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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

CHRISTIAN PENA, TOM SWANSON,
KEITH ANTHONY TERRY, and
ALEJANDRO MARTINEZ individually, and
on behalf of all others similarly situated,

Plaintiffs,

v.

SUPER STORES INDUSTRIES, an unknown
entity, and DOES 1 through 10, inclusive,

Defendants.

Case No.: STK-CV-UOE-2021-0010117

*[Assigned for All Purposes to the Honorable
Jayne Lee, Dept. 10C]*

**DECLARATION OF BENJAMIN H.
HABER IN SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Preliminary Approval Hearing:

Date: October 21, 2026
November 3, 2026
November 4, 2026
November 5, 2026
November 6, 2026

Time: 10:30 a.m.
Dept.: 10C

Action Filed: October 27, 2021

1 Arby Aiwarzian (SBN 269827)
2 Joanna Ghosh (SBN 272479)
3 Selena Matavosian (SBN 348044)
4 **LAWYERS *for* JUSTICE, PC**
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Attorneys for Plaintiffs

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1. I am an attorney at law licensed to practice before all of the courts of the State of California. I am a partner at Wilshire Law Firm, PLC (“WLF”), along with co-counsel Lawyers *for* Justice PC are counsel for Plaintiffs Christian Pena, Tom Swanson, Keith Anthony Terry and Alejandro Martinez (collectively, the “Plaintiffs”) in this matter. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.

Procedural History

4. On October 28, 2021, and amended on July 23, 2026, Pena Plaintiffs provided written notice to the LWDA and Defendant the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support. A true and correct copy of Plaintiffs' October 28, 2021, and July 23, 2026, letters to Defendant and the LWDA is attached hereto as **Exhibit 1**. The LWDA did not notify Pena Plaintiffs that intended to investigate within 65 days of this written notice. Therefore, on January 7, 2022, Pena Plaintiffs filed a First Amended Complaint in this Class Action adding a cause of action for civil penalties under PAGA ("Pena Action").

5. On October 1, 2021, Plaintiff Alejandro Martinez (“Martinez Plaintiff”) provided written notice to the LWDA and Defendant the specific provisions of the Labor Code alleged to have been violated, including the facts and theories in support. On December 7, 2021, Martinez Plaintiff filed a putative wage and hour class action complaint against Defendant for: Action by filing a Complaint alleging causes of action against Defendant for civil penalties under the Private Attorneys

General Act ("PAGA"). ("Martinez PAGA Action") On July 9, 2024, the Martinez Plaintiff initiated the Martinez Class Action ("Martinez Class Action") against Defendant by filing a class action complaint for Damages, thereby asserting causes of action for (1) violation of California Labor Code §§ 510 and 1198 (unpaid overtime); (2) violation of California Labor Code §§ 226.7 and 512(a) (unpaid meal period premiums); (3) violation of California Labor Code § 226.7 (unpaid rest period premiums); (4) violation of California Labor Code §§ 1194, 1197, and 1197.1 (unpaid minimum wages); (5) violation of the California Labor Code §§ 201 and 202 (final wages not timely paid); (6) violation of California Labor Code § 204 (wages not timely paid during employment); (7) violation of California Labor Code § 226(a) (non-compliant wage statements); (8) violation of California Labor Code § 1174(d) (failure to keep requisite payroll records); (9) violation of California Labor Code §§ 2800 and 2802 (unreimbursed business expenses); (10) violation of California Business and Professions Code §§ 17200, et seq ("Martinez Action").

6. On September 29, 2026, the Pena Plaintiffs and Martinez Plaintiff filed an amended complaint to consolidate Pena Action, Martinez PAGA Action and Martinez Class Action.

7. On June 13, 2023, and August 23, 2023, the Parties subsequently participated in private full-day mediations with Lisa Klerman. The negotiations were adversarial, conducted at arm's length, and tempered by the efforts of both sides to serve the interests of their clients. The mediator made a proposal, which was accepted by the Parties.

8. The parties negotiated the terms of the Settlement, which was finalized on September 21, 2026 and fully executed on September 29, 2026. A true and correct copy of the Parties' fully executed Class and Representative PAGA Action Settlement Agreement ("Settlement Agreement") is attached hereto as **Exhibit 2**. Attached thereto as **Exhibit A** is a true and correct copy of the Parties' proposed Class Notice.

9. Plaintiffs submitted a copy of the Settlement Agreement to the LWDA. A true and correct copy of the confirmation of submission my office received after submitting the Settlement Agreement to the LWDA is attached hereto as **Exhibit 3**.

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Investigation and Exposure Analysis

10. Prior to attending mediation, Plaintiffs' Counsel thoroughly investigated the claims, applicable law, and potential defenses. Plaintiffs' Counsel assessed the value to the class claims using the data and documents that Defendant produced in informal discovery, including the number of Class Members, the number of workweeks in the Class Period, the number of pay periods in the PAGA Period, Plaintiffs' personnel file/documents concerning Plaintiffs, Defendant's employee handbook(s), Defendant's written wage-and-hour policies, job descriptions, and a random sampling of time and payroll records. Plaintiffs' Counsel engaged an expert consultant to quantify the potential exposure using the time and payroll records, and then assessed the risks associated with each claim meriting reductions in the likely success at class certification and likely recovery at trial.

11. Defendant's records show that there are approximately 2,200 Class Members, making joinder of all Class Members impracticable. Further, given the size and amount of each Class Members' claim, Class Members have little incentive to litigate their claims on an individual basis because the out-of-pocket expenses and personal commitment necessary to litigate each claim likely outweigh any potential recovery.

12. Plaintiffs have alleged that Defendant maintained common employment policies and/or practices that unlawfully deprived Class Members of wages, meal period, rest periods, reimbursements for business expenses, accurate wage statements, and timely payment of wages upon separation of employment. These allegations present common factual and legal questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, pay, meal period, rest period, and reimbursement policies to all Class Members, whether these policies and practices resulted in Labor Code violations, whether Defendant's conduct was intentional, and whether Class Members are entitled to damages and/or penalties. These common questions could be resolved using Class Members' time records, payroll records, testimony from Defendant's designated representative(s), and Class Members' testimony.

13. Although the exposure Plaintiffs' Counsel calculated is substantial, the various risks at succeeding at class certification and through trial affected the valuation of the claims for settlement purposes.

1 14. Minimum and Overtime Wages: Plaintiffs' unpaid minimum and overtime wage
2 claims were based on the allegation that Defendant required Class Members to perform work duties
3 while off the clock, without compensation, and incorrect regular rate of pay. For example, Plaintiffs
4 alleged that Defendant required them and other Class Members to perform work-related tasks while
5 clocked out. For purposes of calculating Defendant's liability based on a best-case scenario for
6 Plaintiffs and the Class, Plaintiffs' Counsel assumed that all unpaid worktime should have been
7 paid at the overtime rate of pay and conservatively estimated that Defendant is liable for one (1)
8 hour of unpaid worktime per workweek. This results in potential exposure for this claim of
9 approximately \$7,658,511.05 (205,957 workweeks x \$24.79 average hourly rate of pay x 1
10 hours/workweek x 1.5 overtime rate). Because this claim would have relied heavily on Class
11 Member testimony and would not be evidenced in Defendant's time and payroll records, the risk
12 of not succeeding at class certification and trial was substantial. Accordingly, Plaintiffs' Counsel
13 applied a risk discount based on a 25% chance of succeeding at class certification and a 25% chance
14 of succeeding at trial on the merits, yielding a realistic damage estimate of approximately
15 \$478,656.94 (\$7,658,511.05 x 25% x 25%).

16 15. Meal Periods: Plaintiffs' meal period claim was based on the allegation that
17 Defendant failed to provide Class Members with legally compliant meal periods or properly pay
18 meal period premiums in lieu thereof. For example, Plaintiffs alleged that Defendant required them
19 and other Class Members to take shortened or late meal periods. *Id.* In some instances, Plaintiffs
20 believe Defendant required Plaintiffs and other class members to forego their meal periods. *Id.*
21 Additionally, Plaintiffs' Counsel's expert consultant determined there was a 21.1% meal period
22 violation rate from the sampling of Defendant's time and payroll records, where meal periods were
23 short, late, or missed after premiums are considered. *Id.* Therefore, potential liability for the meal
24 period claim is approximately \$3,527,927.79 (674,467 shifts over 5 hours x \$24.79 average hourly
25 rate x 21.1% violation rate). *Id.* However, Defendant contends that it maintained legally compliant
26 meal break policies, did not preclude class members from taking their legally entitled meal breaks
27 and that many Class Members are bound by arbitration agreements with class action waivers. *Id.*
28 After taking into account the difficulty of certifying and proving meal period claims, as well as

Defendant's contention that the claim lacks merit and that a 21.1% violation rate is unrealistic, Plaintiffs' Counsel applied a risk discount based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$705,585.56.

16. Rest Periods: Plaintiffs' rest period claim was based on the allegation that Defendant failed to provide Class Members with legally compliant rest periods or properly pay rest period premiums in lieu thereof. For example, Plaintiffs alleged that Defendant required them and other Class Members to work through their rest periods. *Id.* Based on Plaintiffs' allegations and Plaintiffs' and other Class Members' experience working for Defendant, Plaintiffs' Counsel applied a 40% violation rate to all qualifying shifts during the Class Period. *Id.* Therefore, Defendant's potential liability for the rest period claim is approximately \$4,466,389.51 (720,676 shifts of 3.5 hours or longer x \$24.79 average hourly rate x 25% violation rate). However, Plaintiffs' Counsel discounted this figure to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest period and that many Class Members are bound by arbitration agreements with class action waivers. *Id.* Because this claim would have relied exclusively on Class Member testimony, Plaintiffs' Counsel applied a risk discount based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$893,277.90. *Id.*

17. Reimbursements: Plaintiffs' reimbursement claim was based on the allegation that Defendant failed to indemnify Class Members for expenses incurred as a direct result of performing their job duties for Defendant, such as necessary work-attire such as gloves and boots. *Id.* For purposes of calculating Defendant's liability based on a best-case scenario for Plaintiffs and the Class, Plaintiffs' Counsel estimated that Defendant was liable to each Class Member for \$6.25 per workweek in unreimbursed expenses, for a total amount of approximately \$1,287,231.25 (\$6.25 x 205,957 workweeks). *Id.* However, Defendant argued that the alleged expenses did not occur or were not reasonable and/or necessary, and that it could not have known that these expenses were

1 being incurred. *Id.* Defendant also argued that many Class Members are bound by arbitration
2 agreements with class action waivers. *Id.* Accordingly, Plaintiffs' Counsel applied a risk discount
3 based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial
4 on the merits, yielding a realistic damage estimate of approximately \$257,446.25.

5 18. In sum, Plaintiffs' Counsel estimated that Plaintiffs' maximum recovery for the off-
6 the-clock claim, meal period violations, and rest period violations (i.e., the wage claims) is
7 approximately \$15,652,828.35. However, after factoring in the risk and uncertainty of prevailing
8 at certification and trial, Plaintiffs' Counsel estimates that Plaintiffs' realistic, estimated recovery
9 for these non-penalty wage claims is approximately \$2,334,966.65.

10 19. Derivative Penalties: Plaintiffs alleged that as a result of Defendant's failure to pay
11 all wages owed, Defendant owed waiting time penalties and wage statement penalties. With respect
12 to Plaintiffs' derivative claims for statutory penalties, Plaintiffs' Counsel estimated that
13 Defendant's maximum potential liability is approximately \$8,878,733.68. Defendant's maximum
14 potential liability for waiting time penalties is approximately \$4,296,801.12 [(628 employees x
15 \$24.79 average hourly rate of pay x 8.00 hours/day x 30 days) + (628 employees x \$24.79 average
16 hourly rate of pay x 0.8 hours of overtime/day x 1.5 overtime rate x 30 days)] based on
17 approximately 628 formerly employed Class Members during the 3-year statute of limitations
18 period up to the date of the filing of the complaint and an average shift length of 8.8 hours.
19 Defendant's maximum potential liability for inaccurate wage statements is approximately
20 \$4,768,750.00 [(1,337 employees x 1 initial violation/employee x \$50 for an initial violation) +
21 [(48,356 pay periods – 1,337 initial violations) x \$100 for each subsequent violation]]. In light of
22 the foregoing, Plaintiffs' Counsel believes that it would be unrealistic to expect the Court to award
23 the full \$8,878,733.68 in statutory penalties given Defendant's defenses, the contested nature of
24 Plaintiffs' claims, the challenges of establishing willfulness as applicable, and the discretionary
25 nature of penalties. Considering that the underlying claims are realistically estimated to be
26 approximately \$2,334,966.65, such a disproportionate award would also raise due process
27 concerns. As such, Plaintiffs' counsel discounted these figures to account for the risk and
28 uncertainty of obtaining class certification and prevailing at trial, resulting in a realistic evaluation

of approximately \$42,968.01 for waiting time penalty claims ($\$4,296,801.12 \times 10\% \times 10\%$), and approximately \$190,750.00 for wage statement penalty claims ($\$4,768,750.00 \times 20\% \times 20\%$), or approximately \$233,718.01 total for statutory penalties.

20. PAGA: For the PAGA claim, Plaintiffs' Counsel determined that Defendant's potential exposure could potentially reach \$4,192,800.00, assuming the initial \$100 penalty would apply for each of the 41,928 pay periods in the PAGA Period. However, even assuming success on the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of reasons, including where to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory. As such, Plaintiffs' counsel discounted this figure to account for the risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately \$419,280.00 for PAGA penalties ($\$4,192,800 \times 10\%$). The settlement allocates \$200,000.00 of the Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 9.6% of the Gross Settlement Amount and approximately 48% of the realistic maximum damages for PAGA penalties ($\$200,000.00 / \$419,280.00$).

21. Using these estimated figures, Plaintiffs' Counsel predicted that the realistic maximum recovery for all claims, including penalties, would be approximately \$2,987,964.66. This means that the gross settlement amount approximately 69% of the realistic damages figure ($\$2,075,000.00 / \$2,987,964.66$). Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class. Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

22. Based on the figures in the Settlement Agreement, the Net Settlement Amount available for class settlement payments is currently estimated to be \$1,007,750.00 for approximately 2,220 Class Members. As a result, each Settlement Class Member would be eligible to receive an average net benefit of approximately \$508.96. Based on the estimated Net Settlement Amount available for individual class payments and there being approximately 209,597 workweeks in the Class Period, the estimated weekly valuation for Individual Class Payments is \$4.89 ($\$1,007,750.00 / 209,597$ workweeks).

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Plaintiffs' Counsel's Qualifications

23. Plaintiffs are represented by WLF. The attorneys at WLF performed significant work and expended litigation costs in prosecuting this matter with no guarantee of payment.

24. WLF was selected by Best Lawyers and U.S. News & World Report as one of the nation's Best Law Firms since 2020 and is comprised of more than 100 attorneys and over 600 employees. WLF is actively and continuously practicing in employment litigation, representing employees in both individual and class actions in both state and federal courts throughout California.

25. WLF is qualified to handle this Litigation because its attorneys are experienced in litigating Labor Code violations in individual, class action, and representative action cases. WLF has handled, and is currently handling, numerous wage and hour class action lawsuits, as well as class actions involving consumer rights and data privacy litigation.

26. I am a Partner at WLF. He graduated from the University of California, Los Angeles, in 2012 and received my Juris Doctor from the University of California, Hastings College of the Law (now the University of California College of Law, San Francisco) in 2016. During law school, I was a member of the executive board for the *Hastings Law Journal*; a student mediator at the San Francisco Superior Court, Small Claims Division; and a managing editor for *SCOCAblog*, which continues to be a leading online publication for analysis regarding trends and cases before the California Supreme Court. Since graduating from law school, I have focused my legal work primarily on wage-and-hour litigation and have helped obtain more than one hundred class settlements on behalf of tens of thousands of workers in California. I was also selected as a "Southern California Rising Star" in 2024, 2025, and 2026 and a "Best Lawyers: Ones to Watch" in 2026..

27. I have been appointed as class counsel in numerous wage-and-hour cases throughout California. Below is a non-exhaustive list of cases where I was appointed as class counsel or I and other members of WLF were appointed as class counsel:

(a) *Colter v. Propulsion Controls Engineering*, San Diego County, Case No. 37-2020-00030682-CU-OE-CTL; Motion for Final Approval granted on October

1 28, 2022.

2 (b) *Rodriguez v. Modesto Restaurant Group, LLC*, Stanislaus County, Case No. CV-
3 21-000269; Motion for Final Approval granted on January 10, 2023.

4 (c) *Kingsbury v. Caravan Foods II, Inc.*, Alameda County, Case No. RG21096357;
5 Motion for Final Approval granted on January 31, 2023.

6 (d) *Frias-Estrada v. Trek Retail Corporation*, Contra Costa County, Case No.
7 MSC20-01916; Motion for Final Approval granted on March 3, 2023.

8 (e) *Varez v. Valley Connection, LLC dba Carl's Jr.*, Merced County, Case No.
9 22CV-00985; Motion for Final Approval granted on April 27, 2023.

10 (f) *Reyes v. Everytable, PBC, et al.*, Los Angeles County, Case No. 21STCV35987;
11 Motion for Final Approval granted on May 3, 2023.

12 (g) *Ortiz v. Tara Materials, Inc.*, San Diego County, Case No. 37-2021-0001473-
13 CU-OE-CTL; Motion for Final Approval granted on May 30, 2023.

14 (h) *Cruz-Sanchez v. Eagle Lath & Plaster, Inc.*, Sacramento County, Case No. 34-
15 2021-00293739-CU-OE-GDS; Motion for Final Approval granted on May 30,
16 2023.

17 (i) *Garduno v. New Generation Framing, Inc., et al.*, Stanislaus County, Case No.
18 CV-21-000544; Motion for Final Approval granted on August 11, 2023.

19 (j) *Hernandez, et al. v. Burford Farming Company, Inc.*, Fresno County, Case No.
20 21CECG03817; Motion for Final Approval granted on August 21, 2023.

21 (k) *Barajas v. Final Phase Construction, Inc.*, San Bernardino County, Case No.
22 CIVSB2118622; Motion for Final Approval granted on September 13, 2023.

23 (l) *Jaimes, et al. v. Infiniti Health LLC*, Los Angeles County, Case No.
24 22STCV07261; Motion for Final Approval granted on October 17, 2023.

25 (m) *Nunez v. Gabriel Container*, Los Angeles County, Case No. 21STCV09787;
26 Motion for Final Approval granted on November 2, 2023.

27 (n) *Gutierrez v. Next Level Door & Millwork, Inc.*, Riverside County, Case No.
28 CVRI2105455; Motion for Final Approval granted on January 11, 2024.

- (o) *Lupercio v. Western CNC, Inc.*, San Diego County, Case No. 37-2021-00010314-CU-OE-CTL; Motion for Final Approval granted on January 26, 2024.
- (p) *Jackson, et al. v. Apple Valley Communications, Inc., et al.*, San Bernardino County, Case No. CIVSB2124721; Motion for Final Approval granted on February 1, 2024.
- (q) *Cuadras, et al. v. Guinn Corporation*, Kern County, Case No. BCV-21-101520; Motion for Final Approval granted on February 22, 2024.
- (r) *Canton, et al v. John B. Sanfilippo & Sons, Inc.*, Merced County, Case No. 22-CV-01145; Motion for Final Approval granted on March 15, 2024.
- (s) *Williams v. Total Longterm Care, Inc., et al.*, San Bernardino County, Case No. CIVSB2213347; Motion for Final Approval granted on April 2, 2024.
- (t) *Espinoza v. Delallo's Italian Foods, Inc.*, Butte County, Case No. 21CV02640; Motion for Final Approval granted on April 24, 2024.
- (u) *Meza v. Argus Management Company, LLC, et al.*, Los Angeles County, Case No. 21STCV31612; Motion for Final Approval granted on May 20, 2024.
- (v) *Wade v. Mallory Safety and Supply LLC*, Siskiyou County, Case No. 23CV00951; Motion for Final Approval granted on July 11, 2024.
- (w) *Abarca-Rueda, et al. v. Foley Family Wines, Inc., et al.*, Sonoma County, Case No. S-CV-268148; Motion for Final Approval granted on August 21, 2024.
- (x) *Aguilar v. American Pasteurization Company, Inc., et al.*, Sacramento County, Case No. 34-2021-00312027-CU-OE-GDS; Motion for Final Approval granted on September 3, 2024.
- (y) *Hayes, et al. v. Gonzales Park, LLC, et al.*, Butte County, Case No. 21CV02456; Motion for Final Approval granted on May 1, 2024.
- (z) *Hernandez v. KW California, et al.*, Kern County, Case No. BCV-23-100346; Motion for Final Approval Granted on December 4, 2024.
- (aa) *Arias v. The Shyft Group GTB, LLC, et al.*, Los Angeles County, Case

No.22STCV37390; Motion for Final Approval granted on December 3, 2024.

(bb) *Barajas Maya v. United Facilities Group, Inc., et al.*, Santa Clara County, Case No. 22CV397353; Motion for Final Approval granted on November 22, 2024.

28. Giancarlo A. Recinos is a Senior Attorney at WLF. He was admitted to practice law in the State of California in 2012 and is an active member in good standing with the State Bar of California. Mr. Recinos graduated from San Francisco State University with a Bachelor of Arts in Communications and received his Juris Doctor from Southwestern Law School. For over a decade, his practice has focused on employment law and wage -and-hour compliance.

29. Daniel J. Kramer is an ninth-year Senior Attorney at Wilshire Law Firm, PLC. He was admitted to practice law in the State of California and the Central, Eastern, Southern, and Northern Districts of California. He graduated from Stanford University with a Bachelor of Arts in History and Political Science, and received his Juris Doctor from Loyola Law School, Los Angeles in 2016. During law school, he was a research editor for the *Loyola of Los Angeles International and Comparative Law Review*. Before joining Wilshire Law Firm, he practiced briefly at a firm that focused on municipal law and code enforcement and then moved to a respected plaintiff-side firm to practice wage and hour class action litigation. He has several years of work experience litigating wage and hour class actions, and has been appointed as class counsel in numerous cases, including *inter alia*:

- a. *Hayes, et al. v. Gonzales Park, LLC, et al.*, Butte County, Case No. 21CV02456; Motion for Final Approval granted on May 1, 2024.
- b. *Hernandez v. KW California, et al.*, Kern County, Case No. BCV-23-100346; Motion for Final Approval granted on December 4, 2024.
- c. *Petrossian v. The Testing Company LLC*, Los Angeles County, Case No. 22STCV34526; Motion for Final Approval granted on December 23, 2024.
- d. *Conchas Jimenez v. The Castine Group*, Santa Clara County, Case No. 21CV375173; Motion for Final Approval granted on February 6, 2025.

- e. *Svay v. Certainteed, LLC*, Madera County, Case No. MCV093066; Motion for Final Approval granted on May 20, 2025.
- f. *Chavira, et al. v. Mark III Construction, Inc.*, Sacramento County, Case No. 34-2021-00308972-CU-OE-GDS; Motion for Final Approval granted on January 30, 2026.
- g. *Mendoza, et al. v. OSI Industries, LLC*, Riverside County, Case No. CVRI2203101; Motion for Final Approval granted on February 27, 2026.

30. Arrash T. Fattahi is a Partner at WLF. He was admitted to practice law in the State of California in 2021 and is also admitted to the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. He graduated from the University of California, Los Angeles with a Bachelor of Arts in Political Science, *summa cum laude*. He received his Juris Doctor from The George Washington University Law School. During law school, he was a member of the student editorial board for the Federal Circuit Bar Journal. His practice is focused on advocating for the rights of consumers and employees in class action litigation. He is currently the managing attorney in charge of litigating several class action cases in state and federal courts in California. He was selected as a “Southern California Rising Star” in 2025 and 2026.

31. Justin F. Marquez was a Senior Partner at Wilshire Law Firm, PLC. He graduated from the University of California, Los Angeles’s College Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and Phi Beta Kappa. As an undergraduate, he also received a scholarship to study abroad for one (1) year at Tokyo University in Tokyo, Japan. He received his Juris Doctor from Notre Dame Law School in 2008. He has received numerous awards for his legal work. From 2017 to 2020, Super Lawyers selected him as a “Southern California Rising Star,” and from 2022 to 2025, he was selected as a “Southern California Super Lawyer.” He was selected as one of the “Best Lawyers in America” from 2023 to 2025. In 2016 and 2017, the National Trial Lawyers selected him as a “Top 40 Under 40” attorney. In 2024, he, along with his colleagues at Wilshire Law Firm, PLC, received a CLAY (California Lawyer Attorneys of the Year) award for his work on a false advertising case against Apple which ultimately led to a \$25 million settlement.

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33. WLF is not aware of any pending matter or action against Defendant that may be extinguished or adversely affected by this Settlement.

34. Plaintiffs' Counsel sought bids from two (2) administrators to administer this Settlement. The Parties selected the bid with the lowest cost, which was from ILYM Group, Inc. A true and correct copy of the will-not-exceed bid from ILYM Group, Inc. to administer this Settlement is attached hereto as **Exhibit 4**.

35. Plaintiffs do not have any interest, financial or otherwise in Little Italy San Jose Foundation being the designated *cy pres* recipient.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 29, 2026 at Los Angeles, California.

Benny Miller

Benjamin H. Haber

EXHIBIT 1

WILSHIRE LAW FIRM, PLC

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Colin M. Jones, Esq.	Tae Kim, Esq.
A. Ilyas Akbari, Esq.	Hazel Chang, Esq.
Justin F. Marquez, Esq.	Daniel DeSantis, Esq.
Jon Teller, Esq.	Nicol Hajjar, Esq.
Johnny Ogata, Esq.	Thiago Coelho, Esq.
Brad Stuckey, Esq.	Benjamin Haber, Esq.
Gail Richardson, Esq.	Rachel Vinson, Esq.
Robert Dart, Esq.	Ronghua Guan, Esq.
Daniel B. Miller, Esq.	Arrash Fattahi, Esq.

October 28, 2021

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Super Stores Industries
2600 Spengler Way
Turlock, CA 95380-8591
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2121 39

Super Stores Industries
16888 McKinley Ave.
Lathrop, CA 95330
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2121 46

Re: ***Christian Pena, Tom Swanson, and Keith Anthony Terry v. Super Store Industries***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Christian Pena, Tom Swanson, and Keith Anthony Terry ("Plaintiffs") to pursue a Labor Code Private Attorneys General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against their former employer, Super Store Industries ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiffs and all of Defendant's Aggrieved Employees.

Plaintiffs wish to pursue this action on behalf of themselves as aggrieved employees, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendant in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiffs and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Plaintiffs' Employment with Defendant

Defendant owns/owned and operates/operated an industry, business, and establishment within the State of California, including San Joaquin County. As such, and based upon all the facts and circumstances incident to Defendant's business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff Christian Pena is a resident of San Joaquin County, California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately April 2016 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Plaintiff Tom Swanson is a resident of Calaveras County, California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately January 1999 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Plaintiff Keith Anthony Terry is a resident of San Joaquin County, California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately January 1998 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Plaintiffs' employment, Defendant failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiffs with legally compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to timely pay all final wages to Plaintiffs when Defendant terminated their employment, and failed to furnish accurate wage statements to Plaintiffs. As discussed below, Plaintiffs' experience working for Defendant was typical and illustrative.

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Defendant Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendant maintained a policy and practice of not paying Plaintiffs and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendant required Plaintiffs and the Aggrieved Employees to work “off-the-clock” and continued to work before and/or after they had clocked in and out for the workday uncompensated. For example, Plaintiffs and the Aggrieved Employees worked unpaid during their legally required meal periods and were required to prepare for their workday before clocking in for the day. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiffs and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiffs and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free meal period. Defendant regularly required Plaintiffs and the Aggrieved Employees to work in excess

of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiffs and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendant continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a meal period. Accordingly, Defendant's policy and practice was not to provide meal periods to Plaintiffs and the Aggrieved Employees in compliance with California law.

Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendant have wrongfully failed to authorize and permit Plaintiffs and the Aggrieved Employees to take legally compliant rest periods. Defendant regularly required Plaintiffs and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiffs and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendant continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a rest period. Accordingly, Defendant's policy and practice was to not authorize and permit Plaintiffs and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the

additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiffs and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owe employees the legally required wages for unpaid wages, and Plaintiffs and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiffs seek penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiffs and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the California Labor Code IWC Wage Orders deprived Plaintiffs and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiffs and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiffs and the Aggrieved Employees have

suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 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.

Within the applicable statute of limitations, the employment of Plaintiffs and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendant failed, and continue to fail to pay Plaintiffs and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiffs and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units

earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendant failed to furnish Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Because Defendant violated Labor Code § 226, Plaintiffs and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiffs and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) dollars per employee.

Moreover, Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiffs allege that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;

4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination; and
7. Labor Code § 226 by failing to provide accurate itemized wage statements.

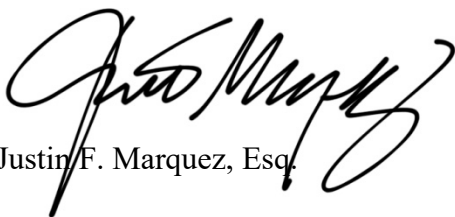
Therefore, on behalf of all Aggrieved Employees, Plaintiffs seek applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiffs have placed Defendant on notice by mailing a certified copy of this correspondence, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

A handwritten signature in black ink, appearing to read "Justin Marquez", written over the printed name.

Justin F. Marquez, Esq.

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July 23, 2026

LWDA

Attn. PAGA Administrator
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(Via Online Submission)

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Counsel for Defendant, Super Store Industries

LITTLER MENDELSON, P.C.

101 Second Street, Suite 1000

San Francisco, CA 94105

***(Via Electronic Mail & Certified Mail,
Return Receipt Requested)***

#9489 0090 0027 6780 5240 60

Re: ***Christian Pena, et al. v. Super Stores Industries, Case No.: LWDA-CM-850341-21***
Amended Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Christian Pena, Tom Swanson, and Keith Anthony Terry ("Plaintiffs") to pursue Labor Code Private Attorneys General Act (PAGA) representative actions (Cal. Lab. Code §§ 2699, *et seq.*) against their former employer, Super Store Industries ("Defendant"). The purpose of this letter is provide amended notice of the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiffs and all of Defendant's Aggrieved Employees.

This letter amends Plaintiffs Christian Pena, Tom Swanson, and Keith Anthony Terry's October 28, 2021.

Plaintiffs wish to pursue this action on behalf of themselves as aggrieved employees, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendant in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiffs and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Plaintiffs' Employment with Defendant

Defendant owned and operated an industry, business, and establishment within the State of California, including San Joaquin County. As such, and based upon all the facts and circumstances incident to Defendant's business in California, Defendant is subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff Christian Pena is a resident of California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately April 2016 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Plaintiff Tom Swanson is a resident of California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately January 1999 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Plaintiff Keith Anthony Terry is a resident of California who worked for Defendant in San Joaquin County, California as an hourly-paid, non-exempt employee from approximately January 1998 to approximately August 2021. During Plaintiff's employment for Defendant, Defendant paid Plaintiff an hourly wage and classified him as non-exempt from overtime. Defendant typically scheduled Plaintiff to work at least five days in a workweek and at least eight hours per day, but Plaintiff also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Plaintiffs believe that throughout their employment, Defendant failed to properly pay for all hours worked (including minimum, straight time, and overtime wages), failed to timely pay wages both during and upon termination of employment, including wages for vested vacation, failed to provide Plaintiffs with legally compliant meal periods and properly pay meal break premiums, failed to authorize and permit Plaintiffs to take legally compliant rest periods and properly pay rest break premiums, failed to furnish accurate wage statements and wage theft prevention act notice to Plaintiffs, failed to indemnify Plaintiffs for expenditures, failed to keep the requisite payroll

records for Plaintiffs, failed to properly pay all sick leave pay, failed to be compliant with workplace temperature laws, failed to properly provide seventh day of rest, failed to provide proper notices, and failed to properly pay reporting time pay. Plaintiffs believe Defendant's conduct is in violation of Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2800, 2802, 2810.5 and 6300 *et seq.*; applicable Industrial Welfare Commission Wage Orders; and/or corresponding California Code of Regulations. As discussed below, Plaintiffs' experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is 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.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Plaintiffs believe throughout the statutory period, Defendant maintained a policy and practice of not paying Plaintiffs and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Plaintiffs also believe Defendant required Plaintiffs and the Aggrieved Employees to work "off-the-clock" and continued to work before and/or after they had clocked in and out for the workday uncompensated. For example, Plaintiffs and the Aggrieved Employees worked unpaid during their legally required meal periods and were required to prepare for their workday before clocking in for the day. Some of this unpaid work should have been paid at the overtime rate. Plaintiffs also believe Defendant has also failed to properly pay all wages owed because Defendant failed to properly calculate the regular rate of pay. In failing to pay for all hours worked, Defendant also failed to maintain accurate records of the hours Plaintiffs and the Aggrieved Employees worked. Plaintiffs also believe by failing to pay all wages owed to Plaintiffs and the Aggrieved Employees, Defendant violated Labor Code § 221 by unlawfully collecting or receiving from them wages paid by Defendant to them.

As a result, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to properly pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Plaintiffs believe Despite these legal requirements, Defendant wrongfully failed to provide Plaintiffs and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free meal period. Plaintiffs believe Defendant regularly required Plaintiffs and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiffs and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Plaintiffs believe Defendant continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a meal period. Accordingly, Plaintiffs believe Defendant's policy and practice was not to provide meal periods to Plaintiffs and the Aggrieved Employees in compliance with California law.

Plaintiffs believe Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages as a meal break premium for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the meal break premiums for meal breaks to which they were entitled for compliant meal periods and that were not provided and/or pay the meal break premium amounts at the accurate regular rate of pay.

As a result, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay proper meal period premium wages in compliance with California laws.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is

entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Plaintiffs believe throughout the statutory period, Defendant have wrongfully failed to authorize and permit Plaintiffs and the Aggrieved Employees to take legally compliant rest periods. Defendant regularly required Plaintiffs and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiffs and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendant continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a rest period. Plaintiffs believe Defendant also required Plaintiffs and the Aggrieved Employees to stay on the premises during rest breaks. Accordingly, Plaintiffs believe Defendant's policy and practice was to not authorize and permit Plaintiffs and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiffs believe Plaintiffs and the Aggrieved Employees are thus entitled to be paid one hour of additional wages as a rest break premium for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiffs and the Aggrieved Employees the rest break premiums for rest breaks to which they were entitled for compliant rest periods and that they were not authorized and permitted to take and/or pay the rest break premium amounts at the accurate regular rate of pay.

As a result, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay proper rest period premium wages in compliance with California laws.

Failure to Pay All Earned Wages Twice Per Month

Plaintiffs believe based on its failure to pay Plaintiffs and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, Plaintiffs believe during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to timely pay those wages twice a month, in that employees were not paid all wages (including meal break premiums) for all meal periods not provided by Defendant, all wages (including rest break premiums) for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Plaintiffs believe

Defendant owe employees the legally required wages for unpaid wages, and Plaintiffs and the Aggrieved Employees suffered damages in those amounts.

Moreover, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Requisite Records Including Payroll Records and Accurate Records of Hours Worked and Meal Periods

Plaintiffs seek penalties for violation of California Labor Code §§ 1174, 1198.5, applicable Wage Orders and corresponding California Code of Regulations. Plaintiffs believe Defendant has failed to maintain accurate records in accordance with California Labor Code §§ 1174, 1198.5, applicable IWC Wage Orders and corresponding California Code of Regulations require. Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Wage Orders, every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Plaintiffs believe Defendant, however, failed to maintain accurate records of requisite records under the Labor Code and the Wage Orders as well as corresponding California Code of Regulations, including payroll records and time records showing hours worked and all meal periods taken or missed by Plaintiffs and the Aggrieved Employees.

Plaintiffs believe Defendant's failure to provide and maintain records required by the California Labor Code, IWC Wage Orders and corresponding California Code of Regulations deprived Plaintiffs and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records as well as the accuracy of the wages paid to them. Therefore, Plaintiffs and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant.

As a direct result, Plaintiffs believe Plaintiffs and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. Plaintiffs believe, as a result of Defendant's knowing failure to comply with the California Labor Code and applicable IWC Wage Orders as well as corresponding California Code of Regulations, Plaintiffs and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages Due at Termination

Labor Code §§ 201 and 202 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.

Within the applicable statute of limitations, the employment of Plaintiffs and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, Plaintiffs believe during the relevant time period, Defendant failed, and continue to fail to pay Plaintiffs and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employment. These unpaid wages include wages for unpaid work time (including proper minimum, straight time, and overtime wages), proper missed meal period premium wages, proper missed rest period premium wages, and proper vested vacation pay amounts.

Plaintiffs believe Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiffs believe Plaintiffs and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) and any other applicable Labor Code sections for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address

of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Plaintiffs believe throughout the statutory period, Defendant failed to furnish Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements in compliance with Labor Code section 226. The violation include failing to show all hours worked, all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law). Because Defendant violated Labor Code § 226, Plaintiffs and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiffs and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant’s failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) dollars per employee.

Moreover, Plaintiffs believe Defendant is liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 and any other applicable Labor Code sections for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Plaintiffs believe Defendant wrongfully required Plaintiffs and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant and failing to reimburse them for such expenses. Plaintiffs believe Plaintiffs and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including but not limited to use of personal phones for work-related purposes, purchasing and maintaining tools and work attire such as gloves and boots. Defendant failed to indemnify Plaintiffs and the Aggrieved Employees for these employment-related expenses by failing to reimburse them for these expenses.

As a result, Plaintiffs believe Defendant are liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2800, 2802 and 2699(f)(2) and any other

applicable Labor Code sections for failing to indemnify Plaintiffs and the Aggrieved Employees for necessary business expenditures.

Failure to Keep Requisite Payroll Records

California Labor Code § 1174(d) requires that all payroll records showing an employees' daily hours worked and the wages paid to them be kept and preserved. Defendants have intentionally and willfully violated California Labor Code § 1174(d) by failing to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Plaintiffs and the Aggrieved Employees.

As a result of Defendants' violation of California Labor Code § 1174(d), Plaintiffs and the Aggrieved Employees have suffered injury and damage.

Failure to Properly Provide Seventh Day of Rest

California Labor Code sections 551 and 552 require that every person employed in any occupation of labor is entitled to one day's rest in a seven-day workweek, that no employer of labor shall cause its employees to work more than six days in a workweek, and that an employer shall pay a civil penalty in the amounts of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation.

Plaintiffs believe during the relevant time period, Plaintiffs and the Aggrieved Employees were required to work in excess of six (6) days in a workweek. During the relevant time period, Plaintiffs and the Aggrieved Employees were required to work in excess of thirty (30) hours in a week and/or six (6) hours in any one (1) day thereof, during workweeks in which they were required to work in excess of six (6) days. Plaintiffs believe during the relevant time period, Plaintiffs and the Aggrieved Employees were required to work in excess of six (6) days in a workweek without accumulating or being provided the opportunity to take at least one (1) day of rest, and when Plaintiffs and the Aggrieved Employees accumulated days of rest, they were not actually provided the opportunity to take the, equivalent of one (1) day's rest in seven (7) during each calendar month.

As a result, Plaintiffs believe Defendant violated Labor Code sections 551 and 552, and Plaintiffs and the Aggrieved Employees are entitled to civil penalties under the Labor Code.

Failure to Provide Proper Notices

Plaintiffs believe during the relevant time period, Plaintiffs and the Aggrieved Employees were did not receive in compliance with California Labor Code section 2810.5. California Labor Code section 2810.5 requires an employer to provide written notice to an employee, at the time of hiring, containing the following information:

The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission, or otherwise, including any rates for overtime, as applicable. Allowances, if any, claimed as part of the minimum wage, including meal or lodging allowances. The regular payday

designated by the employer in accordance with the requirements of this code. The name of the employer, including any "doing business as" names used by the employer. The physical address of the employer's main office or principal place of business, and a mailing address, if different. The telephone number of the employer. The name, address, and telephone number of the employer's workers' compensation insurance carrier. That an 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. Any other information the Labor Commissioner deems material and necessary.

As a result, Plaintiffs believe Defendant violated Labor Code section 2810.5, and Plaintiffs and the Aggrieved Employees are entitled to civil penalties under the Labor Code.

Failure to Comply with Workplace Temperature and Safe and Healthful Working Conditions Laws

Plaintiffs believe Defendant violated California Labor Code section 1198, and applicable Wage Orders and corresponding California Code of Regulations by failing to comply with temperature control guidelines set forth in Section 15 of the Wage Orders. California Labor Code section 6300 also requires employers to maintain a safe and healthful working conditions.

Plaintiffs also believe Plaintiffs and the Aggrieved Employees were subjected to workplace temperatures and conditions that violated the Wage Orders, corresponding California Code of Regulations and Labor Code sections 1198 and 6300, as Defendant failed to comply with the mandates set forth in the law. Plaintiffs and the Aggrieved Employees were subjected to extreme temperatures at Defendant's facilities in violation of these mandates.

Plaintiffs believe, as a result of Defendant's violations above, Plaintiffs and the Aggrieved Employees are entitled to civil penalties under the Labor Code.

Failure to Pay All Sick Leave Pay

Plaintiffs contend Defendant failed to comply with California Labor Code section 246 as Defendant did not pay Plaintiffs and the Aggrieved Employees sick leave at the proper regular rate as it did not factor in all forms of compensation, including without limitation bonuses, incentives, differentials, and all other forms of compensation.

Plaintiffs believe, as a result of Defendant's violation of Labor Code section 246, Plaintiffs and the Aggrieved Employees are entitled to civil penalties under the Labor Code.

Failure to Properly Pay Reporting Time Pay

California Labor Code section 1198 provides that "The employment of any employee ... under conditions of labor prohibited by the [Industrial Wage Orders] is unlawful." The applicable Industrial Wage Orders, including *inter alia*, Wage Orders 4-2001, 7-2001, and 9-2001, and corresponding California Code of Regulations require that for each 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. Further, if an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be paid for two (2) hours at the employee's regular rate of pay.

Plaintiffs believe during the relevant time period, Defendant failed to pay Plaintiffs and the Aggrieved Employees half the usual or scheduled day's work in an amount no less than two (2) hours nor more than four (4) hours at the employee's regular rate of pay for workdays in which Plaintiffs and the Aggrieved Employees reported to work and were furnished less than half the usual or scheduled day's work. Plaintiffs also believe during the relevant time period, Defendant failed to pay Plaintiffs and the Aggrieved Employees for two (2) hours at the employee's regular rate of pay on days in which Plaintiffs and the Aggrieved Employees were required to report for work a second time in one workday and were furnished less than two (2) hours of work upon the second reporting.

Plaintiffs believe, as a result of Defendant's violation of Labor Code section 1198 Plaintiffs and the Aggrieved Employees are entitled to civil penalties under the Labor Code.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiffs allege that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code §§ 204, 221, 510, 1194, 1194.2, 1197, 1197.1, 1182, 1182.11-1182.12, and 1198 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code §§ 512, 226.7, 1198 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to provide compliant meal periods and meal break premiums;
3. Labor Code §§ 512, 226.7, and 1198 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to authorize and permit complaint rest periods and rest break premiums;
4. Labor Code § 204 by failing to timely pay all earned wages during employment;
5. California Labor Code § 1174.5 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to maintain accurate records of hours worked and meal periods taken or missed;

6. Labor Code §§ 201 to 203 and 227.3 by willfully failing to pay all wages owed at termination including all minimum wage, straight time, overtime wages, meal and rest break premiums and vested and used vacation;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;
8. Labor Code §§ 2800 and 2802 by failing to indemnify for necessary expenditures;
9. Labor Code § 2810.5 by failing to provide compliant notices required by Labor Code § 2810.5;
10. Labor Code §§ 1174 and 1198.5 as well as corresponding California Code of Regulations by failing to keep requisite payroll records;
11. Labor Code §§ 551 and 552 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to provide one day's rest in a seven-day workweek;
12. Labor Code § 246 by failing to provide proper sick leave pay to eligible employees; and
13. Labor Code § 1198 and applicable Wage Orders as well as corresponding California Code of Regulations by failing to maintain appropriate working temperatures; and
14. Labor Code § 6300, et seq. by failing to provide a safe and healthful working environment.

Therefore, on behalf of all Aggrieved Employees, Plaintiffs seek all applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 1199, and 2699 as well as under the Wage Orders and the corresponding California Code of Regulations.

Plaintiffs have placed Defendant on notice by mailing a certified copy of this correspondence, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

A handwritten signature in black ink, appearing to read "Benjamin H. Haber".

Benjamin H. Haber, Esq.

EXHIBIT 2

CLASS AND REPRESENTATIVE PAGA ACTION SETTLEMENT AGREEMENT

This Class and Representative PAGA Action Settlement Agreement (“Agreement” or “Settlement Agreement”) is made by and between Plaintiffs Christian Pena, Tom Swanson, Keith Anthony Terry, and Alejandro Martinez (collectively known as “Plaintiffs” and individually known as “Plaintiff”) and Defendant Super Store Industries (“Defendant” or “SSI”). Plaintiffs and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- A. “Amended Consolidated Complaint” means the amended consolidated complaint to be filed in *Pena* Action that adds the *Martinez* Plaintiff as a named plaintiff, adds all of the claims asserted in the *Martinez* Class Action, *Martinez* PAGA Action, and the PAGA Letters, and add all of the claims described in the Released Class Claims and the Released PAGA Claims.
- B. “Amended PAGA Letter” means the notice to be sent to the LWDA on behalf of Plaintiffs pursuant to PAGA and includes all PAGA allegations, claims and causes of action set forth in the Amended Consolidated Complaint as well as all allegations, claims and causes of action previously set forth in the *Pena* Plaintiffs PAGA Letter and *Martinez* Plaintiff PAGA Letter.
- C. “Class” means all individuals who have worked for Defendant in California as an hourly-paid or non-exempt employee at any time during the Class Period.
- D. “Class Counsel” means Benjamin H. Haber, Daniel J. Kramer, and Giancarlo Recinos of Wilshire Law Firm, P.C. and Arby Aiwazian, Joanna Ghosh, Yasmin Hosseini, and Scarlet Tunney of Lawyers *for* Justice, PC.
- E. “Class Counsel Fees Payment” means the amounts to be paid to Class Counsel for reasonable attorneys’ fees as approved by the Court, to compensate Class Counsel for their legal work in connection with the Lawsuits, including their pre-filing investigations, their filing of the Lawsuits, all related litigation activities, all Settlement work, all work defending the Settlement or any aspect of challenge to or approval of the Settlement on appeal or other direct, collateral or other attack, all post-Settlement compliance procedures, and related litigation work billed in connection with the Lawsuits.
- F. “Class Counsel Litigation Expenses Payment” means the amounts to be paid to Class Counsel for reimbursement of litigation costs and expenses as approved by the Court, to compensate Class Counsel for their expenses in connection with the Lawsuits, including their pre-filing investigation, their filing of the Lawsuits, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Lawsuits.
- G. “Class Data” means, for each Class Member, the following information: (1) last-known full name; (2) last-known mailing address; (3) Social Security Number; (4) last-known email address (if available); (5) the number of Class Workweeks worked during the Class Period; (6) the number of PAGA Pay Periods worked during the PAGA Period; (7) start and end dates of work as a Class Member during the Class Period; and (8) start and end dates of work as a PAGA Member during the PAGA Period.

- H. “Class Member” means a member of the Class.
- I. “Class Notice” means the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval, to be mailed to Class Members in English, substantively in the form attached hereto as **Exhibit A** and incorporated by reference into this Agreement.
- J. “Class Period” means the time period from May 2, 2017 through and including April 3, 2025.
- K. “Class Representatives” means, collectively, the named plaintiffs in the Lawsuits, Christian Pena, Tom Swanson, Keith Anthony Terry, and Alejandro Martinez, seeking Court approval to serve as Class Representatives.
- L. “Class Settlement” means the settlement and release of the Released Class Claims.
- M. “Class Workweeks” means the number of weeks worked by a Class Member for Defendant in California during the Class Period as an hourly-paid or non-exempt employee, which will be calculated by Defendant and as regularly recorded in Defendant’s payroll system.
- N. “Court” means the Superior Court of California, County of San Joaquin.
- O. “Defendant” means Super Store Industries.
- P. “Defendant’s Counsel” means Lisa Lin Garcia and Jessica Quarless of Littler Mendelson, P.C.
- Q. “Effective Date” is defined as the date the Court’s Judgment and Final Approval Order become final and are no longer appealable. For purposes of this Settlement, the date the Court’s Final Approval Order and Judgment “become final and no longer appealable” shall mean the later of: (a) the day after the last date by which a notice of appeal to the Court of the Final Approval Order and/or Judgment approving this Settlement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of Judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the Final Approval Order and Judgment, the day after the last date for filing a request for further review of the Final Approval Order and/or Judgment passes, and no further review is requested; or (c) if an appeal is filed and the Final Approval Order and Judgment are affirmed and further review of the order is requested, the day after the review is finally resolved and the Final Approval Order and Judgment are affirmed. The Effective Date cannot occur until and unless there is no possibility of an appeal or further appeal that could potentially prevent this Settlement from becoming final and binding.
- R. “Final Approval” or “Final Approval Order” means the Court’s entry of the order granting final approval of the Class Settlement and approval of the PAGA Settlement.
- S. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to implement the terms of this Agreement and enter the Judgment.
- T. “Gross Settlement Amount” means Two Million Seventy-Five Thousand Dollars and Zero Cents (\$2,075,000.00) for payment of all claims of the Participating Class Members and PAGA Members, including payment of the Court-approved Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel

Litigation Expenses Payment, Service Awards, the PAGA Payment and the Individual Class Payments. The employer's share of payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages shall not be paid from the Gross Settlement Amount and shall remain the sole responsibility of Defendant. The Gross Settlement Amount is all-in with no reversion to Defendant. In no event shall Defendant be liable for any payment of any amounts exceeding the Gross Settlement Amount with the exception of the employer's share of payroll taxes due and payable as a result of this Settlement, and with the exception of any potential increase pursuant to Section III.B.8.

- U. "Individual Class Payment" means a Participating Class Member's *pro rata* share of the Net Settlement Amount calculated according to the number of Class Workweeks worked during the Class Period as described in Section III.B.5.
- V. "Individual PAGA Payment" means a PAGA Member's *pro rata* share of the 25% share of the PAGA Payment calculated according to the number of PAGA Pay Periods worked during the PAGA Period as described in Section III.B.3.
- W. "Judgment" means the judgment entered by the Court based upon the Final Approval Order.
- X. "Lawsuits" means, collectively, the *Pena* Action, the *Martinez* PAGA Action, the *Martinez* Class Action, and the *Martinez* Arbitration Action.
- Y. "LWDA" means the California Labor and Workforce Development Agency.
- Z. "*Martinez* Class Action" means the putative class action initiated by Plaintiff Alejandro Martinez in Stanislaus County Superior Court, entitled as *Alejandro Martinez v. Super Store Industries*, Case No. CV-24-005410.
- AA. "*Martinez* PAGA Action" means the PAGA action initiated by Plaintiff Alejandro Martinez in Stanislaus County Superior Court, entitled as *Alejandro Martinez v. Super Store Industries*, Case No. CV-21-006561.
- BB. "*Martinez* Plaintiff" means Plaintiff Alejandro Martinez.
- CC. "Net Settlement Amount" means the Gross Settlement Amount less the Court-approved Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Service Awards, the PAGA Payment and all other costs and expenses relating to the Settlement. The Net Settlement Amount is the amount available to pay Individual Class Payments to Participating Class Members.
- DD. "Non-Participating Class Member" means any Class Member who opts out of the Class Settlement by sending the Settlement Administrator a valid and timely Request for Exclusion.
- EE. "PAGA" means the Private Attorneys General Act, California Labor Code § 2698. *et seq.* Unless otherwise specified, all citations and references to this statute are to the version of the statute prior to the amendment effective July 1, 2024; the amended statute does not apply to the Lawsuits and the Settlement pursuant to California Labor Code section 2699(v), as amended, because the PAGA Letters were all submitted to the LWDA before June 19, 2024.
- FF. "PAGA Letters" means, collectively, the *Martinez* Plaintiff PAGA Letter, *Pena* Plaintiffs PAGA Letter, and Amended PAGA Letter (as defined herein).

- GG. “PAGA Members” means all individuals who have worked for Defendant in California as an hourly-paid or non-exempt employee at any time during the PAGA Period.
- HH. “PAGA Pay Periods” means the number of pay periods worked by PAGA Members for Defendant in California during the PAGA Period as an hourly-paid or non-exempt employee, which will be calculated by Defendant and as regularly recorded in Defendant’s payroll system.
- II. “PAGA Payment” means the payment to the LWDA and the PAGA Workers in settlement of all claims in the Released PAGA Claims.
- JJ. “PAGA Period” means the time period from October 1, 2020 through and including April 3, 2025.
- KK. “PAGA Settlement” means the settlement and release of the Released PAGA Claims.
- LL. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Class Settlement.
- MM. “Plaintiffs” means, collectively, Christian Pena, Tom Swanson, Keith Anthony Terry, and Alejandro Martinez, the named plaintiffs in the Lawsuits.
- NN. “*Pena* Action” means the putative class and PAGA action initiated by Plaintiffs Christian Pena, Tom Swanson, Keith Anthony Terry in San Joaquin County Superior Court, entitled as *Christian Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117.
- OO. “*Pena* Plaintiffs” means Plaintiffs Christian Pena, Tom Swanson and Keith Anthony Terry.
- PP. “Plaintiffs’ General Release” means the release as set forth in Section III.E.3.
- QQ. “Preliminary Approval” means the Court’s entry of the Order Granting Preliminary Approval of the Class Settlement.
- RR. “Preliminary Approval Order” means the Order Granting Preliminary Approval of the Class Settlement.
- SS. “Released Class Claims” means the release as set forth in Section III.E.1.
- TT. “Released PAGA Claims” means the release as set forth in Section III.E.2.
- UU. “Released Parties” means, collectively, Defendant and any of its past, present, and future direct or indirect parents, subsidiaries, affiliates, holding companies, affiliated companies, partnerships, limited liability companies, as well as each of its or their past, present, and future officers, directors, employees, partners, members, managers, customers, subcontractors, shareholders and agents, attorneys, insurers, reinsurers, successors, and any individual or entity which could be jointly liable with Defendant for the Released Class Claims and/or the Released PAGA Claims.
- VV. “Request for Exclusion” means a written request by a Class Member to be excluded from the Class Settlement submitted in accordance with the instructions in the Agreement and the Class Notice.

- WW. “Response Deadline” means forty-five (45) calendar days after the Settlement Administrator initially mails the Class Notice to Class Members and PAGA Members and shall be the last date on which: (a) Class Members may mail a Request for Exclusion from the Class Settlement, (b) Class Members may mail an objection to the Class Settlement; and/or (c) Class Members or PAGA Members may mail a challenge to the Class Workweeks or PAGA Pay Periods to which they were credited with. The postmark date of any Request for Exclusion, objection and challenge must be on or before the Response Deadline to be deemed timely. For Class Members and PAGA Members to whom Class Notices are resent after having been returned undeliverable to the Settlement Administrator, the Response Deadline will be extended to the date that is fifteen (15) calendar days beyond the original Response Deadline.
- XX. “Service Award(s)” means the payments to be paid to the Class Representatives, as approved by the Court, to compensate them for initiating the Lawsuits, performing work in support of the Lawsuits, and for the release of Plaintiffs’ General Release.
- YY. “Settlement” means the disposition of the Lawsuits and all related claims effectuated by this Agreement and the Judgment.
- ZZ. “Settlement Administration Expenses” means all costs and expenses associated with and paid to the Settlement Administrator, subject to Court approval, for the administration of the Settlement and related matters as described in this Agreement and any Order from the Court pertaining to this Agreement.
- AAA. “Settlement Administrator” means the third-party settlement administrator mutually agreed to and proposed by the Parties, as approved by the Court.

II. RECITALS

- A. On October 1, 2021, the *Martinez* Plaintiff provided written notice to the LWDA and Defendant regarding the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Orders that he alleges Defendant violated to the LWDA and Defendant (“*Martinez* Plaintiff PAGA Letter”). On October 28, 2021, *Pena* Plaintiffs provided written notice to the LWDA and Defendant regarding the specific provisions of the California Labor Code and Industrial Welfare Commission Wage Orders that they allege Defendant violated to the LWDA and Defendant (“*Pena* Plaintiffs PAGA Letter”).
- B. On October 28, 2021, the *Pena* Plaintiffs initiated the *Pena* Action against Defendant by filing a class action complaint, thereby alleging the following causes of action: (1) Failure to Pay Minimum and Straight-Time Wages for All Hours Worked; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Pay Wages of Discharged Employees – Waiting Time Penalties; (6) Failure to Provide and Maintain Accurate and Compliant Wage Records; (7) Violation of California Business & Profession Code § 17200, *et seq.*
- C. On January 7, 2022, the *Pena* Plaintiffs filed a First Amended Class and Representative Action Complaint in the *Pena* Action, thereby adding a representative PAGA claim for civil penalties.
- D. On December 7, 2021, the *Martinez* Plaintiff initiated the *Martinez* PAGA Action against Defendant by filing the Complaint for Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.*, thereby asserting a single cause of action for recovery of civil penalties under PAGA. On December 11, 2023, the Court ordered arbitration of the *Martinez* Plaintiff’s individual PAGA

claims in the *Martinez* PAGA Action.

- E. On May 15, 2024, the *Martinez* Plaintiff submitted a Demand for Arbitration with the American Arbitration Association, Case No. 01-24-0005-4908 (“*Martinez* Arbitration Action”).
- F. On July 9, 2024, the *Martinez* Plaintiff initiated the *Martinez* Class Action against Defendant by filing a class action complaint for Damages, thereby asserting causes of action for (1) violation of California Labor Code §§ 510 and 1198 (unpaid overtime); (2) violation of California Labor Code §§ 226.7 and 512(a) (unpaid meal period premiums); (3) violation of California Labor Code § 226.7 (unpaid rest period premiums); (4) violation of California Labor Code §§ 1194, 1197, and 1197.1 (unpaid minimum wages); (5) violation of the California Labor Code §§ 201 and 202 (final wages not timely paid); (6) violation of California Labor Code § 204 (wages not timely paid during employment); (7) violation of California Labor Code § 226(a) (non-compliant wage statements); (8) violation of California Labor Code § 1174(d) (failure to keep requisite payroll records); (9) violation of California Labor Code §§ 2800 and 2802 (unreimbursed business expenses); (10) violation of California Business and Professions Code §§ 17200, et seq.
- G. On June 13, 2023 and August 23, 2023, the Parties participated in an all-day mediation presided over by Lisa Klerman, a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, continued resolution discussions and were able to agree to settle the Lawsuits based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties concerning the subject matter of this Agreement.
- H. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Lawsuits, the PAGA Letters, and/or the Amended Consolidated Complaint have merit or that Defendant bears any liability to Plaintiffs, Class Members, and/or PAGA Members on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Lawsuits have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Lawsuits, including the Amended Consolidated Complaint and Amended PAGA Letter.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Gross Settlement Amount.** Except as otherwise provided by Section III.B.8 below, and subject to the terms and conditions of this Agreement and the Court’s approval of the Settlement, the Gross Settlement Amount that Defendant will pay under this Settlement is Two Million Seventy-Five Thousand Dollars and Zero Cents (\$2,075,000.00). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Settlement Administrator. In no event shall Defendant be liable for the payment of any amounts exceeding the Gross Settlement Amount, except for the employer-side payroll taxes and as otherwise provided by Section III.B.8 below.

B. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement and the Court's Final Approval Order, the Gross Settlement Amount shall be apportioned as follows:

1. **Service Awards to Plaintiffs:** In addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members and PAGA Members, Plaintiffs will apply to the Court for an award not to exceed the amount of Fifteen Thousand and Zero Cents (\$15,000.00) to each Plaintiff (\$60,000.00 total). Defendants will not oppose such application provided the Service Award amounts sought do not exceed the amounts set forth herein. The Settlement Administrator will pay the Service Awards to Plaintiffs as approved by the Court out of the Gross Settlement Amount. Any reduction by the Court of the Service Awards will not void the Settlement. If the Court approves and awards Service Awards in an amount less than the amounts requested, as set forth above, the amount not approved will be a part of the Net Settlement Amount for distribution to the Participating Class Members. Payroll tax withholding and deductions will not be taken from the Service Awards to Plaintiffs and instead an IRS Form 1099 will be issued by the Settlement Administrator to each Plaintiff with respect to the Service Award to that Plaintiff. Plaintiffs will assume full responsibility and liability for the taxes due on Plaintiffs' Service Awards.
2. **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment To Class Counsel:** Class Counsel will apply to the Court for a Class Counsel Fees Payment of not more than 35% of the Gross Settlement Amount, which is Seven Hundred Twenty-Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$726,250.00) if the Gross Settlement Amount remains \$2,075,000.00, inclusive of any interest, and a Class Counsel Litigation Expenses Payment of not more than Sixty Thousand Dollars and Zero Cents (\$60,000.00) for all expenses incurred. Defendant will not oppose these requests for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court provided that Class Counsel does not seek to recover more than the maximum amounts as stated in this Section. The Settlement Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, the remainder of the requested amounts will be part of the Net Settlement Amount for distribution to Participating Class Members. IRS Forms 1099 will be issued by the Settlement Administrator to Class Counsel with respect to those payments. The payment of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment shall be made to Class Counsel. The Class Counsel Fees Payment paid pursuant to this Agreement shall be inclusive of all fees in the Lawsuits. Any reduction by the Court of Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment shall not be grounds to void this Agreement.
3. **PAGA Payment to the LWDA and PAGA Members.** The Parties will seek approval from the Court for the PAGA Payment of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00) to be paid from the Gross Settlement Amount, with 75% (\$150,000.00) to be paid to the LWDA as the LWDA's share of the settlement of the Released PAGA Claims for civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$50,000.00) to be distributed to the PAGA Members as their Individual PAGA Payments. A PAGA Member's Individual PAGA Payment amount is based on the proportionate number of the PAGA Pay Periods the PAGA

Member worked as compared to the total number of PAGA Pay Periods worked by all PAGA Members. If the Court approves a PAGA Payment of less than Two Hundred Thousand Dollars and Zero Cents (\$200,000.00), the remainder of the requested amount will be part of the Net Settlement Amount for distribution to Participating Class Members. Any reduction by the Court of the PAGA Payment shall not be sufficient grounds to void the Settlement. All PAGA Members will be sent their Individual PAGA Payment and will be subject to the Released PAGA Claims, whether or not they opt out of the Class Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for PAGA penalties and is not subject to withholdings, and shall be reported on IRS Form 1099, if required, to the PAGA Members. PAGA Members shall be bound by the PAGA Settlement in its entirety and may not opt out of or object to the PAGA Settlement.

4. **Settlement Administration Expenses to the Settlement Administrator.** The Parties will seek approval from the Court for an amount not to exceed Twenty-One Thousand Dollars and Zero Cents (\$21,000.00) to be paid to the Settlement Administrator to cover any and all Settlement Administration Expenses. To the extent the Settlement Administration Expenses that are approved by the Court are less than Twenty-One Thousand Dollars and Zero Cents (\$21,000.00), the remainder will be part of the Net Settlement Amount for distribution to Participating Class Members. Any reduction by the Court of the Settlement Administration Expenses shall not be sufficient grounds to void the Settlement.
5. **Payments From the Net Settlement Amount to Participating Class Members.** The Net Settlement Amount shall be distributed to the Participating Class Members as follows after the deductions have been made from the Gross Settlement Amount as described in Sections III.B.1 – III.B.4 of this Agreement:
 - a. **Individual Class Payment.** Subject to the terms and conditions of this Agreement and the Court's approval, the Settlement Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The submission of a claim form is not required to be paid.
 - b. **Calculation.** The Individual Class Payment for each Participating Class Member will be calculated as follows: (i) the Settlement Administrator shall divide the Net Settlement Amount by the total number of Class Workweeks worked by all Participating Class Members during the Class Period to determine a dollar amount per Class Workweek ("Class Workweek Rate"); and (ii) the Settlement Administrator shall then take the number of Class Workweeks worked by each Participating Class Member and multiply it by the Class Workweek Rate to calculate the Participating Class Member's Individual Class Payment.
6. **Withholding of the Individual Class Payments.**
 - a. Subject to approval by the Court, twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). Accordingly, for each Participating Class Member, the Wage Portion of the Individual Class Payment is subject to tax withholdings, and shall be reported on IRS Form W-2 to the

Participating Class Member. The Settlement Administrator shall be responsible for issuing all tax forms and remitting to the tax authorities the employees' and employer's share of all payroll taxes on the Wage Portion.

- b. Subject to approval by the Court, the remaining eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of non-wage claims for damages, penalties and interest allegedly due to them (the "Non-Wage Portion"). The Non-Wage Portion of the Individual Class Payment shall not be subject to tax withholdings, and shall be reported on IRS Forms 1099, if required, to be issued by the Settlement Administrator to the Participating Class Members.
- c. The Participating Class Members, PAGA Members, and Plaintiffs shall be responsible for the proper payment of their taxes on all payments they received pursuant to this Settlement. The Participating Class Members, PAGA Members and Plaintiffs agree to hold harmless Defendant, the other Released Parties, the Settlement Administrator, Class Counsel, and Defendant's Counsel for any tax liability, including penalties and interest, arising out of or relating to their failure to pay taxes on any amounts paid pursuant to this Settlement.

7. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Individual Class Payment, and their Request for Exclusion will reduce neither the Gross Settlement Amount nor the Net Settlement Amount.

8. **Escalator Clause.** Defendant represents that there are approximately 205,957 Class Workweeks from May 2, 2017 to December 26, 2024, and this estimate serves as a material basis for Plaintiffs accepting the settlement. Should the total number of Class Workweeks increase beyond 10% for the Participating Class Members during the Class Period (i.e., the total number of Class Workweeks increase beyond 226,553 Class Workweeks), then Defendant shall increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of Class Workweeks worked by the Participating Class Members above 10% (e.g., if the total number of Class Workweeks increases by 11% to 228,612, the Gross Settlement Amount will increase by 1%).

C. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint ILYM Group, Inc. as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator will be responsible: (i) for calculating and making all payments to the Participating Class Members, PAGA Members, Plaintiffs, Class Counsel, the LWDA and the Settlement Administrator, (ii) for making all other payments called for in the Settlement Agreement and the Court's orders approving this Settlement, (iii) for calculating employer taxes and all appropriate withholdings, disbursing taxes, issuing all requisite tax forms, and compliance with tax and court reporting obligations; and (iv) for completing all other settlement administration requirements set forth in the Settlement Agreement and the Court's orders regarding this Settlement.

The Parties and the Settlement Administrator agree to treat the Gross Settlement

Amount as a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1, and the Settlement Administrator, as administrator of the account within the meaning of Treasury Regulation § 1.468B-2(k)(3), shall be responsible for filing tax returns for the account and paying from the account any and all taxes, including any interest or penalties thereon, owed with respect to the account, to the extent necessary. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this Section, including if necessary the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. The Settlement Administrator shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Gross Settlement Amount and the distributions and payments therefrom, including, without limitation, the tax returns described in Treas. Reg. § 1.468B-2(k), and to the extent applicable, Treas. Reg. § 1.468B-2(1). Such tax returns shall be consistent with the terms herein. The Settlement Administrator shall transmit the required employers’ and employees’ share of the withholdings to the appropriate state and federal tax authorities. The Parties hereto agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Settlement Agreement. Neither the Parties nor their counsel shall have any responsibility or liability for the acts or omissions of the Settlement Administrator. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code in this Settlement only (and without admitting any liability), and in compliance with and satisfaction of Section 1.162-21(b)(2) of Title 26 of the Code of Federal Regulations, the PAGA Payment made to the LWDA and to the PAGA Members as their Individual PAGA Payments, and all other provisions of this Agreement relating to executing such payments, constitute restitution or is required to come into compliance with the law described by the PAGA.

D. Procedure for Filing the Amended Consolidated Complaint and Approving Settlement.

1. **Amended PAGA Letter and Amended Consolidated Complaint.** Prior to filing the Motion for Preliminary Approval, Plaintiffs will submit the Amended PAGA Letter to the LWDA and seek leave to file the Amended Consolidated Complaint in the *Pena* Action. For settlement purposes, Defendant shall cooperate and will not oppose the submission of the proposed Amended PAGA Letter nor the filing of the proposed Amended Consolidated Complaint. Class Counsel shall provide the Amended PAGA Letter and Amended Consolidated Complaint to Defendant’s Counsel for review, revision and approval at least fourteen (14) calendar days in advance of submitting to the LWDA and submitting to the Court for leave to file in the *Pena* Action respectively. If the Parties disagree on any aspect of the proposed Amended PAGA Letter or Amended Consolidated Complaint, Class Counsel and Defendant’s Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.
2. **Motion for Preliminary Approval of Class Settlement by the Court.**
 - a. After filing the Amended Consolidated Complaint, Plaintiffs will file a motion for preliminary approval of the Class Settlement with the Court in the *Pena* Action, thereby seeking, *inter alia*, an order

granting preliminary approval of the Class Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the “Motion for Preliminary Approval”). Class Counsel shall provide the Motion for Preliminary Approval papers, including the proposed Preliminary Approval Order, to Defendant’s Counsel for review, revision and approval at least seven (7) calendar days in advance of filing with the Court. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval, the proposed Preliminary Approval Order, and/or the supporting declarations and documents, Class Counsel and Defendant’s Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.

- b. If the Court does not grant Preliminary Approval consistent with the terms of this Settlement or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defendant’s Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to try and modify the Agreement and otherwise satisfy the Court’s concerns to the extent that it does not materially change the terms of the Settlement.

- 3. **Notice to Class Members.** After the Court enters the Preliminary Approval Order, every Class Member will be sent the Class Notice consistent with the Class Notice attached hereto as **Exhibit A** and incorporated by reference herein. The Parties may in conjunction with the Settlement Administrator be able to correct immaterial errors on the Class Notice or other mailed materials without approval from the Court, provided the changes do not materially alter the Preliminary Approval Order. The Class Notice shall be sent to each Class Member as follows:

- a. No later than fourteen (14) calendar days after the Court enters the Preliminary Approval Order, Defendant will provide to the Settlement Administrator an electronic database containing the Class Data. If any or all of the Class Data is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. The Settlement Administrator shall not disclose the Class Data to Class Counsel without Defendant’s express written authorization. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described in Section III.E.2.c, or pursuant to Defendant’s express written authorization or by order of the Court.
- b. The Settlement Administrator shall update Class Members’ addresses using the National Change of Address database prior to mailing the Class Notice. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Settlement Administrator will mail the Class Notice to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

- c. If a Class Notice is returned because of an incorrect address, the Settlement Administrator will promptly, and not longer than five (5) calendar days from receipt of the returned Class Notice, search for a more current address for the Class Member and re-mail the Class Notice to the Class Member. The Settlement Administrator will use the Class Data and otherwise work with Defendant to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the deadlines, to trace the mailing address of any Class Member for whom a Class Notice is returned by the U.S. Postal Service as undeliverable and without a forwarding address. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Settlement Administrator with Class Members.
 - d. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Requests for Exclusion it receives (including the numbers of valid and deficient Requests for Exclusion), the number of valid and deficient objections it receives, and the number of challenges to the Class Workweeks and/or PAGA Pay Periods it receives.
 - e. Not later than ten (10) calendar days before the date by which Plaintiffs file the Motion for Final Approval of the Settlement, the Settlement Administrator will provide the Parties, for filing with the Court, a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Requests for Exclusion it received (including the numbers of valid and deficient Requests for Exclusion), objections it received, and challenges to Class Workweeks and/or PAGA Pay Periods it received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.
4. **Objections to Class Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Class Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Settlement Administration Expenses, and/or the Service Awards may object to the proposed Class Settlement, either in writing or orally at the Final Approval Hearing. All written objections and supporting papers must: (i) be in writing; (ii) state the case name and case number of the *Pena* Action (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117), (iii) state the full name of the Participating Class Member asserting the objection(s); (iv) state the grounds for the objection(s); (v) state whether the Participating Class Member intends to appear at the Final Approval Hearing; and (vi) be mailed to the Settlement Administrator with a postmark date on or before the Response Deadline. Alternatively, Participating Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Class Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Service Awards to Plaintiffs. Non-Participating Class Members shall have no ability to

comment on or object to the Class Settlement. PAGA Members shall have no ability to object to the PAGA Settlement, including the PAGA Payment, their Individual PAGA Payment, and/or the Released PAGA Claims.

5. **Challenges to the Class Workweeks and/or PAGA Pay Periods.** The Class Notice shall state or refer to the formula to be used in calculating Individual Class Payments and Individual PAGA Payments as calculated by the Settlement Administrator. A Participating Class Member and/or PAGA Member may seek to challenge his or her estimated Individual Class Payment and/or Individual PAGA Payment amount as set forth in his or her Class Notice. Such challenges must: (i) be in writing; (ii) state the full name of the Participating Class Member/PAGA Member seeking the challenge; (iii) state the case name and case number of the *Pena Action* (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117); (iv) include a statement that the Participating Class Member/PAGA Member is seeking to challenge the Class Workweeks and/or PAGA Pay Periods as set forth in the Class Notice; (v) state the number of Class Workweeks and/or PAGA Pay Periods that the Participating Class Member/PAGA Member believes he or she has worked; (vi) include documentation to support the challenge; (vii) be signed by the Participating Class Member/PAGA Member seeking the challenge; and (viii) be mailed to the Settlement Administrator with a postmark date on or before the Response Deadline. Any dispute as to the allocations shall be resolved by the Settlement Administrator, with input and assistance from Defendant's Counsel, where applicable. The personnel records, including payroll records, of Defendant shall be considered by the Settlement Administrator as the presumptive best evidence of the number of Class Workweeks and PAGA Pay Periods worked.
6. **Request for Exclusion from the Class Settlement.** The Class Notice will also provide that Class Members who wish to exclude themselves from the Class Settlement must mail a Request for Exclusion to the Settlement Administrator by no later than the Response Deadline. A Request for Exclusion must be: (i) made in writing; (ii) state the full name of the Class Member seeking exclusion; (iii) state the case name and case number of the *Pena Action* (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117); (iv) include a statement that the Class Member requests exclusion from the Class Settlement and does not wish to participate in the Class Settlement; (v) be personally signed by the Class Member seeking exclusion from the Class Settlement; and (vi) be mailed to the Settlement Administrator with a postmark date on before the Response Deadline. No other person may opt-out for a living member of the Class. If a question is raised about the authenticity of a signed Request for Exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Class Settlement, except that a PAGA Member will still be bound by the PAGA Settlement, be paid their Individual PAGA Payment and will remain bound by the Released PAGA Claims regardless of their Request for Exclusion and regardless of whether they cash their check representing their Individual PAGA Payment. Defendant will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. A Class Member who does not mail a valid and timely Request for Exclusion in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member, will receive an Individual Class

Payment, and will be bound by all terms and conditions of the Class Settlement, including the Released Class Claims, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Class Settlement. Persons who submit a Request for Exclusion shall not be permitted to file objections to the Class Settlement or appear at the Final Approval Hearing to voice any objections to the Class Settlement. If a Class Member first submits a Request for Exclusion and then objects, the objection would not be considered valid. If a Class Member objects and then submits a Request for Exclusion, the Class Member would be deemed to have waived his/her objection.

7. **Report.** Not later than five (5) calendar days after the Response Deadline, the Settlement Administrator will provide Class Counsel and Defendant's Counsel with the final number of Participating Class Members, PAGA Members, Requests for Exclusion it received, objections it received, and challenges to Class Workweeks and/or PAGA Pay Periods it received, along with copies of the Requests for Exclusion, objection, and/or challenge.
8. **Right of Defendant to Reject Settlement.** If ten percent (10%) or more Class Members timely and validly opt out of the Class Settlement, Defendant shall have the sole and absolute discretion to rescind/void the Agreement within twenty (20) calendar days after receiving from the Settlement Administrator the final list of opt-outs. Defendant agrees to meet and confer in good faith with Class Counsel before rescinding or voiding the Agreement. In the event that Defendant elects to rescind/void the Agreement, Defendant shall provide written notice of such rescission to Class Counsel. Such rescission shall have the same effect as a termination of the Agreement for failure to satisfy a condition of settlement, and the Agreement shall become null and void and have no further force or effect, the Class certified pursuant to the Agreement will be decertified for all purposes and the Amended PAGA Letter, Amended Consolidated Complaint and Preliminary Approval Order shall be deemed null and void.
9. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Class Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
10. **Additional Briefing and Final Approval.**
 - a. Unless otherwise ordered by the Court, not later than sixteen (16) court days before the Final Approval Hearing, Plaintiffs will file with the Court a motion for final approval of the Class Settlement, approval of the PAGA Settlement, and approval of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Service Awards, and Settlement Administration Expenses ("Motion for Final Approval").
 - b. Class Counsel shall provide the Motion for Final Approval, the supporting declarations, the proposed Final Approval Order, and the proposed Judgment to Defendant's Counsel for review, revision and approval at least seven (7) calendar days in advance of filing with the Court. Class Counsel and Defendant's Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the motion

papers.

- c. The Parties will present for the Court's approval and entry of the Final Approval Order and the Judgment. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of releases to be granted by Participating Class Members and PAGA Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiffs and Class Counsel for the PAGA Payment, Service Awards, Settlement Administration Expenses, Class Counsel Fees Payment, or Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this Section.
- d. After entry of the Judgment, the Court will have continuing jurisdiction over the *Pena* Action and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.

- 11. **Waiver of Right to Appeal.** Provided that the Final Approval Order and Judgment are consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Class Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 12. **Timing of Settlement Funding and Provision of the Settlement Payments.** The Settlement Administrator shall calculate Defendant's share of the payroll taxes and inform Defendant's Counsel within thirty (30) calendar days of the Final Approval Order and Judgment. Defendant shall fund the Gross Settlement Amount and the amount necessary to pay Defendant's share of payroll taxes by depositing the money with the Settlement Administrator within thirty (30) calendar days of the Effective Date. Within fifteen (15) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will transmit payment of all Individual Class Payments to the Participating Class Members, all Individual PAGA Payments to the PAGA Members, as well as payment of Settlement Administration Expenses to itself, the Class Counsel Fees Payment to Class Counsel, the Class Counsel Litigation Expenses Payment to Class Counsel, Service Awards to Plaintiffs, and the seventy five percent (75%) portion of the PAGA Payment to the LWDA in accordance with this Agreement, the Final Approval Order and the Judgment. The Settlement Administrator shall be deemed to have timely distributed all such payments

if it places in the mail the Individual Settlement Payments for all Participating Class Members, the Individual PAGA Payments to all PAGA Members, the seventy five percent (75%) portion of the PAGA Payment allocated to the LWDA to the LWDA, and the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment to Class Counsel by this deadline. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Service Awards shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

13. **Uncashed Settlement Checks.** The Individual Class Payment to a Participating Class Member and the Individual PAGA Payment to a PAGA Member may be combined into a single check to that Participating Class Member and PAGA Member. A Participating Class Member and/or PAGA Member must cash his or her Individual Class Payment and/or Individual PAGA Payment check within 180 days after its issuance. If the Individual Class Payment and/or Individual PAGA Payment check remains uncashed after 180 days from its issuance, the funds from such uncashed check will be paid a court-approved *cy pres* beneficiary consistent with California Code of Civil Procedure section 384. The Parties agree to propose Sacramento Food Bank & Family Services, located at 1951 Bell Avenue, Sacramento, California 95838 as the *cy pres* beneficiary of this Settlement. Pursuant to California Code of Civil Procedure § 382.4, the attorneys signing this Agreement hereby notify the Court that they and their respective firms have no relationship with or connection to the *cy pres* recipient that could create an appearance of impropriety.
14. **Final Report by Settlement Administrator to Court.** Within ten (10) calendar days after disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.

E. **Release of Claims.**

1. **Released Class Claims by Participating Class Members.** Upon the Effective Date and Defendant's full funding of the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, all Participating Class Members and all persons purporting to act on the Participating Class Members' behalf or purporting to assert a claim under or through them, shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all disputes, claims and/or causes of action for damages, penalties, liquidated damages, punitive damages, interest, attorneys' fees, costs, restitution, injunctive relief, declaratory relief, equitable relief or any other forms of relief pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint, that arose at any time during the Class Period, including, but not limited to, the following:
 - a. Any claims for failure to properly pay all wages owed (including improper payment of minimum, regular, and overtime wages), untimely payments of wages both during and upon termination of employment, including wages for vested vacation, non-compliant meal periods, non-compliant rest periods, non-compliant payment

of meal and rest break premiums, non-compliant itemized wage statements, non-compliant payment of sick leave, non-compliant workplace temperatures, non-compliant seventh day of rest, improper payment of reporting time pay, non-compliant maintenance of payroll records, improper wage theft prevention act notice, failure to reimburse for necessary business expenses, and claims for interest, penalties (including but not limited to waiting time penalties), or premiums in connection therewith, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders, pled or which could have been pled under the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint;

- b. Any claims under California Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2800, 2802, 2810.5, 6300, *et seq.*; California Business and Professions Code section 17200, *et seq.*; applicable Industrial Welfare Commission Wage Orders; and/or corresponding California Code of Regulations;
- c. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices, attorney's fees, costs, punitive damages, or any other relief pled or which could have been pled under the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint; and
- d. Any and all other claims under California common law, the California Labor Code, and/or California Industrial Welfare Commission Wage Orders pled or which could have been pled under the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint.
- e. The release set forth in this Section III.E.1 (including subsections III.E.1.a through III.E.1.d) shall be collectively referred to as the "Released Class Claims." All Class Members are bound by the settlement and release of the Released Class Claims regardless of whether they cash their check representing their Individual Class Payment.

- 2. **Released PAGA Claims by PAGA Members.** Upon the Effective Date and Defendant's full funding of the Gross Settlement Amount, the State of California, Plaintiffs, all PAGA Members and all persons purporting to act on the PAGA Members' behalf or purporting to assert a claim under or through them shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all PAGA claims pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* PAGA Action, any amendments thereto, the PAGA Letters, the Amended Consolidated Complaint and/or the Amended PAGA Letter that arose at any time during the PAGA Period, including, but not limited to, to the following:

- a. Any claims for civil penalties under PAGA for failure to pay wages (including improper payment of minimum, regular, and overtime wages), untimely payments of wages both during and upon termination of employment, including wages for vested vacation, non-compliant meal periods, non-compliant rest periods, non-compliant payment of meal and rest break premiums, non-compliant itemized wage statements, non-compliant payment of sick leave, non-compliant workplace temperatures, non-compliant seventh day of rest, improper wage theft prevention act notice, improper payment of reporting time pay, non-compliant maintenance of payroll records, failure to reimburse for necessary business expenses, and claims for interest, as well as any PAGA claims premised on the California Labor Code and/or California Industrial Welfare Commission Wage Orders, pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* PAGA Action, any amendments thereto, the PAGA Letters, the Amended Consolidated Complaint and/or the Amended PAGA Letter;
- b. Any claims for civil penalties under PAGA premised on California Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2800, 2802, 2810.5, 6300, *et seq.*; applicable Industrial Welfare Commission Wage Orders; and/or corresponding California Code of Regulations; and
- c. Any claims for attorney's fees, costs or other relief stemming from this Section III.E.2 (including subsections III.E.2.a through III.E.2.b).

The release set forth in this Section III.E.2 (including subsections III.E.2.a through III.E.2.c) shall be collectively referred to as the "Released PAGA Claims." All PAGA Members are bound by the settlement and release of the Released PAGA Claims regardless of whether they cash their check representing their Individual PAGA Payment.

3. **Plaintiffs' General Release.** In addition to the above releases of claims, upon the Effective Date and Defendant's full funding of the Gross Settlement Amount, Plaintiffs shall each be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged to the maximum extent permitted by law any and all of the Released Parties of and from any and all claims, known or unknown, asserted and unasserted, that they have or may have had against Defendant or any of the other Released Parties from the beginning of time through the date Plaintiffs sign the Settlement Agreement, including, but not limited to, any claims concerning Plaintiffs' employment and/or the termination of their employment with Defendant, any claims for wages, bonuses, severance pay, employment benefits, stock options, violation of any personnel policy, any claims based on discrimination, harassment, unlawful retaliation, violation of public policy, wrongful termination, or damages of any kind whatsoever, arising out of any common law torts, contracts, express or implied, any covenant of good faith and fair dealing, any theory of wrongful discharge, any theory of negligence, any theory of retaliation, or any federal, state, local, or other governmental statute, executive order, regulation or ordinance, or common law, or any other basis whatsoever, to the fullest extent provided by law. Plaintiffs' release of claims against the Released

Parties include, but are not limited to, any and all claims premised on Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; Sections 1981 through 1988 of Title 42 of the United States Code; the Americans with Disabilities Act of 1990; the Employment Retirement Income Security Act of 1974; the Occupational Safety and Health Act; the Sarbanes-Oxley Act of 2002; the Family and Medical Leave Act of 1993; the Fair Labor Standards Act; the California Fair Employment and Housing Act – California Government Code § 12900 *et seq.*; the California Family Rights Act – California Government Code § 12945.2 *et seq.*; the California Unruh Civil Rights Act – California Civil Code § 51 *et seq.*; the California Whistleblower Protection Law – California Labor Code § 1102.5; the California Occupational Safety and Health Act – California Labor Code § 6300 *et seq.*; the California Business and Professions, Civil, Government and Labor Code; and any other federal, state, or local law, statute, regulation, or ordinance capable of being released by Plaintiffs, excluding any claims that cannot be released as a matter of law.

This release does not extend to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation claims.

Plaintiffs further acknowledge, agree, and understand that they are expressly, knowingly, and voluntarily waiving and relinquishing, to the fullest extent permitted by law, all rights or claims arising under the Age Discrimination in Employment Act of 1967. Plaintiffs understands that they are provided at least twenty-one (21) calendar days to review this Agreement and any changes, whether material or immaterial, do not toll or restart the running of the 21-day period. Plaintiffs also understand that Plaintiffs may revoke their acceptance of this Agreement within seven (7) calendar days after the date they sign the Agreement. Any revocation must be in writing and received by Defendant's Counsel.

Plaintiffs shall be deemed to have, and by operation of the final approval of the Settlement by the Court shall have, expressly waived and relinquished to the fullest extent permitted by law the provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other similar provision under federal or state law that purports to limit the scope of a general release. Plaintiffs have read Section 1542 of the Civil Code of the State of California, which provides as follows:

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

Plaintiffs understand that Section 1542 gives the right not to release existing claims of which they are not now aware, unless Plaintiffs voluntarily choose to waive this right. Having been so apprised, Plaintiffs nevertheless voluntarily each individually waive the rights described in Section 1542, and elect to assume all risks for claims that now exist in their favor, known or unknown. The release of Plaintiffs' claims as set forth in this Section and Sections III.E.1 and III.E.2 (including all subsections) of this Agreement are conditions precedent to enforcement of this Agreement.

The release set forth in this Section III.E.3 shall be collectively referred to as the “Plaintiffs’ General Release.”

4. **No Pending or Future Lawsuits by Plaintiffs.** Other than the Lawsuits, and the PAGA Letters, Plaintiffs represent that they do not have any pending lawsuits, administrative complaints, charges or PAGA notice against Defendant or the other Released Parties in any local, state or federal court or administrative agency. Plaintiffs further acknowledge that all claims raised therein, if any, shall be fully and finally extinguished by virtue of this Agreement and the Court’s Final Approval Order. The *Martinez* Plaintiff agrees to dismiss the *Martinez* PAGA Action, the *Martinez* Class Action and the *Martinez* Arbitration in their entirety with prejudice no later than five (5) days after the Effective Date. Plaintiffs further represent that they will not bring any action in the future in which they seek to recover any damages or other relief from Defendant or the other Released Parties relating to or arising from Plaintiffs’ employment and/or the released claims set forth in Plaintiffs’ General Release, the Released Class Claims and the Released PAGA Claims, other than an action to enforce his/their rights under this Agreement.
 5. **Class Counsel.** As of the date the Defendant fully funds the Gross Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys’ fees and expenses against Defendant and the Released Parties arising from or related to the Lawsuits (including the PAGA Letters, the Amended PAGA Letter, and the Amended Consolidated Complaint). Plaintiffs and Defendant shall bear his/their/its own attorneys’ fees and costs except as provided herein.
- F. **No Effect on Other Benefits.** The Individual Class Payments, the Individual PAGA Payments, and the Service Awards will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Participating Class Members, Plaintiffs, and/or PAGA Members. Such payments shall not be utilized to calculate any additional benefits under any benefit plans to which any Plaintiff, Participating Class Member and PAGA Member may be eligible including, but not limited to: retirement plans, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, pension plans, or any other benefit plan. Participating Class Members, Plaintiffs and PAGA Members will be deemed to have waived all such claims as part of their release of claims under this Agreement. It is the Parties’ intention that this Agreement will not affect any rights, contributions, or amounts to which Plaintiffs, Participating Class Members and PAGA Members may be entitled under any benefit plans.
- G. **Limitation on Public Statements About Settlement.** Plaintiffs and Class Counsel will not make any public disclosure of the Settlement until after the filing of the Motion for Preliminary Approval. Plaintiffs and Class Counsel represent that they have not made any such disclosure. Class Counsel will take all steps necessary to ensure that Plaintiffs are aware of, and will encourage them to adhere to, the restriction against any public disclosure of the Settlement until after the Settlement is preliminarily approved by the Court. Class Counsel and Plaintiffs further agree not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website, and/or online reporter of settlements or on any website or social media platform. Defendant agrees that it will not issue any public official statements on behalf of the company about the terms of the Settlement with the media until after the filing of the motion for preliminary approval of the Settlement. This provision shall not prohibit Class

Counsel from communicating with Class Members after preliminary approval is granted for the sole purpose of administering the Settlement. This provision also does not limit Class Counsel from complying with ethical obligations to Class Members after preliminary approval. Nothing in this provision shall prevent Defendant or Plaintiffs from making any required disclosures under the law or for tax purposes.

H. **LWDA Submission.** Class Counsel shall undertake all submissions of information and documents required to be made to the LWDA by PAGA.

I. **Ability to Void.** Subject to the obligation(s) of mutual full cooperation set out in this Agreement, either Party may terminate this Settlement if, after submitting to settle as set forth in this Agreement, any Court declines to enter the Preliminary Approval Order, the Final Approval Order or the Judgment in substantially the forms submitted by the Parties, or if the Effective Date does not otherwise occur. The terminating Party shall give to the other Party (through his/its counsel) written notice of its decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

1. The Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms;
2. In the event the Agreement is terminated, Defendant shall have no obligation to make any payments to any party, Class Member, PAGA Member, or attorney;
3. The Amended PAGA Notice, the Amended Consolidated Complaint, the order approving the filing of the Amended Consolidated Complaint, the Preliminary Approval Order, the Final Approval Order, and the Judgment, including any order of class certification, shall be vacated; and
4. The Agreement and all negotiations, statements, and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the Settlement.

J. **Miscellaneous Terms.**

1. **No Admission of Liability or Class Certification for Other Purposes.**
 - a. Defendant denies that Defendant and/or the other Released Parties have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Lawsuits, or that but for the Settlement a class should be certified. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended to or will be construed as an admission of liability or wrongdoing by Defendant or the other Released Parties, or an admission by Plaintiffs that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiffs and Defendant were willing to settle the Lawsuits will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendant of any liability or wrongdoing as to Plaintiffs, Class Members, PAGA Members, or any other person,

and Defendant specifically disclaims any such liability or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a PAGA or class action is appropriate. The Parties have entered into this Settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses, and risks. Nothing in this Agreement shall be construed as an admission by Plaintiffs that Plaintiffs' claims do not have merit or that PAGA or class action is inappropriate.

- b. Whether or not the Judgment is entered or the Effective Date occurs, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiffs or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.
- c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

- 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. Plaintiffs and Class Counsel acknowledge and agree that the statements in the Recital section of this Agreement are true, accurate and have contractual significant; they are not mere recitals.
- 3. **Signature of All Class Members Unnecessary to be Binding.** The Parties agree that because the Class Members are numerous, it is impossible or impractical to have each Class Member execute this Agreement. The Class Notice will advise all Class Members of the binding nature of the releases provided herein and shall have the same force and effect as if the Agreement were executed by each Class Member. The only Class Members who will not be bound by the terms of this Class Settlement are those who submit a timely and valid Request for Exclusion.
- 4. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this

Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.

5. **No Prior Assignments.** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
6. **No Tax Advice.** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. All Parties represent that they have not received, and shall not rely on, advice or representations from the other Party or his/its agents regarding the tax treatment of payments under federal, state or local law.
7. **Modification of Agreement.** Except as set forth hereinabove, this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives.
8. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
9. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
10. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
11. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Lawsuits and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
12. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing stipulated protective order, contractual agreement, statute, or rule. Within thirty (30) calendar days after the date when the Court discharges the Settlement Administrator's obligation to provide a declaration confirming the final pay out of all settlement funds, Class Counsel will destroy the destruction of all such documents and data.

13. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
14. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiffs and the Class:

Benjamin H. Haber
Daniel J. Kramer
Giancarlo Recinos
Wilshire Law Firm
660 S. Figueroa Street, Sky Lobby
Los Angeles, CA 90017
Tel.: (213) 381-9988
Fax: (213) 381-9989
E-Mail: benjamin.haber@wilshirelawfirm.com
daniel.kramer@wilshirelawfirm.com
giancarlo.recinos@wilshirelawfirm.com

Arby Aiwarzian
Joanna Ghosh
Yasmin Hosseini
Scarlet Tunney
Lawyers *for* Justice, PC
450 North Brand Blvd., Suite 900
Glendale, CA 91203
Tel: (818) 265-1020
Fax: (818) 265-1021
Email: arby@calljustice.com
joanna@calljustice.com
yasmin@calljustice.com
scarlet@calljustice.com

To Defendant:

Lisa Lin Garcia
Jessica E. Quarless
Littler Mendelson, P.C.
101 Second Street, Suite 1000
San Francisco, CA 94105
Tel: (415) 433-1940
Fax: (415) 399-8490
Email: llgarcia@littler.com
jquarless@littler.com

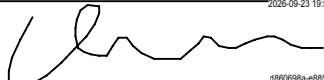
15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes

of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

16. **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
17. **Validity and Enforceability of Arbitration Agreements.** The Settlement shall have no impact on the validity or enforceability of the arbitration agreements entered into by the Class Members and/or PAGA Members and the Settlement shall not prejudice Defendant or the other Released Parties from seeking to enforce such arbitration agreements.
18. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to California Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under California Code of Civil Procedure section 583.310 for the entire period of this settlement process with respect to all Lawsuits.
19. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the *Pena* Action under California Code of Civil Procedure section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.
20. **Governing Law.** This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California, without regard to conflict of law rules.
21. **Authority to Sign.** The signatories hereto represent and warrant that they have the authority to sign on behalf of their designated parties. This Agreement is intended to have a binding effect to the maximum extent permitted under state and federal law.

The Parties and their counsel hereby execute this Agreement.

Dated: 09/23/2026

Electronically Signed 2026-09-23 19:50:27 UTC - 146.75.154.0

Nimtex AssureSign® e860698a-e885-4f89-9d9e-b4ce013f5554

Plaintiff Alejandro Martinez

Dated: _____

Plaintiff Christian Pena

of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

16. **Cooperation.** The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
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19. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the *Pena* Action under California Code of Civil Procedure section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.
20. **Governing Law.** This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California, without regard to conflict of law rules.
21. **Authority to Sign.** The signatories hereto represent and warrant that they have the authority to sign on behalf of their designated parties. This Agreement is intended to have a binding effect to the maximum extent permitted under state and federal law.

The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Alejandro Martinez

Dated: 09/25/2026



Christian Pena (Sep 25, 2026 11:32:00 PDT)
Plaintiff Christian Pena

Dated: 09/24/2026


Thomas Swanson (Sep 24, 2026 17:04:13 PDT)

Plaintiff Tom Swanson

Dated: _____

Plaintiff Keith Anthony Terry

Dated: _____

Tiffanie Burkhalter for
Defendant Super Store Industries

Approved as to form:

Dated: _____

Benjamin H. Haber
Daniel J. Kramer
Giancarlo Recinos
Wilshire Law Firm
Attorneys for Plaintiffs Christian Pena, Tom Swanson, and Keith
Anthony Terry

Dated: _____

Arby Aiwazian
Joanna Ghosh
Yasmin Hosseini
Scarlet Tunney
Lawyers *for* Justice, PC
Attorneys for Plaintiff Alejandro Martinez

Dated: _____

Lisa Lin Garcia
Jessica E. Quarless
Littler Mendelson, P.C.
Attorney for Defendant Super Store Industries

Dated: _____

Plaintiff Tom Swanson

Dated: 09/25/2026



[Keith Terry \(Sep 25, 2026 09:53:36 PDT\)](#)

Plaintiff Keith Anthony Terry

Dated: _____

Tiffanie Burkhalter for
Defendant Super Store Industries

Approved as to form:

Dated: 09/25/26



Benjamin H. Haber
Daniel J. Kramer
Giancarlo Recinos
Wilshire Law Firm
*Attorneys for Plaintiffs Christian Pena, Tom Swanson, and Keith
Anthony Terry*

Dated: _____

Arby Aiwarzian
Joanna Ghosh
Yasmin Hosseini
Scarlet Tunney
Lawyers *for* Justice, PC
Attorneys for Plaintiff Alejandro Martinez

Dated: _____

Lisa Lin Garcia
Jessica E. Quarless
Littler Mendelson, P.C.
Attorney for Defendant Super Store Industries

Dated: _____
Plaintiff Tom Swanson

Dated: _____
Plaintiff Keith Anthony Terry

Dated: _____
Tiffanie Burkhalter for
Defendant Super Store Industries

Approved as to form:

Dated: _____
Benjamin H. Haber
Daniel J. Kramer
Giancarlo Recinos
Wilshire Law Firm
*Attorneys for Plaintiffs Christian Pena, Tom Swanson, and Keith
Anthony Terry*

Dated: 09/23/2026

Arby Aiwarzian
Joanna Ghosh
Yasmin Hosseini
Scarlet Tunney
Lawyers for Justice, PC
Attorneys for Plaintiff Alejandro Martinez

Dated: _____
Lisa Lin Garcia
Jessica E. Quarless
Littler Mendelson, P.C.
Attorney for Defendant Super Store Industries

Dated: _____

Plaintiff Tom Swanson

Dated: _____

Plaintiff Keith Anthony Terry

Dated: 9.22.26



Tiffanie Burkhalter for
Defendant Super Store Industries

Approved as to form:

Dated: _____

Benjamin H. Haber
Daniel J. Kramer
Giancarlo Recinos
Wilshire Law Firm
*Attorneys for Plaintiffs Christian Pena, Tom Swanson, and Keith
Anthony Terry*

Dated: _____

Arby Aiwazian
Joanna Ghosh
Yasmin Hosseini
Scarlet Tunney
Lawyers for Justice, PC
Attorneys for Plaintiff Alejandro Martinez

Dated: September 29, 2026



Lisa Lin Garcia
Jessica E. Quarless
Littler Mendelson, P.C.
Attorney for Defendant Super Store Industries

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND
HEARING DATE FOR FINAL COURT APPROVAL**

Christian Pena, et al. v. Super Store Industries,
San Joaquin County Superior Court Case No. STK-CV-OUE-2021-0010117

*The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

<<FIRST AND LAST NAME>>

<<ADDRESS>>

<<CITY AND ZIP CODE>>

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

**TO RECEIVE YOUR SHARE OF THIS SETTLEMENT, YOU DO NOT NEED TO DO
ANYTHING.**

You may be eligible to receive money from an employee class and California Labor Code Private Attorneys General Act ("PAGA") lawsuit (the "Action") filed against Super Store Industries ("SSI") for alleged wage and hour violations. The Action was filed by former SSI employees, Christian Pena, Tom Swanson, Keith Anthony Terry, and Alejandro Martinez (collectively, "Plaintiffs"), and seeks payment of (1) back wages, civil penalties and other relief for all individuals who have worked for SSI in California as an hourly-paid or non-exempt employee at any time during the Class Period, which is from May 2, 2017 through and including April 3, 2025 ("Class Members"); and (2) penalties under the PAGA for means all individuals who have worked for SSI in California as an hourly-paid or non-exempt employee at any time during the PAGA Period, which is from October 1, 2020 through and including April 3, 2025 ("PAGA Members").

The two sides disagree about the merits of the lawsuit. SSI vigorously denies all allegations of wrongdoing and maintains that it complied at all times with applicable laws, rules, and regulations at issue in this litigation. In light of the risk and expense of proceeding to trial for both sides, the parties have reached a proposed settlement ("Settlement") to resolve this lawsuit.

The proposed Settlement has two main parts: (1) a Class Settlement in which Class Members will receive Individual Class Payments, and (2) a PAGA Settlement in which PAGA Members will receive Individual PAGA Payments and the California Labor and Workforce Development Agency ("LWDA") will receive a settlement payment.

Based on SSI's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$** (less withholding) **and your Individual PAGA Payment is estimated to be \$**. The actual amount you may receive likely will be different and will depend on a number of factors. If no amount is stated for your Individual PAGA Payment, then according to SSI's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work as an SSI non-exempt employee during the PAGA Period.

The above estimates are based on SSI's records showing that **you worked [redacted] workweeks** in California as an hourly-paid or non-exempt employee of Defendant during the Class Period ("Class Workweeks") and **you worked [redacted] pay periods** in California as an hourly-paid or non-exempt employee of Defendant during the PAGA Period ("PAGA Pay Periods"). Each pay period at SSI during the PAGA Period included two workweeks. If you believe that you worked more Class Workweeks during the Class Period, or more PAGA Pay Periods during the PAGA period, you can submit a challenge by the deadline date. See Section 5 of this Notice.

The Court has already preliminarily approved the proposed Class Settlement and approved this Notice. The Court has not yet decided whether to grant final approval of the Class and PAGA Settlement.

Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it.

SSI will not retaliate against you for any actions you take with respect to the proposed Settlement.

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 a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the Released Class Claims and Released PAGA Claims against SSI that are covered by this Settlement.
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [date]	If you don't want to fully participate in the proposed Class Settlement, you can opt-out of the Class Settlement by submitting a request for exclusion to the Settlement Administrator. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. You cannot opt-out of the PAGA Settlement. All PAGA Members will receive an Individual PAGA Payment and be bound by the release of the Released PAGA Claims (defined below).
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. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid from the Settlement to Class Counsel and Plaintiffs who pursued the Actions on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to

	Participating Class Members. You can object to the Class Settlement if you think they are unreasonable. See Section 8 of this Notice.
You Can Participate in the [date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [date]. 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 Class Settlement at the Final Approval Hearing. See Section 9 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Class Workweeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Workweeks and PAGA Pay Periods you worked, according to SSI's records, is stated on the second page of this Notice. If you disagree with either of these numbers, you must submit a written challenge to the Settlement Administrator by [date]. See Section 5 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former SSI employees. The Action alleges that SSI failed to properly pay for all hours worked (including minimum, straight time, and overtime wages), to timely pay wages both during and upon termination of employment, including wages for vested vacation, to provide Plaintiffs with legally compliant meal periods and properly pay meal break premiums, to authorize and permit Plaintiffs to take legally compliant rest periods and properly pay rest break premiums, to furnish accurate wage statements and wage theft prevention act notice to Plaintiffs, to indemnify Plaintiffs for work-related expenditures, to keep the requisite payroll records for Plaintiffs, to properly pay all sick leave pay, to be compliant with workplace temperature laws, to properly provide seventh day of rest, to provide proper notices, and to properly pay reporting time pay. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). For settlement purposes, this Action combines the claims originally alleged by Plaintiffs in this Action and the claims alleged in the actions filed in Stanislaus County Superior Court entitled *Alejandro Martinez v. Super Store Industries*, Case No. CV-24-005410 ("*Martinez Class Action*") and *Alejandro Martinez v. Super Store Industries*, Case No. CV-21-006561 ("*Martinez PAGA Action*"), and the Settlement is intended to cover the claims alleged in these three actions. Plaintiffs are represented by the following attorneys: Wilshire Law Firm, PLC and Lawyers for Justice, PC ("Class Counsel.")

SSI strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT IS A CLASS AND PAGA ACTION?

In a class action lawsuit, one or more people called “Class Representatives” or “Plaintiffs” sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” SSI—the company that has been sued—is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class Settlement.

In this Action, Plaintiffs have also asserted claims pursuant to the Labor Code Private Attorneys General Act (also known as PAGA), a law which allows the plaintiffs to stand in the shoes of the government and try and recover penalties on the government’s behalf and on behalf of the other employees (i.e., PAGA Members). Plaintiffs in the Action claim they and the PAGA Members were “aggrieved” by Defendant’s alleged violation of the California Labor Code.

3. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether SSI or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and SSI hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the cases by agreement (settle the cases) rather than continuing the expensive and time-consuming process of litigation. Plaintiffs and SSI have negotiated a proposed Settlement that is subject to the Court’s approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, SSI does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) SSI has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and PAGA Members. The Court preliminarily approved the proposed Class Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine final approval of the Class Settlement and approval of the PAGA Settlement.

4. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

- A. Gross Settlement Amount. In this proposed Settlement, Defendant has agreed to pay a total of \$2,075,000 (“Gross Settlement Amount”) to settle all claims arising out of the Action. The Settlement provides for certain payments to be made from the Gross Settlement Amount as follows, which will be subject to final approval by the Court, and which will be deducted from the Gross Settlement Amount before Individual Class Payments are made to Participating Class Members.
- B. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - i. **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment to Class Counsel:** Up to \$726,250 (35% of the Gross Settlement Amount) to Class

Counsel for attorneys' fees and up to \$60,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

- ii. **Service Awards to Plaintiffs:** Up to \$15,000 for each Plaintiff as their Service Awards for filing the Action, working with Class Counsel, and representing the Class. A Service Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.
- iii. **Settlement Administration Expenses to the Settlement Administrator:** Up to \$21,000.00 to the Settlement Administrator for services administering the Settlement.

PAGA Payment to the LWDA and PAGA Members: Up to \$200,000 for PAGA Payment, with 75% (\$150,000.00) to be paid to the LWDA as the LWDA's share of the PAGA Settlement paid under this Agreement and 25% (\$50,000.00) to be distributed to the PAGA Members as their Individual PAGA Payments based on their PAGA Pay Periods during the PAGA Period.

- C. Net Settlement Amount Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, the Settlement Administrator will distribute the rest of the Gross Settlement Amount (the "Net Settlement Amount") by making Individual Class Payments to Participating Class Members based on their Class Workweeks during the Class Period.
- D. Taxes Owed on Settlement Payments. Plaintiffs and SSI are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to non-wage claims for damages, penalties and interest ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. SSI will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Settlement Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms to the extent required by law.

Although Plaintiffs and SSI have agreed to these allocations, neither side is giving you any advice on whether the payments you receive under this Settlement are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any payment received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- E. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization to be approved by the Court ("Cy Pres Beneficiary"). The parties

will seek the Court to approve the Sacramento Food Bank & Family Services as the Cy Pres Beneficiary.

- F. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant final approval of the Settlement or decline to enter a Judgment consistent with the Settlement. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and SSI have agreed that, in such cases, the Settlement will be void. If the Settlement is void, SSI will not pay any money and Class Members/PAGA Members will not release any claims against SSI.

Settlement Administrator. The Court has appointed a neutral company, [xxxx]. (the "Settlement Administrator") to administer the settlement, including to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Settlement Administrator will also decide Class Members' challenges over Class Workweeks or PAGA Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Settlement Administrator's contact information is contained in Section 10 of this Notice.

- G. Participating Class Members' Release. Upon the Effective Date and Defendant's full funding of the Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, all Participating Class Members and all persons purporting to act on the Participating Class Members' behalf or purporting to assert a claim under or through them, shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all disputes, claims and/or causes of action for damages, penalties, liquidated damages, punitive damages, interest, attorneys' fees, costs, restitution, injunctive relief, declaratory relief, equitable relief or any other forms of relief pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint, that arose at any time during the Class Period, including, but not limited to, the following:

- i. Any claims for failure to properly pay all wages owed (including improper payment of minimum, regular, and overtime wages), untimely payments of wages both during and upon termination of employment, including wages for vested vacation, non-compliant meal periods, non-compliant rest periods, non-compliant payment of meal and rest break premiums, non-compliant itemized wage statements, non-compliant payment of sick leave, non-compliant workplace temperatures, non-compliant seventh day of rest, improper payment of reporting time pay, non-compliant maintenance of payroll records, improper wage theft prevention act notice, failure to reimburse for necessary business expenses, and claims for interest, penalties (including but not limited to waiting time penalties), or premiums in connection therewith, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders, pled or which could have been pled under the facts and/or factual allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint;

- ii. Any claims under California Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2800, 2802, 2810.5, 6300, *et seq.*; California Business and Professions Code section 17200, *et seq.*; applicable Industrial Welfare Commission Wage Orders; and/or corresponding California Code of Regulations;
- iii. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices, attorney's fees, costs, punitive damages, or any other relief pled or which could have been pled under the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint; and
- iv. Any and all other claims under California common law, the California Labor Code, and/or California Industrial Welfare Commission Wage Orders pled or which could have been pled under the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* Class Action, any amendments thereto, and/or the Amended Consolidated Complaint.

The release set forth above is collectively referred to as the "Released Class Claims." All Class Members are bound by the settlement and release of the Released Class Claims regardless of whether they cash their check representing their Individual Class Payment.

The "Released Parties" means, collectively, Defendant and any of its past, present, and future direct or indirect parents, subsidiaries, affiliates, holding companies, affiliated companies, partnerships, limited liability companies, as well as each of its or their past, present, and future officers, directors, employees, partners, members, managers, customers, subcontractors, shareholders and agents, attorneys, insurers, reinsurers, successors, and any individual or entity which could be jointly liable with Defendant for the Released Class Claims and/or the Released PAGA Claims.

H. PAGA Members' PAGA Release. Upon the Effective Date, and Defendant's full funding of the Gross Settlement Amount, the State of California, Plaintiffs, all PAGA Members and all persons purporting to act on the PAGA Members' behalf or purporting to assert a claim under or through them shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all PAGA claims pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* PAGA Action, any amendments thereto, the PAGA Letters, the Amended Consolidated Complaint and/or the Amended PAGA Letter that arose at any time during the PAGA Period, including, but not limited to, to the following:

- i. Any claims for civil penalties under PAGA for failure to pay wages (including improper payment of minimum, regular, and overtime wages), untimely payments of wages both during and upon termination of employment, including wages for vested vacation, non-compliant meal periods, non-compliant rest periods, non-compliant payment of meal and rest break premiums, non-compliant itemized wage statements, non-compliant payment of sick leave, non-compliant workplace temperatures, non-compliant seventh day of rest, improper wage theft prevention act notice, improper payment of reporting time

pay, non-compliant maintenance of payroll records, failure to reimburse for necessary business expenses, and claims for interest, as well as any PAGA claims premised on the California Labor Code and/or California Industrial Welfare Commission Wage Orders, pled or which could have been pled arising from the facts and/or allegations contained in the operative complaints in the *Pena* Action and the *Martinez* PAGA Action, any amendments thereto, the PAGA Letters, the Amended Consolidated Complaint and/or the Amended PAGA Letter;

- ii. Any claims for civil penalties under PAGA premised on California Labor Code sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 227.3, 246, 510, 512, 516, 551, 552, 558, 1174, 1174.5, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2699, 2800, 2802, 2810.5, 6300, *et seq.*; applicable Industrial Welfare Commission Wage Orders; and/or corresponding California Code of Regulations; and
- iii. Any claims for attorney's fees, costs or other relief stemming from the above.

The release set forth above is collectively referred to as the "Released PAGA Claims." All PAGA Members are bound by the settlement and release of the Released PAGA Claims regardless of whether they cash their check representing their Individual PAGA Payment.

5. HOW WILL THE SETTLEMENT ADMINISTRATOR CALCULATE MY PAYMENT?

- A. Individual Class Payments. The Settlement Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Class Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Class Workweeks worked by each individual Participating Class Member.
- B. Individual PAGA Payments. The Settlement Administrator will calculate Individual PAGA Payments by (a) dividing \$50,000 by the total number of PAGA Pay Periods worked by all PAGA Members and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual PAGA Member.
- C. Class Workweek and/or PAGA Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in SSI's records, are stated in the second page of this Notice. If you wish to challenge the number of Class Workweeks and/or PAGA Pay Periods credited to you, you must mail a written challenge to the Settlement Administrator by [date]. Such challenges must: (i) be in writing; (ii) state the full name of the Participating Class Member/PAGA Member seeking the challenge; (iii) state the case name and case number of this Action (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117); (iv) include a statement that the Participating Class Member/PAGA Member is seeking to challenge the Class Workweeks and/or PAGA Pay Periods as set forth in the Class Notice; (v) state the number of Class Workweeks and/or PAGA Pay Periods that the Participating Class Member/PAGA Member believes he or she has worked; (vi) include documentation to support the challenge; (vii) be signed by the Participating Class Member/PAGA Member seeking the challenge; and (viii) be mailed to

the Settlement Administrator at the following address with a postmark date on or before **[INSERT END DATE OF THE NOTICE PERIOD]: [INSERT ADDRESS]**.

You need to support your challenge by sending copies of pay stubs or other records. The Settlement Administrator will accept SSI's calculation of Class Workweeks and/or PAGA Pay Periods based on SSI's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Settlement Administrator will resolve the challenges based on your submission and SSI's records. However, the Court ultimately will decide any resolved dispute in the event you and the Settlement Administrator are unable to resolve the dispute.

6. HOW WILL I GET PAID?

- A. Participating Class Members. The Settlement Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as PAGA Members. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if any).
- B. Non-Participating Class Members Who Are PAGA Members. The Settlement Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every PAGA Member who opts out of the Class Settlement (i.e., a Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Settlement Administrator as soon as possible. Section 10 of this Notice has the Settlement Administrator's contact information.

7. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

If you do not want to be bound by the class portion of the Settlement, including receipt of the above Individual Class Payment and the above release of the Released Class Claims, you may exclude yourself ("opt out") by sending written request to be excluded from the Class Settlement ("Request for Exclusion") to the Settlement Administrator.

To opt out, you must submit to the Settlement Administrator, by mail, a written and signed Request for Exclusion. The Request for Exclusion must: (i) be made in writing; (ii) state the full name of the Class Member seeking exclusion; (iii) state the case name and case number of this Action (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117); (iv) include a statement that the Class Member requests exclusion from the Class Settlement and does not wish to participate in the Class Settlement; (v) be personally signed by the Class Member seeking exclusion from the Class Settlement; and (vi) be mailed to the Settlement Administrator at the following address with a postmark date on or before **[INSERT END DATE OF THE NOTICE PERIOD]: [INSERT ADDRESS]**.

Should you choose to timely exclude yourself from the Class Settlement, the money that you would have otherwise received from the Class Settlement will be distributed amongst the remaining Participating Class Members. However, to the extent you are eligible to receive an Individual PAGA Payment, you will still receive that amount whether or not you submit a Request for Exclusion.

8. HOW DO I OBJECT TO THE CLASS SETTLEMENT?

Only Participating Class Members have the right to object to the Class Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and SSI are asking the Court to approve. At least **[insert]** days before the **[date]** Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as a Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 10 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Settlement Administrator's Website **[need details]** or the Court's website (<https://cms.sjcourts.org/fullcourtweb/start.do>) and search using the case number, STK-CV-OUE-2021-0010117.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Service Awards may wish to object, for example, that the proposed Class Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. All objections and supporting papers must: (i) be in writing; (ii) state the case name and case number of the Action (*Pena, et al. v. Super Store Industries*, Case No. STK-CV-OUE-2021-0010117), (iii) state the full name of the Participating Class Member asserting the objection(s); (iv) state the grounds for the objection(s); (v) state whether the Participating Class Member intends to appear at the Final Approval Hearing; and (vi) be mailed to the Settlement Administrator with a postmark date on or before **[INSERT END DATE OF THE NOTICE PERIOD]: [INSERT ADDRESS]**.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

9. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on **[date]** at **[time]** in Department 10B of the San Joaquin County Superior Court, Stockton Courthouse, located at 180 E. Weber Avenue, Stockton, California 95202. At the Final Approval Hearing, the judge will decide whether to grant final approval of the Class Settlement, approval of the PAGA Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiffs, and the Settlement Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or by phone

(see <https://www.sjcourts.org/civil/> for information). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Settlement Administrator's website [\[www.etc.\]](#) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

10. HOW CAN I GET MORE INFORMATION?

The Class and Representative PAGA Action Settlement Agreement ("Agreement") sets forth the terms of the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Settlement Administrator's website at [\[URL of website\]](#). You can also telephone or send an email to Class Counsel or the Settlement Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://cms.sjcourts.org/fullcourtweb/start.do>) and entering the Case Number for the Action, Case No. STK-CV-OUE-2021-0010117. You can also make an appointment to personally review court documents in the Clerk's Office by calling (209) 992-5693.

Class Counsel:

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Daniel J. Kramer, Esq.
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arby@calljustice.com
joanna@calljustice.com
yasmin@calljustice.com
selena@calljustice.com

Settlement Administrator:

[Name of Company]

[Email Address]

[Mailing Address]

[Telephone]

[Fax Number]

11. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Settlement Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

12. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Settlement Administrator if you move or otherwise change your mailing address.

**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION
ABOUT THE SETTLEMENT.**

EXHIBIT 3



Thank you for your Proposed Settlement Submission

From no-reply@formassembly.com <no-reply@formassembly.com>

Date Tue 9/29/2026 10:38 AM

To Giancarlo Recinos' Team <Giancarlorecinosteam@wilshirelawfirm.com>

09/29/2026 10:38:23 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

On 09/29/2026 10:38:23 AM your Proposed Settlement was successfully processed for case number LWDA-CM-850341-21

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: [https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate Attorneys General Act.htm&data=05%7C02%7Cdariane.rose%40wilshirelawfirm.com%7C5f17df169c454b4a6eb808df1e508106%7C9ada260a4f194da187b814d372333753%7C1%7C0%7C639263003247197116%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMtSkFOljoITWFpbGlldUljoyfQ%3D%3D%7C0%7C%7C%7C&data=x8zUFag70CFEosA4smTMSN9NhUt6%2BQpiziXGcBHaoMs%3D&reserved=0](https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate%20Attorneys%20General%20Act.htm&data=05%7C02%7Cdariane.rose%40wilshirelawfirm.com%7C5f17df169c454b4a6eb808df1e508106%7C9ada260a4f194da187b814d372333753%7C1%7C0%7C639263003247197116%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMtSkFOljoITWFpbGlldUljoyfQ%3D%3D%7C0%7C%7C%7C&data=x8zUFag70CFEosA4smTMSN9NhUt6%2BQpiziXGcBHaoMs%3D&reserved=0)

EXHIBIT 4



Case Name: Pena, et al. v. Super Store Industries

Tuesday, June 30, 2026

Requesting Attorney:

Daniel Kramer, Esq.
Wilshire Law Firm, PLC
daniel.kramer@wilshirelawfirm.com
800.926.9799

ILYM Group Contact:

Tony Rogers
ILYM Group, Inc.
trogers@ilymgroup.com
714.878.8836

Estimate For Administrative Solutions: Class & PAGA

KEY ASSUMPTIONS	
Total Number of Class Members	2,200
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	Yes
NCOA	Yes
Case Duration (Years)	1

Summary of ILYM Group, Inc.'s Fees & Expenses

Case Startup:	\$650.00
Project Management:	\$4,520.00
Notification & Mailing:	\$5,649.00
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$7,116.00
Case Conclusion:	\$1,015.00

Estimated ILYM Fees & Expenses: \$18,950.00



Case Name: Pena, et al. v. Super Store Industries

Tuesday, June 30, 2026

Requesting Attorney's Name: Daniel Kramer, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	2	\$350.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$650.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	5	\$600.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	2	\$140.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	2	\$140.00
Report Processing	Hourly	\$70.00	2	\$140.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
NCOA	Flat Rate	\$700.00	1	\$700.00
Toll Free Customer Service Representative	Flat Fee	\$800.00	1	\$800.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$4,520.00

NOTIFICATION & MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.25	2,200	\$2,750.00
USPS First Class Postage	Per Piece	\$1.04	2,200	\$2,288.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$1.50	286	\$429.00
Storage, Photocopies, Deliveries	Flat Fee	\$182.00	1	\$182.00

Subtotal \$5,649.00



Case Name: Pena, et al. v. Super Store Industries

Tuesday, June 30, 2026

Requesting Attorney's Name: Daniel Kramer, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Check, Stub & Release - Print & Mail (W2/1099)	Per Check	\$0.90	2,200	\$1,980.00
USPS First Class Postage	Per Piece	\$0.76	2,200	\$1,672.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	176	\$264.00
Preparation of Taxes	Hourly	\$120.00	5	\$600.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$7,116.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Process Unclaimed Funds	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$125.00	1	\$125.00

Subtotal \$1,015.00

Estimated ILYM Fees & Expenses: \$18,950.00

ILYM Group's Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.