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

JEHU JIMENEZ, individually, and on behalf of
other members of the general public similarly
situated, and as an aggrieved employee pursuant
to the Private Attorneys General Act (“PAGA”),
on behalf of the State of California and other
aggrieved employees,

Plaintiff,

vs.

APPLE CORE ENTERPRISES, INC., a North
Dakota corporation; APPLEVALLEY, INC., a
North Dakota corporation; APPLE BMONT,
INC., a North Dakota corporation;
APPLECENTRO, INC., a North Dakota
corporation; APPLE CITY, INC., a North
Dakota corporation; APPLE PALM, INC., a
North Dakota corporation; APPLE QUINTA,
INC., a North Dakota corporation;
APPLEXICO, INC., a North Dakota
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2134762

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Jehu Jimenez (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendants Apple Core Enterprises, Inc., AppleValley, Inc., Apple Bmont, Inc., AppleCentro, Inc., Apple City, Inc., Apple Palm, Inc. Apple Quinta, Inc. and Applexico, Inc. (“Defendants”) (collectively with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Jimenez v. Apple Core Enterprises, Inc.*, No. CIVSB2134762 (San Bernardino County Superior Court).
2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or Three Hundred Twenty Three Thousand Three Hundred Thirty Three Dollars (\$323,333). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any actual costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Twenty Thousand Dollars (\$20,000), subject to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.
3. “Class Counsel” means Capstone Law APC.
4. “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator and Class Counsel within thirty (30) calendar days after Preliminary Approval of this Settlement. The Class List

1 will be formatted in Microsoft Office Excel and will include each Class Member's full name; most
2 recent mailing address and telephone number; Social Security number; dates of employment; the
3 respective number of Workweeks that each Class Member worked during the Class Period and PAGA
4 Period; and any other relevant information needed to calculate settlement payments.

5 5. "Class Member(s)" or "Settlement Class" means all persons who worked for Defendants
6 in California as non-exempt, hourly paid employee at any time during the period from December 12,
7 2017 through the earlier of May 1, 2023 or the date of Preliminary Approval.

8 6. "Class Notice" means the Notice of Class Action Settlement, substantially in the form
9 attached as Exhibit A.

10 7. "Class Period" means the period from December 12, 2017 through the earlier of May 1,
11 2023 or the date of Preliminary Approval.

12 8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff
13 in recognition of his effort and work in prosecuting the Action on behalf of Class Members. Subject to
14 the Court granting final approval of this Settlement Agreement and subject to the exhaustion of any and
15 all appeals, Plaintiff will request Court approval of a Class Representative Enhancement Payment of up
16 to Five Thousand Dollars (\$5,000).

17 9. "Court" means the San Bernardino County Superior Court.

18 10. "Defendants" means Defendants Apple Core Enterprises, Inc., AppleValley, Inc., Apple
19 Bmont, Inc., AppleCentro, Inc., Apple City, Inc., Apple Palm, Inc. Apple Quinta, Inc. and Applexico,
20 Inc.

21 11. "Effective Date" means the date when: (a) the Court has held a Final Approval Hearing
22 and entered a final Order and Judgment certifying the Settlement Class and approving the Settlement and
23 ten (10) calendar days have passed since the Court has entered a final Order and Judgment certifying the
24 Settlement Class and approving the Settlement; or (b) in the event there are written objections filed prior
25 to the Final Approval Hearing which are not later withdrawn or denied, the later of the following events:
26 ten (10) business days after the period for filing any appeal, writ or other appellate proceeding opposing
27 the Court's final Order approving the Settlement has elapsed without any appeal, writ or other appellate
28 proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court's

1 final Order approving the Settlement has been filed, ten (10) business days after any appeal, writ or other
2 appellate proceedings opposing the Settlement has been finally and conclusively dismissed with no right
3 to pursue further remedies or relief.

4 12. "Final Approval" means the date on which the Court enters an order granting final
5 approval of the Settlement Agreement.

6 13. "Gross Settlement Amount" means the Gross Settlement Amount of Nine Hundred
7 Seventy Thousand Dollars (\$970,000), to be paid by Defendants in full satisfaction of all Released Class
8 Claims and Released PAGA Claims, which includes all Individual Settlement Payments, Attorneys'
9 Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and
10 Settlement Administration Costs. This Gross Settlement Amount has been agreed to by Plaintiff and
11 Defendants based on the aggregation of the agreed-upon settlement value of individual claims. In no
12 event will Defendants be liable for more than the Gross Settlement Amount except as otherwise
13 explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendants.
14 Defendants will be separately responsible for any employer payroll taxes required by law, including the
15 employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement
16 Amount.

17 14. "Individual Settlement Payment" means each Participating Class Member's and PAGA
18 Member's respective shares of the Net Settlement Fund and PAGA Fund.

19 15. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining
20 after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the
21 PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be
22 distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to
23 Defendants.

24 16. "Notice of Objection" means a Class Member's valid and timely written objection to the
25 Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full
26 name, signature, address, and telephone number, (b) a written statement of all grounds for the objection
27 accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other
28 documents upon which the objection is based; and (d) a statement whether the objector intends to appear

1 at the final fairness hearing.

2 17. “PAGA Members” means all persons who worked for Defendants in California as non-
3 exempt, hourly paid employee at any time during the period from October 15, 2020 through the earlier of
4 May 1, 2023 or the date of Preliminary Approval.

5 18. “PAGA Period” means the period from October 15, 2020 through the earlier of May 1,
6 2023 or the date of Preliminary Approval.

7 19. “PAGA Settlement Amount” means the amount that the Parties have agreed to pay to
8 the Labor and Workforce Development Agency (“LWDA”) and PAGA Members in connection with
9 Plaintiff’s claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698,
10 *et seq.*, “PAGA”) (“PAGA Settlement”). The Parties have agreed that Eighty Thousand Dollars
11 (\$80,000) of the Gross Settlement Amount will be allocated to the PAGA Settlement. Pursuant to
12 PAGA, Seventy-Five Percent (75%), or Sixty Thousand Dollars (\$60,000), of the PAGA Settlement
13 Amount will be paid to the California Labor and Workforce Development Agency (“LWDA Payment”),
14 and Twenty-Five Percent (25%), or Twenty Thousand Dollars (\$20,000) (“PAGA Fund”), of the PAGA
15 Settlement will be disbursed to PAGA Members, and regardless whether they request to be excluded
16 from the Settlement Class.

17 20. “Parties” means Plaintiff and Defendants collectively.

18 21. “Participating Class Members” means all Class Members who do not submit timely and
19 valid Requests for Exclusion.

20 22. “Plaintiff” means Plaintiff Juhu Jimenez.

21 23. “Preliminary Approval” means the date on which the Court enters an order granting
22 preliminary approval of the Settlement Agreement.

23 24. “Released Class Claims” means all claims under state, federal or local law, whether
24 statutory, common law or administrative, arising out of or reasonably related to allegations set forth in
25 the Complaint and arising during the Class Period during employment in a non-exempt position in
26 California including, but not limited to, claims for failure to pay earned wages, failure to pay minimum
27 wages, failure to pay overtime compensation, failure to provide meal breaks, failure to authorize and
28 permit rest breaks, failure to reimburse business expenses, failure to provide accurate wage statements,

1 failure to timely pay wages during employment, failure to timely pay final wages, unfair competition, all
2 other alleged violations of the California Business and Professions Code section 17200, *et seq.*, failure to
3 provide reporting time pay, as well as claims for injunctive relief, liquidated damages, penalties of any
4 nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, costs, and
5 all other claims and allegations made or which could have been made in the Action based on the facts
6 and allegations pled in Plaintiff's PAGA notice and the Complaint.

7 25. "Released PAGA Claims" means all claims for PAGA civil penalties based on the
8 claims that have been pled or could reasonably have been pled, from the factual allegations set forth in
9 Plaintiff's PAGA notice and the operative Complaint.

10 26. "Released Parties" means Defendants and all their present and former parent companies,
11 subsidiaries, divisions, related, associated, and/or affiliated companies, shareholders, officers, directors,
12 employees, agents, attorneys, insurers, reinsurers, successors and assigns, and any individual or entity
13 which could be liable for any of the Released Claims, and Defendants' counsel of record in the Action.

14 27. "Request for Exclusion" means a timely letter submitted by a Class Member indicating a
15 request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the
16 name, address, telephone number and last four digits of the Social Security Number of the Class
17 Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement
18 Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement;
19 and (e) be faxed or postmarked on or before the Response Deadline.

20 28. "Response Deadline" means the deadline by which Class Members must postmark or
21 fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the
22 calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement
23 Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
24 the Class Notice by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a
25 Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which
26 the U.S. Postal Service is open.

27 29. "Settlement Administration Costs" means the costs payable from the Gross Settlement
28 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,

1 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross
2 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The
3 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,
4 any such costs in excess of the amount represented by the Settlement Administrator as being the
5 maximum costs necessary to administer the Settlement. Based on an estimated Settlement Class of
6 approximately One Thousand Seven Hundred (1,700) Class Members, the Settlement Administration
7 Costs are currently estimated to be Sixteen Thousand Five Hundred Dollars (\$16,500).

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

13 31. “Workweeks” means the number of days of employment for each Class Member during
14 the Class Period, subtracting days on leave of absence (if any), dividing by seven (7), and rounding up to
15 the nearest whole number. All Class Members will be credited with at least one Workweek during the
16 Class Period, and all PAGA Members will be credited with at least one Workweek during the PAGA
17 Period.

18 TERMS OF AGREEMENT

19 The Plaintiff, on behalf of himself and the Settlement Class, and Defendants agree as follows:

20 32. Funding of the Gross Settlement Amount. Defendants will make a one-time deposit of
21 the Gross Settlement Amount of Nine Hundred Seventy Thousand Dollars (\$970,000) into a Qualified
22 Settlement Account to be established by the Settlement Administrator. Defendants will pay the
23 employer’s share of payroll taxes separately. After the Effective Date, the Gross Settlement Amount will
24 be used for: (a) Individual Settlement Payments; (b) the payment to the LWDA; (c) the Class
25 Representative Enhancement Payment; (d) Attorneys’ Fees and Costs; and (e) Settlement Administration
26 Costs. Defendants will deposit the Gross Settlement Amount and the employer’s share of payroll taxes
27 within thirty (30) calendar days after the Effective Date (“Funding Date”).

28 33. Attorneys’ Fees and Costs. Defendants agree not to oppose or impede any application or

1 motion by Class Counsel for Attorneys' Fees and Costs of not more than Three Hundred Twenty Three
2 Thousand Three Hundred Thirty Three Dollars (\$323,333), plus the reimbursement of all out-of-pocket
3 costs and expenses associated with Class Counsel's litigation and settlement of the Action (including
4 expert/consultant fees, investigations costs, etc.), not to exceed Twenty Thousand Dollars (\$20,000),
5 both of which will be paid from the Gross Settlement Amount.

6 34. Class Representative Enhancement Payment. In recognition of his effort and work in
7 prosecuting the Action on behalf of Class Members, Defendants agree not to oppose or impede any
8 application or motion for a Class Representative Enhancement Payment of up to Five Thousand Dollars
9 (\$5,000). The Class Representative Enhancement Payment will be paid from the Gross Settlement
10 Amount and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the
11 Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Class
12 Representative Enhancement Payment. Plaintiff understands and agrees that this Settlement Agreement
13 shall remain in full force and effect even if the full amount of Class Representative Enhancement
14 Payment sought by Plaintiff is not ultimately awarded by the Court.

15 35. Settlement Administration Costs. The Settlement Administrator will be paid for the
16 reasonable costs of administration of the Settlement and distribution of payments from the Gross
17 Settlement Amount, which is currently estimated to be Sixteen Thousand Five Hundred Dollars
18 (\$16,500). These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*,
19 the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS
20 Forms, distributing Class Notices, calculating and distributing the Gross Settlement Amount, and
21 providing necessary reports and declarations.

22 36. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
23 of Eighty Thousand Dollars (\$80,000) from the Gross Settlement Amount will be designated for
24 satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Sixty
25 Thousand Dollars (\$60,000), of this sum will be paid to the LWDA and Twenty-Five Percent (25%), or
26 Twenty Thousand Dollars (\$20,000), will be paid to PAGA Members in proportion to the number of
27 Workweeks worked during the PAGA Period.

28 37. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement

1 resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private
2 Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA
3 Member has the right to exclude himself or herself from the release of the Released PAGA Claims, and
4 all PAGA Members will receive their shares of the PAGA Fund. The Parties also agree that no PAGA
5 Member has the right to object to the PAGA Settlement Amount.

6 38. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating
7 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendants.

8 39. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
9 portion of the PAGA Fund will revert to or be retained by Defendants.

10 40. Individual Settlement Payment Calculations. Individual Settlement Payments will be
11 calculated and apportioned from the Net Settlement Fund and PAGA Fund based on the number of
12 Workweeks a Class Member worked during the Class Period and PAGA Period. Specific calculations of
13 Individual Settlement Payments will be made as follows:

14 40(a) Payments from the Net Settlement Fund. Defendants will calculate the total
15 number of Workweeks worked by each Class Member during the Class
16 Period and the aggregate total number of Workweeks worked by all Class
17 Members during the Class Period. To determine each Class Member's
18 estimated "Individual Settlement Payment" from the Net Settlement Fund,
19 the Settlement Administrator will use the following formula: The Net
20 Settlement Fund will be divided by the aggregate total number of
21 Workweeks, resulting in the "Workweek Value." Each Class Member's
22 "Individual Settlement Payment" will be calculated by multiplying each
23 individual Class Member's total number of Workweeks by the Workweek
24 Value. The Individual Settlement Payment will be reduced by any required
25 deductions for each Participating Class Member as specifically set forth
26 herein, including employee-side tax withholdings or deductions. The entire
27 Net Settlement Fund will be disbursed to all Class Members who do not
28 submit timely and valid Requests for Exclusion. If there are any valid and

1 timely Requests for Exclusion, the Settlement Administrator shall
2 proportionately increase the Individual Settlement Payment for each
3 Participating Class Member according to the number of Workweeks
4 worked, so that the amount actually distributed to the Settlement Class
5 equals 100% of the Net Settlement Fund.

6 40(b) Payments from the PAGA Fund. Defendants will calculate the total number
7 of Workweeks worked by each PAGA Member during the PAGA Period
8 and the aggregate total number of Workweeks worked by all PAGA
9 Members during the PAGA Period. To determine each PAGA Member's
10 estimated "Individual Settlement Payment," the Settlement Administrator
11 will use the following formula: The PAGA Fund will be divided by the
12 aggregate total number of Workweeks, resulting in the "PAGA Workweek
13 Value." Each PAGA Member's "Individual Settlement Payment" will be
14 calculated by multiplying each individual PAGA Member's total number of
15 Workweeks by the PAGA Workweek Value. The entire PAGA Fund will
16 be disbursed to all PAGA Members.

17 41. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
18 Participating Class Members under this Settlement, as well as any other payments made pursuant to this
19 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any
20 Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)
21 plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.
22 Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions,
23 or amounts to which any Class Members may be entitled under any benefit plans.

24 42. Administration Process. The Parties agree to cooperate in the administration of the
25 settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in
26 administration of the Settlement.

27 43. Delivery of the Class List. Within thirty (30) calendar days of Preliminary Approval,
28 Defendants will provide the Class List to the Settlement Administrator and to Class Counsel.

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

5 45. Confirmation of Contact Information in the Class Lists. Prior to mailing, the Settlement
6 Administrator will perform a search based on the National Change of Address Database for information
7 to update and correct for any known or identifiable address changes. Any Class Notices returned to the
8 Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly
9 via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement
10 Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is
11 provided, the Settlement Administrator will promptly attempt to determine the correct address using a
12 skip-trace, or other search using the name, address and/or Social Security number of the Class Member
13 involved, and will then perform a single re-mailing. Those Class Members who receive a re-mailed
14 Class Notice, whether by skip-trace or by request, will have either (a) an additional fifteen (15) calendar
15 days or (b) until the Response Deadline, whichever is later, to submit a Request for Exclusion or an
16 objection to the Settlement.

17 46. Class Notices. All Class Members will be mailed a Class Notice. Each Class Notice will
18 provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal
19 terms; (c) the Settlement Class and PAGA Member definitions; (d) the total number of Workweeks each
20 respective Class Member and PAGA Member worked for Defendants during the Class Period and
21 PAGA Period; (e) each Class Member's and PAGA Member's estimated Individual Settlement Payment
22 and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class
23 Period and PAGA Period; (g) instructions on how to submit Requests for Exclusion or Notices of
24 Objection; (h) the deadlines by which the Class Member must postmark or fax Request for Exclusions,
25 or postmark Notices of Objection to the Settlement; and (i) the claims to be released.

26 47. Disputed Information on Class Notices. Class Members will have an opportunity to
27 dispute the information provided in their Class Notices. To the extent Class Members dispute their
28 employment dates or the number of Workweeks on record, Class Members may produce evidence to the

1 Settlement Administrator showing that such information is inaccurate. Defendants' records will be
2 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the
3 Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline,
4 and will be decided within ten (10) business days after the Response Deadline.

5 48. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the
6 requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The
7 Settlement Administrator will mail the Class Member a cure letter within three (3) business days of
8 receiving the defective submission to advise the Class Member that his or her submission is defective
9 and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have
10 until (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter,
11 whichever date is later, to postmark or fax a revised Request for Exclusion. If the revised Request for
12 Exclusion is not postmarked or received by fax within that period, it will be deemed untimely.

13 49. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
14 Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement
15 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the
16 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request
17 for Exclusion has been timely submitted.

18 50. Escalator. Defendants represent that there are Ninety Thousand (90,000) Workweeks
19 worked by approximately One Thousand Seven Hundred (1,700) Class Members during the Class
20 Period. If the number of Workweeks worked by Class Members during the Class Period is more than
21 Ten Percent (10%) greater than this figure (i.e., if there are Ninety-Nine Thousand (99,000) or more
22 Workweeks worked by Class Members), then Defendants agree to increase the Gross Settlement
23 Amount on a proportional basis (i.e., if there is a 12% increase in the number of workweek, Defendants
24 shall increase the Gross Settlement Amount by 2%).

25 51. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member
26 who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid
27 Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class
28 Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the

1 Settlement.

2 52. Releases by Participating Class Members. Upon the Funding Date, and except as to such
3 rights or claims as may be created by this Settlement Agreement, each Participating Class Member,
4 together and individually, on their behalf and on behalf of their respective heirs, executors,
5 administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released
6 Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

7 53. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or
8 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,
9 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,
10 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the
11 Released PAGA Claims during the PAGA Period.

12 54. Defendants' Right to Rescind. Defendants will have, in their sole discretion, the right to
13 void and withdraw from the Settlement if, at any time prior to Final Approval, Ten Percent (10%) or
14 more of Class Members opt out of the settlement. Defendants must exercise this right of rescission in
15 writing to Class Counsel within twenty-one (21) calendar days after the Response Deadline. If the option
16 to rescind is exercised, then Defendants will be solely responsible for all Settlement Administration
17 Costs incurred to the date of rescission.

18 55. Objection Procedures. To object to the Settlement Agreement, a Class Member may
19 either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response
20 Deadline, or appear in person at the Final Approval Hearing. Class Members who fail to object either by
21 submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be
22 deemed to have waived all objections to the Settlement and will be foreclosed from making any
23 objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the
24 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
25 objections to the Settlement Agreement or appeal from the final approval order and judgment. Class
26 Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a
27 Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for
28 Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the

1 Class Member shall not participate in or be bound by the Settlement.

2 56. Certification Reports Regarding Individual Settlement Payment Calculations. The
3 Settlement Administrator will provide Defendants' counsel and Class Counsel a weekly report that
4 certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to
5 the Settlement, and whether any Class Member has submitted a challenge to any information contained
6 in their Class Notice. Additionally, the Settlement Administrator will provide to counsel for both Parties
7 any updated reports regarding the administration of the Settlement Agreement as needed or requested.

8 57. Distribution Timing of Individual Settlement Payments. Within fourteen (14) calendar
9 days of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class
10 Members and PAGA Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and
11 (d) Class Counsel. The Settlement Administrator will also issue a payment to itself for Court-approved
12 services performed in connection with the Settlement.

13 58. Un-cashed Settlement Checks. Funds represented by Individual Settlement Payment
14 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for
15 more than one hundred and eighty (180) calendar days after issuance will be tendered to the State
16 Controller's Office, Unclaimed Property Division to be held pursuant to the Unclaimed Property Law,
17 California Civil Code § 1500 *et seq.*, in the name of the Settlement Class Member to whom the check
18 was issued, until such time that they claim their property.

19 59. Certification of Completion. Upon completion of administration of the Settlement, the
20 Settlement Administrator will provide a written declaration under oath to certify such completion to the
21 Court and counsel for all Parties.

22 60. Treatment of Individual Settlement Payments. All Individual Settlement Payments will
23 be allocated as follows: (a) Twenty Percent (20%) of each Individual Settlement Payment will be
24 allocated as wages for which IRS Forms W-2 will be issued; and (b) Eighty Percent (80%) will be
25 allocated as non-wages for which IRS Forms 1099-MISC will be issued.

26 61. Administration of Taxes by the Settlement Administrator. The Settlement Administrator
27 will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class
28 Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to

1 this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes
2 and penalties to the appropriate government authorities.

3 62. Tax Liability. Defendants make no representation as to the tax treatment or legal effect
4 of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on
5 any statement, representation, or calculation by Defendants or by the Settlement Administrator in this
6 regard.

7 63. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES
8 OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
9 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
10 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND
11 NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES
12 OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
13 WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED
14 OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
15 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
16 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS
17 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
18 ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS
19 AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
20 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY
21 UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
22 ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
23 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
24 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
25 ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER
26 SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
27 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
28 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS

1 AGREEMENT.

2 64. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
3 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
4 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
5 action or right herein released and discharged.

6 65. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
7 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
8 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
9 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
10 likewise be treated as void from the beginning.

11 66. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to request
12 the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval Order
13 for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) preliminary
14 approval of the proposed Settlement Agreement, (c) setting a date for a final fairness hearing. The
15 Preliminary Approval Order will provide for the Class Notice to be sent to all Class Members as
16 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this
17 Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed
18 Notice of Class Action Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting
19 all documents necessary to obtain preliminary approval. Class Counsel will provide Defendants' counsel
20 with the opportunity to review and comment upon drafts of pleadings to be filed in connection with his
21 Motion for Preliminary Approval at least three (3) business days prior to filing such motion with the
22 Court.

23 67. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
24 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
25 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the
26 Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b)
27 the Class Representative Enhancement Payment; (c) Individual Settlement Payments; (d) the LWDA
28 Payment; (e) all Settlement Administration Costs. The final fairness hearing will not be held earlier than

thirty (30) calendar days after the Response Deadline. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will provide Defendants' counsel with the opportunity to review and comment upon drafts of pleadings to be filed in connection with his Motion for Final Approval at least three (3) business days prior to filing such motion with the Court. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the Final Approval Hearing.

68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement Administrator's website.

69. Release by Plaintiff. Upon the Funding Date, and in addition to the claims being released by all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives any and all rights and benefits conferred upon him by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

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

70. In exchange for the above general release, Defendants will pay Plaintiff the sum of Five

1 Thousand Dollars (\$5,000) (“General Release Payment”). The General Release Payment will be paid
2 separately from, and in addition to, the Gross Settlement Amount.

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

6 72. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
7 entirety of the Parties’ settlement terms. No other prior or contemporaneous written or oral agreements
8 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
9 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
10 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
11 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or
12 contradict the terms of this Settlement Agreement.

13 73. Amendment or Modification. No amendment, change, or modification to this Settlement
14 Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved
15 by the Court.

16 74. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
17 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
18 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
19 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
20 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
21 other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to
22 reach agreement on the form or content of any document needed to implement the Settlement, or on any
23 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
24 may seek the assistance of the Court to resolve such disagreement.

25 75. Binding on Successors and Assigns. This Settlement Agreement will be binding upon,
26 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 76. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
28 will be governed by and interpreted according to the laws of the State of California.

1 77. Execution and Counterparts. This Settlement Agreement is subject only to the execution
2 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
3 executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned
4 copies of the signature page, will be deemed to be one and the same instrument.

5 78. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
6 Settlement Agreement is a fair, adequate and reasonable settlement of the Action and have arrived at this
7 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
8 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
9 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
10 fairness and reasonableness of this Settlement.

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

15 80. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
16 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
17 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
18 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

19 81. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
20 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
21 approved, the stipulation to certification will be void. The Parties further agree that certification for
22 purposes of the Settlement is not an admission that class action certification is proper under the standards
23 applied to contested certification motions and that this Settlement Agreement will not be admissible in
24 this or any other proceeding as evidence that either (a) a class action should be certified or (b) Defendants
25 are liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

26 82. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
27 that has arisen between them and to avoid the burden, expense and risk of continued litigation. In
28 entering into this Settlement, Defendants do not admit, and specifically deny, that they violated any

1 federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or
2 any other applicable laws, regulations or legal requirements; breached any contract; violated or breached
3 any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with
4 respect to their employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any
5 of the negotiations connected with it, will be construed as an admission or concession by Defendants of
6 any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to
7 enforce the terms of this Settlement, this Settlement Agreement and its terms and provisions will not be
8 offered or received as evidence in any action or proceeding to establish any liability or admission on the
9 part of Defendants or to establish the existence of any condition constituting a violation of, or a non-
10 compliance with, federal, state, local or other applicable law.

11 83. No Public Comment: Plaintiff and Class Counsel will not publicize the Settlement
12 including, but not limited to, postings on Class Counsel’s website and postings on any social media
13 sites/outlets. Class Counsel will not include or use the Settlement for any marketing or promotional
14 purposes, or for attempting to influence Defendants’ business relationships, either before or after the
15 Motion for Preliminary Approval is filed. Following Preliminary Approval of the Settlement, Plaintiff
16 and Class Counsel will not initiate any communications with the media or third parties. If contacted by
17 the media or third parties, they will only discuss information publicly available. Class Counsel further
18 agrees not to use the Settlement or any of its terms for any marketing or promotional purposes. Nothing
19 herein will restrict Class Counsel from including publicly available information regarding this settlement
20 in future judicial submissions regarding Class Counsel’s qualifications and experience. Class Counsel
21 may refer to the settlement in adequacy of counsel declarations, and following Preliminary Approval,
22 may state on their websites that they settled a wage and hour class action in the Superior Court for
23 \$970,000, and generally describe the claims at issue, provided that they describe Defendants only as a
24 “Defendant Employer.” Further, the Parties understand and agree that Class Counsel may disclose this
25 Settlement if ordered to do so by the Court, e.g., post any settlement documents/orders on their
26 respective websites and/or provide information to Settlement Class Members about this Settlement.

27 84. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
28 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or

1 constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

2 85. Enforcement Actions. In the event that one or more of the Parties institutes any legal
3 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
4 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
5 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
6 expert witness fees incurred in connection with any enforcement actions.

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

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

16 88. All Terms Subject to Final Court Approval. All amounts and procedures described in
17 this Settlement Agreement herein will be subject to final Court approval.

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

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

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 2/25/2023

DocuSigned by:

9A88048D9D6246F...Z

DEFENDANTS

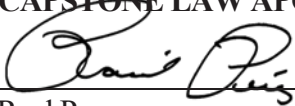
Dated: _____

Tadd Demars
Vice President
Apple Core Enterprises, Inc., AppleValley, Inc.,
Apple Bmont, Inc., AppleCentro, Inc., Apple City,
Inc., Apple Palm, Inc., Apple Quinta, Inc., and
Applexico, Inc.

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: February 27, 2023

By: 

Raul Perez
Attorneys for Plaintiff Jehu Jimenez

JACKSON LEWIS P.C.

Dated: _____

By: _____
Peter J. Woo
Kien C. Tiet
Attorneys for Defendants Apple Core Enterprises,
Inc., AppleValley, Inc., Apple Bmont, Inc.,
AppleCentro, Inc., Apple City, Inc., Apple Palm, Inc.
Apple Quinta, Inc. and Applexico, Inc.

4894-1179-7584, v. 2

1 **READ CAREFULLY BEFORE SIGNING**

2 **PLAINTIFF**

3 Dated: _____

4 Jehu Jimenez

5 **DEFENDANTS**

6 Dated: 03/01/2023

7 Tadd Demars

8 Tadd Demars

9 Vice President

10 Apple Core Enterprises, Inc., AppleValley, Inc.,
11 Apple Bmont, Inc., AppleCentro, Inc., Apple City,
12 Inc., Apple Palm, Inc., Apple Quinta, Inc., and
13 Applexico, Inc.

14 **APPROVED AS TO FORM**

15 **CAPSTONE LAW APC**

16 Dated: _____

17 By: _____

18 Raul Perez

19 Attorneys for Plaintiff Jehu Jimenez

20 **JACKSON LEWIS P.C.**

21 Dated: March 3, 2023

22 By: 

23 Peter J. Wog

24 Kien C. Tiet

25 Attorneys for Defendants Apple Core Enterprises,
26 Inc., AppleValley, Inc., Apple Bmont, Inc.,
27 AppleCentro, Inc., Apple City, Inc., Apple Palm, Inc.
28 Apple Quinta, Inc. and Applexico, Inc.

4894-1179-7584, v. 2

Exhibit A

Jimenez v. Apple Core Enterprises, Inc., No. CIVSB2134762
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN BERNARDINO
NOTICE OF CLASS ACTION SETTLEMENT

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

To: All persons who worked for Defendants Apple Core Enterprises, Inc., AppleValley, Inc., Apple Bmont, Inc., AppleCentro, Inc., Apple City, Inc., Apple Palm, Inc. Apple Quinta, Inc. and Applexico, Inc. (“Defendants”) in California as non-exempt, hourly paid employee at any time during the period from December 12, 2017 through May 1, 2023 (“Class Members”).

All persons who worked for Defendants in California as non-exempt, hourly paid employee at any time during the period from October 15, 2020 through May 1, 2023 (“PAGA Members”).

On _____, the Honorable Joseh T. Ortiz of the San Bernardino County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at ____:00 __.m. on _____, 2023 in Department S17 of the San Bernardino County Superior Court located at 247 West Third Street, San Bernardino, California 92415.

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

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

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [DATE]	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed class settlement, but not the PAGA settlement.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] in Department S17 of the San Bernardino County Superior Court located at 247 West Third Street, San Bernardino, California 92415. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Fund and you will be bound by the terms of the Settlement.

Summary of the Litigation

Plaintiff Jehu Jimenez, on his behalf and on behalf of other current and former non-exempt employees, alleges that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) reimburse employees for necessary business expenses; (4) timely pay all wages owed to employees during each pay period and upon termination of their employment; and (5) provide employees with accurate, itemized wage statements.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On November 29, 2022, the parties participated in a mediation with Marc Feder, Esq., an experienced and well-respected class action mediator. With Mr. Feder’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

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

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

Summary of The Proposed Settlement Terms

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$970,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$5,000 to Jehu Jimenez for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendants; (3) \$323,333 in attorneys’ fees and up to \$20,000 in litigation costs and expenses; (4) a \$80,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$60,000 payment to the California Labor and Workforce Development Agency (“LWDA”) in

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

connection with the PAGA, and a \$20,000 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$_. After deducting the above payments, a total of approximately \$_ will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$20,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendants will calculate the total number of Workweeks worked by each Class Member from December 12, 2017 through May 1, 2023 (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

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

Payments from PAGA Fund. Defendants will calculate the total number of Workweeks worked by each PAGA Member from October 15, 2020 through May 1, 2023 (“PAGA Period”) and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks, resulting in the “PAGA Workweek Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

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

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

Settlement Administrator
c/o _____
Fax No. _____

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

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this

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

settlement, 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

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

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

Released Class Claims: All claims under state, federal or local law, whether statutory, common law or administrative, arising out of or reasonably related to allegations set forth in the Complaint and arising during the Class Period during employment in a non-exempt position in California including, but not limited to, claims for failure to pay earned wages, failure to pay minimum wages, failure to pay overtime compensation, failure to provide meal breaks, failure to authorize and permit rest breaks, failure to reimburse business expenses, failure to provide accurate wage statements, failure to timely pay wages during employment, failure to timely pay final wages, unfair competition, all other alleged violations of the California Business and Professions Code section 17200, *et seq.*, failure to provide reporting time pay, as well as claims for injunctive relief, liquidated damages, penalties of any nature, interest, fees, including fees under California Code of Civil Procedure section 1021.5, costs, and all other claims and allegations made or which could have been made in the Action based on the facts and allegations pled in Plaintiff's PAGA notice and the Complaint.

Released PAGA Claims: All claims for PAGA civil penalties based on the claims that have been pled or could reasonably have been pled, from the factual allegations set forth in Plaintiff's PAGA notice and the operative Complaint.

Option 2 – Opt Out of the Settlement

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

Settlement Administrator

c/o _____

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

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

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will still release the Released PAGA Claims, and will receive a payment from the PAGA Fund.

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

Option 3 – Object to the Settlement

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

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

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

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

Additional Information

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

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

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