

MATERN LAW GROUP, PC
Matthew J. Matern (SBN 159798)
Mikael H. Stahle (SBN 182599)
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901
mmatern@maternlawgroup.com
mstahle@maternlawgroup.com

Attorneys for Plaintiff
MICHAEL NISTICO, individually, and
on behalf of all others similarly situated

LAW OFFICES OF STEPHEN J. KEPLER
Stephen J. Kepler (Bar No. 155451)
28241 Crown Valley Parkway, Suite F
Laguna Niguel, CA 92677
Telephone: (949) 636-0701
E-mail: skepler@kepler-law.com

Attorneys for Defendant
ENTERPRISE RENT-A-CAR
COMPANY OF LOS ANGELES, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MICHAEL NISTICO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

ENTERPRISE RENT-A-CAR
COMPANY OF LOS ANGELES, LLC, a
California limited liability company; and
DOES 1 through 50, Inclusive,

Defendants.

) Case No. 22STCV05531

) ASSIGNED FOR ALL PURPOSES TO
) Judge Maren E. Nelson, Department 17

) **SETTLEMENT AGREEMENT**
) **REGARDING PAGA CLAIMS**

1 **SETTLEMENT AGREEMENT REGARDING PAGA CLAIMS**

2 Michael Nistico, individually (“Nistico”), and in his capacity as a representative of
3 the State of California on behalf of other aggrieved employees (“Plaintiff”), and
4 Enterprise Rent-a-Car Company of Los Angeles, LLC (“Defendant”), hereby enter into
5 this Settlement Agreement Regarding Private Attorneys General Act of 2004 Claims
6 (“Settlement”) as follows:

7 **I. DEFINITIONS**

8 As used in this Settlement, the following terms shall have the following meanings:

9 A. “Action” shall mean the civil action entitled *Nistico v. Enterprise Rent-A-*
10 *Car Company of Los Angeles, LLC*, filed in the Superior Court of the State of California
11 for the County of Los Angeles on February 14, 2022, designated as Case No.
12 22STCV05531.

13 B. “Alleged Violations” shall mean Defendant’s alleged violations of Labor
14 Code Sections 98.6, 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 220, 221, 222,
15 223, 224, 225.5, 226, 226.3, 226.7, 227, 227.3, 246, 350-351, 432, 500, 510, 511, 512,
16 558, 558.1, 1102.5, 1174, 1174.5, 1175, 1193.6, 1194, 1194.2, 1194.3, 1197, 1197.1,
17 1198, 1198.5, 1199, 1401, 1402, 1403, 1404, 2802, 2810 and 2810.3, committed against
18 the Settlement Members during the PAGA Period, all of which violations were alleged in
19 Plaintiff’s Notice Letters to the LWDA.

20 C. “Defendant” shall mean Enterprise Rent-a-Car Company of Los Angeles,
21 LLC.

22 D. “Defense Counsel” shall mean Stephen J. Kepler of Law Offices of
23 Stephen J. Kepler.

24 E. “Effective Date” means the date by which this Settlement is finally
25 approved as provided herein and the Court's Judgment becomes final. For purposes of
26 the meaning of "Effective Date," the Court's Judgment becomes final upon the later of:
27 (a) the date of final affirmance on appeal of the Judgment, the expiration of the time for a
28 petition to review the Judgment, and, if review is granted, the date of final affirmance of

1 the Judgment following review; (b) the date of final dismissal of any appeal from the
2 Judgment or the final dismissal of any proceeding to review the Judgment; or (c) if no
3 appeal is filed, the expiration date for filing any appeal from the Judgment.

4 Notwithstanding the foregoing, if no objections to the Settlement are filed or submitted,
5 the Effective Date shall be the date which is 65 days after the date that the Court's
6 Judgment is entered.

7 F. "Employee Information" shall mean information regarding Settlement
8 Members that Defendant shall in good faith compile from its records and shall be
9 authorized by the Court to transmit in a secured manner to the Settlement Administrator.
10 Employee Information shall be transmitted in electronic form and shall include each
11 Settlement Member's full name; last known address; Social Security number; and total
12 number of Compensable Workweeks.

13 G. "Exempt Settlement Members" refers to all Settlement Members who were
14 classified as exempt employees as of June 17, 2021.

15 H. "Individual Settlement Payment" refers to each Settlement Member's pro
16 rata share of the PAGA Fund.

17 I. "Judgment" means a judgment executed, filed and entered by the Court in
18 accordance with this Settlement, representing recovery under PAGA, arising from the
19 Alleged Violations. Said Judgment will be in the form substantially similar to that
20 attached hereto as Exhibit "B".

21 J. "LWDA" refers to the California Labor & Workforce Development
22 Agency.

23 K. "Maximum Settlement Amount" refers to the Court-approved amount that
24 Defendant shall have to pay in connection with this Settlement, which shall be inclusive
25 of all Individual Settlement Payments to Settlement Members, Plaintiff's Counsel
26 Payment, Settlement Administration Costs, and the PAGA payment to the LWDA. The
27 Maximum Settlement Amount shall not exceed Nine Hundred and Sixty-Four Thousand,
28 Six Hundred and Forty-Nine Dollars and Seventy-Three Cents (\$964,649.73).

1 L. “Non-Exempt Settlement Members” refers to all Settlement Members who
2 were classified as non-exempt employees as of June 17, 2021.

3 M. “Notice” refers to the Notice of PAGA Settlement, substantially in the form
4 attached hereto as Exhibit “C,” which shall be subject to Court approval and which the
5 Settlement Administrator shall mail to each Settlement Member explaining the terms of
6 the Settlement. Counsel have confirmed that the Settlement Members generally read and
7 speak English.

8 N. “PAGA” refers to the Private Attorneys General Act of 2004, California
9 Labor Code Sections 2699 *et seq.*

10 O. “PAGA Fund” refers to the Maximum Settlement Amount, less Plaintiff’s
11 Counsel Payment and the Settlement Administration Costs.

12 P. “PAGA Period” shall mean June 17, 2021 through April 29, 2024.

13 Q. “Parties” collectively refers to Plaintiff and Defendant.

14 R. “Plaintiff” refers to plaintiff Michael Nistico individually and in his
15 capacity as a representative of the State of California on behalf of other aggrieved
16 employees.

17 S. “Plaintiff’s Counsel” shall mean Matthew J. Matern and Mikael H. Stahle
18 of Matern Law Group, PC.

19 T. “Plaintiff’s Counsel Payment” refers to Court-approved payment of
20 attorneys’ fees to Plaintiff’s Counsel (not to exceed 33⅓ percent of the Maximum
21 Settlement Amount), and Plaintiff’s Counsel’s expenses and costs reasonably incurred in
22 connection with this Action, as approved by the Court.

23 U. “Plaintiff’s Notice Letters to the LWDA” refers to the letters dated 8/10/21,
24 6/7/22 and 1/31/23, all of which are attached hereto as Exhibit “A.”

25 V. “Released Claims” shall mean any and all claims under PAGA on behalf of
26 any Settlement Member, related to the Alleged Violations, all of which were alleged in
27 Plaintiff’s Notice Letters to the LWDA.

28

1 W. “Released Parties” shall mean Defendant and all of its past and present
2 parents, subsidiaries, affiliated and/or related corporations, predecessors, successors, and
3 assigns, including each of their officers, directors, members, shareholders, managing
4 agents, representatives, consultants, attorneys, insurers and divisions, whether previously
5 or hereinafter affiliated in any manner. Released Parties specifically include without
6 limitation Enterprise Holdings, Inc., which is an intended third party beneficiary of this
7 Agreement.

8 X. “Settlement Administrator” refers to CPT Group, Inc., located at Steuart
9 Tower, 50 Corporate Park, Irvine, CA 92606, the qualified, third-party settlement
10 administrator agreed to by the Parties to administer the terms of the Settlement.

11 Y. “Settlement Administration Costs” means the reasonable costs and fees of
12 administering the Settlement to be paid from the Maximum Settlement Amount,
13 including, but not limited to: (i) printing, mailing, and re-mailing (if necessary) of the
14 Notice to Settlement Members; (ii) preparing and submitting to Settlement Members and
15 the LWDA all appropriate tax filings and forms; (iii) computing the amount of and
16 distributing Individual Settlement Payments, Plaintiff’s Counsel Payment, and the PAGA
17 payment to the LWDA; (iv) any cost associated with the escheatment process for any
18 uncashed or undeliverable settlement checks, and (v) establishing a Qualified Settlement
19 Fund, as defined by the Internal Revenue Code.

20 Z. “Settlement Members” refers to all persons employed by Defendant as
21 employees in California during the PAGA Period.

22 AA. “Settlement Packet” means the Notice and Individual Settlement Payment
23 to be sent to each Settlement Member by the Settlement Administrator.

24 **II. RECITALS**

25 A. On August 10, 2021, Plaintiff’s Counsel sent a letter to the LWDA on
26 behalf of Plaintiff, in compliance with California Labor Code section 2699.3. On June 7,
27 2022, and on January 31, 2023, Plaintiff’s Counsel sent supplemental letters to the
28 LWDA on behalf of Plaintiff, in compliance with California Labor Code section 2699.3.

1 Plaintiff seeks to represent himself and all Settlement Members. More than 65 days
2 passed after the letters were sent to the LWDA, and the LWDA has not indicated that it
3 intends to investigate the alleged violations referenced in the letters.

4 **B.** On February 14, 2022, Plaintiff filed a Complaint in Los Angeles County
5 Superior Court, Case No. 22STCV05531, asserting causes of action which included
6 individual wage and hour claims along with a representative claim for civil penalties
7 under PAGA.

8 **C.** On October 26, 2022, Plaintiff filed a First Amended Complaint, asserting
9 only individual wage and hour claims along with a representative claim for civil penalties
10 under PAGA.

11 **D.** On April 17, 2023, Plaintiff filed a Second Amended Complaint, asserting
12 only individual wage and hour claims along with a representative claim for civil penalties
13 under PAGA.

14 **E.** Plaintiff seeks recovery under PAGA, based on the Alleged Violations,
15 committed against the Settlement Members during the PAGA period.

16 **F.** Counsel for both Parties have investigated the facts relating to the claims
17 alleged in the operative complaint and have made a thorough study of the legal principles
18 applicable to the claims asserted against Defendant. Based on their investigation and
19 evaluation of this case, Plaintiff's Counsel have concluded that the settlement is fair,
20 reasonable, and adequate in light of all known facts and circumstances, including the
21 defenses asserted by Defendant, potential adverse findings regarding liability, and
22 numerous potential appellate issues.

23 **G.** Defendant denies, and continues to deny, each and every claim and
24 contention alleged in the Action, and has always maintained that it never engaged in any
25 unlawful acts regarding any of the matters alleged in the Action.

26 **NOW, THEREFORE,** in consideration of the mutual covenants, promises, and
27 conditions set forth, the Parties agree as follows:

28 ///

1 **III. NON-ADMISSION OF WRONGDOING OR LIABILITY**

2 A. Based on the factual and legal issues involved, the expense and time
3 necessary to prosecute the Action through trial, the risks, uncertainty, and costs of further
4 prosecution, the difficulty of proof necessary to establish liability as to the aggrieved
5 employees, and the relative benefits to the Settlement Members of an expeditious
6 resolution to the Action, the Parties have concluded that the terms set forth in this
7 Settlement are fair, reasonable, adequate, and in the best interests of the Settlement
8 Members.

9 B. The Parties agree that this Settlement does not constitute an admission by
10 Defendant or any of the Released Parties, as defined herein, of any of the matters alleged
11 in the Action or of any violation by any of them of any federal, state, or local law,
12 ordinance or regulation, or of any violation of any policy or procedure, or of any liability
13 or wrongdoing whatsoever. By entering into this Settlement, Defendant denies any
14 liability for any of the claims in the Action, as well as any other potential or unknown
15 claims based on wage and hour violations under state or federal law. Neither this
16 Settlement, nor anything contained in this Settlement, nor any document referred to or
17 contemplated herein, nor any action taken to carry out this Settlement, shall be construed
18 as, or may be used as, an admission, concession, or indication by or against Defendant or
19 the Released Parties of any unlawful conduct, fault, wrongdoing, or liability whatsoever.
20 Defendant and the Released Parties specifically deny that it has engaged in any unlawful
21 or wrongful conduct against Plaintiff or the Settlement Members.

22 **IV. TERMS OF THE PAGA SETTLEMENT**

23 A. **Maximum Settlement Amount**

24 Defendant shall pay a Maximum Settlement Amount not to exceed Nine Hundred
25 and Sixty-Four Thousand, Six Hundred and Forty-Nine Dollars and Seventy-Three Cents
26 (\$964,649.73). The Maximum Settlement Amount shall include Plaintiff's Counsel
27 Payment, Settlement Administration Costs, and the PAGA Fund.

28 ///

1 **B. Plaintiff's Counsel Payment of Attorneys' Fees And Costs**

2 1. Plaintiff's Counsel will apply to the Court for an award of attorneys'
3 fees not to exceed thirty three and one-third percent (33⅓%) of the Maximum Settlement
4 Amount, which amounts to Three Hundred and Twenty-One Thousand, Five Hundred
5 and Forty-Nine Dollars and Ninety-One Cents (\$321,549.91), which application
6 Defendant will not oppose. Plaintiff's Counsel will be responsible for submitting all
7 documents to support their request for attorneys' fees.

8 2. Plaintiff's Counsel will also seek reimbursement of reasonable
9 litigation costs associated with Plaintiff's Counsel's prosecution of the Action in an
10 amount not to exceed Ten Thousand Dollars (\$10,000.00), which application Defendant
11 will not oppose. Plaintiff's Counsel will submit documentation for reimbursement of
12 reasonable litigation costs if requested by the Court.

13 3. Plaintiff's Counsel Payment shall be paid from the Maximum
14 Settlement Amount by the Settlement Administrator. Any reductions by the Court of
15 Plaintiff's Counsel's request for attorneys' fees or costs shall revert to the PAGA Fund.
16 Defendant shall not be required to make any payments to Plaintiff's Counsel related to
17 Plaintiff's Counsel's fees and expenses other than as described herein; its sole obligation
18 shall be to pay the Maximum Settlement Amount to the PAGA Fund in accordance with
19 this Settlement.

20 4. Plaintiff's Counsel shall provide the Settlement Administrator with a
21 properly completed and signed IRS Form W-9 in order for the Settlement Administrator
22 to process the Plaintiff's Counsel Award approved by the Court.

23 5. This Settlement is not conditioned upon the Court awarding
24 Plaintiff's Counsel any particular amount of attorneys' fees or costs.

25 **C. Settlement Administration Fees And Costs**

26 Settlement administration shall be done by the Settlement Administrator. The
27 Parties agree that Settlement Administrative Costs, which are estimated not to exceed
28 Twenty-Seven Thousand Dollars (\$27,000), shall be paid from the Maximum Settlement

Amount.

D. PAGA Fund

1. After deducting the Plaintiff's Counsel Payment and the Settlement Administration Costs, the remainder of the Maximum Settlement Amount shall be the "PAGA Fund."

2. The PAGA Fund shall be designated as civil penalties and shall be allocated with seventy-five percent (75%) to be sent to the LWDA ("LWDA Portion") and twenty-five percent (25%) to be allocated among the Settlement Members ("Settlement Members Portion"). The penalties paid to each Settlement Member shall be recorded on an IRS Form 1099, which will be issued to each employee by the Settlement Administrator. Each employee shall be solely responsible for tax reporting and any tax liability on all penalty amounts awarded and identified on an IRS Form 1099 form.

II. COMPUTATION AND DISTRIBUTION OF TOTAL SETTLEMENT FUND

A. Deposit Of Maximum Settlement Amount

1. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID Number.

2. Within twenty-one (21) days after the Effective Date, Defendant shall deposit the Maximum Settlement Amount with the Settlement Administrator.

B. Formula For Calculating Share of PAGA Fund

Defendant employs persons in many different non-exempt positions. One example is a Management Trainee, whose job responsibilities include the following: (a) picking up and dropping off customers, (b) conducting follow-up with various businesses and customers, including insurance adjusters or agents, dealerships, auto body shops, road-side assistance and national reservations, (c) assisting in branch sales and marketing efforts to increase business and income, and (d) cleaning and washing vehicles. Plaintiff

1 alleges that the Alleged Violations were committed with approximately the same
2 frequency against persons employed in the various different non-exempt positions.

3 Defendant also employs persons in many different exempt positions. One example
4 is a Branch Manager, whose job responsibilities include the following: (a) ensuring that
5 the branch provides a high level of customer service for its customers, (b) managing the
6 sales and marketing efforts of the branch, (c) responsibility for the financial performance
7 of the branch, and (d) responsibility for the branch's fleet management and maintenance
8 of vehicles. Plaintiff alleges that the Alleged Violations were committed with
9 approximately the same frequency against persons employed in the various different
10 exempt positions, and that such frequency was significantly less than the frequency
11 against persons employed in non-exempt positions, due to the fact that many sections of
12 the California Labor Code do not apply to exempt employees.

13 In light of the foregoing, the portion of the PAGA Fund that is paid to each
14 Settlement Member shall be determined based on the following formula:

15 1. The payment to Settlement Members will be based on the number of
16 weeks worked by each Settlement Member during the PAGA Period. Partial weeks will
17 be counted as full work weeks. The Settlement Administrator shall determine the
18 eligibility for, and the amounts of, each Individual Settlement Award under the terms of
19 this Stipulation.

20 2. The amount to be paid per week worked by a Settlement Member
21 will be calculated as follows:

- 22 • Divide the Settlement Members Portion of the PAGA Fund by the
23 following: the number of weeks worked by Non-Exempt Settlement
24 Members during the PAGA Period plus one-half of the number of
25 weeks worked by Exempt Settlement Members during the PAGA
26 Period. The result will be called the "Quotient."
- 27 • The amount to be paid per week worked by a Non-Exempt
28 Settlement Member will be the Quotient.

1 • The amount to be paid per week worked by an Exempt Settlement
2 Member will be one-half of the Quotient.

3 3. The Settlement Administrator's calculation of the amount of each
4 Individual Settlement Award shall be binding on the Settlement Members, and
5 Defendant's records shall be determinative for purposes of calculating the number of
6 weeks worked and any payments to Settlement Members.

7 4. The Parties agree that a precise calculation of the amount of alleged
8 unpaid compensation allegedly earned by individual Settlement Members is
9 impracticable due to the fact that the timekeeping and payroll records that would need to
10 be analyzed are voluminous and the necessary analysis would be extremely time-
11 consuming and costly. The Parties agree the formula specified in this section is a fair and
12 reasonable proxy of determining the Settlement Members' pro rata share of the PAGA
13 Fund.

14 **C. Distribution of PAGA Fund**

15 1. Defendant shall provide the Settlement Administrator with the
16 Employee Information, to be furnished within twenty-one (21) days after the Effective
17 Date. The contact information is being provided confidentially to the Settlement
18 Administrator only, and the Settlement Administrator shall treat the information as
19 private and confidential and take all necessary precautions to maintain the confidentiality
20 of contact information of the Settlement Members. This information is to be used only to
21 carry out the Settlement Administrator's duties as specified in this Settlement.

22 2. Upon receipt of the Employee Information, the Settlement
23 Administrator shall perform a search based on the National Change of Address Database
24 maintained by the United States Postal Service to update and correct any known or
25 identifiable address changes. The Settlement Administrator shall exercise its best
26 judgment to determine the current mailing address for each Aggrieved Employee. The
27 address identified by the Settlement Administrator as the current mailing address shall be
28 presumed to be the most current mailing address for each Aggrieved Employee. The

1 Parties agree that this procedure provides the best notice practicable to Aggrieved
2 Employees and fully complies with due process.

3 3. Within thirty (30) days after the Effective Date, the Settlement
4 Administrator shall pay to the LWDA the PAGA Portion, or as otherwise directed by the
5 Court.

6 4. Within thirty (30) days after the Effective Date, the Settlement
7 Administrator shall distribute to Plaintiff's Counsel any Court-awarded attorneys' fees
8 and costs.

9 6. Within thirty (30) days after the Effective Date, the Settlement
10 Administrator shall distribute to Settlement Members their Individual Settlement
11 Payment, or as otherwise directed by the Court. The Settlement Administrator will send
12 the Settlement Packets to the Settlement Members by postmarked First Class U.S. Mail.

13 7. To provide the best notice practicable, any Settlement Packets
14 returned to the Settlement Administrator as non-delivered shall be sent by post-marked
15 First Class U.S. Mail to the forwarding address affixed thereto, if any. If no forwarding
16 address is provided for a Settlement Packet that is returned as non-deliverable, the
17 Settlement Administrator shall use the best available technology accessible (e.g. skip
18 tracing, address verification, etc.) to the Settlement Administrator or other mutually
19 agreeable method to locate Settlement Members and will then mail the Settlement
20 Packets to the address identified by the best available technology accessible to the
21 Settlement Administrator or other mutually agreeable method. If no current address is
22 located, the Settlement Packets for that individual will be deemed undeliverable. If any
23 Settlement Members cannot be located within two attempts at mailings by the Settlement
24 Administrator, the Settlement Packet for that individual will be deemed undeliverable.

25 4. The Settlement Administrator shall maintain a list of the postmark
26 date for the original mailing of the Settlement Packets to the Settlement Members, the
27 postmark date of any subsequent mailing to any Settlement Members, and a list of
28 Settlement Members who did not receive the Settlement Packet due to the inability to

1 locate a valid address using the procedures described herein or who otherwise could not
2 be located within two attempts at mailing.

3 5. All settlement checks will remain valid and negotiable for 180 days
4 from the date of their mailing by the Settlement Administrator. After 180 days from the
5 date of their mailing by the Settlement Administrator, all funds from uncashed checks,
6 plus any accrued interest thereon, will be sent to the State of California Controller's
7 Office, Unclaimed Property Fund, in the name of the aggrieved employee.

8 6. No later than January 31 of the year following payment of their
9 individual portion of the PAGA Fund, the Settlement Administrator will prepare and
10 issue IRS Form 1099 for the payment to Settlement Members who received such
11 payments.

12 7. For any Settlement Members for whom the Settlement Packet was
13 deemed undeliverable, their portion of the PAGA Fund will be sent to the State of
14 California Controller's Office, Unclaimed Property Fund, in the name of the aggrieved
15 employee.

16 **D. Settlement Administration Payment**

17 Within thirty-five (35) days after the Effective Date, the Settlement Administrator
18 shall deduct an amount equivalent to the Settlement Administration Costs.

19 **III. CLAIMS RELEASED BY PAGA SETTLEMENT MEMBERS**

20 **A. Claims Released By The LWDA And All Settlement Members**

21 Upon the Effective Date, the LWDA and Settlement Members fully release and
22 forever discharge the Released Parties from the Released Claims. As a result of this
23 release, the Settlement Members will be precluded from bringing a claim for any of the
24 Released Claims.

25 **1. Tax Treatment And Tax Indemnification**

26 Settlement Members will assume any tax obligations or consequences which may
27 arise from this Settlement. Settlement Members release any and all claims that they have
28 or may have against Released Parties for any claims, demands, deficiencies, levies,

1 assessments, executions, judgments, penalties, taxes, indemnification, and any other
2 recoveries related to any payments made under this Settlement or any compensation
3 provided at any time by the Released Parties. If any state or federal taxing authority
4 contacts, investigates, or pursues any action against any Settlement Members for their
5 individual share of taxes related to any payments made under this Settlement or any
6 compensation provided at any time by the Released Parties, each Settlement Member
7 shall be responsible for their own defense of and payment for any claim of unpaid taxes,
8 interest, or penalties brought by any state or federal taxing authority for the Settlement
9 Member's share of any state or federal tax obligation.

10 **IV. CLAIMS RELEASED BY PLAINTIFF**

11 **A.** In addition to fully releasing and forever discharging the Released Parties
12 from the Released Claims, on the Effective Date, Plaintiff will also fully release and
13 forever discharge the Released Parties from any and all claims of any nature. This
14 includes, but is not limited to, all claims arising from or based on Plaintiff's employment
15 with Defendant as well as any claims attributable to: common law; contract, quasi-
16 contract, or tort; unpaid salary, compensation, or benefits; the Employee Retirement
17 Income Security Act of 1974, as amended; the Internal Revenue Code of 1986, as
18 amended; harassment, discrimination, or retaliation under Title VII of the Civil Rights
19 Act of 1964, the Civil Rights Act of 1991, the Americans With Disabilities Act, Section
20 1981 of the Civil Rights Act of 1866; the Federal Medical Leave Act; the laws of
21 California; the California Labor, Government, and/or Business and Professions Codes
22 including but not limited to the California Fair Employment and Housing Act, the
23 California Family Rights Act and the California Unfair Business Practices Act; the
24 California Constitution; the California Consumer Credit Reporting Agencies Act; the
25 California Labor Code, and any federal, state, or local employment, discrimination,
26 harassment, or retaliation law, regulation or ordinance relating to employment or
27 separation from employment. This release does not include claims that cannot be
28 released as a matter of law.

1 **B.** This general release by Plaintiff also includes a waiver of rights under
2 California Civil Code Section 1542. Plaintiff expressly waives all rights provided by
3 California Civil Code Section 1542, or other similar statutes, that he may have against
4 each of the Released Parties. California Civil Code Section 1542 states:

5 **A GENERAL RELEASE DOES NOT EXTEND TO**
6 **CLAIMS WHICH THE CREDITOR DOES NOT KNOW**
7 **OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT**
8 **THE TIME OF EXECUTING THE RELEASE, WHICH IF**
9 **KNOWN BY HIM OR HER MUST HAVE MATERIALLY**
 AFFECTED HIS OR HER SETTLEMENT WITH THE
 DEBTOR.

10 **C.** This general release and waiver of rights under California Civil Code
11 Section 1542 shall include any and all claims based on conduct or omissions that
12 occurred at any time prior to the Effective Date of this Settlement. These releases are
13 contingent only on the Court approval of the PAGA Settlement.

14 **V. MISCELLANEOUS PROVISIONS**

15 **A. Mutual Full Cooperation**

16 Plaintiff, Defendant, Plaintiff's Counsel, and Defense Counsel agree to fully
17 cooperate with each other to accomplish the terms of this Settlement, including, but not
18 limited to, execution of such documents and to take such other action as may reasonably
19 be necessary to implement the terms herein. The Parties agree to use their best efforts
20 and any other efforts that may become necessary by Order of the Court, or otherwise, to
21 effectuate this Settlement.

22 **B. Parties' Authority**

23 The signatories hereto represent that they are fully authorized to enter into this
24 Settlement.

25 **C. Limited Confidentiality**

26 The parties intend this Settlement Agreement to be and remain confidential until
27 the Motion for Approval is filed. Neither party may disclose this Settlement Agreement
28 or the parties' settlement terms to any third party (except to the agreed-upon Claims

1 Administrator) until the Motion for Approval is filed.

2 **D. Binding Nature of The Settlement**

3 1. This Settlement shall be binding upon, and inure to the benefit of,
4 the successors or assigns of the Released Parties. Plaintiff represents, covenants, and
5 warrants that she has not, directly or indirectly, assigned, transferred, or encumbered any
6 claim, demand, action, cause of action, or rights released in the Released Claims in this
7 Settlement. This Settlement also shall be binding upon Plaintiff and the Settlement
8 Members.

9 2. This Settlement may be amended or modified only by a written
10 instrument signed by Plaintiff's Counsel and Plaintiff, as well as Defense Counsel and
11 Defendant. No rights under this Settlement may be waived except in writing.

12 3. This Settlement and any attached exhibits constitute the entire
13 agreement between Plaintiff and Defendant relating to the terms contained herein. All
14 prior or contemporaneous agreements, understandings, and statements, whether oral or
15 written, whether express or implied, and whether by a party or its counsel, concerning
16 this Settlement are merged herein. No oral or written representations, warranties, or
17 inducements have been made to any party concerning this Settlement or its exhibits other
18 than the representations, warranties, and covenants contained and memorialized in such
19 documents.

20 4. Paragraph titles or captions contained herein are inserted as a matter
21 of convenience and for reference, and in no way define, limit, extend, or describe the
22 scope of this Settlement or any of its provisions. Each term of this Settlement is intended
23 to be contractual and not merely a recital.

24 **E. Joint Drafting of Settlement Documents**

25 1. Plaintiff's Counsel and Defense Counsel have arrived at this
26 Settlement as a result of a series of arm's-length negotiations, taking into account all
27 relevant factors, present and potential.

2. This Settlement has been drafted jointly by Plaintiff's Counsel and Defense Counsel and, therefore, in any construction or interpretation of this Settlement, the same shall not be construed against any of the Parties. Plaintiff and Plaintiff's Counsel agree that none of the documents provided to them by Defendant as part of the mediation privilege, under California Evidence Code sections 1119, 1126, and 1154, shall be used for any purpose other than the settlement of this Action. Specifically, none of these documents shall be used to pursue any subsequent claims or litigation against Defendant.

F. Execution Of The Settlement

This Settlement may be executed in one or more counterparts and by facsimile. All executed copies of this Settlement and photocopies thereof shall have the same force and effect and shall be as legally binding and enforceable as the original.

G. Continuing Jurisdiction Of The Court

Subject to its approval by the Court, this Settlement is final, binding, and enforceable under California Code of Civil Procedure section 664.6. The Parties agree that the Court shall retain jurisdiction over the Parties, over the Released Claims (as to Plaintiff individually and those of other aggrieved employees), and over this Settlement for all enforcement purposes, including, but not limited to: (i) monitor and enforce compliance of Settlement, and/or (ii) resolve any disputes over this Settlement or the administration of the benefits of this Settlement.

AGREED TO BY PLAINTIFF:

Dated: 2/21/24, 2024

MICHAEL NISTICO, individually and on behalf of other aggrieved employees



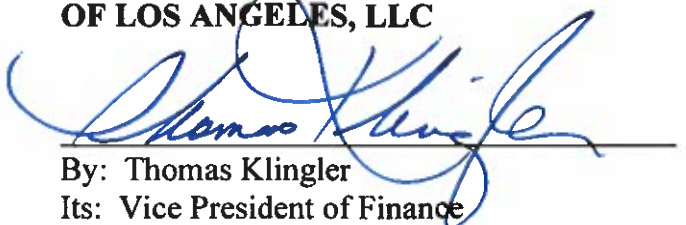
Michael Nistico (Feb 21, 2024 21:53 PST)

By: Michael Nistico

1 **AGREED TO BY DEFENDANT:**

2
3 Dated: 3/4, 2024

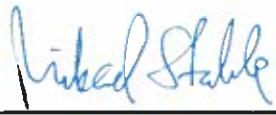
**ENTERPRISE RENT-A-CAR COMPANY
OF LOS ANGELES, LLC**

4
5
6 By: 
7 Its: Vice President of Finance

8
9 **APPROVED AS TO FORM BY PLAINTIFF'S COUNSEL:**

10 **MATERN LAW GROUP, PC**

11
12 Dated: 2/21/24, 2024

13 By: 

14 Mikael H. Stahle
15 Attorneys for Plaintiff

16 **APPROVED AS TO FORM BY DEFENSE COUNSEL:**

17
18 **LAW OFFICES OF STEPHEN J. KEPLER**

19
20 Dated: 3/4/24, 2024

21 By: 

22 Stephen J. Kepler
23 Attorneys for Defendant Enterprise Rent-
24 a-Car Company of Los Angeles, LLC
25
26
27
28

EXHIBIT A



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

August 10, 2021

Via Online Submission

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

**Via Certified U.S. Mail – Return
Receipt Requested**

Enterprise Rent-A-Car Company of
Los Angeles, LLC
333 City Blvd West, Suite 1000
Orange, CA 92868

Enterprise Holdings, Inc.
600 Corporate Park Drive
St. Louis, Missouri 63105

Re: Notice Pursuant to California Labor Code § 2699.3

Employee: Michael Nistico

Employer: Enterprise Rent-A-Car Company of Los Angeles, LLC and
Enterprise Holdings, Inc.

To Whom It May Concern:

This office represents Michael Nistico who was employed by Enterprise Holdings, Inc. and Enterprise Rent-A-Car Company of Los Angeles, LLC (Collectively “Enterprise”) as a Car Detailer at Enterprise’s location in Vista, CA. Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 9-2001, which Mr. Nistico alleges Enterprise violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Enterprise in a court of law and/or administrative proceedings, as well

MATERN LAW GROUP, PC

August 10, 2021

Page 2 of 9

as the imposition of substantial penalties and other remedies against Enterprise. Under separate cover, our office is sending a check in the amount of \$75.00 to the Accounting Unit of the Department of Industrial Relations for the requisite filing fee, pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B).

This letter also serves as notice of Mr. Nistico's demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents related to Mr. Nistico's employment and potential claims be preserved, even without a court order. Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including "adverse inference" jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of Enterprise's current and former non-exempt employees in the State of California regarding, among other things, the following violations: failure to provide meal and rest periods in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, §§ 11-12; failure to pay one additional hour of compensation at the regular rate of compensation for each work day a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 9-2001, §§ 11(B) and 12(B); failure to pay minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 9-2001, § 4; failure to pay overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; failure to timely pay all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 9-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Nistico on behalf of himself and all other current and former non-exempt employees of Enterprise in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than 30 minutes, late, not given, or interrupted; rest periods were less than 10 minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay for each work day a meal period was not provided; employees were not provided one hour of pay for each work day a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and Enterprise's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, Enterprise's unlawful employment practices and policies have deprived its employees of earned wages and other compensation.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

August 10, 2021

Page 3 of 9

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five hours and a second meal period to any employee who works a shift of more than 10 hours. Furthermore, an employer must pay one extra hour of compensation for each work day a meal period is not provided.

If an employee is not relieved of all duty during a meal period, the meal period shall be considered an “on duty” meal period and counted as time worked. A paid “on duty” meal period is permitted only when (1) the nature of the work prevents an employee from being relieved of all duty and (2) the parties have agreed in writing to on duty meal periods.

Mr. Nistico and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11. Enterprise failed to provide its employees timely and uninterrupted 30-minute meal breaks. Mr. Nistico’s and other aggrieved employees’ meal periods were short (less than 30 minutes), late, interrupted and/or missed.

Enterprise consistently failed to authorize Mr. Nistico and other aggrieved employees to take their meal breaks when they worked shifts longer than five hours. When employees were able to take a meal break, their meal breaks often were after the fifth hour of work. Mr. Nistico and other aggrieved employees were not able to take timely 30-minute breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. Mr. Nistico and other aggrieved employees often clocked out for their meal breaks but continued working.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001 by failing to consistently compensate Mr. Nistico and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee’s regular rate of compensation for each work day a meal period was not provided.

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 9-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a 10 minute rest period for every four hours worked or major fraction thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each work day a rest period is not authorized and permitted.

Mr. Nistico and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 9-2001. Enterprise failed to authorize and permit its employees to take required rest periods. Mr. Nistico and other aggrieved employees often were forced to forego their rest breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. When Mr. Nistico

MATERN LAW GROUP, PC

August 10, 2021

Page 4 of 9

and other aggrieved employees were able to take rest breaks, Enterprise failed to authorize and permit Mr. Nistico and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001, § 12 by failing to pay Mr. Nistico and other aggrieved employees one additional hour of pay at each employee's regular rate of compensation for each work day a rest period was not authorized and permitted.

Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Nistico and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4. Enterprise failed to pay Mr. Nistico and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Nistico and other similarly-situated individuals to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work through their meal breaks without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

Enterprise's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half times the regular rate of pay for hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on the seventh consecutive work day, with double time for all hours worked in excess of eight hours on the seventh day of any workweek, or after 12 hours in any work day.

Mr. Nistico and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001. Enterprise failed to compensate Mr. Nistico and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees work through meal periods without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

August 10, 2021

Page 5 of 9

In violation of California law, Enterprise has refused to perform its obligations to compensate Mr. Nistico and other aggrieved employees for all wages earned and all hours worked. Enterprise's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Enterprise failed to pay Mr. Nistico and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. For example, Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation. Enterprise also failed to pay Mr. Nistico and other aggrieved employees premium wages owed for each work day a meal period was not provided and each work day a rest period was not authorized and permitted.

In addition, Enterprise failed to pay Mr. Nistico and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Enterprise knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Nistico and other aggrieved employees overtime wages on any payday.

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code §§ 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 days.

August 10, 2021

Page 6 of 9

Enterprise failed to pay accrued wages to Mr. Nistico and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation and failed to pay Mr. Nistico and other aggrieved employees the premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, Enterprise failed and continues to fail to pay the full earned and unpaid wages due to Mr. Nistico and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Enterprise failed to timely provide Mr. Nistico and other aggrieved employees accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity or entities employing Mr. Nistico and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 9-2001, § 7.

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock, and Enterprise failed to include this time worked on Mr. Nistico's and other aggrieved employees' wage statements. Enterprise also did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay. As a result, Mr. Nistico's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Failure to Maintain Required Records

Enterprise failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 9-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

MATERN LAW GROUP, PC

August 10, 2021

Page 7 of 9

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock, including during meal breaks, and were compensated for such time. As a result, Enterprise failed to maintain accurate records of the total daily hours worked by each employee, meals periods, and when each employees began and ended each work period. Employees' wage statements also were inaccurate. In addition, Enterprise did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. Enterprise failed to indemnify Mr. Nistico and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Enterprise, including but not limited to expenses for personal cell phone and vehicle use, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to Enterprise and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of Enterprise, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

This notice shall further represent Mr. Nistico's reasonable attempt to settle his dispute with Enterprise prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Enterprise of Mr. Nistico's aforementioned grievances and the proposed remedies as detailed below, while affording Enterprise reasonable opportunity to meet Mr. Nistico's demands.

MATERN LAW GROUP, PC

August 10, 2021

Page 8 of 9

Demand is hereby made that Enterprise shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Enterprise shall pay Mr. Nistico and all other similarly-situated persons employed by Enterprise at any time during the past 48 months back pay and compensation for the above-referenced violations.

2. Enterprise shall comply with all California labor laws and ensure that its non-exempt employees are provided lawful meal and rest breaks and paid minimum and overtime wages for all hours worked.

3. Enterprise shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided and the number of rest breaks which were not authorized and permitted, with the investigation to be completed within 60 days.

4. Enterprise shall pay each employee one hour of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Enterprise also shall pay each employee one hour of pay for each work day he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.

5. Enterprise shall reimburse those employees who were required to pay for any business expenses incurred for Enterprise's benefit, including but not limited to costs associated with personal cell phone and vehicle use in the discharge of their duties without compensation.

6. Enterprise shall pay accrued interest to all employees at the rate of 10% per annum for said unpaid wages.

7. Enterprise shall pay waiting time penalties, equal to 30 days of pay, to each former employee who was not paid all wages due as described herein.

8. Enterprise shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698, *et seq.*, including but not limited to penalties under Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1199 and 2699 and Wage Order No. 9-2001, § 20.

MATERN LAW GROUP, PC

August 10, 2021

Page 9 of 9

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the Agency or Enterprise requires additional information regarding Mr. Nistico's claims.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC



Mikael H. Stahle



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

June 7, 2022

Via Online Submission

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

**Via Certified U.S. Mail – Return
Receipt Requested**

Enterprise Rent-A-Car Company of
Los Angeles, LLC
333 City Blvd West, Suite 1000
Orange, CA 92868

Enterprise Holdings, Inc.
600 Corporate Park Drive
St. Louis, Missouri 63105

Re: Notice Pursuant to California Labor Code § 2699.3

Employee: Michael Nistico

Employer: Enterprise Rent-A-Car Company of Los Angeles, LLC an
Enterprise Holdings, Inc.

To Whom It May Concern:

This office represents Michael Nistico who was employed by Enterprise Holdings, Inc. and Enterprise Rent-A-Car Company of Los Angeles, LLC (Collectively “Enterprise”) as a Car Detailer at Enterprise’s location in Vista, CA. Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 9-2001, which Mr. Nistico alleges Enterprise violated, including the facts and theories to support the alleged violations. Please be advised that this letter constitutes written notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Enterprise in a court of law and/or administrative proceedings, as well as the imposition of

MATERN LAW GROUP, PC

June 7, 2022

Page 2 of 9

substantial penalties and other remedies against Enterprise. Under separate cover, our office is sending a check in the amount of \$75.00 to the Accounting Unit of the Department of Industrial Relations for the requisite filing fee, pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B).

This letter also serves as notice of Mr. Nistico's demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents related to Mr. Nistico's employment and potential claims be preserved, even without a court order. Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including "adverse inference" jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of Enterprise's current and former non-exempt employees in the State of California regarding, among other things, the following violations:

Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698-2699.5, Mr. Nistico seeks to recover civil penalties based on DEFENDANTS' violations of Labor Code Sections 98.6, 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227, 227.3, 246, 350-351, 432, 500, 510, 511, 512, 558, 558.1, 1102.5, 1118.12, 1174, 1174.5, 1175, 1193.6, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199, 1401, 1402, 1403, 1404, 2802, 2810 and 2810.3, which violations Mr. Nistico alleges were committed against him and other aggrieved employees, continuing through the date of judgment in this action (collectively, the "Alleged Violations"). The Alleged Violations are based on conduct that includes but is not limited to failure to provide meal and rest periods in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, §§ 11-12; failure to pay one additional hour of compensation at the regular rate of compensation for each work day a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 9-2001, §§ 11(B) and 12(B); failure to pay minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 9-2001, § 4; failure to pay overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; failure to timely pay all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 9-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Nistico on behalf of himself and all other current and former non-exempt employees of Enterprise in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than 30 minutes, late, not given, or interrupted; rest periods were less than 10 minutes, not provided, interrupted, and/or late; employees were not provided one hour of pay for each work day a meal period was not provided; employees were not provided one hour of pay for each work day a rest

June 7, 2022

Page 3 of 9

break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and Enterprise's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, Enterprise's unlawful employment practices and policies have deprived its employees of earned wages and other compensation.

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five hours and a second meal period to any employee who works a shift of more than 10 hours. Furthermore, an employer must pay one extra hour of compensation for each work day a meal period is not provided.

If an employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is permitted only when (1) the nature of the work prevents an employee from being relieved of all duty and (2) the parties have agreed in writing to on duty meal periods.

Mr. Nistico and other aggrieved employees are non-exempt employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11. Enterprise failed to provide its employees timely and uninterrupted 30-minute meal breaks. Mr. Nistico's and other aggrieved employees' meal periods were short (less than 30 minutes), late, interrupted and/or missed.

Enterprise consistently failed to authorize Mr. Nistico and other aggrieved employees to take their meal breaks when they worked shifts longer than five hours. When employees were able to take a meal break, their meal breaks often were after the fifth hour of work. Mr. Nistico and other aggrieved employees were not able to take timely 30-minute breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. Mr. Nistico and other aggrieved employees often clocked out for their meal breaks but continued working.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001 by failing to consistently compensate Mr. Nistico and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee's regular rate of compensation for each work day a meal period was not provided.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

June 7, 2022

Page 4 of 9

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 9-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a 10 minute rest period for every four hours worked or major fraction thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each work day a rest period is not authorized and permitted.

Mr. Nistico and other aggrieved employees were and are non-exempt employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 9-2001. Enterprise failed to authorize and permit its employees to take required rest periods. Mr. Nistico and other aggrieved employees often were forced to forego their rest breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. When Mr. Nistico and other aggrieved employees were able to take rest breaks, Enterprise failed to authorize and permit Mr. Nistico and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001, § 12 by failing to pay Mr. Nistico and other aggrieved employees one additional hour of pay at each employee's regular rate of compensation for each work day a rest period was not authorized and permitted.

Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Nistico and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4. Enterprise failed to pay Mr. Nistico and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Nistico and other similarly-situated individuals to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work through their meal breaks without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

Enterprise's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half times the regular rate of pay for hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on the seventh consecutive work day, with double time for all

June 7, 2022

Page 5 of 9

hours worked in excess of eight hours on the seventh day of any workweek, or after 12 hours in any work day.

Mr. Nistico and other aggrieved employees are current and former non-exempt employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001. Enterprise failed to compensate Mr. Nistico and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees work through meal periods without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

In violation of California law, Enterprise has refused to perform its obligations to compensate Mr. Nistico and other aggrieved employees for all wages earned and all hours worked. Enterprise's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Enterprise failed to pay Mr. Nistico and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. For example, Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation. Enterprise also failed to pay Mr. Nistico and other aggrieved employees premium wages owed for each work day a meal period was not provided and each work day a rest period was not authorized and permitted.

In addition, Enterprise failed to pay Mr. Nistico and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Enterprise knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Nistico and other aggrieved employees overtime wages on any payday.

June 7, 2022

Page 6 of 9

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code §§ 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 days.

Enterprise failed to pay accrued wages to Mr. Nistico and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation and failed to pay Mr. Nistico and other aggrieved employees the premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, Enterprise failed and continues to fail to pay the full earned and unpaid wages due to Mr. Nistico and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Enterprise failed to timely provide Mr. Nistico and other aggrieved employees accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity or entities employing Mr. Nistico and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 9-2001, § 7.

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock,

MATERN LAW GROUP, PC

June 7, 2022

Page 7 of 9

and Enterprise failed to include this time worked on Mr. Nistico's and other aggrieved employees' wage statements. Enterprise also did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay. As a result, Mr. Nistico's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Failure to Maintain Required Records

Enterprise failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 9-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock, including during meal breaks, and were compensated for such time. As a result, Enterprise failed to maintain accurate records of the total daily hours worked by each employee, meals periods, and when each employees began and ended each work period. Employees' wage statements also were inaccurate. In addition, Enterprise did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. Enterprise failed to indemnify Mr. Nistico and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Enterprise, including but not limited to expenses for personal cell phone and vehicle use, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to Enterprise and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

This notice is made on behalf of all persons who are, were, or will be non-exempt employees of Enterprise, or any related or alter-ego company, corporation, partnership, and/or

MATERN LAW GROUP, PC

June 7, 2022

Page 8 of 9

business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

This notice shall further represent Mr. Nistico's reasonable attempt to settle his dispute with Enterprise prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Enterprise of Mr. Nistico's aforementioned grievances and the proposed remedies as detailed below, while affording Enterprise reasonable opportunity to meet Mr. Nistico's demands.

Demand is hereby made that Enterprise shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Enterprise shall pay Mr. Nistico and all other similarly-situated persons employed by Enterprise at any time during the past 48 months back pay and compensation for the above-referenced violations.
2. Enterprise shall comply with all California labor laws and ensure that its non-exempt employees are provided lawful meal and rest breaks and paid minimum and overtime wages for all hours worked.
3. Enterprise shall conduct a survey or interview all current and former non-exempt employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided and the number of rest breaks which were not authorized and permitted, with the investigation to be completed within 60 days.
4. Enterprise shall pay each employee one hour of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Enterprise also shall pay each employee one hour of pay for each work day he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.
5. Enterprise shall reimburse those employees who were required to pay for any business expenses incurred for Enterprise's benefit, including but not limited to costs associated with personal cell phone and vehicle use in the discharge of their duties without compensation.
6. Enterprise shall pay accrued interest to all employees at the rate of 10% per annum for said unpaid wages.
7. Enterprise shall pay waiting time penalties, equal to 30 days of pay, to each former employee who was not paid all wages due as described herein.

MATERN LAW GROUP, PC

June 7, 2022

Page 9 of 9

8. Enterprise shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698, *et seq.*, including but not limited to penalties under Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1199 and 2699 and Wage Order No. 9-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the Agency or Enterprise requires additional information regarding Mr. Nistico's claims.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC



Mikael H. Stahle



MATERN LAW GROUP, PC

1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
www.maternlawgroup.com
Tel: (310) 531-1900 | Fax: (310) 531-1901

January 31, 2023

Via Online Submission

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

**Via Certified U.S. Mail – Return
Receipt Requested**

Enterprise Rent-A-Car Company of
Los Angeles, LLC
333 City Blvd West, Suite 1000
Orange, CA 92868

Enterprise Holdings, Inc.
600 Corporate Park Drive
St. Louis, Missouri 63105

Re: Notice Pursuant to California Labor Code § 2699.3

Court Case: *Michael Nistico v. Enterprise Rent-A-Car Company of Los Angeles, LLC – AMENDED NOTICE*

LWDA Case: LWDA-CM-840980-21

To Whom It May Concern:

This office represents Michael Nistico who was employed by Enterprise Holdings, Inc. and Enterprise Rent-A-Car Company of Los Angeles, LLC (Collectively “Enterprise”) as a Car Detailer at Enterprise’s location in Vista, CA. Pursuant to the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code § 2698, *et seq.*, this letter sets forth the specific provisions of the Labor Code and Industrial Welfare Commission (“IWC”) Wage Order No. 9-2001, which Mr. Nistico alleges Enterprise violated, including the facts and theories to support the alleged violations. This office previously provided notice of Mr. Nistico’s claims against Enterprise to the LWDA on August 10, 2021. This amended notice is intended to clarify the facts and theories supporting his claims. Please be advised that this letter constitutes written

MATERN LAW GROUP, PC

January 31, 2023

Page 2 of 9

notice required by Labor Code § 2699.3, subdivisions (a)(1)(A) and (c)(1)(A) and may lead to immediate action against Enterprise in a court of law and/or administrative proceedings, as well as the imposition of substantial penalties and other remedies against Enterprise. Under separate cover, our office is sending a check in the amount of \$75.00 to the Accounting Unit of the Department of Industrial Relations for the requisite filing fee, pursuant to Labor Code § 2699.3, subdivisions (a)(1)(B) and (c)(1)(B).

This letter also serves as notice of Mr. Nistico's demand for preservation and non-spoliation of evidence, requesting that all relevant documents and data be saved and that all electronic files and hard-copy documents related to Mr. Nistico's employment and potential claims be preserved, even without a court order. Spoliation of evidence may result in legal claims for damages and monetary and evidentiary sanctions, including "adverse inference" jury instructions. Furthermore, intentional spoliation of evidence may carry criminal consequences pursuant to California Penal Code § 135.

We are investigating a potential class and representative action on behalf of Enterprise's current and former employees in the State of California regarding, among other things, the following violations:

Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698-2699.5, Mr. Nistico seeks to recover civil penalties based on Enterprise's violations of Labor Code Sections 98.6, 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227, 227.3, 246, 350-351, 432, 500, 510, 511, 512, 558, 558.1, 1102.5, 1118.12, 1174, 1174.5, 1175, 1193.6, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199, 1401, 1402, 1403, 1404, 2802, 2810 and 2810.3, which violations Mr. Nistico alleges were committed against him and other aggrieved employees, continuing through the date of judgment in this action (collectively, the "Alleged Violations"). The Alleged Violations are based on conduct that includes but is not limited to failure to provide meal and rest periods in violation of Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, §§ 11-12; failure to pay one additional hour of compensation at the regular rate of compensation for each work day a meal or rest period is not provided in violation of Labor Code § 226.7 and Wage Order No. 9-2001, §§ 11(B) and 12(B); failure to pay minimum wages for all hours worked in violation of Labor Code §§ 1194, 1197 and 1197.1 and Wage Order No. 9-2001, § 4; failure to pay overtime wages in violation of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; failure to timely pay all wages earned in violation of Labor Code § 204; willful failure to pay all wages due to discharged and quitting employees in violation of Labor Code §§ 201-203; failure to furnish accurate itemized wage statements to employees in violation of Labor Code § 226; failure to maintain required records pursuant to Labor Code §§ 226, 1174 and 1174.5 and Wage Order No. 9-2001, § 7; and unlawful deductions and withholdings from employees' wages in violation of Labor Code §§ 221, 223 and 224.

The allegations made by Mr. Nistico on behalf of himself and all other current and former employees of Enterprise in the State of California during the four years preceding the date of this notice are based on the following facts and theories: meal periods were less than 30 minutes, late, not given, or interrupted; rest periods were less than 10 minutes, not provided, interrupted, and/or

January 31, 2023

Page 3 of 9

late; employees were not provided one hour of pay for each work day a meal period was not provided; employees were not provided one hour of pay for each work day a rest break was not authorized and permitted; and employees were not paid proper minimum and overtime wages for all hours worked as required by California law.¹ Given the overtime, meal period and rest period violations and Enterprise's failure to compensate its employees fully, as set forth above, employees' wage statements were inaccurate and failed to comply with California law. In short, Enterprise's unlawful employment practices and policies have deprived its employees of earned wages and other compensation.

Failure to Provide Meal Periods

Pursuant to Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11, an employer is required to provide meal periods to its employees. An employer must provide a meal period to any employee who works a shift of more than five hours and a second meal period to any employee who works a shift of more than 10 hours. Furthermore, an employer must pay one extra hour of compensation for each work day a meal period is not provided.

If an employee is not relieved of all duty during a meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. A paid "on duty" meal period is permitted only when (1) the nature of the work prevents an employee from being relieved of all duty and (2) the parties have agreed in writing to on duty meal periods.

Mr. Nistico and other aggrieved employees are employees and are entitled to the protections of California Labor Code §§ 226.7 and 512 and Wage Order No. 9-2001, § 11. Enterprise failed to provide its employees timely and uninterrupted 30-minute meal breaks. Mr. Nistico's and other aggrieved employees' meal periods were short (less than 30 minutes), late, interrupted and/or missed.

Enterprise consistently failed to authorize Mr. Nistico and other aggrieved employees to take their meal breaks when they worked shifts longer than five hours. When employees were able to take a meal break, their meal breaks often were after the fifth hour of work. Mr. Nistico and other aggrieved employees were not able to take timely 30-minute breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. Mr. Nistico and other aggrieved employees often clocked out for their meal breaks but continued working.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001 by failing to consistently compensate Mr. Nistico and other aggrieved employees who were not provided with meal periods in accordance with California law one additional hour of pay at each employee's regular rate of compensation for each work day a meal period was not provided.

¹ "[T]he statement that defendant has not provided its employees with proper rest periods states both the facts and the theory." *Gutierrez v. California Commerce Club, Inc.* (2010) 187 Cal.App.4th 969, 979 n.5.

January 31, 2023

Page 4 of 9

Failure to Authorize and Permit Rest Periods

Pursuant to Labor Code § 226.7 and Wage Order No. 9-2001, § 12, an employer is required to provide rest periods to its employees. An employer must provide a 10 minute rest period for every four hours worked or major fraction thereof which insofar as practicable shall be in the middle of each work period. Furthermore, an employer must pay one extra hour of compensation for each work day a rest period is not authorized and permitted.

Mr. Nistico and other aggrieved employees were and are employees and are entitled to the protections of Labor Code § 226.7 and Wage Order No. 9-2001. Enterprise failed to authorize and permit its employees to take required rest periods. Mr. Nistico and other aggrieved employees often were forced to forego their rest breaks because they were required to assist restaurant guests and there was no one available to relieve them for their breaks. When Mr. Nistico and other aggrieved employees were able to take rest breaks, Enterprise failed to authorize and permit Mr. Nistico and other aggrieved employees to take their rest breaks in the middle of each work period insofar as practicable.

Enterprise further violated Labor Code § 226.7 and Wage Order No. 9-2001, § 12 by failing to pay Mr. Nistico and other aggrieved employees one additional hour of pay at each employee's regular rate of compensation for each work day a rest period was not authorized and permitted.

Failure to Pay Minimum Wages

Pursuant to Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4, payment to an employee of less than the applicable minimum wage for all hours worked in a payroll period is unlawful.

Mr. Nistico and other aggrieved employees are current and former employees and are entitled to the protections of Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4. Enterprise failed to pay Mr. Nistico and other aggrieved employees minimum wages for all hours worked by, among other things: requiring, suffering or permitting Mr. Nistico and other similarly-situated individuals to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work through their meal breaks without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

Enterprise's conduct violates Labor Code §§ 1194 and 1197 and Wage Order No. 9-2001, § 4.

Failure to Pay Overtime Wages

Pursuant to California Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3, an employer must compensate its employees for all overtime, which is calculated at one and one-half times the regular rate of pay for hours worked in excess of eight hours per day and/or 40 hours per week, and for the first eight hours on the seventh consecutive work day, with double time for all

January 31, 2023

Page 5 of 9

hours worked in excess of eight hours on the seventh day of any workweek, or after 12 hours in any work day.

Mr. Nistico and other aggrieved employees are current and former employees and are entitled to the protections of Labor Code §§ 510 and 1194 and Wage Order No. 9-2001. Enterprise failed to compensate Mr. Nistico and other aggrieved employees for all overtime hours worked as required under the foregoing provisions of the Labor Code and IWC Wage Order by, among other things: failing to pay overtime at one and one-half times or double the regular rate of pay as provided by Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3; requiring, suffering or permitting Mr. Nistico and other aggrieved employees to work off-the-clock; requiring, suffering or permitting Mr. Nistico and other aggrieved employees work through meal periods without compensation; illegally and inaccurately recording time worked by Mr. Nistico and other aggrieved employees; and other methods to be discovered.

In violation of California law, Enterprise has refused to perform its obligations to compensate Mr. Nistico and other aggrieved employees for all wages earned and all hours worked. Enterprise's conduct violates Labor Code §§ 510 and 1194 and Wage Order No. 9-2001, § 3.

Failure to Timely Pay All Wages Earned

Pursuant to Labor Code § 204, an employer must pay its employees at least twice a month for all wages earned during the preceding pay period. Labor Code § 204 provides that labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. An employer using an alternate payday schedule must pay wages within seven calendar days of the end of the payroll period in which the wages were earned.

Enterprise failed to pay Mr. Nistico and other aggrieved employees on their regularly scheduled payday for all work performed during the preceding pay period. For example, Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation. Enterprise also failed to pay Mr. Nistico and other aggrieved employees premium wages owed for each work day a meal period was not provided and each work day a rest period was not authorized and permitted.

In addition, Enterprise failed to pay Mr. Nistico and other aggrieved employees for the overtime wages they earned in violation of Labor Code § 204. Labor Code § 204 requires an employer to pay overtime wages no later than the payday for the next regular payroll period following the payroll period in which the overtime wages were earned. Enterprise knew it was required to pay overtime wages, yet on many occasions failed to pay Mr. Nistico and other aggrieved employees overtime wages on any payday.

January 31, 2023

Page 6 of 9

Failure to Pay All Wages Due Upon Separation

Pursuant to Labor Code §§ 201, 202 and 203, an employer is required to pay all earned and unpaid wages to an employee upon separation. Labor Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately. Pursuant to Labor Code § 202, an employer is required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 days.

Enterprise failed to pay accrued wages to Mr. Nistico and other aggrieved employees in accordance with Labor Code §§ 201 and 202. Because Enterprise required Mr. Nistico and other aggrieved employees to work off-the-clock without compensation and failed to pay Mr. Nistico and other aggrieved employees the premium wages for all meal periods which were not provided and all rest periods which were not authorized or permitted, Enterprise failed and continues to fail to pay the full earned and unpaid wages due to Mr. Nistico and other aggrieved employees upon separation.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226 requires every employer to furnish each of its employees an accurate itemized wage statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

Enterprise failed to timely provide Mr. Nistico and other aggrieved employees accurate itemized wage statements in writing showing each employee's gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity or entities employing Mr. Nistico and other aggrieved employees, and all applicable hourly rates in effect during each pay period and the corresponding number of hours worked at each hourly rate, in violation of Labor Code § 226 and Wage Order No. 9-2001, § 7.

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock,

January 31, 2023

Page 7 of 9

and Enterprise failed to include this time worked on Mr. Nistico's and other aggrieved employees' wage statements. Enterprise also did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay. As a result, Mr. Nistico's and other aggrieved employees' wage statements did not include all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate.

Failure to Maintain Required Records

Enterprise failed to maintain records as required under Labor Code §§ 226 and 1174 and Wage Order No. 9-2001, § 7, including but not limited to the following records: total daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time records showing when each employee begins and ends each work period; and accurate itemized statements.

Enterprise failed to provide its employees lawful meal and rest breaks; nevertheless, Enterprise failed to include in the wage statements the extra hour of compensation owed for each work day a meal break was not provided and each work day a rest break was not authorized and permitted. In addition, Mr. Nistico and other aggrieved employees performed work off-the-clock, including during meal breaks, and were compensated for such time. As a result, Enterprise failed to maintain accurate records of the total daily hours worked by each employee, meals periods, and when each employees began and ended each work period. Employees' wage statements also were inaccurate. In addition, Enterprise did not properly calculate Mr. Nistico's and other aggrieved employees' regular rate of pay.

Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties

Labor Code § 2802(a) requires an employer to indemnify an employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer. Enterprise failed to indemnify Mr. Nistico and other aggrieved employees for all business expenses and/or losses incurred in direct consequence of the discharge of their duties while working under the direction of Enterprise, including but not limited to expenses for personal cell phone and vehicle use, and other employment-related expenses, in violation of Labor Code § 2802.

This notice is hereby given to Enterprise and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under California law for any of the violations alleged herein as to any locations or employees who worked at any time in the State of California.

MATERN LAW GROUP, PC

January 31, 2023

Page 8 of 9

This notice is made on behalf of all persons who are, were, or will be employees of Enterprise, or any related or alter-ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter in the State of California.

This notice shall be construed as extending without limitation to any past, present, future, or continuing violation of the Labor Code, the applicable IWC Wage Order, or any applicable regulation which might be discovered as a result of a reasonable and diligent investigation made pursuant to this notice.

This notice shall further represent Mr. Nistico's reasonable attempt to settle his dispute with Enterprise prior to litigation. Pursuant to *Graham v. DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), this notice serves to apprise Enterprise of Mr. Nistico's aforementioned grievances and the proposed remedies as detailed below, while affording Enterprise reasonable opportunity to meet Mr. Nistico's demands.

Demand is hereby made that Enterprise shall agree, in writing received at this office no later than 30 calendar days from the postmark date of this notice, as follows:

1. Enterprise shall pay Mr. Nistico and all other similarly-situated persons employed by Enterprise at any time during the past 48 months back pay and compensation for the above-referenced violations.
2. Enterprise shall comply with all California labor laws and ensure that its employees are provided lawful meal and rest breaks and paid minimum and overtime wages for all hours worked.
3. Enterprise shall conduct a survey or interview all current and former employees in California during the past 48 months to obtain information from them regarding the number of meal breaks which were not provided and the number of rest breaks which were not authorized and permitted, with the investigation to be completed within 60 days.
4. Enterprise shall pay each employee one hour of pay for each work day he or she was not authorized and permitted one or more rest periods, as required by Labor Code § 226.7. Enterprise also shall pay each employee one hour of pay for each work day he or she was not provided one or more and meal periods, as required by Labor Code § 226.7.
5. Enterprise shall reimburse those employees who were required to pay for any business expenses incurred for Enterprise's benefit, including but not limited to costs associated with personal cell phone and vehicle use in the discharge of their duties without compensation.
6. Enterprise shall pay accrued interest to all employees at the rate of 10% per annum for said unpaid wages.
7. Enterprise shall pay waiting time penalties, equal to 30 days of pay, to each former employee who was not paid all wages due as described herein.

MATERN LAW GROUP, PC

January 31, 2023

Page 9 of 9

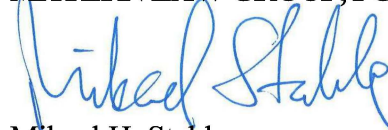
8. Enterprise shall pay all penalties arising from the violations of the Labor Code and IWC Wage Order sections referenced above and pursuant to PAGA, Labor Code § 2698, *et seq.*, including but not limited to penalties under Labor Code §§ 210, 225.5, 226.3, 558, 1174.5, 1197.1, 1199 and 2699 and Wage Order No. 9-2001, § 20.

If the Labor and Workforce Development Agency intends to investigate the allegations set forth herein, please notify this office of that decision by certified mail addressed to Matern Law Group, PC, 1230 Rosecrans Avenue, Suite 200, Manhattan Beach, California 90266. Additionally, please advise us if the Agency or Enterprise requires additional information regarding Mr. Nistico's claims.

Thank you for your prompt attention to this matter.

Very truly yours,

MATERN LAW GROUP, PC



Mikael H. Stahle

EXHIBIT B

MATERN LAW GROUP, PC
Matthew J. Matern (SBN 159798)
Mikael H. Stahle (SBN 182599)
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, California 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901
mmatern@maternlawgroup.com
mstahle@maternlawgroup.com

Attorneys for Plaintiff
MICHAEL NISTICO, individually, and
on behalf of all others similarly situated

LAW OFFICES OF STEPHEN J. KEPLER
Stephen J. Kepler (Bar No. 155451)
28241 Crown Valley Parkway, Suite F
Laguna Niguel, CA 92677
Telephone: (949) 636-0701
E-mail: skepler@kepler-law.com

Attorneys for Defendant
ENTERPRISE RENT-A-CAR
COMPANY OF LOS ANGELES, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

MICHAEL NISTICO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

ENTERPRISE RENT-A-CAR
COMPANY OF LOS ANGELES, LLC, a
California limited liability company; and
DOES 1 through 50, Inclusive,

Defendants.

) Case No. 22STCV05531

) ASSIGNED FOR ALL PURPOSES TO
) Judge Maren E. Nelson, Department 17

) **[PROPOSED] ORDER GRANTING**
) **APPROVAL OF PAGA**
) **SETTLEMENT; JUDGMENT**
) **THEREON**

1 This matter came on for hearing on April 29, 2024, at 10 a.m. in Department 17 of
2 the above-captioned Court, on a Motion for an Order Granting Approval of a PAGA
3 Settlement.

4 The Court having considered the Settlement Agreement Regarding PAGA Claims
5 (the "Settlement" or "Settlement Agreement"), having conducted a hearing regarding
6 whether the Settlement should be granted approval, having considered the pleadings filed
7 by the respective parties; and good cause appearing therefor:

8 HEREBY ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

9 (a) The following definitions, as provided in the Settlement, shall apply herein:

10 A. "Alleged Violations" shall mean Defendant's alleged violations of Labor
11 Code Sections 98.6, 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 220, 221, 222,
12 223, 224, 225.5, 226, 226.3, 226.7, 227, 227.3, 246, 350-351, 432, 500, 510, 511, 512,
13 558, 558.1, 1102.5, 1174, 1174.5, 1175, 1193.6, 1194, 1194.2, 1194.3, 1197, 1197.1,
14 1198, 1198.5, 1199, 1401, 1402, 1403, 1404, 2802, 2810 and 2810.3, committed against
15 the Settlement Members during the PAGA Period, all of which violations were alleged in
16 Plaintiff's Notice Letters to the LWDA.

17 B. "Defendant" shall mean Enterprise Rent-a-Car Company of Los Angeles,
18 LLC.

19 C. "Effective Date" means the date by which this Settlement is finally
20 approved as provided herein and the Court's Judgment becomes final. For purposes of
21 the meaning of "Effective Date," the Court's Judgment becomes final upon the later of:
22 (a) the date of final affirmance on appeal of the Judgment, the expiration of the time for a
23 petition to review the Judgment, and, if review is granted, the date of final affirmance of
24 the Judgment following review; (b) the date of final dismissal of any appeal from the
25 Judgment or the final dismissal of any proceeding to review the Judgment; or (c) if no
26 appeal is filed, the expiration date for filing any appeal from the Judgment.

27 Notwithstanding the foregoing, if no objections to the Settlement are filed or submitted,
28 the Effective Date shall be the date which is 65 days after the date that the Court's

Judgment is entered. The releases contained herein will not be effective until Defendant has made full payment in accordance herewith.

D. “Individual Settlement Payment” refers to each Settlement Member’s pro rata share of the PAGA Fund.

E. “LWDA” refers to the California Labor & Workforce Development Agency.

F. “Maximum Settlement Amount” refers to the Court-approved amount that Defendant shall have to pay in connection with this Settlement, which shall be inclusive of all Individual Settlement Payments to Settlement Members, Plaintiff’s Counsel Payment, Settlement Administration Costs, and the PAGA payment to the LWDA. The Maximum Settlement Amount shall not exceed Nine Hundred and Sixty-Four Thousand, Six Hundred and Forty-Nine Dollars and Seventy-Three Cents (\$964,649.73).

G. “Notice” refers to the Notice of PAGA Settlement, substantially in the form attached hereto as Exhibit “A,” which the Settlement Administrator shall mail to each Settlement Member explaining the terms of the Settlement.

H. “PAGA” refers to the Private Attorneys General Act of 2004, California Labor Code Sections 2699 *et seq.*

I. “PAGA Fund” refers to the Maximum Settlement Amount, less Plaintiff’s Counsel Payment and the Settlement Administration Costs.

J. “PAGA Period” shall mean June 17, 2021 through April 29, 2024.

K. “Plaintiff” refers to plaintiff Michael Nistico individually and in his capacity as a representative of the State of California on behalf of other aggrieved employees.

L. “Plaintiff’s Counsel” shall mean Matthew J. Matern and Mikael H. Stahle of Matern Law Group, PC.

M. “Plaintiff’s Counsel Payment” refers to Court-approved payment of attorneys’ fees to Plaintiff’s Counsel (not to exceed 33⅓ percent of the Maximum

1 Settlement Amount), and Plaintiff's Counsel's expenses and costs reasonably incurred in
2 connection with this Action, as approved by the Court.

3 N. "Plaintiff's Notice Letters to the LWDA" refers to the letters dated 8/10/21,
4 6/7/22 and 1/31/23, all of which are attached as Exhibit "A" to the parties' Settlement
5 Agreement.

6 O. "Released Claims" shall mean any and all claims under PAGA on behalf of
7 any Settlement Member, related to the Alleged Violations, all of which were alleged in
8 Plaintiff's Notice Letters to the LWDA.

9 P. "Released Parties" shall mean Defendant and all of its past and present
10 parents, subsidiaries, affiliated and/or related corporations, predecessors, successors, and
11 assigns, including each of their officers, directors, members, shareholders, managing
12 agents, representatives, consultants, attorneys, insurers and divisions, whether previously
13 or hereinafter affiliated in any manner. Released Parties specifically include without
14 limitation Enterprise Holdings, Inc., which is an intended third party beneficiary of this
15 Agreement.

16 Q. "Settlement Administrator" refers to CPT Group, Inc., located at Steuart
17 Tower, 50 Corporate Park, Irvine, CA 92606, the qualified, third-party settlement
18 administrator agreed to by the Parties to administer the terms of the Settlement.

19 R. "Settlement Administration Costs" means the reasonable costs and fees of
20 administering the Settlement to be paid from the Maximum Settlement Amount,
21 including, but not limited to: (i) printing, mailing, and re-mailing (if necessary) of the
22 Notice to Settlement Members; (ii) preparing and submitting to Settlement Members and
23 the LWDA all appropriate tax filings and forms; (iii) computing the amount of and
24 distributing Individual Settlement Payments, Plaintiff's Counsel Payment, and the PAGA
25 payment to the LWDA; (iv) any cost associated with the escheatment process for any
26 uncashed or undeliverable settlement checks, and (v) establishing a Qualified Settlement
27 Fund, as defined by the Internal Revenue Code.

1 S. “Settlement Members” refers to all persons employed by Defendant as
2 employees in California during the PAGA Period.

3 T. “Settlement Packet” means the Notice and Individual Settlement Payment
4 to be sent to each Settlement Member by the Settlement Administrator.

5 (b) The Court hereby grants Approval of the Settlement as fair, reasonable and
6 adequate in all respects, determines that the Settlement was made in good faith and in the
7 best interests of the parties, and orders the parties to consummate the Settlement in
8 accordance with the terms of the Settlement.

9 (c) Neither this Final Judgment nor the Settlement shall constitute an admission
10 by Defendants of any liability or wrongdoing whatsoever, nor is this Final Judgment a
11 finding of the validity or invalidity of any claims in the action or a finding of wrongdoing
12 by Defendants herein.

13 (d) Plaintiff seeks recovery under PAGA, based on the Alleged Violations,
14 committed against the Settlement Members during the PAGA Period. Judgment is hereby
15 entered against Defendant in the amount of Nine Hundred and Sixty-Four Thousand, Six
16 Hundred and Forty-Nine Dollars and Seventy-Three Cents (\$964,649.73), representing
17 recovery under PAGA, arising from the Alleged Violations.

18 (e) The Court orders that within twenty-one (21) days after the Effective Date,
19 Defendant shall deposit the Maximum Settlement Amount with the Settlement
20 Administrator.

21 (f) The Court finds that attorneys’ fees in the amount of
22 \$_____ and actual litigation costs of
23 \$_____ for Plaintiff’s Counsel are fair, reasonable and adequate, and
24 orders that the Settlement Administrator distribute these payments to Plaintiff’s Counsel in
25 conformity with the Settlement Agreement. The foregoing fees are reasonable in
26 consideration of the benefit obtained for the LWDA and aggrieved employees.

27 (g) The Court approves payment to the third-party settlement administrator in
28 the amount of \$_____

1 (h) In conformity with the Settlement Agreement, the Court orders that the
2 Settlement Administrator distribute the PAGA Fund and Settlement Packets as stated in
3 the Settlement Agreement.

4 (i) The Court decrees that the LWDA and Settlement Members have fully
5 released and forever discharged the Released Parties from the Released Claims. As a result
6 of this release, the Settlement Members are precluded from bringing a claim for any of the
7 Released Claims. Nothing herein releases any individual claim for wages that might be
8 possessed by any Settlement Member.

9 (j) Without affecting the finality of this Final Judgment in any way, the Court
10 reserves exclusive and continuing jurisdiction over the action and the parties for purposes
11 of supervising the implementation, enforcement, construction, administration and
12 effectuation of the Settlement.

13
14 **IT IS SO ORDERED.**

15
16 Dated: _____

Honorable Maren E. Nelson
Judge of the Superior Court

EXHIBIT C

Check

[DATE]

Dear [NAME]:

The enclosed check is your proportional share of the settlement under the California Private Attorneys General Act ("PAGA"), Labor Code § 2698, *et seq.*, in the case entitled *Nistico v. Enterprise Rent-a-Car Company of Los Angeles, LLC* (Los Angeles Superior Court Case No. 22STCV05531). The lawsuit alleged that Defendant ("Enterprise") violated certain Labor Code Sections. Enterprise has denied the allegations, but has reached a settlement to avoid the expense and disruption of further litigation. You are receiving this check because you worked for Enterprise as an employee within the State of California at some point during the period of June 17, 2021 through April 29, 2024 ("Aggrieved Employee"). Your proportional share was calculated on a pro rata basis (i.e., proportionally) based on the number of weeks you worked during that time period as a percentage of the total number of weeks worked by all Aggrieved Employees during that time period, with non-exempt employees receiving twice as much settlement money per week as exempt employees.

The LWDA and Settlement Members have fully released and forever discharged the Released Parties from the Released Claims. As a result of this release, the Settlement Members are precluded from bringing a claim for any of the Released Claims. The foregoing incorporates the following definitions:

- "Alleged Violations" means Defendant's alleged violations of Labor Code Sections 98.6, 200, 201, 202, 203, 204, 210, 216, 218, 218.5, 218.6, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227, 227.3, 246, 350-351, 432, 500, 510, 511, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1175, 1193.6, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199, 1401, 1402, 1403, 1404, 2802, 2810 and 2810.3, committed against the Settlement Members during the PAGA Period.
- "PAGA Period" means June 17, 2021 through April 29, 2024.
- "Released Claims" means any and all claims under PAGA on behalf of any PAGA Settlement Member, related to the Alleged Violations.
- As used herein, "Settlement Members" or "Aggrieved Employees" refers to all persons employed by Defendant as employees in California during the PAGA Period.
- "Released Parties" means Defendant and all of its past and present parents, subsidiaries, affiliated and/or related corporations, predecessors, successors, and assigns, including each of their officers, directors, members, shareholders, managing agents, representatives, consultants, attorneys, insurers and divisions, whether previously or hereinafter affiliated in any manner. Released Parties specifically include without limitation Enterprise Holdings, Inc., which is an intended third party beneficiary of this Agreement.

The Aggrieved Employees will not be deemed to have released any claims other than the “Released Claims” by virtue of this Settlement. Upon entry of the Order approving the Settlement, all Aggrieved Employees will be barred from proceeding with any claim released by this Settlement. Nothing in this Settlement precludes any Aggrieved Employee from pursuing an individual claim for wages against the Defendant.

Please cash or deposit your check on or before its printed void date. Checks will not be re-issued after the void date. If you have any questions about this payment, contact the Settlement Administrator at [CONTACT]. Please note that the Settlement Administrator cannot provide tax advice. If you have questions about the tax treatment of this payment, we suggest that you consult your tax advisor or accountant.

Regards,

Nistico v. Enterprise Rent-a-Car Settlement Administrator