commissions are generally calculated on a tri-monthly basis, with their earned commissions generally ascertained, calculated and paid out in three-month increments.

Under Kemper's commission pay plan, Ms. Thomas, Ms. Adams, and other aggrieved employees generally are paid a one-time commission whenever they sell a policy. If the policy lapses within a certain amount of time (i.e., the policy is cancelled or the customer fails to pay), Kemper then deducts the amount of the previously-paid commission from the employee's next paycheck. Upon information and belief, if the policy was sold by a former employee and the policy was reassigned to a current aggrieved employee such as Ms. Thomas or Ms. Adams, Kemper deducts the amount of the commission from the employee who inherited the policy. Because Ms. Thomas, Ms. Adams, and other aggrieved employees do not receive the one-time commission when they inherit accounts and therefore earned no financial benefit from the original sale, this practice of deducting commissions from the employee who inherited the account constitutes an unlawful deduction from wages. *See Hudgins v. Neiman Marcus Grp., Inc.*, 34 Cal.App.4th 1109, 1123-24 (2007) (holding that employer could not deduct commissions from employees for customer returns where it could not trace the return to the employee who made the sale, and holding that conditions placed on earned commissions must relate to the sale that earns the commission, and that "[an employer] cannot avoid a finding that its [commission deduction] policy is unlawful simply by asserting that the deduction is just a step in its calculation of commission income."); *Sciborski v. Pac. Bell Directory*, 205 Cal.App.4th 1152, 1168-69 (2012) ("[A]n employer may not require an employee to agree to a wage deduction...based on conditions that are unrelated to the sale...").

Kemper also failed to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for all reasonable and necessary work expenditures, including, but not limited to, mileage and other expenses in connection with the use of their personal vehicles, and use of their personal cellphones. Specifically, Kemper required Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal vehicles to travel to customers' homes to collect premiums and/or make sales but did not reimburse them for their mileage incurred and/or otherwise reimburse them for the use of their personal vehicle. Additionally, although Kemper required Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal cellphones for worked related purposes, including calling Kemper's customers, Kemper failed to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for use of their personal cellphones. As a result of Kemper's failure to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for these necessary work expenditures, Ms. Thomas, Ms. Adams, and other aggrieved employees are entitled to reimbursement pursuant to Labor Code § 2802.

As a result of Kemper's unlawful deductions from wages, and Kemper's resultant failure to pay all earned wages, Kemper failed to provide Ms. Thomas, Ms. Adams, and other aggrieved employees with accurate itemized wage statements. Kemper also issued

inaccurate wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees as a result of inaccurately reporting the commissions earned by their employees and/or by listing the incorrect inclusive dates of the pay period in violation of Labor Code § 226(a)(8). By way of example, for the pay period purportedly beginning on 1/25/21 and ending on 1/31/21, with a pay date of 1/29/21 (two days before the pay period ended), Ms. Thomas' wage statement reflects the commissions that she earned during the *prior* pay period of 1/18/21 to 1/24/21. This policy and/or practice of reporting the commissions earned by Ms. Thomas, Ms. Adams, and other aggrieved employees from the prior pay period on the current wage statement has resulted in the issuance of inaccurate wage statements (including but not limited to including inaccurate inclusive dates of the pay period) and the untimely payment of wages.

As a result of Kemper's unlawful deductions from wages, and Kemper's resultant failure to pay all earned wages, Kemper also failed to pay its former employees all wages owed at the time of separation from employment.

As described above, Kemper committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 4 ("Wage Order 4"):

Unlawful Deductions from Wages

As alleged above, Kemper made unlawful deductions to the wages of Ms. Thomas', Ms. Adams', and other aggrieved employees by reducing Ms. Thomas', Ms. Adams', and other aggrieved employees' based on cancellations/lapsing of policies that were sold by another employee and for which Ms. Thomas, Ms. Adams, and other aggrieved employees did not receive the commission. *See* Labor Code §§ 221-223; *see also* *Hudgins v. Neiman Marcus Grp., Inc.*, 34 Cal.App.4th 1109, 1123-24 (2007); *Sciborski v. Pac. Bell Directory*, 205 Cal.App.4th 1152, 1168-69 (2012).

Failure to Reimburse Necessary Business Expenses

Kemper requires Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal cellphones for all necessary work-related communications with customers. Although Ms. Thomas, Ms. Adams, and other aggrieved employees incur these expenses in the direct discharge of their job duties, Kemper fails to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for such necessary work expenditures. Kemper also fails to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for other necessary work expenditures such as mileage and auto-related expenses. At all relevant times herein, Kemper was subject to Wage Order 4, § 9(B), which states that "When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer." Kemper was subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees 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 obedience to the directions of the employer." Kemper was subject to Labor Code § 2804, which states that "any

contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Wage Statement Violations

Kemper is required to furnish Ms. Thomas, Ms. Adams, and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their total gross wages earned, and total net wages earned during *the pay period*. See Labor Code §§ 226(a) and 1174(d); Wage Order 4, § 7. As a result of Kemper’s unlawful deductions from wages, and Kemper’s resultant failure to pay all earned wages, Kemper maintains inaccurate payroll records and issues inaccurate wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees in violation of Labor Code §§ 226(a) and 1174(d) and Wage Order 4, § 7. Kemper further issued inaccurate, itemized wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees by listing the commissions earned on the pay period, one week in arrears, resulting in either an inaccurate reporting of wages earned during the pay period and/or the incorrect inclusive dates of the pay period. Kemper’s failure to comply with its wage statement obligations is knowing and intentional, and Ms. Thomas, Ms. Adams, and other aggrieved employees have suffered injury as a result.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees are paid all of their final wages at the time of their separation of employment. As alleged above, Kemper unlawfully deducted earned wages from aggrieved employees, and therefore failed to timely pay aggrieved former employees all of their final wages owed at the time of separation. Pursuant to Labor Code § 203, Kemper’s failure to pay all final wages due to aggrieved former employees was willful and, consequently, entitles aggrieved former employees to waiting time penalties equal to one day of wages at their standard rate for each day Kemper failed to pay their final wages after their separation, up to a maximum of thirty days.

As “aggrieved employees,” Ms. Thomas and Ms. Adams will initiate a civil action on behalf of themselves and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Thomas’ and Ms. Adams’ own investigation, and on information and belief, Kemper committed – and continues to commit – the following Labor Code violations:

- a. Kemper has violated Labor Code §§ 221-223 and 1198 by unlawfully deducting earned wages from the wages paid to Ms. Thomas, Ms. Adams, and other aggrieved employees.

- b. Kemper has violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for all necessary business expenditures incurred.
- c. Kemper has violated Labor Code § 226 by failing to furnish Ms. Thomas, Ms. Adams, and other aggrieved employees with accurate and compliant itemized wage statements;
- d. Kemper has violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to aggrieved former employees.
- e. Kemper has violated Labor Code § 204 by failing to pay Ms. Thomas, Ms. Adams, and other aggrieved employees all wages earned at least twice during each calendar month; and
- f. Kemper has violated Labor Code §§ 558, 1174, and 1198 by failing to maintain accurate records on behalf of Ms. Thomas, Ms. Adams, and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3, please notify us and Kemper if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Reserve National Insurance Company dba Kemper National Life Insurance Company (via certified mail); United Insurance Company of America (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 08/13/2021

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8346 8566 39

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 08/12/2021

ORIGINAL INTENDED RECIPIENT:

UNITED INSURANCE COMPANY OF AMERICA

C/O: C T CORPORATION SYSTEM

STE 700

330 N BRAND BLVD

GLENDALE CA 91203-2336

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 08/13/2021

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8346 8567 38

Our records indicate that this item was accepted by the USPS at:

SHIPMENT RECEIVED ACCEPTANCE PENDING EL SEGUNDO,CA 90245 08/12/2021

ORIGINAL INTENDED RECIPIENT:

RESERVE NATIONAL INSURANCE

COMPANY DBA KEMPER NATIONAL LIFE INSURANCE COMPANY

C/O: C T CORPORATION SYSTEM

STE 700

330 N BRAND BLVD



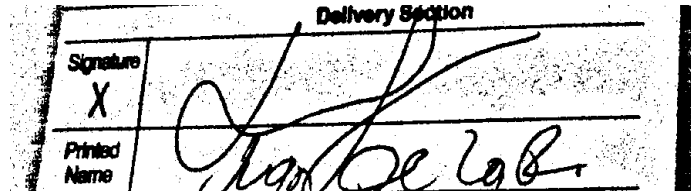
Mailer: Haines Law Group

Date Produced: 08/23/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8346 8566 39. Our records indicate that this item was delivered on 08/16/2021 at 07:11 a.m. in GLENDALE, CA 91209. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

UNITED INSURANCE COMPANY OF AMERICA
C/O: C T CORPORATION SYSTEM
STE 700
330 N BRAND BLVD
GLENDALE CA 91203-2336

Customer Reference Number: C2872171.16502698

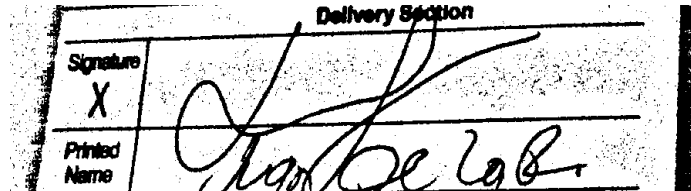
Mailer: Haines Law Group

Date Produced: 08/23/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8346 8567 38. Our records indicate that this item was delivered on 08/16/2021 at 07:11 a.m. in GLENDALE, CA 91209. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

RESERVE NATIONAL INSURANCE
COMPANY DBA KEMPER NATIONAL LIFE INSURANCE COMPANY
C/O: C T CORPORATION SYSTEM
STE 700
330 N BRAND BLVD
GLENDALE CA 91203-2336

Customer Reference Number: C2872171.16502697

EXHIBIT 3

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

November 11, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Kasiaa Thomas and Toni Durio-Adams vs. Reserve National Insurance Company dba Kemper National Life Insurance Company, et al.*
LWDA Case No. LWDA-CM-841189-21

To Whom It May Concern:

This letter is to supplement the letter sent by my office on behalf of Kasiaa Thomas (“Ms. Thomas”) and Toni Durio-Adams (“Ms. Adams”) on August 12, 2021 (the “PAGA Letter”) regarding the Labor Code violations committed Reserve National Insurance Company dba Kemper National Life Insurance Company, United Insurance Company of America, and Does 1 through 100 (collectively, “Kemper”) against Ms. Thomas, Ms. Adams and other aggrieved employees. A copy of the PAGA Letter is attached hereto as **Exhibit A** and it, along with the allegations in it, are incorporated herein by reference.

This letter supplements the PAGA Letter by adding factual allegations underlying Ms. Thomas and Adams’ allegation of Kemper’s violation of Labor Code section 246.

Allegations Regarding Failure to Provide Sick Leave

Pursuant to Labor Code section 246, a qualifying employee begins to accrue paid sick leave beginning on July 1, 2015, or if hired after that date, on the first day of employment. Section 246 states that employees “shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked,” and may begin using accrued paid sick days on the 90th day of employment. Section 246 further states that an employer “may satisfy the accrual requirements of [Section 246] by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of the employee’s 120th calendar day of employment.”

Section 246 further provides that employers “shall provide employees with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Labor Code section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.”

LWDA

November 11, 2021

Page 2 of 2

Kemper failed to comply with Labor Code section 246 by failing to indicate on Ms. Thomas, Ms. Adams, and other aggrieved employees' paystubs or in a separate writing the number of sick pay hours they had accrued from their inception of employment.

As "aggrieved employees," Ms. Thomas, Ms. Adams will initiate a civil action on behalf of themselves and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein and in the original PAGA Letter.

Pursuant to Labor Code section 2699.3, please notify my office and Kemper if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Reserve National Insurance Company dba Kemper National Life Insurance Company (via certified mail); and
United Insurance Company of America (via certified mail)

EXHIBIT A

HAINES LAW GROUP
EMPLOYMENT ATTORNEYS

August 12, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Kasiaa Thomas and Toni Durio-Adams vs. Reserve National Insurance Company dba Kemper National Life Insurance Company, et al.*

To Whom It May Concern:

Please be advised that this law firm represents Kasiaa Thomas (“Ms. Thomas”) and Toni Durio-Adams (“Ms. Adams”) in claims arising from their employment with Reserve National Insurance Company dba Kemper National Life Insurance Company, United Insurance Company of America, and Does 1 through 100 (collectively, “Kemper”). Ms. Thomas and Ms. Adams are “aggrieved employees” as defined by Labor Code Section 2698 *et seq.*, due to Kemper’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code Sections 2699.3, which requires aggrieved employees to notify their employer and the Labor & Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated.

Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days were suspended for 178 days, from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for the violations described herein is one year plus 178 days prior to the date of this letter. The “aggrieved employees” whom Ms. Thomas and Ms. Adams seek to represent include all employees who worked for Kemper in California at any time from one year plus 178 prior to the date of this letter through the present.

Kemper is in the business of selling insurance to individuals, families, and businesses throughout the United States. Ms. Thomas has been employed by Kemper in the position of “Insurance Agent” or “Territorial Manager” from approximately May 2015 to the present. Ms. Adams has been employed by Kemper from 2012 to the present in the position of “Insurance Agent.” As insurance agents, Ms. Thomas’ and Ms. Adams’ duties consist of selling policies and other services to customers as well as contacting customers to collect on premiums owed. In order to complete these duties, Ms. Thomas and Ms. Adams are required to travel to and from customers’ homes using their personal vehicles.

Throughout their employment with Kemper, Ms. Thomas, Ms. Adams, and other aggrieved employees have been paid pursuant to a commission pay plan, whereby they are

paid based on the premiums collected and/or policies and services sold. Upon information and belief, Ms. Thomas', Ms. Adams', and other aggrieved employees' commissions are generally calculated on a tri-monthly basis, with their earned commissions generally ascertained, calculated and paid out in three-month increments.

Under Kemper's commission pay plan, Ms. Thomas, Ms. Adams, and other aggrieved employees generally are paid a one-time commission whenever they sell a policy. If the policy lapses within a certain amount of time (i.e., the policy is cancelled or the customer fails to pay), Kemper then deducts the amount of the previously-paid commission from the employee's next paycheck. Upon information and belief, if the policy was sold by a former employee and the policy was reassigned to a current aggrieved employee such as Ms. Thomas or Ms. Adams, Kemper deducts the amount of the commission from the employee who inherited the policy. Because Ms. Thomas, Ms. Adams, and other aggrieved employees do not receive the one-time commission when they inherit accounts and therefore earned no financial benefit from the original sale, this practice of deducting commissions from the employee who inherited the account constitutes an unlawful deduction from wages. *See Hudgins v. Neiman Marcus Grp., Inc.*, 34 Cal.App.4th 1109, 1123-24 (2007) (holding that employer could not deduct commissions from employees for customer returns where it could not trace the return to the employee who made the sale, and holding that conditions placed on earned commissions must relate to the sale that earns the commission, and that "[an employer] cannot avoid a finding that its [commission deduction] policy is unlawful simply by asserting that the deduction is just a step in its calculation of commission income."); *Sciborski v. Pac. Bell Directory*, 205 Cal.App.4th 1152, 1168-69 (2012) ("[A]n employer may not require an employee to agree to a wage deduction...based on conditions that are unrelated to the sale...").

Kemper also failed to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for all reasonable and necessary work expenditures, including, but not limited to, mileage and other expenses in connection with the use of their personal vehicles, and use of their personal cellphones. Specifically, Kemper required Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal vehicles to travel to customers' homes to collect premiums and/or make sales but did not reimburse them for their mileage incurred and/or otherwise reimburse them for the use of their personal vehicle. Additionally, although Kemper required Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal cellphones for worked related purposes, including calling Kemper's customers, Kemper failed to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for use of their personal cellphones. As a result of Kemper's failure to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for these necessary work expenditures, Ms. Thomas, Ms. Adams, and other aggrieved employees are entitled to reimbursement pursuant to Labor Code § 2802.

As a result of Kemper's unlawful deductions from wages, and Kemper's resultant failure to pay all earned wages, Kemper failed to provide Ms. Thomas, Ms. Adams, and other aggrieved employees with accurate itemized wage statements. Kemper also issued

inaccurate wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees as a result of inaccurately reporting the commissions earned by their employees and/or by listing the incorrect inclusive dates of the pay period in violation of Labor Code § 226(a)(8). By way of example, for the pay period purportedly beginning on 1/25/21 and ending on 1/31/21, with a pay date of 1/29/21 (two days before the pay period ended), Ms. Thomas' wage statement reflects the commissions that she earned during the *prior* pay period of 1/18/21 to 1/24/21. This policy and/or practice of reporting the commissions earned by Ms. Thomas, Ms. Adams, and other aggrieved employees from the prior pay period on the current wage statement has resulted in the issuance of inaccurate wage statements (including but not limited to including inaccurate inclusive dates of the pay period) and the untimely payment of wages.

As a result of Kemper's unlawful deductions from wages, and Kemper's resultant failure to pay all earned wages, Kemper also failed to pay its former employees all wages owed at the time of separation from employment.

As described above, Kemper committed the following violations of the Labor Code, and Industrial Welfare Commission Wage Order 4 ("Wage Order 4"):

Unlawful Deductions from Wages

As alleged above, Kemper made unlawful deductions to the wages of Ms. Thomas', Ms. Adams', and other aggrieved employees by reducing Ms. Thomas', Ms. Adams', and other aggrieved employees' based on cancellations/lapsing of policies that were sold by another employee and for which Ms. Thomas, Ms. Adams, and other aggrieved employees did not receive the commission. *See* Labor Code §§ 221-223; *see also* *Hudgins v. Neiman Marcus Grp., Inc.*, 34 Cal.App.4th 1109, 1123-24 (2007); *Sciborski v. Pac. Bell Directory*, 205 Cal.App.4th 1152, 1168-69 (2012).

Failure to Reimburse Necessary Business Expenses

Kemper requires Ms. Thomas, Ms. Adams, and other aggrieved employees to use their personal cellphones for all necessary work-related communications with customers. Although Ms. Thomas, Ms. Adams, and other aggrieved employees incur these expenses in the direct discharge of their job duties, Kemper fails to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for such necessary work expenditures. Kemper also fails to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for other necessary work expenditures such as mileage and auto-related expenses. At all relevant times herein, Kemper was subject to Wage Order 4, § 9(B), which states that "When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer." Kemper was subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees 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 obedience to the directions of the employer." Kemper was subject to Labor Code § 2804, which states that "any

contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State.”

Wage Statement Violations

Kemper is required to furnish Ms. Thomas, Ms. Adams, and other aggrieved employees with complete and accurate itemized wage statements that showed, among other things, their total gross wages earned, and total net wages earned during *the pay period*. See Labor Code §§ 226(a) and 1174(d); Wage Order 4, § 7. As a result of Kemper’s unlawful deductions from wages, and Kemper’s resultant failure to pay all earned wages, Kemper maintains inaccurate payroll records and issues inaccurate wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees in violation of Labor Code §§ 226(a) and 1174(d) and Wage Order 4, § 7. Kemper further issued inaccurate, itemized wage statements to Ms. Thomas, Ms. Adams, and other aggrieved employees by listing the commissions earned on the pay period, one week in arrears, resulting in either an inaccurate reporting of wages earned during the pay period and/or the incorrect inclusive dates of the pay period. Kemper’s failure to comply with its wage statement obligations is knowing and intentional, and Ms. Thomas, Ms. Adams, and other aggrieved employees have suffered injury as a result.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees are paid all of their final wages at the time of their separation of employment. As alleged above, Kemper unlawfully deducted earned wages from aggrieved employees, and therefore failed to timely pay aggrieved former employees all of their final wages owed at the time of separation. Pursuant to Labor Code § 203, Kemper’s failure to pay all final wages due to aggrieved former employees was willful and, consequently, entitles aggrieved former employees to waiting time penalties equal to one day of wages at their standard rate for each day Kemper failed to pay their final wages after their separation, up to a maximum of thirty days.

As “aggrieved employees,” Ms. Thomas and Ms. Adams will initiate a civil action on behalf of themselves and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Ms. Thomas’ and Ms. Adams’ own investigation, and on information and belief, Kemper committed – and continues to commit – the following Labor Code violations:

- a. Kemper has violated Labor Code §§ 221-223 and 1198 by unlawfully deducting earned wages from the wages paid to Ms. Thomas, Ms. Adams, and other aggrieved employees.

- b. Kemper has violated Labor Code §§ 2802 and 2804 by failing to reimburse Ms. Thomas, Ms. Adams, and other aggrieved employees for all necessary business expenditures incurred.
- c. Kemper has violated Labor Code § 226 by failing to furnish Ms. Thomas, Ms. Adams, and other aggrieved employees with accurate and compliant itemized wage statements;
- d. Kemper has violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to aggrieved former employees.
- e. Kemper has violated Labor Code § 204 by failing to pay Ms. Thomas, Ms. Adams, and other aggrieved employees all wages earned at least twice during each calendar month; and
- f. Kemper has violated Labor Code §§ 558, 1174, and 1198 by failing to maintain accurate records on behalf of Ms. Thomas, Ms. Adams, and other aggrieved employees.

Pursuant to Labor Code Section § 2699.3, please notify us and Kemper if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
HAINES LAW GROUP, APC



Paul K. Haines

cc: Reserve National Insurance Company dba Kemper National Life Insurance Company (via certified mail); United Insurance Company of America (via certified mail)

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 11/13/2021

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8359 1985 11

Our records indicate that this item was accepted by the USPS at:

USPS IN POSSESSION OF ITEM EL SEGUNDO,CA 90245 11/12/2021

ORIGINAL INTENDED RECIPIENT:

UNITED INSURANCE COMPANY OF AMERICA

C/O: C T CORPORATION SYSTEM

STE 700

330 N BRAND BLVD

GLENDALE CA 91203-2336

PROOF OF ACCEPTANCE (ELECTRONIC)

PRODUCED DATE: 11/13/2021

HAINES LAW GROUP:

The following is information for Certified Mail™/RRE item number:

9214 8901 9403 8359 1986 65

Our records indicate that this item was accepted by the USPS at:

USPS IN POSSESSION OF ITEM EL SEGUNDO, CA 90245 11/12/2021

ORIGINAL INTENDED RECIPIENT:

RESERVE NATIONAL INSURANCE

COMPANY DBA KEMPER NATIONAL LIFE INSURANCE COMPANY

C/O: C T CORPORATION SYSTEM

STE 700

330 N BRAND BLVD

EXHIBIT 4

Haines Law Group, APC

Expense Summary

Kasiaa Thomas, et al. v. Reserve National Insurance Company

EXPENSE	AMOUNT
Mediation Costs	\$8,000.00
Expert Costs	\$1,908.00
Filing, Service, and Messenger Fees	\$1,965.59
Copying and Postage Costs	\$115.35
Westlaw Charges	\$120.82
TOTAL:	\$12,109.76

EXHIBIT 5

LAFFEY MATRIX

[History](#)
[Case Law](#)
[See the Matrix](#)
[Contact us](#)
[Home](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
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)

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” 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.