

1 **STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or
3 “Settlement Agreement”) is made and entered into by and between Plaintiff Vanessa Dorantez
4 Galicia (“Plaintiff” or “Class Representative”) and Defendants M. San Ramon, Inc., Bay Area
5 Restaurant Management Corp., M Pleasant Hill II, Inc., M. Alcosta, Inc., M. Ashland, Inc., M.
6 Bernal, Inc., M. Central Inc., M. Contra Costa, Inc., M. Danville, Inc., M. Discovery Bay, Inc., M.
7 Greenhouse, Inc., M. Hesperian, Inc., M. Lonetree, Inc., M. Martinez, Inc., M. Mission, Inc., M.
8 Monument, Inc., M. Oakley, Inc., M. Pleasanton, Inc., M. San Leandro, Inc., M. Shoreline, Inc., M.
9 Stoneridge Mall, Inc., M. Tennyson, Inc., M. Watkins Inc., M. Deer Valley, Inc., M. Sun Valley, Inc.,
10 Mac-D Dublin, MacD-Antioch, Inc., MacD-Concord, MacD-Cordellia Jct., Inc., and MacD-
11 Pittsburg (collectively “Defendants”) (collectively with Plaintiff, the “Parties”).

12 This Settlement Agreement shall be binding on Plaintiff, Class Members (as defined herein),
13 the State of California as to the employment of aggrieved employees (as set forth herein) and on
14 Defendants, subject to the terms and conditions hereof and the approval of the Court.

15 **DEFINITIONS**

16 1. “Action” refers to the putative class action entitled *Vanessa Dorantez Galicia v. M.*
17 *San Ramon, Inc., et al.*, filed in Contra Costa County Superior Court on July 30, 2021, Case No.
18 MSC21-01638.

19 2. “Class Counsel” shall mean Raul Perez, Robert Drexler, Molly DeSario, and
20 Jonathan Lee of Capstone Law APC, counsel for Plaintiff, who will seek to be appointed counsel
21 for the Class.

22 3. “Class Counsel’s Fees and Costs” shall mean attorneys’ fees agreed upon by the
23 Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and
24 all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to,
25 costs associated with documenting the Settlement, providing any notices required as part of the
26 Settlement or Court order, securing the Court’s approval of the Settlement, administering the
27 Settlement, and expenses for any experts. Class Counsel will request attorneys’ fees not to exceed
28 one-third of the Gross Settlement Amount (i.e., up to One Million, One Hundred Sixty-Six

1 Thousand, Six Hundred and Sixty-Seven Dollars [\$1,166,667]) and reimbursement of actual costs
2 and expenses associated with Class Counsel's litigation and settlement of the Action, in an amount
3 not to exceed Fifteen Thousand Dollars (\$15,000), subject to Court approval.

4 4. "Class List" shall mean a complete list of all Class Members that Defendants will
5 diligently and in good faith compile from their records and provide to the Settlement Administrator
6 within thirty (30) calendar days after Preliminary Approval. The Class List will be formatted in a
7 readable Microsoft Office Excel spreadsheet and will include each Class Member's: (1) full name;
8 (2) last known mailing address; (3) last known telephone number (if available); (4) social security
9 number; (5) dates of employment as a Class Member during the Class Period); and (6) such other
10 information as is necessary for the Settlement Administrator to be able to calculate individual Class
11 Member Workweeks. Because social security numbers are included in the list, the Settlement
12 Administrator will maintain the list in confidence, and shall only access and use the list to administer
13 the Settlement in conformity with the Court's orders.

14 5. "Class" or "Class Member(s)" shall mean all current and former hourly-paid or non-
15 exempt employees who worked for Defendants in California at any time during the period from July
16 30, 2017 through December 26, 2022.

17 6. "Class Period" shall mean the period of July 30, 2017 through December 26, 2022.

18 7. "Class Representative" shall mean Plaintiff Vanessa Dorantez Galicia.

19 8. "Class Representative Incentive Payment/General Release Payment" shall mean the
20 amounts to be paid to the Class Representative, as set forth in Paragraph 57 below, in addition to
21 her Individual Settlement Payment and Individual PAGA Payment, in recognition of her efforts in
22 assisting with the prosecution of the Action.

23 9. "Class Settlement" shall mean the settlement and resolution of Released Class
24 Claims.

25 10. "Court" shall mean the Contra Costa County Superior Court of California.

26 11. "Defendants" shall mean, collectively, M. San Ramon, Inc., Bay Area Restaurant
27 Management Corp., M Pleasant Hill II, Inc., M. Alcosta, Inc., M. Ashland, Inc., M. Bernal, Inc., M.
28 Central Inc., M. Contra Costa, Inc., M. Danville, Inc., M. Discovery Bay, Inc., M. Greenhouse, Inc.,

1 M. Hesperian, Inc., M. Lonetree, Inc., M. Martinez, Inc., M. Mission, Inc., M. Monument, Inc., M.
2 Oakley, Inc., M. Pleasanton, Inc., M. San Leandro, Inc., M. Shoreline, Inc., M. Stoneridge Mall,
3 Inc., M. Tennyson, Inc., M. Watkins Inc., M. Deer Valley, Inc., M. Sun Valley, Inc., Mac-D Dublin,
4 MacD-Antioch, Inc., MacD-Concord, MacD-Cordellia Jct., Inc., and MacD-Pittsburg.

5 12. "Defense Counsel" shall mean Katherine C. Den Bleyker and Samuel Knecht of
6 Lewis Brisbois Bisgaard & Smith LLP.

7 13. "Effective Date" shall mean the later of the following: (a) if no timely objections are
8 filed or if all objections are withdrawn, the date upon which the Court enters the Final Approval
9 Order; (b) if an objection is filed and not withdrawn, the date after the last day for filing an appeal
10 from the Final Approval Order and Judgment and no such appeal being filed; (c) if any timely
11 appeals from the Judgment are filed, the date of the resolution (or withdrawal) of any such appeal
12 in a way that does not alter the terms of the Settlement.

13 14. "Employee PAGA Portion" shall mean the amount that is Twenty-Five percent
14 (25%) of the PAGA Penalties, in the amount of Twelve Thousand Five Hundred Dollars and Zero
15 Cents (\$12,500.00), available for distribution to PAGA Members.

16 15. "Final Approval" shall mean the Court entering an order granting final approval of
17 the Settlement.

18 16. "Final Approval Hearing" shall mean the hearing at which the Court will consider
19 and determine whether the Settlement should be granted Final Approval.

20 17. "Gross Settlement Amount" shall mean the amount of Three Million, Five Hundred
21 Thousand Dollars and Zero Cents (\$3,500,000.00) to be paid by Defendants in full resolution of all
22 Released Class Claims, Released PAGA Claims, and the Action, which is inclusive of the Class
23 Counsel's Fees and Costs, Class Representative Incentive Payment/General Release Payment,
24 Settlement Administration Costs, PAGA Penalties (consisting of LWDA Payment and Employee
25 PAGA Portion), and Individual Settlement Shares. Defendants shall pay the Employer Taxes in
26 addition to the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no
27 portion of the Gross Settlement Amount will return to Defendants.

28 18. "Individual PAGA Payment" shall mean the amount payable from the Employee

1 PAGA Portion to each PAGA Member.

2 19. "Individual Settlement Payment" shall mean the amount payable from the Net
3 Settlement Amount to each Participating Class Member, which is the Participating Class Member's
4 Individual Settlement Share reduced by the employee's share of taxes and withholdings with respect
5 to the wage portion of the Individual Settlement Share, as provided in Paragraph 61 below.
6 Individual Settlement Payments shall be paid by a settlement check made payable to Participating
7 Class Members.

8 20. "Individual Settlement Share" shall mean the pro rata share of the Net Settlement
9 Amount that a Class Member may be eligible to receive under the Settlement Agreement, to be
10 calculated in accordance with Paragraph 61 below.

11 21. "LWDA" shall mean the California Labor and Workforce Development Agency.

12 22. "LWDA Payment" shall mean the amount that is Seventy-Five percent (75%) of the
13 PAGA Penalties, in the amount of Thirty-Seven Thousand Five Hundred Dollars and Zero Cents
14 (\$37,500.00), to be paid to the LWDA.

15 23. "Net Settlement Amount" shall mean the portion of the Gross Settlement Amount
16 that is available for distribution to Participating Class Members after the following amounts are
17 deducted from the Gross Settlement Amount: (1) Class Counsel's Fees and Costs, (2) Settlement
18 Administration Costs, (3) Class Representative Incentive Payment/General Release Payment to
19 Plaintiff, and (4) PAGA Penalties to be paid to the LWDA and PAGA Members.

20 24. "Class Notice" shall mean the Notice of Class Action Settlement, substantially in the
21 form attached hereto as "**Exhibit A**," that will be mailed to Class Members' last known addresses
22 and which will provide Class Members with information regarding the Action and information
23 regarding the Settlement of the Action.

24 25. "PAGA" shall mean the Private Attorneys General Act of 2004 pursuant to
25 California Labor Code Section 2698, *et seq.*

26 26. "PAGA Member" or "PAGA Members" shall mean all current and former hourly-
27 paid or non-exempt employees who worked for Defendants in California at any time during the
28 period from August 6, 2020 through December 26, 2022.

1 27. “PAGA Penalties” shall mean the amount that the Parties have agreed to allocate as
2 civil penalties in order to settle claims arising under PAGA. The Parties have agreed to allocate Fifty
3 Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement Amount as PAGA Penalties.
4 Seventy-Five percent (75%) of the PAGA Penalties in the amount of Thirty-Seven Thousand Five
5 Hundred Dollars and Zero Cents (\$37,500.00) shall be paid directly to the LWDA (i.e., the LWDA
6 Payment) in accordance with Labor Code §§ 2698 *et seq.* The remaining Twenty-Five percent (25%)
7 of the PAGA Penalties in the amount of Twelve Thousand Five Hundred Dollars and Zero Cents
8 (\$12,500.00), shall be distributed to PAGA Members (collectively, the amount is the “Employee
9 PAGA Portion” and individually these payments are “Individual PAGA Payment(s)”). PAGA
10 Members will receive an Individual PAGA Payment regardless of their decision to participate in (or
11 opt out of) the Class Settlement, if the PAGA Penalties are approved by the Court.

12 28. “PAGA Period” shall mean the period of August 6, 2020 through December 26,
13 2022.

14 29. “PAGA Settlement” shall mean the settlement and resolution of Released PAGA
15 Claims.

16 30. “PAGA Workweeks” shall mean the number of weeks of employment for each
17 PAGA Member during the PAGA Period. The Settlement Administrator will calculate the number
18 of PAGA Workweeks by calculating the number of days each PAGA Member was employed during
19 the PAGA Period, dividing by seven (7), and rounding up to the nearest whole number. All PAGA
20 Members will be deemed to have worked during at least one PAGA Workweek during the PAGA
21 Period.

22 31. “Parties” shall mean Plaintiff and Defendants as defined above.

23 32. “Participating Class Members” shall mean all Class Members who do not submit a
24 valid and timely Request for Exclusion.

25 33. “Plaintiff” shall mean Plaintiff Vanessa Dorantez Galicia.

26 34. “Preliminary Approval” shall mean the Court entering an order granting preliminary
27 approval of the Class Settlement.

28 35. “Objection” shall mean a Class Member’s complete and timely written objection to

1 the Class Settlement. For an Objection to be complete, it must include: (a) the Participating Class
2 Member's full name, address, telephone number, last four digits of his or her Social Security
3 number, and signature; (b) the title of the Action or something similar to the title of the Action (e.g.,
4 "*Vanessa Dorantez Galicia v. M. San Ramon, Inc., et al.*;" (c) a written statement of all grounds for
5 the objection accompanied by legal support, if any, for such objection; (d) whether the Participating
6 Class Member intends to appear at the Final Approval Hearing, either in person or through counsel;
7 and (e) if represented by separate counsel, the name, address, bar number, and telephone number of
8 the Participating Class Member's representing attorney. For an Objection to be timely, it must be
9 post-marked by the Response Deadline and received by the Settlement Administrator.

10 36. "Released Class Claims" shall collectively mean any and all claims, rights, demands,
11 liabilities and causes of action against the Released Parties that were alleged or which could
12 reasonably have been alleged in the Action based on the same set of operative facts alleged in the
13 Operative Complaint, that accrued during the Class Period, including but not limited to causes of
14 action for Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); Violation of
15 California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages);
16 Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal
17 Periods); Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and
18 Permit Rest Periods); Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-
19 Compliant Wage Statements and Failure to Maintain Payroll Records); Violation of California
20 Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); Violation of California
21 Labor Code § 204 (Failure to Timely Pay Wages During Employment); Violation of Labor Code §
22 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) (Failure to
23 Provide Reporting Time Pay); Violation of California Labor Code § 2802 (Unreimbursed Business
24 Expenses); Violation of California Business & Professions Code §§ 17200, et seq. (Unlawful
25 Business Practices); Violation of California Business & Professions Code §§ 17200, et seq. (Unfair
26 Business Practices); and all claims for attorneys' fees and costs relating to the Released Class
27 Claims, or that could have been premised on the facts, claims, causes of action or legal theories
28 described above.

1 37. “Released PAGA Claims” shall mean all claims, rights, demands, liabilities and
2 causes of action for civil penalties under California Labor Code Private Attorneys General Act of
3 2004 (Cal. Lab. Code § 2698 et seq.) against the Released Parties that were alleged or which could
4 reasonably have been alleged in the Action based on the same set of operative facts alleged in the
5 August 16, 2021 Notice to the Labor & Workforce Development Agency, that accrued during the
6 PAGA Period, including but not limited to claims for civil penalties for violations of California
7 Labor Code §§ 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 558,
8 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5, and the corresponding sections of
9 the applicable Wage Orders of the Industrial Welfare Commission, including but not limited to
10 Industrial Welfare Commission Wage Order No. 5-2001, and all related claims for attorneys’ fees
11 and costs.

12 38. “Released Parties” shall mean Defendants and each of their former, present and
13 future owners, parents, and subsidiaries, and all of their current, former and future spouse(s),
14 children, officers, directors, members, managers, employees, consultants, partners, shareholders,
15 joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers,
16 management companies, and legal representatives.

17 39. “Request for Exclusion” shall mean a written statement submitted by a Class
18 Member requesting to be excluded from the Class Settlement. To be valid, the Request for Exclusion
19 must contain: (a) the Class Member’s full name, address, telephone number, and the last four digits
20 of the Class Member’s Social Security number, signature, and date; and (b) a clear statement
21 referencing the case title of the Action and requesting to be excluded from the settlement of the class
22 claims similar to the following: “I wish to exclude myself from the class settlement reached in the
23 matter of Vanessa Dorantez Galicia v. M. San Ramon, Inc., et al.” To be timely, the Request for
24 Exclusion must be post-marked by the Response Deadline and received by the Settlement
25 Administrator.

26 40. “Response Deadline” shall mean the date that is forty-five (45) days after the
27 Settlement Administrator mails the Class Notice to Class Members and the last date on which Class
28 Members may submit Requests for Exclusion from the Class Settlement, written Objections to the

1 Class Settlement, or Workweek disputes. In the event the 45th day falls on a Sunday or Federal
2 holiday, the Response Deadline will be extended to the next day on which the U.S. Postal Service
3 is open. The Response Deadline for Requests for Exclusion or Objections will be extended fifteen
4 (15) calendar days for any Class Member who is re-mailed a Class Notice by the Settlement
5 Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the Response
6 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response
7 Deadline may also be extended by express agreement between Class Counsel and Defendant. Under
8 no circumstances, however, will the Settlement Administrator have the authority to unilaterally
9 extend the Response Deadline.

10 41. "Settlement Administrator" shall mean CPT Group, Inc., or any other third-party
11 class action settlement administrator agreed to by the Parties and approved by the Court for purposes
12 of administering this Settlement. The Parties each represent that they do not have any financial
13 interest in the Settlement Administrator or otherwise have a relationship with the Settlement
14 Administrator that could create a conflict of interest.

15 42. "Settlement Administration Costs" shall mean the costs payable from the Gross
16 Settlement Amount, subject to Court approval, to the Settlement Administrator for administering
17 this Settlement, including, but not limited to, printing, distributing, and tracking documents for this
18 Settlement, calculating/confirming the Workweeks from the information contained in the Class List,
19 calculating each Participating Class Member's Individual Settlement Share and Individual
20 Settlement Payment, calculating each PAGA Member's Individual PAGA Payment, tax reporting,
21 distributing payments due under the Settlement, providing necessary reports and declarations, and
22 other duties and responsibilities set forth herein to process this Settlement, and as requested by the
23 Parties or the Court. Settlement Administration Costs are currently estimated at Forty Thousand
24 Dollars (\$40,000) and, assuming a total of approximately 7,910 Class Members, shall not exceed
25 Fifty Thousand Dollars (\$50,000).

26 43. "Workweeks" shall mean the number of weeks each Class Member worked at
27 Defendants during the Class Period. The Settlement Administrator will calculate the number of
28 Workweeks by calculating the number of days each Class Member worked at Defendants during the

Class Period, dividing by seven (7), and rounding up to the nearest whole number. All Class Members will be deemed to have worked during at least one Workweek during the Class Period.

RECITALS

44. On August 6, 2021, Plaintiff provided written notice by online submission to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the California Labor Code that were allegedly violated, a true and correct copy of which is attached hereto as “Exhibit B” (“August 6, 2021 Notice to the Labor & Workforce Development Agency”).

45. On July 30, 2021, Plaintiff commenced the Action by filing a Class Action Complaint.

46. On September 13, 2021, Defendants filed an Answer to Plaintiff’s Complaint, denying all material allegations set forth in the Action and asserting numerous affirmative defenses.

47. On February 14, 2022, Plaintiff filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code §2698, Et. Seq. (“Operative Complaint”) alleging twelve (12) causes of action against Defendants for: Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages); Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods); Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods); Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records); Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment); Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay); Violation of California Labor Code § 2802 (Unreimbursed Business Expenses); Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq.; Violation of California Business & Professions Code §§ 17200, et seq. (Unlawful Business Practices); and Violation of California Business & Professions Code §§ 17200, et seq. (Unfair Business Practices) (“Operative

1 Complaint”).

2 48. Class Counsel in the Action diligently investigated the claims against Defendants,
3 including any and all applicable defenses and the applicable law, and obtained and reviewed
4 extensive information, data, and documents to assess the claims and allegations.

5 49. The Parties also engaged in an exchange of informal discovery prior to attending a
6 private mediation in an effort to resolve the case. On October 26, 2022, the Parties attended a full-
7 day, private mediation with an experienced wage and hour mediator, Chris Barnes, and reached an
8 agreement to settle the present case at mediation, pursuant to Chris Barnes’ mediator’s proposal.

9 50. The settlement discussions were conducted at arm’s-length, and the Settlement is the
10 result of an informed and detailed analysis of Defendants’ potential liability and total exposure in
11 relation to the costs and risks associated with continued litigation. Based on the documents
12 produced, as well as Class Counsel’s own independent investigation and evaluation, Class Counsel
13 believes that the settlement with Defendants for the consideration and on the terms set forth in this
14 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class
15 Members in light of all known facts and circumstances, including the risk of significant delay and
16 uncertainty associated with litigation and various defenses asserted by Defendants.

17 **TERMS OF AGREEMENT**

18 51. Settlement Consideration. Defendants shall fund the Gross Settlement Amount
19 following Final Approval by the Court and the occurrence of the Effective Date. The following will
20 be paid out of the Gross Settlement Amount: (1) Class Counsel’s Fees and Costs, (2) Settlement
21 Administration Costs, (3) Class Representative Incentive Payment/General Release Payment to
22 Plaintiff, (4) PAGA Penalties to be paid to the LWDA and PAGA Members, and (5) the Individual
23 Settlement Shares to be paid to Participating Class Members. Any employer-side payroll taxes due
24 on the Individual Settlement Shares shall be paid by Defendants separately from and in addition to
25 the Gross Settlement Amount. Aside from the employer-side payroll taxes noted, or at the option of
26 Defendants as specified in Paragraph 53 below, Defendants shall not be required under any
27 circumstances to pay more than the Gross Settlement Amount. The Gross Settlement Amount is
28 non-reversionary; no portion of the Gross Settlement Amount will revert to Defendants.

1 52. Defendants' Option to Increase the Gross Settlement Amount. As of October 10,
2 2022, Defendants represented that the number of total Workweeks as of October 10, 2022 was Three
3 Hundred Seventy-Three Thousand Eight Hundred and Eighty-Two (373,882). If the actual number
4 of Workweeks during the Class Period is greater than 411,270, then Defendants shall, in their sole
5 discretion, have the option to either:

6 (a) de-escalate the Settlement so that the Class Period ends on the date
7 that the workweek count totals 411,270; or

8 (b) proportionally increase the Gross Settlement Amount, as defined in
9 Paragraph 17 above, according to the following formula: [Total
10 Number of Workweeks] ÷ 411,270 Workweeks x \$3,500,000.

11 53. Funding of the Gross Settlement Amount. Defendants shall deposit the Gross
12 Settlement Amount into a Qualified Settlement Fund ("QSF") to be established by the Settlement
13 Administrator as follows: within thirty (30) days of the date upon which the Court enters the Final
14 Approval Order, if no timely objections are filed or if all objections are withdrawn; (b) within sixty
15 one (61) days of the date upon which the Court enters entry of Judgement, if an objection is filed
16 and not withdrawn, and provided no appeal is filed; and (c) within five (5) business days of the date
17 upon which the Court affirms the Judgement, if any timely appeal to the Judgement is filed.
18 Defendants shall provide all information necessary for the Settlement Administrator to calculate
19 necessary payroll taxes including their official name, eight (8) digit state unemployment insurance
20 tax ID number, and other information requested by the Settlement Administrator, no later than thirty
21 (30) calendar days of the Effective Date.

22 54. Distribution of the Gross Settlement Amount. Within fourteen (14) calendar days of
23 the funding of the Settlement, the Settlement Administrator will issue the following payments: (1)
24 Individual Settlement Payment checks to all Participating Class Members and Individual PAGA
25 Payment checks to all PAGA Members; (2) LWDA Payment to the LWDA; (3) the Class
26 Representative Incentive Payment/General Release Payment to Plaintiff; (4) Class Counsel's Fees
27 and Costs to Class Counsel, and (5) Settlement Administration Costs to the Settlement
28 Administrator.

1 55. Class Counsel's Fees and Costs. Defendants agree not to oppose or impede any
2 application or motion by Class Counsel for attorneys' fees of up to one-third of the Gross Settlement
3 Amount (i.e., up to One Million, One Hundred Sixty-Six Thousand, Six Hundred and Sixty-Seven
4 Dollars [\$1,166,667]) plus the reimbursement of actual costs and expenses associated with Class
5 Counsel's litigation and settlement of the Action, in an amount not to exceed Fifteen Thousand
6 Dollars (\$15,000), subject to Court approval, which will be paid from the Gross Settlement Amount.
7 Any portion of the requested fees or costs that is not awarded by the Court to Class Counsel shall
8 become part of the Net Settlement Amount and distributed to Participating Class Members as
9 provided in this Agreement. Any adjustments made by the Court to the requested fees and costs
10 shall not be deemed a material modification of this Agreement.

11 56. Class Representative Incentive Payment/General Release Payment. Defendants
12 agree not to oppose or object to any application or motion by Plaintiff for a Class Representative
13 Incentive Payment of Five Thousand Dollars and Zero Cents (\$5,000.00) and General Release
14 Payment of Five Thousand Dollars and Zero Cents (\$5,000.00). The Class Representative Incentive
15 Payment to Plaintiff is for Plaintiff's time, effort, and risk in bringing and prosecuting the Action.
16 The General Release Payment to Plaintiff is in exchange for a general release of Plaintiff's
17 individual claims, as provided herein. Any adjustments made by the Court to the requested Class
18 Representative Incentive Payment shall not be deemed a material modification of this Agreement.
19 In the event that the Court reduces or does not approve the requested Class Representative Incentive
20 Payment, the Settlement Agreement remains in full force and effect; Plaintiff shall not have the right
21 to revoke the Agreement for that reason; it shall remain binding; and any portion of the requested
22 Class Representative Incentive Payment that is not awarded to the Class Representative shall
23 become part of the Net Settlement Amount and distributed to Participating Class Members as
24 provided in this Agreement.

25 57. Settlement Administration Costs. The Settlement Administrator will be paid for the
26 reasonable costs of administration of the Settlement and distribution of payments from the Gross
27 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs are
28 estimated at and shall not exceed Fifty Thousand Dollars (\$50,000). To the extent that Settlement

Administration Costs are less than Fifty Thousand Dollars (\$50,000), the difference between Fifty Thousand Dollars (\$50,000) and the actual costs of settlement administration shall become part of the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

58. PAGA Penalties. Fifty Thousand Dollars and Zero Cents (\$50,000.00) of the Gross Settlement Amount shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Penalties, or Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$37,500.00), to the LWDA (i.e., the LWDA Payment). The remaining twenty-five percent (25%) of the PAGA Penalties, or Twelve Thousand Five Hundred Dollars and Zero Cents (\$12,500.00) (i.e., the Employee PAGA Portion), will be distributed to PAGA Members on a *pro rata* basis based on their PAGA Workweeks. PAGA Members shall be issued payment of their share of the Employee PAGA Portion regardless of their decision to opt-out of the Class Settlement.

59. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount will be distributed to Participating Class Members through Individual Settlement Shares in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

Gross Settlement Amount	\$ 3,500,000.00
Class Representative Incentive Payment:	\$ 5,000.00
General Release Payment:	\$ 5,000.00
Class Counsel's Fees:	\$ 1,166,667.00
Class Counsel's Costs:	\$ 15,000.00
PAGA Penalties:	\$ 50,000.00
Settlement Administration Costs:	\$ 40,000.00
Estimated Net Settlement Amount:	\$ 2,218,333.00

60. Calculations of Payments to Participating Class Members and PAGA Members.

(a) Calculation of Individual Settlement Shares. The Settlement Administrator will determine the total number of Workweeks for each Participating Class Member and the total aggregated number of Workweeks worked by all Participating Class

1 Members during the Class Period. The Settlement Administrator will be provided with such
2 information, by Defendant, as is necessary to calculate each Participating Class Member's
3 Workweeks and the aggregated number of Workweeks. The amount that each Participating
4 Class Member will be eligible to receive will be calculated by dividing each Participating
5 Class Member's individual Workweeks by the total Workweeks of all Participating Class
6 Members, and multiplying the resulting fraction by the Net Settlement Amount.

7 (b) Calculation of Individual PAGA Payments. The Settlement
8 Administrator will determine the total number of PAGA Workweeks for each PAGA
9 Member and the total aggregated number of PAGA Workweeks worked by all PAGA
10 Members during the PAGA Period. The Settlement Administrator will be provided with such
11 information, by Defendant, as is necessary to calculate each PAGA Member's PAGA
12 Workweeks and the aggregated number of PAGA Workweeks. The amount that each PAGA
13 Member will receive will be calculated by dividing each PAGA Member's individual PAGA
14 Workweeks by the total PAGA Workweeks of all PAGA Members, and multiplying the
15 resulting fraction by the Employee PAGA Portion. PAGA Members shall be issued payment
16 of their Individual PAGA Payment regardless of whether they opt out of the Class
17 Settlement.

18 (c) Tax Allocation of Individual Settlement Payments and Individual
19 PAGA Payments. All Individual Settlement Shares will be allocated as follows: twenty-five
20 percent (25%) of each Individual Settlement Share will be allocated as wages, and seventy-
21 five percent (75%) shall be allocated as interest, penalties, and non-wage damages. The
22 portion of the Individual Settlement Shares allocated to wages will be reported by the
23 Settlement Administrator on an IRS Form W-2, and the portion of the Individual Settlement
24 Shares allocated to interest, penalties, and non-wage damages will be reported by the
25 Settlement Administrator on an IRS Form-1099 (if required). The Individual PAGA
26 Payments are non-wage payments that will be reported by the Settlement Administrator on
27 an IRS Form-1099 (if required).

28 61. No Credit Toward Benefit Plans. The payments made to Plaintiff, Participating Class

Members, and PAGA Members under this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Members and/or PAGA Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Participating Class Members and/or PAGA Members may be entitled under any benefit plans.

62. Settlement Administration Process. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Settlement Administrator will provide the following services:

- (a) Establish and maintain a Qualified Settlement Fund.
- (b) Calculate the Individual Settlement Payment that each Participating Class Member shall receive and the Individual PAGA Payment that each PAGA Member shall receive.
- (c) Print and mail the Class Notice.
- (d) Perform address searches as detailed in Paragraph 66, including conduct additional address searches and skip traces for mailed Class Notices that are returned as undeliverable.
- (e) Process Requests for Exclusion, Objections, calculate Participating Class Members' Individual Settlement Payments and PAGA Members' Individual PAGA Payments, field inquiries or disputes from Class Members and/or PAGA Members. This service will include payment calculations, printing and issuance of settlement payment checks, and preparation of any necessary IRS W2 and 1099 Tax Forms. Basic accounting for and payment of employee tax withholdings will also be included as part of this service.
- (f) Inform Defendants of their employer-side payroll tax liability and making all necessary deposits and payments to the necessary taxing authorities for the

1 payments received for employer-share of payroll taxes.

2 (g) Supply Class Counsel with a draft declaration at the conclusion of the period
3 for submission of Requests for Exclusion, Objections, and Workweeks
4 disputes.

5 (h) Provide declarations and/or other information to this Court as requested by the
6 Parties and/or the Court.

7 (i) Provide weekly status reports to counsel for the Parties.

8 (j) Posting a copy of the Final Approval Order and Judgment online at the
9 Settlement Administrator's website for a period of sixty (60) days pursuant to
10 California Rule of Court 3.769.

11 63. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval,
12 Defendants will provide the Class List to the Settlement Administrator.

13 64. Class Notice by First-Class U.S. Mail. Within fourteen (14) calendar days after
14 receiving the Class List from Defendants, the Settlement Administrator will mail the Class Notice
15 to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing
16 addresses identified in the Class List.

17 65. Confirmation of Contact Information in the Class List. Prior to mailing, the
18 Settlement Administrator will perform a search based on the National Change of Address Database
19 for information to update and correct for any known or identifiable address changes. Any Class
20 Notice returned to the Settlement Administrator as non-deliverable on or before the Response
21 Deadline will be sent within five (5) business days via regular First-Class U.S. Mail to the
22 forwarding address affixed thereto and the Settlement Administrator will indicate the date of such
23 re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator
24 will promptly attempt to determine the correct address using a skip-trace, or other comparable search
25 database, using the name, address and/or Social Security number of the Class Member involved,
26 and will then perform a single re-mailing of the Class Notice within five (5) business days. If any
27 Class Notice sent to a Class Member who is a current employee is returned to the Settlement
28 Administrator as undeliverable, then, the Settlement Administrator shall request that Defendants

1 undertake reasonable efforts to facilitate the Settlement Administrator's obtaining the current
2 address from the Class Member within seven (7) calendar days of the Settlement Administrator's
3 request for assistance. Those Class Members to whom a Class Notice is re-mailed, whether by skip-
4 trace or by request, will have their Response Deadline extended to the date that is fifteen (15)
5 calendar days after the original Response Deadline.

6 66. Class Notice. All Class Members will be mailed a Class Notice. Each Class Notice
7 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's
8 principal terms; (c) the Class definition; (d) the total individual number of Workweeks credited to
9 each respective Class Member for the Class Period; (e) the total individual number of Workweeks
10 credited to each respective PAGA Member for the PAGA Period; (f) the estimated Individual
11 Settlement Share he or she is eligible to receive and the formula for calculating the Individual
12 Settlement Share; (g) the estimated Individual PAGA Payment he or she is eligible to receive and
13 the formula for calculating the Individual PAGA Payment; (h) the dates which comprise the Class
14 Period and PAGA Period; (i) the deadlines by which the Class Member must postmark Requests for
15 Exclusion from the Class Settlement, Objections to the Class Settlement, or Workweeks disputes;
16 (j) the claims to be released, as set forth herein; and (k) the Final Approval Hearing date, time, and
17 location.

18 67. Workweeks Dispute. Class Members and PAGA Members will have an opportunity
19 to dispute the number of Workweeks during the Class Period and/or PAGA Period which they have
20 been credited in writing. Such disputes must: (a) contain the disputing individual's full name,
21 address, telephone number, and the last four digits of his or her Social Security number, signature,
22 and date; (b) the title of the Action or something similar to the title of the Action (e.g., "Vanessa
23 Dorantez Galicia v. M. San Ramon, Inc., et al.;" (c) contain a clear statement explaining that the
24 Class Member and/or PAGA Member disputes the number of Workweeks credited to him or her
25 during the Class Period and/or PAGA Period and the reasons for doing so; and (c) if available, attach
26 documentation to support the Class Member and/or PAGA Member's position. The date of the
27 postmark on the return mailing envelope receipt confirmation will be the exclusive means to
28 determine whether a Workweeks dispute has been timely submitted. All Workweeks disputes must

1 be submitted to the Settlement Administrator, who will certify jointly to Class Counsel and Defense
2 Counsel the Workweeks dispute were timely submitted. Absent evidence rebutting Defendants'
3 records, Defendants' records will be presumed determinative. However, if a Class Member and/or
4 PAGA Member produces evidence contrary to Defendants' records by the Response Deadline, the
5 Settlement Administrator shall notify Class Counsel and Defense Counsel to discuss and resolve the
6 dispute, including providing all available relevant information to all counsel. The Parties will resolve
7 all disputes jointly, which shall be final and binding on any Class Member and/or PAGA Member
8 disputing Workweeks, and shall thereafter instruct the Settlement Administrator how to proceed in
9 processing the dispute. If the Parties cannot reach an agreement, disputes shall be referred to the
10 Settlement Administrator for a determination and if the dispute remains unresolved after that, the
11 dispute shall be submitted to the Court for final determination. All such disputes are to be submitted
12 to the Court prior to the Final Approval Hearing, for resolution by the Court.

13 68. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
14 Class Settlement must sign and postmark a written Request for Exclusion to the Settlement
15 Administrator by the Response Deadline. The Request for Exclusion in conformity with Paragraph
16 40 above. The date of the postmark on the return mailing envelope receipt confirmation will be the
17 exclusive means to determine whether a Request for Exclusion has been timely submitted. All
18 Requests for Exclusion must be submitted to the Settlement Administrator, who will certify jointly
19 to Class Counsel and Defense Counsel the Requests for Exclusion that were timely submitted. All
20 Class Members who do not request exclusion from the Class Settlement will be bound by the Class
21 Settlement if the Settlement is granted final approval by the Court. All PAGA Members will be
22 bound to the PAGA Settlement regardless of whether or not they submit a valid and timely Request
23 for Exclusion.

24 69. Defendants' Right to Rescind. If ten percent (10%) or more of the Class Members
25 elect not to participate in the Settlement, Defendants may, at their own individual election, rescind
26 the Agreement and all actions taken in furtherance of it will be thereby null and void. Defendants
27 must meet and confer with Class Counsel prior to exercising this right and must make clear their
28 intent to rescind the Agreement within thirty (30) calendar days of the Response Deadline. If

1 Defendants exercise their right to rescind the Agreement, Defendants shall be responsible for all
2 Settlement Administration Costs incurred to the date of rescission.

3 70. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
4 Member who does not affirmatively opt-out of the Class Settlement by submitting a timely and valid
5 Request for Exclusion will be bound by all of its terms, including those pertaining to the release of
6 Released Class Claims, as well as any Judgment that may be entered by the Court if it grants Final
7 Approval to the Class Settlement. Class Members who opt-out of the Class Settlement shall not be
8 bound by the Judgment or release of Released Class Claims, however, they will still be bound to the
9 PAGA Settlement and Judgment with respect thereto if they are a PAGA Member.

10 71. Objection Procedures. To object to the Class Settlement in writing, a Participating
11 Class Member must postmark a complete Objection to the Settlement Administrator on or before
12 the Response Deadline. The Objection must be in conformity with Paragraph 36 above. The
13 postmark date will be deemed the exclusive means for determining that the Objection is timely.
14 Participating Class Members who fail to object in the manner specified above will be foreclosed
15 from making a written Objection, but shall still have a right to appear at the Final Approval Hearing
16 in order to orally present his or her objection to the Court. At no time will any of the Parties or their
17 counsel seek to solicit or otherwise encourage Participating Class Members to submit objections to
18 the Settlement or appeal from Final Approval of the Settlement. Class Counsel will not represent
19 any Class Members with respect to any objections to the Settlement.

20 72. Certification Reports and Declarations.

21 a. The Settlement Administrator will provide Defense Counsel and Class
22 Counsel a weekly report which certifies: (a) the number of Class Members who have submitted
23 Requests for Exclusion; (b) the number of re-mailed and/or undeliverable Class Notices; and (c)
24 whether any Class Member and/or PAGA Member has submitted a Workweeks dispute. The
25 Settlement Administrator will also provide a declaration for filing with the Court in advance of the
26 Final Approval Hearing that: (a) provides the number of Class Members who have submitted timely
27 and valid Requests for Exclusion and provides these individuals' names; (b) provides the number
28 of re-mailed and/or undeliverable Class Notices; (c) attaches copies of all Objections received; and

(d) provides such other data and information as Class Counsel and Defense Counsel deem appropriate (e.g., a breakdown of how settlement funds are contemplated to be distributed and estimated average payment amounts).

b. Additionally, the Settlement Administrator will provide to counsel for all Parties any updated reports regarding the administration of the Settlement Agreement as needed or requested.

73. Cancellation of Settlement Checks. Any checks issued by the Settlement Administrator to Participating Class Members and PAGA Members will be negotiable for one hundred eighty (180) calendar days after initial issuance, thereafter, the check will be cancelled and the funds associated with such cancelled checks, subject to Court approval, shall be distributed to California Rural Legal Assistance (“CRLA”). The Parties each represent that they do not have any financial interest in CRLA or otherwise have a relationship with CRLA that could create a conflict of interest. The Individual Settlement Payments provided to Participating Class Members and to PAGA Members shall prominently state the expiration date or a statement that the settlement payment check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the check(s). Expired checks will not be reissued, except for good cause and as mutually agreed by the Parties in writing.

74. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to the Plaintiff, Participating Class Members, PAGA Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities.

75. Tax Liability. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and PAGA Members are not relying on any statement, representation, or calculation by Defendants or by the Settlement Administrator in this regard. Plaintiff, Participating Class Members, and PAGA Members understand and agree that except for Defendants’ payment of the employer’s portion of any payroll taxes, they will be solely responsible for the payment of their own share of any taxes

1 and penalties due in connection with the payments made to them under the Settlement and described
2 herein. Defendants' share of any employer-side payroll taxes and other required employer
3 withholdings due on the Individual Settlement Shares, including, but not limited to, Defendants'
4 FICA, FUTA, and SDI contributions ("Employer Taxes"), shall be paid separate and apart from the
5 Gross Settlement Amount.

6 76. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
7 the "acknowledging party" and each Party to this Agreement other than the acknowledging party,
8 an "other party") acknowledges and agrees that: (1) no provision of this Agreement, and no written
9 communication or disclosure between or among the Parties or their attorneys and other advisers, is
10 or was intended to be, nor shall any such communication or disclosure constitute or be construed or
11 be relied upon as, tax advice within the meaning of United States Treasury Department circular 230
12 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her
13 or its own, independent legal and tax counsel for advice (including tax advice) in connection with
14 this Agreement, (b) has not entered into this Agreement based upon the recommendation of any
15 other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any
16 communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty
17 that may be imposed on the acknowledging party, and (3) no attorney or advisor to any other party
18 has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
19 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
20 acknowledging party of the tax treatment or tax structure of any transaction, including any
21 transaction contemplated by this Agreement.

22 77. Release by Participating Class Members, PAGA Members, and Plaintiff on behalf of
23 the LWDA and the State of California.

24 a. Upon the Effective Date and full funding of the Gross Settlement
25 Amount, in exchange for the consideration set forth in this Agreement, Plaintiff and
26 Participating Class Members shall fully release and discharge the Released Parties from any
27 and all Released Class Claims for the Class Period. This release shall be binding on Plaintiff
28 and all Participating Class Members, including each of their respective attorneys, agents,

1 spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns, and
2 shall inure to the benefit of the Released Parties, who shall have no further or other liability
3 or obligation to Plaintiff or any Participating Class Member with respect to the Released
4 Class Claims, except as expressly provided herein.

5 b. Plaintiff, the State of California with respect to PAGA Members, and
6 all PAGA Members, regardless of whether they submit timely and valid Requests for
7 Exclusion from the Class Settlement, shall fully release and discharge the Released Parties
8 from any and all Released PAGA Claims for the PAGA Period as well as claims that could
9 have been premised on the claims, causes of action or legal theories described the Operative
10 Complaint during the PAGA Period. Plaintiff, on behalf of the State of California and the
11 LWDA will also release all PAGA Released Claims, as well as all claims that could have
12 been premised on the claims, causes of action or legal theories described the Operative
13 Complaint.

14 78. Release of Additional Claims & Rights by Plaintiff. Upon the Effective Date, and as
15 a condition of receiving any portion of the General Release Payment, Plaintiff will agree to the
16 additional following General Release: In consideration of Defendants' promises and agreements as
17 set forth herein, Plaintiff hereby releases all claims related to her employment or alleged
18 employment with the Released Parties including all claims alleged in the Action, and all claims
19 known and unknown, without exception, except as may be prohibited by law. Specifically, Plaintiff
20 waives all rights and benefits afforded by California Civil Code Section 1542, which provides:

21 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
22 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR
23 HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF
24 KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
25 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTIES.

26 This release specifically excludes claims for unemployment insurance, disability, social
27 security, and workers' compensation (with the exception of claims arising pursuant to California
28 Labor Code Sections 132(a) and 4553).

1 79. Nullification of Agreement. In the event that: (a) the Court does not finally approve
2 the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this
3 Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for
4 any other reason, then this Agreement, and any documents generated to bring it into effect, will be
5 null and void, all amounts deposited into the QSF will be returned to Defendants, and the Parties
6 shall be returned to their original respective positions. Any order or judgment entered by the Court
7 in furtherance of this Agreement will likewise be treated as void from the beginning. Pursuant to
8 California Evidence Code § 1152, this Agreement is inadmissible in any proceeding, except a
9 proceeding to approve, interpret, or enforce this Agreement. If Final Approval does not occur, the
10 Parties agree that this Agreement is void, and remains protected by California Evidence Code
11 § 1152. Should the Court fail to approve this Agreement for any reason, the Parties agree that they
12 will return to and attend mediation with mediator Chris Barnes in an effort to reach an agreement
13 that may be approved by the Court.

14 80. Preliminary Approval Hearing. Plaintiff will file an unopposed motion before the
15 Court to request Preliminary Approval of the Agreement, and the entry of a Preliminary Approval
16 order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary
17 Approval of the proposed Agreement, and (c) setting a date for a Final Approval Hearing. The
18 Preliminary Approval order will provide for the Class Notice to be sent to all Class Members as
19 specified herein. In conjunction with the Preliminary Approval Motion, Plaintiff will submit this
20 Agreement, which sets forth the terms of the Settlement, and will include the proposed Class Notice
21 attached as “**Exhibit A.**” Class Counsel will be responsible for drafting all documents necessary to
22 obtain Preliminary Approval.

23 81. Final Settlement Approval Hearing and Entry of Judgment. Upon completion of the
24 Class Notice process, including the expiration of the deadlines to postmark Requests for Exclusion
25 or Objections to the Class Settlement, a Final Approval Hearing will be conducted to determine the
26 Final Approval of the Settlement Agreement along with the amounts properly payable for: (a)
27 Individual Settlement Shares; (b) PAGA Penalties; (c) Class Counsel’s Fees and Costs; (d) Class
28 Representative Incentive Payment/General Release Payment for Plaintiff; and (d) Settlement

1 Administration Costs. Class Counsel will be responsible for drafting all documents necessary to
2 obtain Final Approval. In connection with the Final Approval Hearing, Class Counsel will request
3 that the Court make a finding that the Settlement is fair, reasonable and adequate and that the Class
4 Notice process satisfied the requirements of due process. Class Counsel will be responsible for
5 drafting the application for attorneys' fees and costs to be heard at the Final Approval Hearing. Any
6 failure by the Court to fully and completely approve the Agreement as to the Action or the entry of
7 any Order by the Court with regard to the Action which has the effect of modifying material terms
8 of this Agreement or preventing the full and complete approval of the Agreement as written and
9 agreed to by the Parties, will result in this Agreement and all obligations under this Agreement being
10 null and void. Defendants agree they shall not oppose the granting of the Motion for Final Approval,
11 provided Defendants have not exercised their right to rescind pursuant to this Agreement.

12 82. Judgment and Continued Jurisdiction. Upon expiration of the Response Deadline,
13 with the Court's permission, a Final Approval Hearing shall be conducted to determine Final
14 Approval of the Settlement. Pursuant to California Rule of Court 3.769(h), after granting Final
15 Approval, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

16 83. Exhibits Incorporated by Reference. The terms of this Agreement include the terms
17 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
18 herein. Any Exhibits to this Agreement are an integral part of the Settlement.

19 84. Entire Agreement. This Agreement and any attached Exhibits constitute the entire
20 Agreement among these Parties, and no oral or written representations, warranties or inducements
21 have been made to any Party concerning this Agreement or its Exhibits other than the
22 representations, warranties and covenants contained and memorialized in the Agreement and its
23 Exhibits.

24 85. Amendment or Modification. Prior to filing a motion for Preliminary Approval and
25 submitting this Agreement to the Court, this Agreement may be amended or modified only by a
26 written instrument signed by counsel for all Parties or their successors-in-interest. After filing a
27 motion for Preliminary Approval and submitting this Agreement to the Court, this Agreement may
28 be amended or modified only by a written instrument signed by counsel for all Parties or their

1 successors-in-interest and subject to Court approval.

2 86. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
3 and represent they are expressly authorized by the Parties whom they represent to negotiate this
4 Agreement and to take all appropriate action required or permitted to be taken by such Parties
5 pursuant to this Agreement to effectuate its terms and to execute any other documents required to
6 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other
7 and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to
8 reach agreement on the form or content of any document needed to implement the Settlement, or on
9 any supplemental provisions that may become necessary to effectuate the terms of this Settlement,
10 the Parties may seek the assistance of the Court to resolve such disagreement.

11 87. Binding on Successors and Assigns. This Agreement will be binding upon, and inure
12 to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13 88. California Law Governs. All terms of this Agreement hereto will be governed by and
14 interpreted according to the laws of the State of California.

15 89. Execution and Counterparts. This Agreement is subject only to the execution of all
16 Parties. However, the Agreement may be executed in one or more counterparts. All executed
17 counterparts and each of them, including DocuSign, facsimile, and scanned copies of the signature
18 page, will be deemed to be one and the same instrument provided that counsel for the Parties will
19 exchange among themselves original signed counterparts.

20 90. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
21 this Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
22 Settlement after extensive arms-length negotiations, taking into account all relevant factors, present
23 and potential.

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

28 92. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to

1 class certification for purposes of the Settlement only; except, however, that Plaintiff or Class
2 Counsel may appeal any reduction to the Class Counsel's Fees and Costs below the amount they
3 request from the Court, and either party may appeal any court order that materially alters the
4 Settlement Agreement's terms.

5 93. Class Action Certification for Settlement Purposes Only. The Parties agree to
6 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
7 Settlement is not approved, the stipulation to certification will be void. The Parties further agree that
8 certification for purposes of the Settlement is not an admission that class action certification is
9 proper under the standards applied to contested certification motions and that this Agreement will
10 not be admissible in this or any other proceeding as evidence that either: (a) a class action should be
11 certified, or (b) Defendants are liable to Plaintiff or any Class Member.

12 94. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
13 dispute that has arisen between them and to avoid the burden, expense and risk of continued
14 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, that they
15 have violated any federal, state, or local law; violated any regulations or guidelines promulgated
16 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any
17 contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged
18 in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its
19 terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission
20 or concession by Defendants of any such violations or failures to comply with any applicable law.
21 Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its
22 terms and provisions shall not be offered or received as evidence in any action or proceeding to
23 establish any liability or admission on the part of Defendants or to establish the existence of any
24 condition constituting a violation of, or a non-compliance with, federal, state, local or other
25 applicable law.

26 95. Captions. The captions and section numbers in this Agreement are inserted for the
27 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
28 provisions of this Agreement.

1 96. Waiver. No waiver of any condition or covenant contained in this Agreement or
2 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
3 constitute a further waiver by such party of the same or any other condition, covenant, right or
4 remedy.

5 97. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
6 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly
7 against one Party than another merely by virtue of the fact that it may have been prepared by counsel
8 for one of the Parties, it being recognized that, because of the arms-length negotiations between the
9 Parties, all Parties have contributed to the preparation of this Agreement.

10 98. Representation By Counsel. The Parties acknowledge that they have been
11 represented by counsel throughout all negotiations that preceded the execution of this Agreement,
12 and that this Agreement has been executed with the consent and advice of counsel and reviewed in
13 full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
14 Agreement.

15 99. All Terms Subject to Final Court Approval. All amounts and procedures described
16 in this Agreement herein will be subject to Final Approval by the Court.

17 100. Cooperation and Execution of Necessary Documents. The Parties agree to cooperate
18 to promote participation in the Settlement, and in seeking court approval of the Settlement. The
19 Parties and their counsel agree not to take any action to encourage any Class Members to opt out of
20 and/or object to the Settlement.

21 101. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent with
22 class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code
23 of Civil Procedure § 664.6. The Court shall retain continuing jurisdiction over the Settlement and
24 over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and
25 intent of this Agreement, and to adjudicate any claimed breaches of this Agreement. The Court may
26 award reasonable attorneys' fees and costs to the prevailing Party in any motion or action taken and
27 based on an alleged violation of any material term of the Agreement.

28 102. Voluntary Agreement. The Parties acknowledge that they have entered into this

1 Agreement voluntarily, on the basis of their own judgment and without coercion, duress, or undue
2 influence of any Party, and not in reliance on any promises, representations, or statements made by
3 the other Parties other than those contained in this Agreement. Each of the Parties hereto expressly
4 waives any right he/it might ever have to claim that this Agreement was in any way induced by
5 fraud.

6 103. Confidentiality. Other than the filing of the Motion for Preliminary Approval and the
7 Motion for Final Approval of the Agreement with the Court, submission of this Agreement and
8 other submissions required to be made to the Labor and Workforce Development Agency pursuant
9 to PAGA, Plaintiff and Class Counsel agree not to disclose or publicize the Agreement contemplated
10 herein, the fact of the Agreement, its terms or contents, or the negotiations underlying the
11 Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Class
12 Members, the Court, and as shall be contractually and/or legally required to effectuate the terms of
13 the Agreement as set forth herein in any manner. Nothing in this Agreement shall limit Defendants'
14 ability to fulfill disclosure obligations reasonably required by law or in furtherance of business
15 purposes, including the fulfillment of obligations stated in this Agreement or limit Class Counsel's
16 communications with the Class Members in furtherance of approval of this Settlement. However,
17 Class Counsel may disclose the name of the Parties in this action, the venue/case number, and
18 settlement details available in the public record, for the limited purpose of allowing Class Counsel
19 to prove adequacy as class counsel in other actions or for purposes of seeking approval of an
20 unrelated settlement.

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

1 IT IS SO AGREED.

2
3 Dated: 2/8/2023, 2023

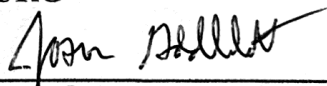
DocuSigned by:


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Vanessa Dorantez Galicia, Plaintiff and Proposed
Class Representative

7 DEFENDANTS M. SAN RAMON, INC., BAY
8 AREA RESTAURANT MANAGEMENT CORP.,
9 M PLEASANT HILL II, INC., M. ALCOSTA,
10 INC., M. ASHLAND, INC., M BERNAL, INC.,
11 M. CENTRAL, INC., M. CONTRA COSTA,
12 INC., M. DANVILLE, INC., M. DISCOVERY
13 BAY, INC., M. GREENHOUSE, INC., M.
14 HESPERIAN, INC., M. LONE TREE, INC., M.
15 MARTINEZ, INC., M. MISSION, INC., M.
16 MONUMENT, INC., M. OAKLEY, INC., M.
17 PLEASANTON, INC., M. SAN LEANDRO, INC.,
18 M. SHORELINE, INC., M. STONERIDGE
19 MALL, INC., M. TENNYSON, INC., M.
20 WATKINS, INC., M. DEER VALLEY, INC., M.
21 SUN VALLEY, INC., MAC-D DUBLIN, MACD-
22 ANTIOCH, INC., MACD-CONCORD, MACD-
23 CORDELLIA JCT, INC., AND MACD-
24 PITTSBURG

17 Dated: February 17, 2023


By: Jason Goldblatt
Its: Officer

20 APPROVED AS TO FORM:

21 CAPSTONE LAW APC

23 Dated: February 8, 2023


Robert Drexler
Molly DeSario
Jonathan Lee
Attorneys for Plaintiff and Proposed Class Counsel

LEWIS BRISBOIS BISGAARD & SMITH LLP

Dated: February 17, 2023



Katherine C. Den Bleyker
Samuel Knecht
Attorneys for Defendants M. San Ramon, Inc., et al.

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Exhibit A

Garcia v. M. San Ramon, Inc., No. MSC21-01638
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF CONTRA COSTA
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All current and former hourly-paid or non-exempt employees who worked for Defendants M. San Ramon, Inc., Bay Area Restaurant Management Corp., M Pleasant Hill II, Inc., M. Alcosta, Inc., M. Ashland, Inc., M. Bernal, Inc., M. Central Inc., M. Contra Costa, Inc., M. Danville, Inc., M. Discovery Bay, Inc., M. Greenhouse, Inc., M. Hesperian, Inc., M. Lonetree, Inc., M. Martinez, Inc., M. Mission, Inc., M. Monument, Inc., M. Oakley, Inc., M. Pleasanton, Inc., M. San Leandro, Inc., M. Shoreline, Inc., M. Stoneridge Mall, Inc., M. Tennyson, Inc., M. Watkins Inc., M. Deer Valley, Inc., M. Sun Valley, Inc., MacD Dublin, MacD-Antioch, Inc., MacD-Concord, MacD-Cordellia Jct., Inc., and MacD-Pittsburg (“Defendants”) in California at any time during the period from July 30, 2017 through December 26, 2022 (“Class Members”).

All current and former hourly-paid or non-exempt employees who worked for Defendants in California at any time during the period from August 6, 2020 through December 26, 2022 (“PAGA Members”).

On _____, the Honorable Charles S. Treat of the Contra Costa County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at __:00 __.m. on _____, 2023 in Department 12 of the Contra Costa County Superior Court located at 725 Court Street, Martinez, California 94553.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be deemed a “Participating Class Member,” and will be eligible for a payment from the Net Settlement Amount and PAGA Fund. In exchange, you will be bound by the terms of the proposed Settlement and give up your right to assert wage and hour claims and PAGA penalty claims against Defendants based on the facts alleged in the Action during the applicable Class Period and PAGA Period.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the class settlement by sending the Settlement Administrator a written Request for Exclusion. Once excluded, you will no longer be eligible for a payment from the Net Settlement Amount and will not be bound by the terms of the proposed class settlement.
The Opt-out Deadline is [DATE]	You cannot opt-out of the PAGA portion of the proposed Settlement. PAGA Members remain eligible to receive a payment from the PAGA Fund and must give up their rights to pursue PAGA penalty claims against Defendants based on the facts alleged in the Action during the PAGA Period.

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [DATE]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed class settlement, but not the PAGA settlement.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] in Department 12 of the Contra Costa County Superior Court located at 725 Court Street, Martinez, California 94553. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Amount and you will be bound by the terms of the Settlement.

Summary of the Litigation

Plaintiff Vanessa Dorantez Galicia, on her behalf and on behalf of other current and former non-exempt employees, alleges that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) timely pay all wages owed to employees during each pay period and upon termination of their employment; and (4) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On October 26, 2022, the parties participated in a mediation with Chris Barnes, an experienced and well-respected class action mediator. With Chris Barnes guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiff’s claims. By agreeing to settle, Defendants are not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendants have agreed to settle the case as part of a compromise with Plaintiff.

Summary of The Proposed Settlement Terms

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$3,500,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$5,000 to Vanessa Dorantez Galicia for her services on behalf of the class, and a General Release Payment of \$5,000 for a release of all claims arising out of her employment with Defendants; (3) \$1,166,667 in attorneys’ fees and up to \$15,000 in litigation costs and expenses; (4) a \$50,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$37,500 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$12,500 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$40,000. After deducting the above payments, a total of approximately \$ 2,218,333 will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Amount”). Additionally, all PAGA Members will receive a proportional share of the \$12,500 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Amount. Defendants will calculate the total number of Workweeks worked by each Class Member from July 30, 2017 through December 26, 2022 (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member’s estimated share of the Net Settlement Amount, the Settlement Administrator will use the following formula: The Net Settlement Amount will be divided by the aggregate total number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Amount will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Amount according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Amount.

According to Defendants’ records, you worked during the Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Net Settlement Amount is approximately \$ ____.

Payments from PAGA Fund. Defendants will calculate the total number of Workweeks worked by each PAGA Member from August 6, 2020 through December 26, 2022 (“PAGA Period”) and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks, resulting in the “PAGA Workweek Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendants’ records, you worked during the PAGA Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$ ____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$ _____. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator

c/o _____

Fax No. _____

If you dispute the information stated above, Defendants’ records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Any and all claims, rights, demands, liabilities and causes of action against the Released Parties that were alleged or which could reasonably have been alleged in the Action based on the same set of operative facts alleged in the Operative Complaint, that accrued during the Class Period, including but not limited to causes of action for Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages); Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 (Failure to Provide Meal Periods); Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods); Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records); Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment); Violation of Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) (Failure to Provide Reporting Time Pay); Violation of California Labor Code § 2802 (Unreimbursed Business Expenses); Violation of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Business Practices); Violation of California Business & Professions Code §§ 17200, *et seq.* (Unfair Business Practices); and all claims for attorneys' fees and costs relating to the Released Class Claims, or that could have been premised on the facts, claims, causes of action or legal theories described above.

Released PAGA Claims: All claims, rights, demands, liabilities and causes of action for civil penalties under California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698 *et seq.*) against the Released Parties that were alleged or which could reasonably have been alleged in the Action based on the same set of operative facts alleged in the August 16, 2021 Notice to the Labor & Workforce Development Agency, that accrued during the PAGA Period, including but not limited to claims for civil penalties for violations of California Labor Code §§ 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 558, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5, and the corresponding sections of the applicable Wage Orders of the Industrial Welfare Commission, including but not limited to Industrial Welfare Commission Wage Order No. 5-2001, and all related claims for attorneys' fees and costs.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

The Request for Exclusion must be postmarked or faxed not later than _____, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Amount.
- Not release the Released Class Claims.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [administrator's address].

All written objections must be received by the administrator by not later than _____ 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Contra Costa and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: *Case-Specific Number*

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS' ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Exhibit B



1875 Century Park East, Suite 1000
Los Angeles, California 90067
310.556.4811 Main | 310.943.0396 Fax

ANTHONY CASTILLO
310.712.8169 Direct
Anthony.Castillo@capstonelawyers.com

August 6, 2021

VIA ONLINE SUBMISSION

California Labor & Workforce Development Agency
ATTN: PAGA Administrator
(<https://dir.tfaforms.net/308>)

Subject: *Vanessa Dorantez Galicia v. M. San Ramon, Inc., et al.*

Dear PAGA Administrator:

This office represents Vanessa Dorantez Galicia in connection with her claims under the California Labor Code. Ms. Dorantez Galicia was an employee of M. SAN RAMON, INC.; BAY AREA RESTAURANT MANAGEMENT CORP.; M PLEASANT HILL II, INC.; M. ALCOSTA, INC.; M. ASHLAND, INC.; M. BERNAL, INC.; M. CENTRAL INC.; M. CONTRA COSTA, INC.; M. DANVILLE, INC.; M. DISCOVERY BAY, INC.; M. GREENHOUSE, INC.; M. HESPERIAN, INC.; M. LONETREE, INC.; M. MARTINEZ, INC.; M. MISSION, INC.; M. MONUMENT, INC.; M. OAKLEY, INC.; M. PLEASANTON, INC.; M. SAN LEANDRO, INC.; M. SHORELINE INC.; M. STONERIDGE MALL, INC.; M. TENNYSON, INC.; M. WATKINS INC.; M. DEER VALLEY, INC.; M. SUN VALLEY, INC.; MAC-D DUBLIN; MACD-ANTIOCH, INC.; MACD-CONCORD; MACD-CORDELLIA JCT., INC.; and/or MACD-PITTSBURG. For the purpose of this letter, Ms. Dorantez Galicia collectively refers to these entities as “MCDONALDS.”

The employers may be contacted directly at the addresses below:

M. SAN RAMON, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

BAY AREA RESTAURANT
MANAGEMENT CORP.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M PLEASANT HILL II, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. ALCOSTA, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. ASHLAND, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. BERNAL, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. CENTRAL INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. CONTRA COSTA, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. DANVILLE, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. DISCOVERY BAY, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. GREENHOUSE, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. HESPERIAN, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. LONETREE, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. MARTINEZ, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. MISSION, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. MONUMENT, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. OAKLEY, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. PLEASANTON, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. SAN LEANDRO, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. SHORELINE INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. STONERIDGE MALL, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. TENNYSON, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M. WATKINS INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M.DEER VALLEY, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

M.SUN VALLEY, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

MAC-D DUBLIN
2268 CAMINO RAMON
SAN RAMON, CA 94583

MACD-ANTIOCH, INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

MACD-CONCORD
2268 CAMINO RAMON
SAN RAMON, CA 94583

MACD-CORDELLIA JCT., INC.
2268 CAMINO RAMON
SAN RAMON, CA 94583

MACD-PITTSBURG
2268 CAMINO RAMON
SAN RAMON, CA 94583

Ms. Dorantez Galicia intends to seek civil penalties, attorney's fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.*, the Labor Code Private Attorneys General Act of 2004 ("PAGA"). Ms. Dorantez Galicia seeks relief on behalf of herself, the State of California, and other persons who are or were employed by MCDONALDS as a non-exempt, hourly paid employee in California and who received at least one wage statement ("aggrieved employees"). This letter is sent in compliance with the notice and reporting requirements of California Labor Code section 2699.3.

MCDONALDS employed Ms. Dorantez Galicia as an hourly paid, non-exempt exempt Crew Member from approximately July 2020 to August 2020. Ms. Dorantez Galicia worked for MCDONALDS at its McDonalds restaurant located at 2481 San Ramon Valley Road, in San Ramon, California. Ms. Dorantez Galicia typically worked eight (8) hours per day and five (5) days per week. Her job duties included, without limitation, cooking and preparing food, stocking supplies, and cleaning and maintaining the kitchen area.

MCDONALDS committed one or more of the following Labor Code violations against Ms. Dorantez Galicia, the facts and theories of which follow, making her an "aggrieved employee" pursuant to California Labor Code section 2699(c):¹

¹ These facts, theories, and claims are based on Ms. Dorantez Galicia's experience and counsel's review of those records currently available relating to Ms. Dorantez Galicia's employment. Discovery conducted in litigation of wage and hour claims such as these often reveals additional claims that the aggrieved employee

MCDONALDS's Company-Wide and Uniform Payroll and HR Practices

M. SAN RAMON, INC.; BAY AREA RESTAURANT MANAGEMENT CORP.; M PLEASANT HILL II, INC.; M. ALCOSTA, INC.; M. ASHLAND, INC.; M. BERNAL, INC.; M. CENTRAL INC.; M. CONTRA COSTA, INC.; M. DANVILLE, INC.; M. DISCOVERY BAY, INC.; M. GREENHOUSE, INC.; M. HESPERIAN, INC.; M. LONETREE, INC.; M. MARTINEZ, INC.; M. MISSION, INC.; M. MONUMENT, INC.; M. OAKLEY, INC.; M. PLEASANTON, INC.; M. SAN LEANDRO, INC.; M. SHORELINE INC.; M. STONERIDGE MALL, INC.; M. TENNYSON, INC.; M. WATKINS INC.; M. DEER VALLEY, INC.; M. SUN VALLEY, INC.; MAC-D DUBLIN; MACD-ANTIOCH, INC.; MACD-CONCORD; MACD-CORDELLIA JCT., INC.; and MACD-PITTSBURG are California corporations. Together, they own and operate approximately 40 McDonald's franchise restaurant locations in California. Upon information and belief, MCDONALDS maintains a single, centralized Human Resources (HR) department at its corporate headquarters in San Ramon, California for all non-exempt, hourly paid employees working for MCDONALDS in California, including Ms. Dorantez Galicia and other aggrieved employees. At all relevant times, MCDONALDS issued and maintained uniform, standardized scheduling and timekeeping practices and procedures for all non-exempt, hourly paid employees in California, including Ms. Dorantez Galicia and other aggrieved employees, regardless of its location or position.

Upon information and belief, MCDONALDS maintains a centralized Payroll department at its corporate headquarters in San Ramon, California which processes payroll for all non-exempt, hourly paid employees working for MCDONALDS in California, including Ms. Dorantez Galicia and other aggrieved employees. Further, MCDONALDS issues the same formatted wage statements in the same manner for all non-exempt, hourly paid employees working in California, including Ms. Dorantez Galicia and other aggrieved employees, irrespective of their location, position, or manner in which each employee's employment ended. In other words, MCDONALDS utilized the same methods and formulas when calculating wages due to Ms. Dorantez Galicia and other aggrieved employees in California.

Violation of California Labor Code §§ 510 and 1198 – Unpaid Overtime

California Labor Code sections 510 and 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order require employers to pay employees working more than eight (8) hours in a day or more than forty (40) hours in a workweek at the rate of time-and-one-half (1 ½) times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty (40) hours in a workweek. The applicable IWC Wage Order further provides that employers are required to pay employees working more than twelve (12) hours in a day overtime compensation at a rate of two (2) times their regular rate of pay. An employee's regular rate of pay includes all remuneration for employment paid to, or on behalf of, the employee, including nondiscretionary bonuses and incentive pay.

MCDONALDS willfully failed to pay all overtime wages owed to Ms. Dorantez Galicia and other aggrieved employees. During the relevant time period, Ms. Dorantez Galicia and other aggrieved employees were not paid overtime premiums for all of the hours they worked in excess of eight (8) hours in a day, in excess of twelve (12) hours in a day, and/or in excess of forty (40) hours in a week, because all hours that they worked were not recorded.

was not initially aware of (because the aggrieved employee was not aware of the law's requirements, the employer misinformed its employee of the law's requirements, or because the employer effectively hid the violations). Thus, Ms. Dorantez Galicia reserves the right to supplement this letter with additional facts, theories, and claims if she becomes aware of them subsequent to the submission of this letter.

First, MCDONALDS had a company-wide policy and/or practice of failing to accurately record hours worked by their employees. During the relevant time period, MCDONALDS kept all restaurant doors locked due to indoor-dining restrictions, requiring Ms. Dorantez Galicia and other aggrieved employees to enter MCDONALDS's restaurants only when other employees were available to open the doors. For example, after reporting to work on time, Ms. Dorantez Galicia and other aggrieved employees were forced to wait up to 10 minutes before being able to enter the MCDONALDS's facilities and clock in because there was no one available to open the doors for them. As another example, upon returning to the restaurant at the end of their unpaid meal periods, Ms. Dorantez Galicia and other aggrieved employees were forced to wait for up to five (5) minutes for another employee to open the door for them to enter the premises and clock back in. As a result, Ms. Dorantez Galicia and other aggrieved employees were forced to work off-the-clock, but were not provided a means by MCDONALDS to account for this time. Thus, MCDONALDS failed to track this time spent working off-the-clock before their scheduled shifts and/or during meal periods, and Ms. Dorantez Galicia and other aggrieved employees received no compensation for this time they remained under MCDONALDS's control.

Additionally, during the relevant period, MCDONALDS implemented, on a company-wide basis, an employer-imposed requirement that Ms. Dorantez Galicia and other aggrieved employees undergo mandatory COVID-19 health screenings and temperature checks before clocking in for their scheduled shifts. Prior to each shift, Ms. Dorantez Galicia was required to spend up to two (2) minutes per instance waiting and then undergoing the temperature check and health screening at the restaurant entrance, before being permitted to clock in for her shift. Even though MCDONALDS required these health screenings, MCDONALDS did not provide Ms. Dorantez Galicia and other aggrieved employees a mechanism to record this time worked so they could be compensated for the time spent undergoing mandatory health screenings and temperature checks.

Second, MCDONALDS had a company-wide loss prevention policy requiring employees to undergo mandatory security checks by a managerial employee before leaving the premises. As a result of MCDONALDS's policy, Ms. Dorantez Galicia and other aggrieved employees were required to undergo security screenings after clocking out at the end of a shift prior to leaving the premises. For example, after clocking out at the end of their shifts, Ms. Dorantez Galicia and other aggrieved employees were required to wait up to 10 minutes for a manager to check their persons and/or belongings. Although MCDONALDS's requirement that Ms. Dorantez Galicia and other aggrieved employees undergo security checks was mandatory, MCDONALDS did not compensate them for the time it took them to wait in line and undergo these screenings. Thus, Ms. Dorantez Galicia and other aggrieved employees were not compensated for the time spent waiting and undergoing security screenings while off-the-clock.

Third, during the relevant period, MCDONALDS had, and continue to have, a company-wide policy and/or practice of requiring employees to complete work-related tasks while off-the-clock. For example, MCDONALDS required employees with food handling duties to obtain California Food Handler Cards, which led to employees completing online food safety training and testing from home before or after their shifts or on their off-days, but did not compensate them for this time. For example, Ms. Dorantez Galicia spent two (2) hours completing a mandatory food safety training course, but was not paid by MCDONALDS for this time. Additionally, other aggrieved employees were instructed by MCDONALDS's management to cover shifts at other MCDONALDS's restaurants, but were not compensated for the additional time they spent traveling to and from these locations.

Fourth, MCDONALDS had, and continues to have, a company-wide policy and/or practice of strictly staffing its restaurant locations based on the labor hours allocated by corporate for each location. MCDONALDS's uniform use of labor budgets, combined with heavy workloads and pressure to meet a 60-second turnaround target for drive-thru customers, resulted in chronic understaffing and a failure to provide Ms. Dorantez Galicia and other aggrieved employees with adequate meal period coverage,

because there were too few employees on duty to handle the workload and attend to customers. MCDONALDS also had a practice of failing to schedule meal periods, which further caused Ms. Dorantez Galicia and other aggrieved employees to not be relieved of their duties for compliant meal periods. As a result of this lack of meal period coverage, Ms. Dorantez Galicia and other aggrieved employees were not always afforded 30-minute meal periods during shifts when they were entitled to receive a meal period and instead continued worked during unpaid meal periods.

Further, on information and belief, because MCDONALDS frowned upon employees accruing meal period penalties, MCDONALDS would adjust Ms. Dorantez Galicia's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period, in order to strictly limit meal penalties that MCDONALDS would otherwise owe. Also, MCDONALDS's company-wide timekeeping system further prevented Ms. Dorantez Galicia and other aggrieved employees from recording all hours worked when their meal periods were shortened or interrupted, because the system prevented employees from clocking back in from a meal period until 30 minutes elapsed. Thus, MCDONALDS's timekeeping system prevented Ms. Dorantez Galicia and other aggrieved employees from recording all hours worked when meal periods were missed, short, and/or interrupted.

MCDONALDS knew or should have known that, as a result of these company-wide practices and/or policies, Ms. Dorantez Galicia and other aggrieved employees were performing their assigned duties off-the-clock before and after their shifts and during meal periods, and were suffered or permitted to perform work for which they were not paid. Because Ms. Dorantez Galicia and other aggrieved employees worked shifts of eight (8) hours a day or more, or forty (40) hours a week or more, some of this off-the-clock work qualified for overtime premium pay. Therefore, Ms. Dorantez Galicia and other aggrieved employees were not paid overtime wages for all of the overtime hours they actually worked.

Furthermore, MCDONALDS did not pay other aggrieved employees the correct overtime rate for the recorded overtime hours that they generated. In addition to an hourly wage, MCDONALDS paid other aggrieved employees incentive pay, nondiscretionary bonuses, and/or other forms of remuneration. However, in violation of the California Labor Code, MCDONALDS failed to incorporate all compensation, including incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, into the calculation of the regular rate of pay for purposes of calculating the overtime wage rate. Therefore, during times when other aggrieved employees worked overtime and received these other forms of pay, MCDONALDS failed to pay all overtime wages by paying a lower overtime rate than required.

MCDONALDS's failure to pay Ms. Dorantez Galicia and other aggrieved employees the balance of overtime compensation, as required by California law, violates the provisions of California Labor Code sections 510 and 1198. Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 – Unpaid Minimum Wages

California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 require employers to pay employees the minimum wage fixed by the IWC. The payment of a lesser wage than the minimum so fixed is unlawful. Compensable work time is defined in IWC Wage Order No. 5-2001 as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." Cal. Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

As set forth above, due to MCDONALDS's company-wide policy and/or practice of not permitting employees to record all their hours worked, MCDONALDS failed to record all hours worked by Ms. Dorantez Galicia and other aggrieved employees that were outside of their scheduled shifts, such as waiting for entry into MCDONALDS's restaurants, submitting to off-the-clock health screenings and/or temperature checks, undergoing off-the-clock mandatory security checks, completing and obtaining work-related certifications, and/or traveling to cover shifts at other MCDONALDS restaurants.

Additionally, as stated above, due to MCDONALDS's company-wide practices of understaffing restaurants pursuant to labor budgets, assignment of heavy workloads, pressure to meet performance metrics, failure to schedule meal periods, and subsequent lack of meal period coverage, Ms. Dorantez Galicia and other aggrieved employees were impeded from taking all uninterrupted meal periods to which they were entitled and were required to work during their meal periods, time for which they were not paid. Moreover, as stated, in order to prevent employees from accruing meal period penalties, MCDONALDS's management pressured employees to clock out for meal periods and/or adjusted employee time records to reflect compliant meal periods, but required them to continue working. Also, as set forth above, MCDONALDS systematically failed to pay Ms. Dorantez Galicia and other aggrieved employees for actual hours worked during unpaid meal periods, because MCDONALDS's timekeeping system locked out Ms. Dorantez Galicia and other aggrieved employees for 30 minutes when they clocked out for a meal period.

Thus, MCDONALDS did not pay at least minimum wages for all hours worked by Ms. Dorantez Galicia and other aggrieved employees. To the extent that these off-the-clock hours did not qualify for overtime premium payment, MCDONALDS did not pay at least minimum wages for those hours worked off-the-clock in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

Accordingly, MCDONALDS regularly failed to pay at least minimum wages to Ms. Dorantez Galicia and other aggrieved employees for all of the hours they worked in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1 and 1198. Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 512(a), 516, and 1198 – Failure to Provide Meal Periods

California Labor Code sections 226.7, 512(a), 516, and 1198, and the applicable IWC Wage Order require employers to provide meal periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. Pursuant to Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order, an employer may not require, cause, or permit an employee to work for a period of more than five (5) hours per day without providing the employee with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is not more than six (6) hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-1042 (2012). Labor Code sections 226.7 and 512(a) and the applicable IWC Wage Order also require employers to provide a second meal period of not less than thirty (30) minutes if an employee works over ten (10) hours per day or to pay an employee one (1) additional hour of pay at the employee's regular rate, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

First, as stated above, MCDONALDS had, and continues to have, company-wide policies and/or practices of understaffing locations due to labor budgeting, which, combined with heavy workloads, pressure to meet performance metrics, and a failure to schedule meal periods, has resulted in a lack of meal period coverage and prevented Ms. Dorantez Galicia and other aggrieved employees from taking all timely, uninterrupted meal periods to which they were entitled. As a result, Ms. Dorantez Galicia and other aggrieved employees had to work through all or part of their meal periods, had their meal periods interrupted, and/or had to wait extended periods of time before taking meal periods. For example, approximately five (5) times per week, Ms. Dorantez Galicia was required to take her meal periods late after having worked in excess of five (5) hours or more into her shift in order to meet the restaurant's customer demand.

Second, as stated, MCDONALDS kept restaurant doors locked at all times, including during meal periods, which required Ms. Dorantez Galicia and other aggrieved employees to wait for other employees to open the restaurant doors for them, resulting in shortened meal periods. For example, during her meal periods, Ms. Dorantez Galicia was regularly forced to wait for another employee to open the door for her, cutting her 30-minute unpaid meal period five (5) minutes' short, before being able to enter MCDONALDS's facilities because there was no one available to open the doors for her.

Third, on information and belief, because MCDONALDS frowned upon employees accruing meal period penalties, MCDONALDS's management would adjust Ms. Dorantez Galicia's and other aggrieved employees' time records and/or pressured employees to clock out for meal periods to reflect compliant meal periods, regardless of whether they had received a compliant meal period or not, in order to strictly limit meal penalties that would need to be paid by MCDONALDS. Additionally, as described above, MCDONALDS implemented an electronic timekeeping system that locked out Ms. Dorantez Galicia and other aggrieved employees and prevented them from clocking in early before the end of their 30-minute meal period. As a result of MCDONALDS's timekeeping system, Ms. Dorantez Galicia and other aggrieved employees were prevented from accurately recording meal period start and stop times on days when they had meal periods that were missed, cut short, and/or interrupted.

Additionally, MCDONALDS did not provide other aggrieved employees with second 30-minute meal periods on days that they worked in excess of ten (10) hours in one day. Ms. Dorantez Galicia and other aggrieved employees did not sign valid meal period waivers on days that they were entitled to meal periods and were not relieved of all duties.

Moreover, MCDONALDS had a company-wide policy of requiring all newly hired employees to sign blanket meal period waivers at or near their time of hire. MCDONALDS took the position that non-exempt, hourly paid employees had waived their rights to first meal periods for the entirety of their employment and, on that basis, did not provide them with all meal periods to which they were entitled. Moreover, MCDONALDS's meal period waiver form requires employees provide written notice should they wish to revoke the waiver. MCDONALDS's presumption that meal periods would not be provided for shifts in excess of five (5) hours but less than six (6) hours due to blanket meal period waivers signed at or near the time of hire, and imposition on employees to revoke the waivers in writing, discouraged and impeded Ms. Dorantez Galicia and other aggrieved employees from taking all meal periods to which they were entitled.

Furthermore, an employer's obligation to provide a meal period is only "triggered" when the employer "employs an employee for a work period of more than five hours per day." *Brinker*, 53 Cal. 4th at 1039 ("If an employer engages, suffers, or permits anyone to work for a full five hours, its meal break obligation is triggered.").

[A]fter the meal break obligation is triggered . . . an employer is put to a choice: it must (1) afford an off-duty meal period; (2) consent to a mutually agreed-upon waiver if one hour or less will end the shift; or (3) obtain written agreement to an on-duty meal period if circumstances permit. Failure to do one of these will render the employer liable for premium pay.

Id. (citing Cal. Labor Code § 226.7; Wage Order No. 5, subd. 11(A), (B)). That MCDONALDS requires Ms. Dorantez Galicia and other aggrieved employees to sign meal period waivers simultaneously at or near their time of hire (as opposed to on a specific work day) renders them invalid and unenforceable, because MCDONALDS's obligation to provide Ms. Dorantez Galicia and other aggrieved employees with meal periods did not arise until they had employed them for a full five (5) hours.

MCDONALDS knew or should have known that as a result of its policies and/or practices, Ms. Dorantez Galicia and other aggrieved employees were not actually relieved of all duties to take timely, uninterrupted meal periods. MCDONALDS further knew or should have known that it did not pay Ms. Dorantez Galicia and other aggrieved employees meal period premiums when meal periods were missed, late, short, and/or interrupted.

Furthermore, MCDONALDS engaged in a company-wide practice and/or policy of not paying all meal period premiums owed when compliant meal periods are not provided. Because of this practice and/or policy, Ms. Dorantez Galicia and other aggrieved employees have not received premium pay for missed, interrupted, or late meal periods. Alternatively, to the extent that MCDONALDS did pay other aggrieved employees premium pay for missed, late, and interrupted meal periods, MCDONALDS did not pay other aggrieved employees at the correct rate of pay for premiums because MCDONALDS systematically failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, MCDONALDS failed to provide all meal periods in violation of California Labor Code sections 226.7, 512(a), 516, and 1198. Ms. Dorantez Galicia and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226.7, 516, and 1198 – Failure to Authorize and Permit Rest Periods

California Labor Code sections 226.7, 516, and 1198, and the applicable IWC Wage Order require employers to provide rest periods and to pay an employee one (1) additional hour of pay at the employee's regular rate for each work day that a meal or rest period is not provided. California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC. The applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

To comply with its obligation to authorize and permit rest periods under California Labor Code section 226.7 and the applicable IWC Wage Order, an employer must "relinquish any control over how employees spend their break time, and relieve their employees of all duties—including the obligation that an employee remain on call. A rest period, in short, must be a period of rest." *Augustus, et al. v. ABM Security Services, Inc.*, 2 Cal. 5th 257, 269-270 (2016).

MCDONALDS regularly failed to authorize and permit Ms. Dorantez Galicia and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, MCDONALDS's company-wide practices of understaffing and assigning heavy workloads prevented Ms. Dorantez Galicia and other aggrieved employees from being relieved of all duty to take their rest periods. Additionally, MCDONALDS failed to schedule rest periods, which, coupled with MCDONALDS's failure to provide adequate rest period coverage, further led to Ms. Dorantez Galicia and other aggrieved employees not being authorized and permitted to take compliant rest periods.

MCDONALDS regularly failed to authorize and permit Ms. Dorantez Galicia and other aggrieved employees to take a ten (10) minute rest period per each four (4) hour period worked or major fraction thereof. As with meal periods, MCDONALDS's company-wide practices, including utilizing labor budgets resulting in understaffing, and assigning heavy workloads and pressure to meet performance metrics, prevented Ms. Dorantez Galicia and other aggrieved employees from being relieved of all duty to take their rest periods. Additionally, MCDONALDS failed to schedule rest periods, which, coupled with MCDONALDS's failure to provide adequate rest period coverage, further led to Ms. Dorantez Galicia and other aggrieved employees not being authorized and permitted to take compliant rest periods.

Furthermore, upon information and belief, MCDONALDS maintained a company-wide on-premises rest period policy, which mandated that Ms. Dorantez Galicia and other aggrieved employees remain on MCDONALDS's premises during their rest periods. Because Ms. Dorantez Galicia and other aggrieved employees were restricted from leaving the premises during rest periods, they were denied the ability to use their rest periods freely for their own purposes, such as running personal errands. Thus, MCDONALDS effectively maintained control over Ms. Dorantez Galicia and other aggrieved employees during rest periods.

As a result of MCDONALDS's practices and policies, Ms. Dorantez Galicia and other aggrieved employees worked shifts in excess of 3.5 hours, in excess of 6 hours, and/or in excess of 10 hours without receiving all uninterrupted 10-minute rest periods to which they were entitled. For example, Ms. Dorantez Galicia missed at least two (2) rest periods due to customer demand and lack of coverage.

MCDONALDS also has engaged in a company-wide practice and/or policy of not paying all rest period premiums owed when compliant rest periods are not authorized and permitted. Alternatively, to the extent that MCDONALDS did pay other aggrieved employees one (1) additional hour of premium pay for missed rest periods, MCDONALDS did not pay other aggrieved employees at the correct rate of pay for premiums because MCDONALDS failed to include all forms of compensation, such as incentive pay, nondiscretionary bonuses, and/or other forms of remuneration, in the regular rate of pay.

Accordingly, MCDONALDS failed to authorize and permit all rest periods in violation of California Labor Code sections 226.7, 516, and 1198. Ms. Dorantez Galicia and other aggrieved employees are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 226(a), 1174(d), and 1198 – Non-Compliant Wage Statements and Failure to Maintain Accurate Payroll Records

California Labor Code section 226(a) requires employers to make, keep and provide true, accurate, and complete employment records. MCDONALDS has not provided Ms. Dorantez Galicia and other aggrieved employees with properly itemized wage statements. Labor Code section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wage statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the

initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, MCDONALDS has knowingly and intentionally provided Ms. Dorantez Galicia and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. For example, MCDONALDS issued uniform wage statements to Ms. Dorantez Galicia and other aggrieved employees that fail to correctly list: gross wages earned; total hours worked; net wages earned; and all applicable hourly rates in effect during the pay period, including rates of pay for overtime wages and/or meal and rest period premiums, and the corresponding number of hours worked at each hourly rate. Specifically, MCDONALDS violated sections 226(a)(1), 226(a)(2), 226(a)(5), and 226(a)(9).

Because MCDONALDS did not record the time Ms. Dorantez Galicia and other aggrieved employees spent working off-the-clock and deducted time from their records for meal periods that were interrupted and/or missed (and therefore time for which they should have been paid), MCDONALDS did not list the correct amount of gross wages and net wages earned by Ms. Dorantez Galicia and other aggrieved employees in compliance with section 226(a)(1) and section 226(a)(5), respectively. For the same reason, MCDONALDS failed to accurately list the total number of hours worked by Ms. Dorantez Galicia and other aggrieved employees, in violation of section 226(a)(2), and failed to list the applicable hourly rates of pay in effect during the pay period and the corresponding accurate number of hours worked at each hourly rate, in violation of section 226(a)(9).

Furthermore, because MCDONALDS did not calculate other aggrieved employees' regular rate of pay correctly for purposes of paying overtime wages and/or meal and rest period premiums, MCDONALDS did not list the correct amount of gross wages in compliance with section 226(a)(1). For the same reason, MCDONALDS also failed to list the correct amount of net wages in violation of section 226(a)(5). MCDONALDS also failed to correctly list all applicable hourly rates in effect during the pay period, namely, correct rates of pay for overtime wages and/or meal and rest period premiums, in violation of section 226(a)(9).

The wage statement deficiencies also include, among other things, failing to list the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis; failing to list all deductions; failing to list the inclusive dates of the period for which aggrieved employees were paid; failing to list 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; failing to list the name and address of the legal entity that is the employer; and/or failing to state all hours worked as a result of not recording or stating the hours they worked off-the-clock.

California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. . . .” Labor Code section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), MCDONALDS willfully failed to maintain accurate payroll records for Ms. Dorantez Galicia and other

aggrieved employees showing the daily hours they worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked.

California Labor Code section 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Order. Section 1198 further provides that “[t]he employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. During the relevant time period, MCDONALDS failed, on a company-wide basis, to keep accurate records of work and meal period start and stop times for Ms. Dorantez Galicia and other aggrieved employees, in violation of section 1198. Also, as stated, MCDONALDS engaged in a company-wide practice and/or policy of falsifying Ms. Dorantez Galicia’s and other aggrieved employees’ time records by recording that compliant meal periods were taken regardless of if or when meal periods were actually taken, and thereby failed to keep accurate records of meal start and end times for Ms. Dorantez Galicia and other aggrieved employees. Furthermore, in light of MCDONALDS’s failure to provide other aggrieved employees with second 30-minute meal periods to which they were entitled, MCDONALDS kept no records of meal start and end times for second meal periods.

Because MCDONALDS failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on wage statements, Ms. Dorantez Galicia and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Ms. Dorantez Galicia and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment, thereby causing them injury.

Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204 – Failure to Timely Pay Wages During Employment

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of the payroll period.

During the relevant time period, MCDONALDS willfully failed to pay Ms. Dorantez Galicia and other aggrieved employees all wages due including, but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, within the time periods specified by California Labor Code section 204.

Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201, 202, and 203 – Failure to Timely Pay Final Wages Upon Termination

California Labor Code sections 201, 202, and 203 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (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.

On information and belief, MCDONALDS had a company-wide practice or policy of paying departing employees their final wages on the next regular pay cycle, instead of adhering to the time requirements set forth in Labor Code sections 201 and 202. For example, Ms. Dorantez Galicia resigned on August 10, 2020, however, MCDONALDS did not provide Ms. Dorantez Galicia her final wages until over a week later on or about August 21, 2020. Thus, MCDONALDS failed to pay Ms. Dorantez Galicia her final wages within seventy-two (72) hours from the time she resigned, in violation of Labor Code section 202.

Additionally, MCDONALDS willfully failed to pay Ms. Dorantez Galicia and other aggrieved employees who are no longer employed by MCDONALDS the earned and unpaid wages set forth above, including but not limited to, overtime wages, minimum wages, meal and rest period premiums, and/or reporting time pay, either at the time of discharge, or within seventy-two (72) hours of their leaving MCDONALDS's employ.

Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 256 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 212 and 213 – Unlawful Direct Deposit and Discount of Wages

California Labor Code section 212 prohibits employers from issuing any instruments for the payment of wages unless such instruments are negotiable and payable in cash on demand and without discount. California Labor Code section 213 permits employers to pay employees via direct deposit so long as the employee authorizes payment via direct deposit. Under California law, employers are also permitted to fulfill their wage payment obligations to employees by using payroll debit cards, but only under certain circumstances. Employer use of payroll debit cards is permitted only so long as the employee is given the choice as to whether to accept a payroll debit card as a form of payment. *Johnson v. Sunrise Senior Living Management, Inc.*, No. 16 CV 00443 BRO RAOx, 2016 WL 8929249, *9 (C.D. Cal. May 5, 2016). In *Johnson*, the court stated that the Division of Labor Standards Enforcement ("DLSE") decision deeming payroll debit card program permissible relied heavily on:

. . . [T]he fact that the pay programs were optional, thereby allowing an employee to either participate in the program or receive his or her pay in some other way, such as direct deposit. Specifically, the DLSE opined that "[t]he success of the described procedure, in practice, will of course require that . . . it is presented as an *alternative* method for wage payment for which [the employees'] participation is optional." The DLSE also stated, "[i]t is significant that the program does not mandate employee participation in the Money Network Service and that it is designed to provide an alternative for employees receiving their wage payment. Employees are also given the option of having their pay direct deposited into an account of their choosing. . . ." (internal citations omitted).

In addition, employers can only utilize payroll debit card programs if they provide employees with effective access to their wages without discount. The DLSE has interpreted Labor Code sections 212 and 213 as permitting employer use of payroll debit cards where the following requirements are satisfied:

- (1) [T]he “wages [are] payable at some established place of business in the state and there be at least 30 days of sufficient funds for payment,”
- (2) the employees are “fully informed of the service and procedures and that it is represented as an alternative method for wage payment for which their participation is optional,”
- (3) the employees receive “an itemized wage statement,” and
- (4) “at least one transaction per pay period [is] without fee.”

Ortiz v. Randstad North America, L.P., No. C-13-5050 MMC, 2015 WL 6202298 at 3.

Further, the DLSE notes that the Labor Code manifests:

... [A] strong public policy that prohibits an employer (or its agent) from imposing conditions or obstacles which interfere with or prevent an employee’s (*sic*) from promptly receiving their due wages *in full*. The imposition of a fee in order to readily *access* one’s earned and paid wages under a payroll card program which is designed to discharge the employer’s wage payment obligations could impermissibly interfere with an employee’s receipt of paid wages by creating a financial condition which would have the *effect* of reducing or discounting wages because such fee would be charged against the same account in which wages are deposited. (emphases in original)

DLSE opinion letter 2008.07.07. The DLSE has also acknowledged that payroll service providers “effectively act as *agents* of the client employers in discharging the employer’s wage payment obligations.” *Id.* In a second opinion letter, the DLSE stated that “[w]hile the Labor Code does not purport to regulate the specific arrangements between employers and payroll service providers, both an employer and, under the express language in Labor Code § 212- their *agent*, must comply with its requirements.” *DLSE opinion letter 2008.07.07.2*.

During the relevant time period, MCDONALDS had an agreement with a payroll service provider for the issuance of payroll cards to employees, including other aggrieved employees, to discharge its wage payment obligations to its employees. Under MCDONALDS’s payroll debit program, on information and belief, MCDONALDS did not permit other aggrieved employees to withdraw their entire wages in at least one transaction without incurring a fee. Additionally, on information and belief, other aggrieved employees also encountered approximately \$1.75 in ATM fees each time they utilized an ATM to withdraw funds from their payroll debit card in addition to a multitude of other transaction fees that MCDONALDS did not disclose or properly inform other aggrieved employees of at the time of issuance of payroll cards, including but not limited to: card replacement fees of approximately \$5.00-\$10.00; inactivity fees of approximately \$5.00 per month; and out-of-network and international ATM balance inquiry fees of approximately \$0.75-\$1.00, among other undisclosed fees. Consequently, these undisclosed payroll debit card fees resulted in a discount in pay to other aggrieved employees. In sum, MCDONALDS’s payroll debit card program presented a number of obstacles and hurdles that combined, made it difficult for other aggrieved employees to access their entire wages without discount and without delay.

California courts recognize a policy favoring the full and prompt payment of wages to employees. MCDONALDS’s payroll card program is inconsistent with this policy. MCDONALDS’s company-wide

payroll debit card program denies aggrieved employees of easy access to the entirety of their wages, thus, the program violates California Labor Code sections 212 and 213. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 221 and 224 – Unlawful Deductions

California Labor Code section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. California Labor Code section 224 also provides in pertinent part that it is lawful to withhold a portion of the employee's wages if "a deduction is expressly authorized in writing by the employee."

During the relevant time period, MCDONALDS unlawfully deducted a portion of wages previously paid to other aggrieved employees in violation of California Labor Code section 221.

MCDONALDS systematically, and on a company-wide basis, provided other aggrieved employees with payroll debit cards as payment of their wages and/or final wages. Under MCDONALDS's payroll debit card program, other aggrieved employees were assessed numerous, various fees in connection with their use of the payroll debit cards. Other aggrieved employees were required to pay per-transaction fees, ATM fees, inactivity fees, in-person teller fees, and/or other fees to obtain and/or spend their earned and due wages. The fees charged to other aggrieved employees resulted in a discount of their wages.

MCDONALDS's payroll debit card program, which resulted in a discount of wages to employees, is tantamount to taking deductions from other aggrieved employees' paychecks without their written authorization and therefore constitutes an unlawful deduction of wages, in violation of Labor Code sections 221 and 224. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 223 – Secret Payment of Lower Wages

California Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

During the relevant time period, MCDONALDS willfully and systematically issued payroll debit cards to other aggrieved employees. The payroll debit cards discounted the wages of other aggrieved employees by charging a multitude of various fees in connection with the use of the payroll debit cards.

MCDONALDS's payroll debit card program resulted in the payment of less than statutorily required wages to other aggrieved employees. In doing so, MCDONALDS acted with the intent to deprive other aggrieved employees of statutory wages, including, but not limited to, overtime wages and minimum wages to which they were entitled to under California law.

Thus, MCDONALDS paid other aggrieved employees lower wages than those they were entitled to while purporting that other aggrieved employees were properly paid. Other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 225.5 and/or 2699(a), (f)-(g).

Violation of California Labor Code § 1198 and California Code of Regulations Title 8, Section 11050 Subdivision 5(A) – Failure to Pay Reporting Time Pay

California Labor Code section 1198 dictates that no employer may employ an employee under conditions of labor that are prohibited by the applicable IWC wage order. California Labor Code section 1198

further requires that “. . . the standard conditions of labor fixed by the commission shall be the . . . standard conditions of labor for employees. The employment of any employee . . . under conditions of labor prohibited by the order is unlawful.”

California Code of Regulations, Title 8, section 11050(5)(A) provides that “[e]ach workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee’s usual or scheduled day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee’s regular rate of pay, which shall not be less than the minimum wage.” The “primary purpose of the reporting time regulation” is “to guarantee at least partial compensation for employees who report to work expecting to work a specified number of hours, and who are deprived of that amount because of inadequate scheduling or lack of proper notice by the employer.” *Aleman v. AirTouch Cellular*, 209 Cal. App. 4th 556 (2012).

During the relevant time period, MCDONALDS violated California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A), because MCDONALDS failed to pay Ms. Dorantez Galicia and other aggrieved employees reporting time pay when they reported to work for their scheduled shift but were put to work for less than half of the regularly scheduled day’s work.

MCDONALDS had a company-wide practice of sending Ms. Dorantez Galicia and other aggrieved employees home early from their shifts, including before they had worked at least half of their regular shift, but would not pay Ms. Dorantez Galicia and other aggrieved employees for half of their scheduled shift. For example, Ms. Dorantez Galicia would report to work for her scheduled shift, but would be sent home after two (2) hours by MCDONALDS’s management because business was slow. Although Ms. Dorantez Galicia and other aggrieved employees would report to work based on the schedule that MCDONALDS provided to them, MCDONALDS would send them home before they had worked at least half of their scheduled shifts without giving them reporting time pay.

Accordingly, Ms. Dorantez Galicia and other aggrieved employees were not properly compensated with reporting time pay in violation of California Labor Code section 1198 and California Code of Regulations, Title 8, section 11050(5)(A). Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order, IWC Wage Order No. 5-2001, provides that: “[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft.”

First, during the relevant time period, MCDONALDS required Ms. Dorantez Galicia and other aggrieved employees to wear uniforms bearing the McDonald’s company logo, including uniform shirts and/or hats. However, MCDONALDS did not provide their employees with sufficient uniforms to wear for their shifts throughout the week. For example, MCDONALDS only provided Ms. Dorantez Galicia and other aggrieved employees with one (1) shirt and one (1) hat, despite being scheduled to work five (5) or more

days each week. Because MCDONALDS failed to provide Ms. Dorantez Galicia and other aggrieved employees with an adequate number of uniform items in relation to their scheduled shifts and for the tasks they were required to perform, Ms. Dorantez Galicia and other aggrieved employees were forced to wash their uniforms more frequently than they otherwise do laundry, and incur expenses in doing so. For example, due to the nature of restaurant work, Ms. Dorantez Galicia's and other aggrieved employees' uniforms would become stained with grease, sweaty, soiled, and/or acquire an unpleasant odor such that they were unable to mix these clothes in with other laundry. As a result, they had to wash their uniform items separately from their other clothing items, thus incurring additional utility and laundry expenses for the upkeep of their uniforms. Thus, MCDONALDS failed to maintain the uniforms it required Ms. Dorantez Galicia and other aggrieved employees to wear during their shifts and forced them to incur the cost of maintaining employee uniforms.

Second, MCDONALDS, on a company-wide basis, required Ms. Dorantez Galicia and other aggrieved employees to obtain and pay for certain certifications, such as a California Food Handler Card, that were required for their continued employment, as well as associated costs such as training and/or examination fees. For example, Ms. Dorantez Galicia complied with this requirement and spent approximately \$15.00 to obtain a food handler's permit, but MCDONALDS did not reimburse her for the costs of obtaining the certification. Thus, MCDONALDS failed to reimburse Ms. Dorantez Galicia and other aggrieved employees for the costs of obtaining these certifications, including training and/or examination fees.

Third, MCDONALDS had a company-wide policy of requiring other aggrieved employees to utilize their own personal vehicles or obtain alternate transportation to carry out company business, but failed to reimburse them for all costs of travel, including mileage. For example, as stated, other aggrieved employees were required to travel to and cover shifts at MCDONALDS's restaurants in other locations. Although MCDONALDS required other aggrieved employees to utilize their own vehicles or obtain alternate transportation to complete their work-related duties, MCDONALDS did not reimburse them for all of their travel expenses.

MCDONALDS could have provided Ms. Dorantez Galicia and other aggrieved employees with the actual tools for use on the job, such as company vehicles and/or an adequate number of uniforms or access to laundering services, or MCDONALDS could have reimbursed employees for the costs of their mileage, travel expenses, certification fees, and/or laundering expenses or provided a uniform maintenance allowance. Instead, MCDONALDS passed these operating costs off onto Ms. Dorantez Galicia and other aggrieved employees. At all relevant times, Ms. Dorantez Galicia did not earn at least two (2) times the minimum wage.

MCDONALDS could have provided Ms. Dorantez Galicia and other aggrieved employees with the actual tools for use on the job, such as company vehicles and company phones, or MCDONALDS could have reimbursed employees for the costs of their travel, mileage, cellular phone expenses, and certification fees. Instead, MCDONALDS passed these operating costs off onto Ms. Dorantez Galicia and other aggrieved employees. At all relevant times, Ms. Dorantez Galicia did not earn at least two (2) times the minimum wage.

Thus, MCDONALDS had, and continues to have, a company-wide policy and/or practice of not reimbursing Ms. Dorantez Galicia and other aggrieved employees for expenses necessarily incurred in violation of California Labor Code section 2802. Ms. Dorantez Galicia and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

Violation of California Labor Code § 2810.5(a)(1)(A)-(C) – Failure to Provide Notice of Material Terms of Employment

California's Wage Theft Prevention Act was enacted to ensure that employers provide employees with basic information material to their employment relationship at the time of hiring, and to ensure that employees are given written and timely notice of any changes to basic information material to their employment. Codified at California Labor Code section 2810.5, the Wage Theft Prevention Act provides that at the time of hiring, an employer must provide written notice to employees of the rate(s) of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, the regular payday designated by the employer, and any allowances claims as part of the minimum wage, including meal or lodging allowances. Effective January 1, 2015, an employer's written notice pursuant to section 2810.5 must also include a statement that the employee may accrue and use sick leave; has a right to request and use accrued paid sick leave; may not be terminated or retaliated against for using or requesting the use of accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

MCDONALDS failed to provide Ms. Dorantez Galicia and other aggrieved employees written notice that lists all the requisite information set forth in Labor Code section 2810.5(a)(1)(A)-(C). Specifically, MCDONALDS failed to provide Ms. Dorantez Galicia and other aggrieved employees with the hourly rate(s) of pay, including the overtime rate(s) of pay, in violation of section 2810.5(a)(1)(A)-(C). Instead, the wage theft form MCDONALDS provided to Ms. Dorantez Galicia is blank where the aforementioned wage information should be filled in.

MCDONALDS's failure to provide Ms. Dorantez Galicia and other aggrieved employees with written notice of basic information regarding their employment with MCDONALDS is in violation of Labor Code section 2810.5. Ms. Dorantez Galicia and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g).

California Labor Code § 558(a)

California Labor Code section 558(a) provides "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid. . . . (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid. . . ." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law." MCDONALDS, at all relevant times, was an employer or person acting on behalf of an employer(s) who violated Ms. Dorantez Galicia's and other aggrieved employees' rights by violating various sections of the California Labor Code.

Accordingly, Ms. Dorantez Galicia seeks the remedies set forth in Labor Code section 558 for herself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a) and 2699.3(c), 2699.5, and 558, Ms. Dorantez Galicia, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties, all other aggrieved employees, and the State of California against MCDONALDS for violations of California Labor Code sections 201, 202, 203, 204, 212, 213, 221, 223, 224, 226(a), 226.7, 510, 512(a), 516, 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

Therefore, on behalf of all aggrieved employees, Ms. Dorantez Galicia seeks all applicable civil penalties related to these violations of the California Labor Code pursuant to PAGA.

Thank you for your attention to this matter. If you have any questions, please contact me at the phone number or address below:

Anthony Castillo
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Los Angeles, CA 90067
(310) 556-4811

Best Regards,



Anthony Castillo

Copy: M. SAN RAMON, INC. (via U.S. Certified Mail); BAY AREA RESTAURANT MANAGEMENT CORP. (via U.S. Certified Mail); M PLEASANT HILL II, INC. (via U.S. Certified Mail); M. ALCOSTA, INC. (via U.S. Certified Mail); M. ASHLAND, INC. (via U.S. Certified Mail); M. BERNAL, INC. (via U.S. Certified Mail); M. CENTRAL INC. (via U.S. Certified Mail); M. CONTRA COSTA, INC. (via U.S. Certified Mail); M. DANVILLE, INC. (via U.S. Certified Mail); M. DISCOVERY BAY, INC. (via U.S. Certified Mail); M. GREENHOUSE, INC. (via U.S. Certified Mail); M. HESPERIAN, INC. (via U.S. Certified Mail); M. LONETREE, INC. (via U.S. Certified Mail); M. MARTINEZ, INC. (via U.S. Certified Mail); M. MISSION, INC. (via U.S. Certified Mail); M. MONUMENT, INC. (via U.S. Certified Mail); M. OAKLEY, INC. (via U.S. Certified Mail); M. PLEASANTON, INC. (via U.S. Certified Mail); M. SAN LEANDRO, INC. (via U.S. Certified Mail); M. SHORELINE INC. (via U.S. Certified Mail); M. STONERIDGE MALL, INC. (via U.S. Certified Mail); M. TENNYSON, INC. (via U.S. Certified Mail); M. WATKINS INC. (via U.S. Certified Mail); M.DEER VALLEY, INC. (via U.S. Certified Mail); M.SUN VALLEY, INC. (via U.S. Certified Mail); MAC-D DUBLIN (via U.S. Certified Mail); MACD-ANTIOCH, INC. (via U.S. Certified Mail); MACD-CONCORD (via U.S. Certified Mail); MACD-CORDELLIA JCT., INC. (via U.S. Certified Mail); MACD-PITTSBURG (via U.S. Certified Mail)