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Attorneys for Plaintiff ANTHONY LINGLE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANTHONY LINGLE, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

CENTIMARK CORPORATION, a
Pennsylvania Corporation; and DOES 1 to
100, inclusive,

Defendant.

Case No. 2:22-CV-01471-KJM-JDP

CLASS ACTION

**EXHIBIT LIST AND EXHIBITS IN SUPPORT
OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: January 23, 2025
Time: 10:00 a.m.
Courtroom: 3
Judge: Hon. Kimberly J. Mueller

Filed: December 2, 2021
FAC Filed: July 22, 2022
SAC Filed: October 7, 2022
Trial Date: None Set

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
A	Class and Representative Action Settlement Agreement and Release
B	Plaintiff's Operative Complaint
C	Plaintiff's Letter to the LWDA Regarding PAGA Claims
D	Apex Class Action, LLC, Quote
E	Plaintiff's Itemized Costs
F	Proposed Notice of Class Action Settlement
G	Proof of Submission of Proposed Settlement Agreement to LWDA

Dated: December 16, 2024

Shimoda & Rodriguez Law, PC

By: /s/ Justin P. Rodriguez
 Galen T. Shimoda
 Justin P. Rodriguez
 Renald Konini
 Attorneys for Plaintiff

EXHIBIT A

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND RELEASE**

This Class and Representative Action Agreement and Release (“Agreement”) encompasses the action, *Anthony Lingle v. CentiMark Corporation*, U.S.D.C. Eastern District of CA, Case No. 2:22-cv-01471-JDP, which is the Second Amended Complaint filed on October 7, 2022.

This Agreement is entered into between Plaintiff Anthony Lingle (“Plaintiff”) individually and on behalf of all others similarly situated, as well as on behalf of the State of California with respect to the PAGA Members, and Defendant CentiMark Corporation (“Defendant”). The Plaintiff and Defendant are the “Parties.”

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Class Claims” and “Released PAGA Claims” (as defined below) on a class and representative action basis pertaining to the “Released Parties” (as defined below) upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon final Court approval, contains the essential terms of the Parties’ agreement. Plaintiff and Class Counsel believe, and the Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits upon the Class, PAGA Members, and the State of California.

DEFINITIONS

1. Action

“Action” means both (a) the civil action filed by Plaintiff entitled *Anthony Lingle v. CentiMark Corporation*, U.S.D.C. Eastern District of CA, Case No. 2:22-cv-01471-JDP, which is the Second Amended Complaint filed on October 7, 2022, and (b) the related PAGA Notice Letter filed by the Plaintiff on November 19, 2021. The Parties agree that the Action includes all claims and causes of action alleged in the Second Amended Complaint and in the related PAGA Notice Letter.

2. Class Counsel

“Class Counsel” means Shimoda & Rodriguez Law, PC

3. Class Counsel Award

“Class Counsel Award” means the attorney’s fees for Class Counsel’s litigation and resolution of the Action, and Class Counsel’s actual expenses and costs incurred and to be incurred in connection with the Action.

4. Class Information

“Class Information” or “Class Data” means information on the Class Members compiled from Defendant’s records and provided to the Settlement Administrator in a Microsoft Excel spreadsheet, including each Class Member’s full name; last known address; social security number; dates of employment; and additional information sufficient for the Settlement Administrator to determine the Workweeks and Pay Periods for each Class Member and each PAGA Member.

5. Class Members

“Class” or “Class Members” means all non-exempt employees, excluding any individuals employed solely as office or administrative staff, who have or continue to work for CentiMark in California, and who have not signed, or opted out of, an arbitration agreement, during the Class Settlement Period.

6. Class Settlement

“Class Settlement” means the settlement and resolution of the Released Class Claims.

7. Class Settlement Period

“Class Settlement Period” is from July 11, 2018 until the earlier of the following two dates: (a) November 19, 2023, or (b) the date that the Court grants preliminary approval of the settlement.

The Parties acknowledge and agree that Defendant CentiMark entered into a prior settlement agreement, *Ramon Mata v. CentiMark Corporation*, San Bernardino County Superior Court, Case No. CIVDS1707640, that resolved the same claims alleged in the instant Action. (the “*Mata Settlement*”). The Parties also acknowledge and agree that the covered period by the *Mata Settlement* was September 7, 2012 through July 10, 2018.

8. Class Representative

The “Class Representative” is Plaintiff Anthony Lingle.

9. Class Representative Enhancement Award

“Class Representative Enhancement Award” means the amount that the Court authorizes to be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payment and/or Individual PAGA Payment, in recognition of Plaintiff’s efforts and risks in assisting with the prosecution of the Action and in return for executing a general release of claims with Defendant.

10. Class Representative Released Claims

Class Representative does not release his claims raised in his single plaintiff action for wrongful termination, which is pending in Placer County Superior Court, and was filed on August 4, 2022, Case No, S-CV-0048878 (the "Single Plaintiff Action").

“Class Representative Released Claims” means, with the exception of the claims in the Single Plaintiff Action, all known and unknown claims against the Released Parties, including the Released Claims (defined herein) as well as other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act (“PAGA”), claims under the Fair Labor Standards Act (“FLSA”), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum and overtime wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to Class Representative’s relationship, or termination of the relationship, with any Released Party through the date of Final Approval for any type of relief. Class Representative further covenants that, other than his pending Single Plaintiff Action, he will not become a member of any other legal actions against the Released Parties asserting any of Class Representative’s Released Claims, and will opt out of any such actions if necessary. For the avoidance of

doubt, this is a complete and general release of all claims to the maximum extent permitted by law.

The scope of this release does not include the claims raised in Plaintiff's pending Single Plaintiff Action, or claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

11. Court

"Court" means the United States District Court for the Eastern District of California in Sacramento, California.

12. Defendant

"Defendant" means Defendant CentiMark Corporation.

13. Effective Date

"Effective Date" means the date when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (ii) if one or more Participating Class Members objects to the Settlement and no appeal was filed, the day after the deadline for filing a notice of appeal from the Judgment has expired; or (iii) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

14. Final Approval Hearing

"Final Approval Hearing" means the final hearing at which the Court reviews the fairness, reasonableness, and adequacy of the Settlement and decides whether the Settlement meets all requirements for final approval.

15. Final Judgment

"Final Judgment" means a judgment issued by the Court approving this Agreement as binding upon the Parties following the Final Approval Hearing.

16. Gross Settlement Amount

“Gross Settlement Amount” means the total maximum amount payable under the terms of this Agreement by Defendant, which is the gross sum of \$600,000.00 (Six-Hundred Thousand Dollars and Zero Cents), subject to the “Modification Provision” below, which includes: the Individual Settlement Payments to Participating Class Members; payment of the Settlement Administration Costs as approved by the Court; the Class Representative Enhancement Award to Plaintiff as approved by the Court; a payment to Class Counsel of attorney’s fees of one-third of the Gross Settlement Amount and reasonable litigation costs which shall be approved by motion with the Court; and the PAGA Payment.

Payment of the amount necessary to cover the employer’s portion of payroll taxes associated with the portion of the settlement allocated to wages shall be made by Defendant, separate and apart from the Gross Settlement Amount.

The Settlement Administrator will make all required tax deductions and payments using a Qualified Settlement Fund. As set forth herein, the Settlement Administrator will issue all of the above-referenced payments from the Qualified Settlement Fund in accordance with the applicable provisions of this Agreement.

a. Modification Provision:

At the August 21, 2023 mediation date, CentiMark represented that an extrapolation of the workweeks for both the Settlement Class and PAGA Members is 24,871 from July 11, 2018, to August 21, 2023 (the "Mediation Period"). For purposes of this calculation, the total number of weeks worked attributable to the Settlement Class and the total of weeks worked attributable to PAGA Members are separate and have been added together. The Parties agree that if, once the data covering the Mediation Period is reviewed by the Settlement Administrator, and the actual number of workweeks during the Mediation Period is more than ten percent (10%) greater than 24,871 (or greater than 27,359 workweeks), then the GSA shall increase by \$24.13 for each additional workweek. For example, if the actual number of workweeks during the Mediation Period is 27,400, then the GSA will increase in the amount of \$989.33.

17. Individual PAGA Payment

“Individual PAGA Payment” means the amounts paid from the PAGA Payment to PAGA Members that shall, in the aggregate, comprise 25% of the PAGA Payment,

in the amount of Thirty-Five Thousand Dollars (\$35,000.00) as consideration for Settlement of claims for civil penalties under the PAGA.

18. Individual Settlement Payment

“Individual Settlement Payment” means the amount paid from the Net Settlement Amount to a Participating Class Member. Any Class Member who timely submits a valid Request for Exclusion pursuant to the procedures set forth herein is not a Participating Class Member and is not eligible to receive an Individual Settlement Payment.

19. LWDA

“LWDA” means the California Labor and Workforce Development Agency.

20. LWDA PAGA Payment

“LWDA PAGA Payment” means the amount of One-Hundred Five Thousand Dollars and Zero Cents (\$105,000.00) to be paid to the LWDA as its 75% share of the PAGA Payment, as consideration for Settlement of claims for civil penalties under PAGA.

21. Net Settlement Amount

“Net Settlement Amount” means the Gross Settlement Amount less the Court-approved Class Counsel Award, the Class Representative Enhancement Award, the PAGA Payment, and the Settlement Administration Costs. The Net Settlement Amount is the total amount that will be paid to Participating Class Members in the form of Individual Settlement Payments.

22. Notice of Class Action Settlement

“Notice of Class Action Settlement” or “Notice” means the notice approved by the Parties and subject to Court approval, substantially in the form of **Exhibit A** hereto, explaining the terms of this Agreement and the settlement process, which the Settlement Administrator will mail to each Settlement Class Member.

23. PAGA

“PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698 et seq.

24. PAGA Members

“PAGA Members” means all non-exempt employees, excluding any individuals employed solely as office or administrative staff, who have or continue to work for CentiMark in California during the PAGA Settlement Period.

25. PAGA Notice Letter

“PAGA Notice Letter” is the PAGA Notice Letter filed by Plaintiff Lingle with the LWDA and November 19, 2021.

26. PAGA Payment

“PAGA Payment” means the portion of the Gross Settlement Amount that shall be allocated to claims under the PAGA. The Parties have agreed to allocate One-Hundred Forty Thousand Dollars and Zero Cents (\$140,000.00). Seventy-five percent (75%) shall be payable to the LWDA (i.e., the LWDA PAGA Payment) and the remaining twenty-five percent (25%) shall be used to pay the Individual PAGA Payments to PAGA Members in settlement of all claims for PAGA penalties as defined in this Agreement.

27. PAGA Settlement Period

“PAGA Settlement Period” means the period from May 17, 2021 until the earlier of the following two dates: (a) November 19, 2023, or (b) the date that the Court grants preliminary approval of the settlement.

28. Participating Class Members

“Participating Class Members” means those Class Members who do not file a valid and timely Request for Exclusion.

29. Parties

“Parties” means Plaintiff and Defendant, collectively.

30. Pay Periods

“Eligible Pay Period” means any pay period in which a PAGA Member worked for any amount of time for Defendant during the PAGA Settlement Period according to Defendant’s records.

31. Pay Periods Dispute

“Pay Periods Dispute” means a Class Member’s written letter disputing the pre-printed information on the Notice of Class Action Settlement as to the amount of one’s Pay Periods during the PAGA Period, and the dispute must: (a) contain the case name and number of the Action; (b) contain the Class Member’s full name, signature, address, telephone number, and last four (4) digits of Social Security number; (c) clearly state the dispute about the Pay Periods credited and what the PAGA Member contends is the correct number; (d) attach any documentation that supports PAGA Member’s position; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

32. Plaintiff

“Plaintiff” means Plaintiff Anthony Lingle.

33. Preliminary Approval Date

“Preliminary Approval Date” means the date on which the Court issues an order granting preliminary approval of the proposed Settlement.

34. Qualified Settlement Fund

“Qualified Settlement Fund” or “QSF” means the account established by the Settlement Administrator which the Parties agree will at all times be treated as a “qualified settlement fund” within the meaning of Treas. Reg. §1.468B-1, *et seq.*

35. Released Class Claims

“Released Class Claims” shall mean all claims and/or causes of action under any state, local, or federal law or administrative regulation brought by Participating Class Members against the Released Parties, and that were or could have been alleged based on the allegations in the Action, including all class claims stated in

the Action alleging violations of Labor Code sections 201, 202, 203, 221, 223, 225, 226(a), 226 et seq, 226.3, 226.7, 245 *et seq*, 256, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 2802, and IWC Wage Order 16, including, *inter alia*, sections 3, 4, 11, 12, and section 17200 *et seq* of the California Business and Professions Code, and:

- (a) All claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, including driving time, and the alleged failure to pay for all time worked at correct rates;
- (b) All claims for unpaid wages due to alleged rounding of records of time worked and meal periods.
- (c) All claims for unpaid regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave.
- (d) All claims for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, "on call," and otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;
- (e) All claims for rest break violations, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, "on call" rest breaks and otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates;
- (f) All claims for paid sick leave violations, including the failure to (1) accurately accrue paid sick leave, (2) accurately provide notice of accrued sick leave, (3) accurately provide paid sick leave, and (4) provide paid sick leave at the correct regular rates.
- (g) All claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code;
- (h) All claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phones, tools and materials for work, and meal expenses;
- (i) All claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9)

based on the allegations in the Action, including the allegations that wage statements lacked the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;

- (j) All claims for the alleged failure to keep accurate records in violation of Section 1174 of the Labor Code;
- (k) All claims for failure to pay contract wages or for making unlawful deductions from wages in violation of Sections 221, 223, and 225 of the Labor Code;
- (l) All claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claims, and causes of action alleged in the Action; and
- (m) All claims for statutory penalties, liquidated damages, punitive damages, interest, attorney's fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the allegations in the Action.

The period of the Released Claims will extend for the Settlement Class Period.

36. Released PAGA Claims

"Released PAGA Claims" shall mean all claims and causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code sections 201, 202, 203, 221, 223, 225, 226(a), 226 et seq, 226.3, 226.7, 245 et seq, 246, 246.5, 248.5, 256, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1194.2, 1197, 1197.1, 2802, and IWC Wage Order 16, including, *inter alia*, sections 3, 4, 11, 12, and:

- (a) All claims for PAGA penalties based on the alleged failure to pay wages earned, including minimum, overtime, and double-time wages, the alleged failure to pay for all time worked including driving time, and the alleged failure to pay for all time worked at correct rates;
- (b) All claims for PAGA penalties based on the alleged failure to pay for all time worked due to rounding of records of time worked and meal periods;

- (c) All claims for PAGA penalties based on the alleged failure to pay regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave;
- (d) All claims for PAGA penalties based on the alleged failure to provide compliant meal periods, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, "on call," and otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;
- (e) All claims for PAGA penalties based on the alleged failure to provide compliant rest breaks, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, "on call" and otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates;
- (f) All claims for PAGA penalties for alleged paid sick leave violations, including the failure to (1) accurately accrue paid sick leave, (2) accurately provide notice of accrued paid sick leave, (3) accurately provide paid sick leave, and (4) provide paid sick leave at the correct regular rates.
- (g) All claims for PAGA penalties for the untimely payment of final wages under sections 201 to 203 of the Labor Code Section;
- (h) All claims for PAGA penalties for allegedly unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phones, tools and materials for work, and meal expenses;
- (i) All claims for PAGA penalties for allegedly improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;
- (j) All claims for PAGA penalties for the alleged failure to keep accurate records in violation of Section 1174 of the Labor Code;

- (k) All claims for PAGA penalties for the alleged failure to pay contract wages or for making unlawful deductions from wages in violation of Sections 221, 223, and 225 of the Labor Code;
- (l) And all other claims for PAGA penalties alleged in the Action.

The period of the Released PAGA Claims will be the PAGA Settlement Period.

37. Released Parties

“Released Parties” means Defendant CentiMark Corporation and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, benefit plans, subsidiaries, affiliates, successors, and assigns.

38. Request for Exclusion

“Request for Exclusion” means a Class Member’s written letter indicating a request to be excluded from the Class Settlement.

39. Response Deadline

“Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator mails the Notice of Class Action Settlement to Class Members, which is the last date on which Class Members may: (a) submit a Request for Exclusion; (b) submit objections to the settlement; or (c) dispute the information contained in the Notice of Class Action Settlement. If the forty-fifth (45th) day falls on a Sunday or State or Federal holiday, then the deadline is extended to the next business day.

40. Settlement

“Settlement” or “Agreement” means this Class and Representative Agreement and Release.

41. Settlement Administrator

“Settlement Administrator” means Apex Class Action, LLC, the third-party company that is responsible for administering the settlement, mutually agreed to by

the Parties and appointed by the Court upon Class Counsel's motion for preliminary approval of this Settlement.

42. Settlement Administrator Costs

"Settlement Administrator Costs" means the amount to be paid to the Settlement Administrator from the Gross Settlement Amount for administration of this Settlement.

43. Workweeks

"Workweeks" means any workweek in which a Class Member worked for any amount of time for Defendant during the Class Period according to Defendant's records.

44. Workweeks Dispute

"Workweeks Dispute" means a Class Member's written letter disputing the pre-printed information on the Notice of Class Action Settlement as to the amount of one's Workweeks during the Class Period, and the dispute must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security number; (c) clearly state the dispute about the Workweeks credited and what the Class Member contends is the correct number; (d) attach any documentation that supports Class Member's position; and (e) be submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

RECITALS

45. Procedural History

On December 2, 2021, Plaintiff Anthony Lingle filed a putative class action complaint alleging several wage and hour claims against Defendant. On November 19, 2021, Plaintiff Lingle filed a PAGA Letter with the LWDA seeking PAGA civil penalties for alleged wage and hour violations by the Defendant. On July 22, 2022, Plaintiff Lingle filed a First Amended Complaint that included the PAGA claim. On August 4, 2022, Plaintiff Lingle filed a single plaintiff action for

wrongful termination. On October 7, 2022, Plaintiff Lingle filed a Second Amended Complaint as a class and representative action.

On August 21, 2023, the Parties participated in a mediation session with Louis Marlin, Esq., a prominent mediator experienced in resolving wage and hour class and representative actions. As a result of the mediator's efforts, the Parties reached an agreement to settle all claims and causes of action alleged in the Action by the Plaintiff under the California Labor Code, the California Business and Professions Code, the applicable California Wage Order, and the PAGA.

Before the mediation, Defendant produced extensive documentation including time and pay data, policy documents, class size information, pay period and workweek information, and information regarding the hourly rates of the settlement class members. Defendant provided discovery sufficient to enable Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages arising from the claims made in this case.

46. No Admission

Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Action. Defendant also disputes the damages and penalties claimed by Plaintiff, and further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendant as to the merits of the claims asserted in the Actions or in any other proceeding.

Defendant contends that at all times it has complied with all applicable state, federal and local laws related to the Class Members' employment. Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant collectively or individually, or as an admission that class or representative action treatment would be allowed outside the settlement context. The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent PAGA litigation.

Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall be inadmissible as evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendant to support a stay of such subsequent action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

47. Benefits of Settlement to Class and PAGA Members

Class Counsel investigated the facts relevant to the Action, including reviewing documents and information provided by Defendant. Based on their own independent investigation and evaluation, Class Counsel believes that the Settlement with Defendant is fair, reasonable and adequate, and in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a class trial, and numerous potential appellate issues. Accordingly, the Parties and their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Actions on the terms set forth herein.

Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to, the defense of the claims asserted by Plaintiff in the Action. Defendant has also taken into account the risks of further litigation in reaching the decision to enter into this Settlement. Even though Defendant continues to contend that it is not liable for any of the claims set forth by Plaintiff in the Action, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims in the Action.

48. Settlement of Disputed Claims

This Agreement is a compromise of disputed claims. Defendant has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. Plaintiff and Participating Class Members and PAGA Members have claimed and continue to claim that the Released Class Claims and the Released PAGA Claims have merit and give rise to liability on the part of Defendant. Nothing contained in this Agreement, no

documents referred to herein, and no action taken to carry out this Agreement, may be construed or used as an admission by or against the Participating Class Members or Class Counsel as to the merits or lack thereof of the claims asserted in this Action.

TERMS OF AGREEMENT

49. Release for All Participating Class Members

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiff and all Participating Class Members, as well as their spouses, heirs, executors, administrators, trustees and/or permitted assigns, hereby do and 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 Released Class Claims. These releases will take effect whether or not a Participating Class Member receives his or her Individual Settlement Payment or cashes and deposits any check for the Individual Settlement Payment.

50. Release for All PAGA Members

Upon the Effective Date and full funding of the Gross Settlement Amount, as Representatives of the State of California and on behalf of the LWDA, Plaintiff and all PAGA Members fully and finally release the Released Parties from the Released PAGA Claims for the PAGA Settlement Period. These releases will take effect whether or not a PAGA Member receives his or her Individual PAGA Payment or cashes and deposits any check for the Individual PAGA Payment.

51. Release of Claims by Plaintiff

With the exception of the claims alleged in the Single Plaintiff Action, as of the Effective Date and full funding of the Gross Settlement Amount, Plaintiff releases the Released Parties from all the Class Representative Released Class and PAGA Claims. Plaintiff's release set forth herein includes a waiver of all rights under California Civil Code §1542, which provides:

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.**

Plaintiff may hereafter discover claims or facts in addition to, or different from, those which he knows or believes to exist, but Plaintiff expressly agrees to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist against Defendant at the time of the execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiff's employment with Defendant.

52. The Motion for Preliminary Approval

Class Counsel shall be responsible for preparing the Motion for Preliminary Approval. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Plaintiff will review and consider in good faith any comments/edits Defendant's Counsel may propose to any preliminary approval documents.

53. Settlement Administrator

Within twenty-one (21) calendar days following the date that the Court grants Preliminary Approval of this Agreement, Defendant shall provide the Settlement Administrator with the Class Information for purposes of mailing the Notice of Class Action Settlement to the Class Members. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities other than Counsel for Defendant, except that relevant information can be provided to Class Counsel, on an individual basis only, and only when necessary for Class Counsel to respond to specific inquiries or requests from individual Class Members. However, Class Counsel shall be able to review disbursement calculations prior to any notice mailings to ensure accuracy and quality control as described below. But the Administrator must omit any personal identifying information in data provided to Class Counsel.

The Class Information is being supplied solely for purposes of the administration of the Settlement set forth in this Agreement and cannot be used by the Settlement Administrator or Class Counsel for any other purpose. The Parties agree that the

Class Information will not be used to solicit Class Members to file any claim, charge or complaint of any kind whatsoever against Defendant and will only be used to administer the Settlement under the terms provided herein.

a. Notice by First Class U.S. Mail.

No later than twenty-one (21) calendar days after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the Class Information. Upon receipt of the Class Information, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. Within fourteen (14) calendar days of receipt of the Class Information, the Settlement Administrator will mail copies of the Notice of Class Action Settlement to all Class Members via regular First-Class U.S. Mail, postage prepaid. The Settlement Administrator shall maintain all information received from Defendant confidential to itself, and Defendant's Counsel. However, Class Counsel shall be able to review the breakdown of Workweeks and estimated Individual Settlement Amounts for Class Members and PAGA Members prior to mailing for quality assurance provided the personal identifying information is redacted and/or omitted. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member, including performing a skip-trace to identify any updated addresses. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. The form of the proposed Notice of Class Action Settlement will be agreed to by the Parties, and subject to Court approval and modification as necessary to fulfill the Parties desire to resolve the case.

b. Undeliverable Notices.

Any Notice of Class Action Settlement returned to the Settlement Administrator as undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding address affixed thereto. If no forwarding address is affixed, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security Number of the Class Member whose notice was undeliverable, and shall then re-mail all returned, undelivered mail within five (5) calendar days of receiving notice that a Notice of Class Action Settlement was undeliverable. Class Members who receive a re-mailed Notice of Class Action Settlement shall respond by the end of the Class Notice Period or ten (10) calendar days from the date of re-mailing the Class Notice, whichever is later.

c. Disputes Regarding Individual Settlement Payments and Individual PAGA Payments.

Class Members and PAGA Members will have the opportunity, should they disagree with the number of Workweeks or Pay Periods stated on their Notice of Class Action Settlement by submitting a Workweeks Dispute, postmarked on or before the Response Deadline. If there is a Workweeks Dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility of each Class and PAGA Member's eligibility for, and the amounts of, their Individual Settlement Payment and Individual PAGA Payment under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment and Individual PAGA Payment will be binding upon the Parties. In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records will be given a rebuttable presumption of accuracy.

d. Disputes Regarding Administration of Settlement.

Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to attempt to resolve the dispute without involving the Court.

e. Exclusions.

The Notice of Class Action Settlement shall state that Class Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address and telephone number of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address.

The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid

and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action.

Any Class Member who requests to be excluded from the Class Settlement will not be entitled to any recovery under the Class Settlement and will not be bound by the terms of the Class Settlement or have any right to object to or appeal the class settlement.

Any Request for Exclusion has no effect on the PAGA Settlement; Any Class Member who is also considered a PAGA Member will still be issued their Individual PAGA Payment and be bound by the PAGA Settlement, regardless of whether they submit a Request for Exclusion.

No later than seven (7) calendar days after the Response Deadline, the Settlement Administrator will provide counsel for the Parties with a complete list of all members of the Class who have timely submitted a Request for Exclusion.

f. Objections.

The Notice of Class Action Settlement shall state that Participating Class Members who wish to object to the Settlement may do so in person (or other method of personal appearance permitted by the court, e.g., Zoom) at the Final Approval Hearing and/or in writing. Any written objection ("Notice of Objection") must be mailed to the Settlement Administrator by the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means for determining that a Notice of Objection was timely received.

The Notice of Objection must be signed by the Settlement Class Member and state: (1) the full name and address of the objecting Settlement Class Member; (2) the factual and/or legal basis for the objection; and (3) whether the Settlement Class Member intends to appear at the Final Approval Hearing. Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator by the Response Deadline is filed with the Court along with the Motion for Final Approval.

Any of the Parties may file a response to any objection before the Final Approval Hearing. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice no later

than the Response Period Deadline. Any Settlement Class Member who fails to submit a timely written objection or to present an objection in person at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement whether by appeal or otherwise.

54. No Solicitation of Settlement Objections or Exclusions

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement or file Requests for Exclusion, or to appeal from the Court's Final Judgment.

55. Funding of the Qualified Settlement Fund

No later than seven (7) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Gross Settlement Amount into the QSF. The Settlement Administrator will also inform Defendant of the amount to be sent to the QSF to pay for the employer's share of payroll taxes. No later than thirty (30) calendar days after the Effective Date, Defendant shall fund the QSF.

56. Net Settlement Amount

The Net Settlement Amount will be determined by the Settlement Administrator by subtracting the Class Counsel Award, Class Representative Enhancement Award, PAGA Payment, and Settlement Administrator Costs from the Gross Settlement Amount. The anticipated Net Settlement Amount is \$220,000.00. The Parties estimate the amount of the Net Settlement Amount to be calculated as follows:

Gross Settlement Amount	\$600,000.00
Class Rep. Enhancement Award	\$10,000.00
Requested Class Counsel Fees	\$200,000.00
Requested Class Counsel Expenses	Up to \$15,000
Total PAGA Payment	\$140,000.00
Settlement Administrator Costs	\$15,000
Net Settlement Amount -- \$220,000.00	

This is a non-reversionary Settlement in which Defendant will pay the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to

Defendant. The employer's share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to the FICA and FUTA contributions, if applicable, shall be paid separately from, and in addition to, the Gross Settlement Amount. Any award of less than the amounts requested for enhancements, administrative costs, litigation costs, or attorney's fees will be returned to the Net Settlement Amount and distributed to the Participating Class Members.

57. Settlement Dates

Class Counsel shall provide Defendant's Counsel a draft Motion for Preliminary Approval for Defendant's review and input.	5 calendar days in advance of filing.
Defendant provides the Class Information to the Administrator	21 calendar days after the Court grants Preliminary Approval
Settlement Administrator to mail Notice of Class Action Settlement	14 calendar days after receipt of the Class Information
Settlement Administrator to re-mail Notice of Class Action Settlement	5 calendar days after receipt of notice that the Notice of Class Action Settlement was undeliverable.
Response Deadline to the Notice of Class Action Settlement	45 calendar days after mailing
New Response Deadline to the Notice of Class Action Settlement for those receiving re-mailed Notices of the Class Action Settlement	The original Response Deadline or 10 calendar days from the date of remailing, whichever is later.
Settlement Administrator to provide counsel for the Parties a complete list of all Class Members who timely submitted a Request for Exclusion and a Declaration regarding the statistics and responses of settlement administration to date	14 calendar days after the Response Deadline

Defendant has the option to nullify the Settlement.	10 calendar days after notification by the Settlement Administrator that more than 10% of the Class Members submitted valid Requests for Exclusion.
Class Counsel shall provide Defendant's Counsel a draft Motion for Final Approval for Defendant's review and input.	5 calendar days in advance of filing.
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or PAGA Members, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel Settlement Administrator shall send to Defendant's Counsel the electronic wiring instructions for the Settlement Amount.	7 calendar days after the Effective Date.
Defendant shall fund the QSF.	30 calendar days after the Effective Date.
Settlement Administrator shall mail Individual Settlement Payments	7 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail Individual PAGA Payments	7 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the LWDA PAGA Payment.	7 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the Class Representative Enhancement Awards	7 calendar days after Defendant funds the QSF.

Settlement Administrator shall mail the Class Counsel Award	7 calendar days after Defendant funds the QSF.
Settlement Administrator shall be paid the Settlement Administrator Costs.	7 calendar days after the Defendant funds the QSF
Settlement Administrator shall mail reminder postcards to the Participating Class Members and PAGA Members whose settlement checks were not returned or cashed.	100 calendar days <u>before</u> the Individual Settlement Payments and Individual PAGA Payments expire.
Check Cashing Deadline for Class Members and PAGA Members	180 calendar days after the mailing of the Individual Settlement Payments and Individual PAGA Payments
Settlement Administrator shall send any remaining funds to Salvation Army Sacramento Metro	14 calendar days after the check cashing deadline
Settlement Administrator shall provide a compliance declaration to the Parties	21 days after the check cashing deadline

58. Individual Settlement Payments

Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula as follows:

- (i) After preliminary approval of the Settlement, using the Class Information, the Settlement Administrator will compute the total number of Workweeks of all Participating Class Members collectively during the Class Period, and this sum shall be known as the Workweek Total; (ii) the Settlement Administrator will divide the Net Settlement Amount by the Workweek Total to determine the settlement value for each Eligible Workweek (the "Workweek Value"); and (iii) the Settlement Administrator will multiply the number of Workweeks of a Participating Class Member during the Class Period by the Workweek Value to determine that Participating Class Member's estimated Individual Settlement Payment.

- (ii) After final approval of the Settlement, the Settlement Administrator will divide the Net Settlement Amount by the Workweek Total to determine the settlement value for each Eligible Workweek (the "Workweek Value") and multiply the number of Workweeks of a Participating Class Member during the Class Period by the Workweek Value to determine that Participating Class Member's final Individual Settlement Payment.

Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to each Participating Class Member's last known mailing address within fifteen (15) calendar days after Defendant fully funds the settlement.

59. PAGA Payments

A total amount of \$140,000.00 from the Gross Settlement Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, seventy-five percent (75%) of this amount will be the LWDA PAGA Payment to be paid to the LWDA and the remaining twenty-five (25%) shall be distributed to the PAGA Members as Individual PAGA Payments. Any portion of the PAGA Payment not approved by the Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court shall be paid from the Gross Settlement Amount; in no event shall Defendant be required to pay in excess of the Gross Settlement Amount in such circumstances.

The LWDA PAGA Payment will be paid to the LWDA within fifteen (15) calendar days after Defendant fully funds the settlement.

The remaining 25% of the PAGA Payment to be distributed to the PAGA Members as Individual PAGA Payments and shall be distributed based on a pro rata share based on the number of Pay Periods during the PAGA Settlement Period. To establish the pay period value, the Settlement Administrator will first determine the total number of Pay Periods during the PAGA Settlement Period. The pay period value will be equal to 25% of the PAGA Payment divided by the total number of Pay Periods worked by PAGA Members during the PAGA Settlement Period. The pay period value will be rounded to the nearest cent. The amount of the Individual PAGA Payment to be paid to each PAGA Member will be determined by multiplying the pay period value by the total number of Pay Periods. Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each PAGA Member's last known mailing address within fifteen (15) calendar days after Defendant fully funds the settlement.

60. Class Representative Enhancement Award

Plaintiff will make an application to the Court for a Class Representative Enhancement Award of up to \$10,000.00. The Class Representative Enhancement Award shall be paid to Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar days after Defendant fully funds the Settlement. The Class Representative Enhancement Award shall be in addition to the Plaintiff's Individual Settlement Payment as a Participating Class Member and Individual PAGA Payment as a PAGA Member. Any amount requested by Plaintiff for the Class Representative Enhancement Award that is not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement. In the event the Court reduces or does not approve the requested Class Representative Enhancement Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiff or Class Counsel seek, request, or demand an increase to the Gross Settlement Amount on that basis.

61. Class Counsel Award

Class Counsel will file a motion for attorney's fees in the amount of up to one-third of the Gross Settlement Amount, and for the reimbursement of reasonable litigation costs and expenses associated with Class Counsel's prosecution of this matter, not to exceed \$15,000, to be paid from the Gross Settlement Amount. Class Counsel shall be paid the Class Counsel Award no later than fifteen (15) calendar days after Defendant fully funds the settlement. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorney's fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiff and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiff or Class Counsel seek, request, or demand an increase to the Gross Settlement Amount on that basis.

62. Tax Treatment

The Settlement Administrator will report each payment made from the Qualified Settlement Fund to state and federal government authorities, including the Internal

Revenue Service, to the extent required by law. All Individual Settlement Payments shall be allocated as follows: 20% as wages and 80% as penalties and interest. The 20% portion of Settlement Payments subject to required withholdings and deductions by the Settlement Administrator shall be reported on a Form W-2 (and such other state or local tax reporting forms as may be required by law) with respect to the year of payment as wage income to the Settlement Class Member by the Settlement Administrator on behalf of the Qualified Settlement Fund. All Individual PAGA Payments shall be allocated as 100% penalties, for which a Form 1099 will be issued if required. The Settlement Administrator shall issue I.R.S. Form 1099 if required for the remaining payments under this Agreement. Defendant shall solely be responsible for paying the employer's share of payroll taxes on the amounts allocated as wages, which amount shall be paid separately from the Gross Settlement Amount. Plaintiff, any Participating Class Member and any PAGA Member who receives any Individual Settlement Payment or Individual PAGA Payment should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Participating Class Members, PAGA Members and Class Counsel shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this Settlement. The Notice will advise each Class and PAGA Member to seek his/her own personal tax advice prior to acting in response to the Notice, and Defendant, the Class Representative, and Class Counsel agree that each Class and PAGA settlement member will have an adequate opportunity to seek tax advice prior to acting in response to the Notice.

63. No Tax Advice

Defendant has not made any representations as to the taxability to any Participating Class Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding the Individual PAGA Payments, the payment of any attorney's fees and expenses to Class Counsel, or the payment of the Class Representative Enhancement Award to the Class Representative. Neither Plaintiff, Class Counsel, nor Defendant's Counsel are providing any 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.

64. Unclaimed Settlement Payment(s)

After one hundred and eighty (180) calendar days of the mailing of the Individual Settlement Payments and Individual PAGA Payment checks, any remaining funds attributable to unclaimed, undeliverable, or expired Individual Settlement Payment checks and/or Individual PAGA Payment checks shall be deposited to the Salvation Army Sacramento Metro. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384 under California law, whether or not they all cash their Individual Settlement Payments, and Defendant will not be required to pay any interest on said amount.

As part of the administration, one hundred (100) calendar days before the Individual Settlement Payment and Individual PAGA Payment checks expire, the Settlement Administrator shall mail reminder postcards to those Participating Class Members and PAGA Members whose settlement checks were not returned undeliverable and who have not cashed their checks.

65. Settlement Administrator Costs

The Settlement Administrator has provided a settlement administration quote for \$7,766.25. Upon filing the motion for Final Approval, Plaintiff will request the Court to award an amount equal to the actual administration costs. The Settlement Administrator shall have the authority and obligation to make payments, credits and disbursements to Participating Class Members and PAGA Members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement Administration process and to make reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement. The Settlement Administrator shall be paid the Settlement Administrator Costs no later than fifteen (15) calendar days after Defendant fully funds the settlement. Any amount requested for the Settlement Administrator Costs and not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

66. Settlement Administrator Duties

In addition to establishing the Qualified Settlement Fund, the Settlement Administrator shall be responsible for the following: creating a plan of settlement administration and settlement fund distribution; using the Class Information to calculate each Class Member's approximate Individual Settlement Payment and

each PAGA Member's Individual PAGA Payment; ascertaining the identity and whereabouts of the Class Members and mailing Notice of Class Action Settlement out to them; communicating with Class Members as necessary; printing and mailing the Notice of Class Action Settlement and tax forms to the Participating Class Members and PAGA Members as directed by the Court (including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s); receiving and reporting requests for exclusion and objections; processing and mailing payments to Plaintiff, Class Counsel, Participating Class Members, the LWDA and PAGA Members; notifying the Parties of, and resolving any disputes regarding, the calculation of Participating Class Members' Individual Settlement Payments or PAGA Members' Individual PAGA Payments; complying with all tax reporting notice and filing requirements; carrying out all other duties related to the Qualified Settlement Fund's documentation and filing; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; providing status reports as needed, among other administrative duties; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiff, Class Counsel, Defendant and Defendant's Counsel shall not bear any responsibility for any errors or omissions in the calculation or distribution of the Individual Settlement Payments, Individual PAGA Payments, or any other distribution of monies contemplated by this Agreement.

67. Final Approval Hearing and Entry of Final Judgment

Upon expiration of the Response Deadline, with the Court's permission, a Final Approval Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for: (a) the Class Counsel Award; (b) the Class Representative Enhancement Award; (c) Individual Settlement Payments; (d) the PAGA Payments to the LWDA and to PAGA Members and (e) Settlement Administrator Costs.

68. Final Approval Order

Plaintiff will request, and Defendant will concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order and a Final Judgment. Plaintiff will request that the Final Approval Order certify the

Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to carry out the provisions of this Agreement. The Parties shall jointly prepare the proposed Final Approval Order.

Class Counsel shall be responsible for preparing the Motion for Final Approval, and any Motion Requesting Attorney's fees, Costs, and Class Representative Enhancement Award, supporting declarations, and exhibits thereto, for final approval by the Court. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Final Approval and application for attorney's fees and costs at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers Plaintiff will review and consider in good faith any comments/edits Defendant's Counsel may propose to any final approval documents. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order.

69. Nullification of Agreement

In the event: (a) the Court denies preliminary approval of the Settlement; (b) the Court denies final approval of the Settlement; (c) the Court refuses to enter a Final Judgment as provided herein; or (d) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgement entered by the Court in furtherance of this Settlement shall be treated as void from the beginning.

To the extent that more than 10% of Class Members submit valid Requests for Exclusion, Defendant shall have the option to nullify this Settlement within ten (10) calendar days of notification by the Settlement Administrator after the Response Deadline of the total number of Requests for Exclusion, via a written notice to Plaintiff's counsel. If Defendant exercises this option, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the Defendant for terminating the Settlement.

70. Conditional Class Certification

The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or any other proceeding, an admission of

any kind by Defendant, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiff can establish any of the requisite elements for class or representative treatment of any of the claims in these Actions.

If, for any reason, the Settlement is not approved, the Parties agree to attend mediation again, either before the same mediator or another mutually agreed upon mediator experienced in California wage and hour class actions, in an effort to reach a settlement that will be approved by the Court.

If, even after the second mediation, the Agreement is ultimately not approved by the Court, this Agreement will be void and the Parties will be restored to their respective positions as if they had not entered into the Agreement. The Parties further agree that this Agreement will not be admissible in this or any other proceeding as evidence that either (a) a class action should be certified or not decertified, or that this matter may proceed as a representative action; or (b) Defendant is liable to Plaintiff or any Settlement Class Member or any PAGA Member other than according to the Settlement's terms. In the event that the Settlement is not approved or otherwise voided, Defendant expressly reserves all rights to challenge certification of a class, or Plaintiff's ability to maintain a representative action, for all purposes.

71. No Publicity

Prior to preliminary approval, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval or to make other disclosures jointly agreed to by the Parties in advance as necessary to effectuate the Settlement.

Before and after approval of this Settlement, Plaintiff and Class Counsel shall not issue a press release, hold a press conference, publish information about the settlement on any website, or otherwise publicize the Settlement.

Nothing herein restricts Class counsel from fulfilling its duties to Class and PAGA Members. However, Class Counsel may (in future declarations submitted in Court) refer to the fact that this matter settled on a class and representative action basis, but only for the reason of detailing the experience of counsel. Plaintiff and Class Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the court.

72. No Effect on Employee Benefits

The Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Plaintiff, Participating Class Members, and PAGA Members. The Parties agree that any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments paid to Plaintiff, Participating Class Members, and PAGA Members under the terms of this Settlement do not represent any modification of any previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant. Further, any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant.

73. Representation

All of the Parties have been represented by counsel throughout all negotiations which preceded the execution of this Settlement, and all Parties have been advised by counsel prior to entering into this Settlement.

Plaintiff and his Counsel represent that other than the Single Plaintiff Action, Plaintiff and his Counsel do not currently represent any other current or former employees of Defendant in connection with any actual or planned claims, charges, complaints, or other matters against Defendant, and Plaintiff Counsel are not aware of any current or former employees of Defendant who are planning to bring any claims, charges, Complaints, or other matters against Defendant.

74. Exhibits and Headings

The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

75. Interim Stay of Proceedings

Upon full execution of this Agreement, the Parties agree to jointly request the Court to stay proceedings except for the proceedings necessary to implement and complete the Settlement.

76. Amendment or Modification

This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

77. Entire Agreement

This Agreement and any attached Exhibits constitute the entire Agreement among these Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representation, and/or warranties not found herein.

78. Authorization to Enter into Agreement

Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions 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.

The Parties and their counsel will cooperate with each other and use their best efforts to effect 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 Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The person signing this Agreement on behalf of the Defendant represents and warrants that he or she is authorized to sign this Agreement on behalf of the Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

79. Binding on Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

80. California Law Governs

All terms of this Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

81. Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

82. Jurisdiction of the Court

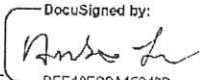
Pursuant to California Code of Civil Procedure section 664.6, and section 41(a) of the Federal Rules of Civil Procedure, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all connected orders and judgments.

83. Invalidity of Any Provision

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

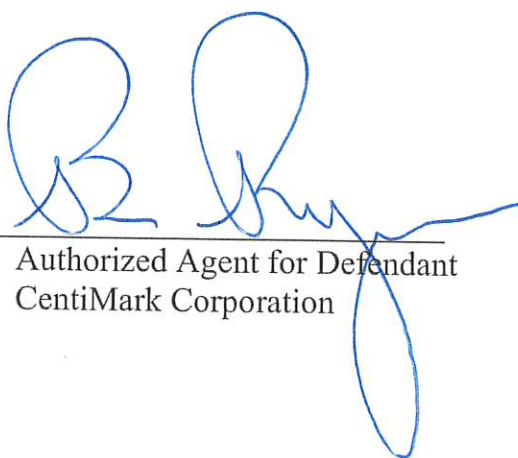
WHEREFORE, Plaintiff, on behalf of himself and the Participating Class Members and the PAGA Members, and Defendant have executed this Agreement as of the dates set forth below.

Date: 11/14/2023

By: 
Anthony Lingle, Plaintiff

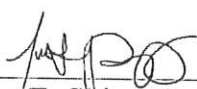
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BEE18FC2A15949D...

Date: 11/20/23

By: 
Authorized Agent for Defendant
CentiMark Corporation

APPROVED AS TO FORM

Date: 11/14/2023

By: 
Galen T. Shimoda
Justin P. Rodriguez
Renald Konini
Shimoda & Rodriguez Law, PC
Counsel for Plaintiff

Date: 11/17/23

By: 
Michael J. Nader
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Counsel for Defendant
CentiMark Corporation

EXHIBIT A

United States District Court for the Eastern District of California
Anthony Lingle v. CentiMark Corporation
Case No. 2:22-cv-01471-JDP,

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected whether you act or don't act.*

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

To: **Class Members:** All non-exempt employees, excluding any individuals employed solely as office or administrative staff, who have or continue to work for CentiMark in California, and who have not signed, or opted out of, an arbitration agreement, during the Class Settlement Period from July 11, 2018 to November 19, 2023.

PAGA Members: All non-exempt employees, excluding any individuals employed solely as office or administrative staff, who have or continue to work for CentiMark in California during the PAGA Settlement Period of May 17, 2021 to November 19, 2023.

A putative class action and representative action under the California Private Attorneys General Act of 2004 (“PAGA”), which was brought on behalf of the Class and PAGA Members (defined above) and against Defendant CentiMark Corporation (the “Defendant”) has been settled for \$600,000. As explained in this Notice, if the Court approves this Class and PAGA Settlement then you may receive payments under this Settlement. You are receiving this Notice because the Defendant’s records indicate that you are a Class Member and/or a PAGA Member.

If you are a Class Member and/or a PAGA Member, you are eligible for payment from the Settlement described in this Notice without the need to return a claim form.

PLEASE READ THIS NOTICE CAREFULLY.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE YOUR SETTLEMENT CHECK	If you want to participate and receive your share of the money from the Class and PAGA settlement, you do <u>not</u> need to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims. <i>Please note that you must, however, keep a current address on file with the Settlement Administrator to ensure receipt of your check.</i>
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT AND <u>NOT</u> RECEIVE A CLASS SETTLEMENT CHECK	If you ask to be excluded from the Class portion of the settlement and money is later awarded to the Settlement Class, then you will not receive any share from the class settlement money. But if you exclude yourself, you keep any rights as an individual to sue Defendant separately about the same legal claims that are being settled here. You may exclude yourself from the settlement by submitting a written Request for Exclusion according to the instructions contained in this Notice. The deadline to submit a Request for Exclusion is [45 calendar days from date of mailing].

	If you are a PAGA Member, even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement money and be bound by the release of PAGA claims.
OBJECT	Object to the Settlement if you think the Settlement is not fair by sending your written objection to the Settlement Administrator and, if you wish, appear at the Final Approval Hearing. If you submit a Request for Exclusion from the Settlement, you cannot also object to it. The deadline to submit an objection is [45 calendar days from date of mailing].

- **Your rights and options – and the deadlines to exercise them – are explained in this Notice.**
- **Defendant supports the settlement and will not retaliate in any manner against any class member for any reason, including whether they decide to remain in the class and receive a settlement payment, or choose another option provided in this notice.**

BASIC INFORMATION

1. **Why was this notice issued?**

A Court authorized this Notice because you have a right to know about a proposed Settlement of a class and representative PAGA action lawsuit, and about all of your options, before the Court decides whether to approve the Settlement. This notice explains the lawsuit, the Settlement, your legal rights, the payments that are available, who is eligible to receive them, and how to get them.

The Court in charge of the case is the United States District Court for the Eastern District of California, and the case is known as *Anthony Lingle v. CentiMark Corporation*, U.S.D.C. Eastern District of CA, Case No. 2:22-cv-01471-JDP (the “Action” or the “Lawsuit”).

2. **What is the Lawsuit about?**

On December 2, 2021, Plaintiff Anthony Lingle filed a putative class action complaint alleging several wage and hour claims against Defendant. On November 19, 2021, Plaintiff Lingle filed a PAGA Letter with the LWDA seeking PAGA civil penalties for alleged wage and hour violations by the Defendant. On July 22, 2022, Plaintiff Lingle filed a First Amended Complaint that included the PAGA claim. On October 7, 2022, Plaintiff Lingle filed a Second Amended Complaint as a class and representative action alleging wage and hour violations, including that Defendant allegedly failed to provide minimum and overtime wages, failed to provide compliant meal and rest breaks, failed to provide compliant wage statements, failed to provide final wages, failed to reimburse business expenses, unfair competition and related PAGA claims.

Defendant denies all of the claims in the Lawsuit. However, Defendant have agreed to settle the Lawsuit to avoid continued litigation. The Settlement is not an admission of any wrongdoing by Defendant or an indication that any law was violated.

3. **What is a class action?**

In a class action lawsuit, a Plaintiff who is called a Class Representative (in this case, Anthony Lingle) sues on behalf of others (called a class or class members) who may have similar claims.

4. **Why is there a Settlement?**

The Court did not decide in favor of the Plaintiff or of the Defendant. Instead, both sides agreed to a no-fault settlement of the Lawsuit (“Settlement”). That way, they avoid the cost of further litigation including a trial, and the putative class members will receive money from the Settlement.

5. **Who are the Parties in these Lawsuits?**

Plaintiff Anthony Lingle is a former employee of the Defendant. The Defendant is CentiMark Corporation.

6. **Who are the Attorneys representing the Plaintiffs and the Class?**

Add here

You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

THE TERMS OF THE SETTLEMENT

7. **What is the Settlement Amount?**

The proposed Settlement provides for a maximum payment of \$600,000 to fully and finally resolve all claims in the Lawsuit (referred to as the “Total Settlement Amount”). Class Counsel will apply to the Court for attorneys’ fees of up to \$200,000 (one-third of the Total Settlement Amount); litigation costs estimated at \$15,000; a “Class Representative Enhancement Payment” of up to \$10,000 for the Plaintiff’s work and effort in prosecuting this Lawsuit, risks taken for the payment of costs in the event of a loss to the Defendant, and in exchange for a general release of all claims; settlement administration expenses of up to \$15,000; and a \$140,000 “PAGA Payment” to the California Labor Workforce and Development Agency (“LWDA”) and PAGA Members in settlement of claims for penalties under PAGA. The exact amounts of these payments will be determined by the Court at the Final Approval hearing if the Settlement is approved.

Following the Court-approved deductions, the remaining portion of the Settlement, the Net Settlement Amount (“NSA”), is estimated to be \$220,000. The NSA will be apportioned and paid out entirely, automatically, to all “Participating Class Members” who are the Settlement Class Members who have not asked to be excluded from the Settlement. They each will receive an “Individual Settlement Payment.”

No portion of the Total Settlement Amount will revert to Defendant under any circumstances.

8. **How will the Individual Settlement Payments be calculated and how much will my award be?**

Participating Class Members will receive a pro-rata share of the NSA based on the number of weeks they worked for Defendant during the time period from July 11, 2018 to November 19, 2023 (the “Class Settlement Period”).

Here’s how it works – the NSA will be entirely distributed to the Participating Class Members. The NSA allocated to each individual Participating Class Member will be based on the individual’s total number of weeks worked during the Class Settlement Period, in relation to the total number of weeks worked by all Participating Class Members. The counts of weeks worked will be calculated according to Defendant’s records.

Based on Defendant' records, you worked ____ weeks during the Class Settlement Period and your estimated Individual Settlement Payment is \$_____. Although the actual amount that is paid may be lower or higher than the amount estimated. If you wish to dispute your number of workweeks during the Class Settlement Period, you must notify the Settlement Administrator in writing no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of weeks during the Class Settlement Period.

Individual Settlement Payments are allocated as 80% penalties and interest, and 20% as wages. You will be responsible for the tax consequences of your Individual Settlement Payment, for filing your own tax returns, for reporting all income received to state and federal taxing authorities, and for payment of any other applicable taxes due. You should consult with a tax advisor concerning the tax consequences of the Individual Settlement Payment you could receive under the Settlement.

9. How will the PAGA Payment be distributed?

The Parties will seek approval from the Court to designate \$140,000 of the Total Settlement Amount as penalties recoverable under the PAGA. 75% of this amount, or \$105,000, will be paid to the LWDA, as required by law. The remaining 25% of this amount, or \$35,000, will be distributed to the PAGA Members as "Individual PAGA Payments." The Individual PAGA Payments are paid in addition to any Individual Settlement Payments (the Individual Settlement Payment and the Individual PAGA Payments are the "Settlement Payment"). 100% of the PAGA Payment will be treated as civil penalties. You should consult with a tax advisor concerning the tax consequences of the Individual PAGA Payment you could receive under the Settlement.

Not all Class Members will also qualify as PAGA Members entitled to an Individual PAGA Payment. You are only a PAGA Member if you worked for Defendant during the period from May 17, 2021 to November 19, 2023 (the "PAGA Settlement Period"). The Individual PAGA Payments will be calculated on a pro-rata basis based on the number of pay periods that you worked during the PAGA Settlement Period. Based on Defendant's records, your total pay periods worked during the PAGA Settlement Period is _____. Based on that number, your anticipated approximate Individual PAGA Payment is \$_____. If you wish to dispute your number of pay periods worked during the PAGA Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Defendant for a different number of pay periods during the PAGA Settlement Period.

HOW TO GET PAYMENT

10. How can I get my Settlement Payment?

If the Settlement is approved, you do not need to do anything to receive a Settlement Payment. If the Court approves the Settlement at a final approval hearing, your Settlement Payment will be mailed to the address on file with the Settlement Administrator. **It is your responsibility to keep the Settlement Administrator informed of any change in your address, as your Settlement Payment will be mailed to the last known address it has on file for you** if the Court approves the settlement.

11. When can I expect to receive my Settlement Payment?

If the Court approves the Settlement, and there are no pending objections, your share of the Settlement will be paid approximately **30 days** after the Court grants final approval of the Settlement. ***Your share of the Settlement will be mailed to the address on file for you.*** Again, if this address is not correct, or if you move after you receive

this Notice, you should notify the Settlement Administrator by mail or by calling the Settlement Administrator at 800-_____.

12. What am I giving up to get a Settlement Payment?

Participating Class Members will be giving up or “releasing” the claims described below:

Release of Class Claims: After the Court grants final approval of the Settlement, each Participating Settlement Class Member will be bound by the approval and judgment and thereby releases Defendant CentiMark Corporation and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, benefit plans, subsidiaries, affiliates, successors, and assigns (the “Released Parties”) from all claims and/or causes of action against the Released Parties that were or could have been alleged based on the allegations in the Action, including all class claims stated in the Action alleging violations of Labor Code sections 201, 202, 203, 221, 223, 225, 226(a), 226 et seq, 226.3, 226.7, 245 et seq, 256, 510, 512, 558, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 2802, and IWC Wage Order 16, including, inter alia, sections 3, 4, 11, 12, and section 17200 et seq of the California Business and Professions Code, and: (a) All claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, including driving time, and the alleged failure to pay for all time worked at correct rates; (b) All claims for unpaid wages due to alleged rounding of records of time worked and meal periods; (c) All claims for unpaid regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave; (d) All claims for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, “on call,” and otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods; (e) All claims for rest break violations, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, “on call” rest breaks and otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates; (f) All claims for paid sick leave violations, including the failure to (1) accurately accrue paid sick leave, (2) accurately provide notice of accrued sick leave, (3) accurately provide paid sick leave, and (4) provide paid sick leave at the correct regular rates. (g) All claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code; (h) All claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phones, tools and materials for work, and meal expenses; (i) All claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom; (j) All claims for the alleged failure to keep accurate records in violation of Section 1174 of the Labor Code; (k) All claims for failure to pay contract wages or for making unlawful deductions from wages in violation of Sections 221, 223, and 225 of the Labor Code; (l) All claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claims, and causes of action alleged in the Action; and (m) All claims for statutory penalties, liquidated damages, punitive damages, interest, attorney’s fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the allegations in the Action.

PAGA Members and the State of California will be giving up or “releasing” claims for civil penalties under PAGA:

Release of PAGA Claims: After the Court grants final approval of the Settlement, then Plaintiff, as a representative of the State of California and on behalf of the LWDA and the PAGA Members, will fully and finally release the Released Parties from all claims and causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code sections 201, 202, 203, 221, 223, 225, 226(a), 226 et seq, 226.3, 226.7, 245 et seq, 246, 246.5, 248.5, 256, 510, 512, 558, 558.1, 1174, 1193.6, 1194, 1194.2, 1197,

1197.1, 2802, and IWC Wage Order 16, including, inter alia, sections 3, 4, 11, 12, and: (a) All claims for PAGA penalties based on the alleged failure to pay wages earned, including minimum, overtime, and double-time wages, the alleged failure to pay for all time worked including driving time, and the alleged failure to pay for all time worked at correct rates; (b) All claims for PAGA penalties based on the alleged failure to pay for all time worked due to rounding of records of time worked and meal periods; (c) All claims for PAGA penalties based on the alleged failure to pay regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave; (d) All claims for PAGA penalties based on the alleged failure to provide compliant meal periods, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, “on call,” and otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods; (e) All claims for PAGA penalties based on the alleged failure to provide compliant rest breaks, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, “on call” and otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates; (f) All claims for PAGA penalties for alleged paid sick leave violations, including the failure to (1) accurately accrue paid sick leave, (2) accurately provide notice of accrued paid sick leave, (3) accurately provide paid sick leave, and (4) provide paid sick leave at the correct regular rates. (g) All claims for PAGA penalties for the untimely payment of final wages under sections 201 to 203 of the Labor Code Section; (h) All claims for PAGA penalties for allegedly unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phones, tools and materials for work, and meal expenses; (i) All claims for PAGA penalties for allegedly improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom; (j) All claims for PAGA penalties for the alleged failure to keep accurate records in violation of Section 1174 of the Labor Code; (k) All claims for PAGA penalties for the alleged failure to pay contract wages or for making unlawful deductions from wages in violation of Sections 221, 223, and 225 of the Labor Code; (l) And all other claims for PAGA penalties alleged in the Action.

EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

13. Can I exclude myself from the class settlement?

If you do not wish to participate in the class settlement for whatever reason, you can exclude yourself from the class settlement (that is, “opt out” of the Settlement). If you opt out, you keep your right to sue the Defendant for the same claims on an individual basis. However, you cannot opt out of the PAGA portion of the Settlement. To opt out and exclude yourself from the Class and this Settlement so that you do not become a Participating Settlement Class Member, you must provide a signed and dated letter to the Administrator requesting to be excluded from the Class. The letter must state in substance:

“I have read and understand the Notice of Settlement of Class and Representative Action and I wish to exclude myself from the Settlement described in the Notice.”

Your letter requesting to exclude yourself must include the case name, *Anthony Lingle v. CentiMark Corporation*, U.S.D.C. Eastern District of CA, Case No. 2:22-cv-01471-JDP, your full name, current address and telephone number. It must be addressed to the Administrator at [address], postmarked on or before _____, 2023. [45 days from mailing of Notice] Requests for exclusion postmarked after this date may be disregarded.

14. If I don't exclude myself from the class settlement, can I sue Defendant for the same thing later?

No. Unless you exclude yourself from the class settlement, you give up any right to sue Defendant for the claims that this Settlement resolves.

15. If I exclude myself from the class settlement, can I get money from this settlement?

No, not from the Class Settlement. If you request to be excluded from the Settlement, you will not receive an Individual Settlement Payment. You also will not be able to object to the Settlement as explained below. Your Individual Settlement Payment will be redistributed to the Participating Class Members.

However, if you are a PAGA Member, you will receive an Individual PAGA Payment regardless of whether you exclude yourself from the class settlement.

No portion of the Total Settlement Amount will go back to Defendant as a result of any person opting out of the Settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I don't like the Settlement?

If you don't think the Settlement is fair, and you don't request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don't agree with the Settlement or some part of it before the Court decides whether to grant final approval of the Settlement.

To object in writing, you must submit a timely written objection to the Administrator. Your objection must state that you object to the proposed Settlement of this case entitled *Anthony Lingle v. CentiMark Corporation*, U.S.D.C. Eastern District of CA, Case No. 2:22-cv-01471-JDP. Be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail your written objection to the Administrator at [address], postmarked on or before _____, 2023. [45 days from mailing of Notice Packet] Requests for exclusion postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact attorneys for Plaintiffs and the Class (see Paragraph 6 above) or the Settlement Administrator. Please **DO NOT** contact attorneys for Defendant or any of the Defendant's managers, supervisors, or owners.

THE COURT'S FINAL FAIRNESS HEARING

17. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval hearing in Department __ of the U.S. District Court for the Eastern District of California, located at _____ on _____, 2024, at ____ a.m. At this hearing the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, the Class Representatives' Enhancement Awards, and the Settlement Administrator's fees and expenses. The Court may reschedule the Final Approval hearing without further notice to Class Members. However, any Class Member who has submitted an objection and indicated an intention to speak at the Final Approval Hearing will be notified by Class Counsel of any rescheduling of the date and time of the Final Fairness hearing.

18. Do I have to come to the hearing?

No. Class Counsel will answer any questions from the Judge. But you are welcome to come at your own expense to support or object to the settlement. If you send your timely written objection to the Settlement Administrator, you don't have to come to Court to object but you can if you wish to. As long as you mailed your written objection on time, the Court will consider it. You may also hire and if required pay your own lawyer to attend if you so desire.

19. May I speak at the hearing?

You may appear at the Final Approval Hearing and ask the Court for permission to speak, however, to be sure that any objection will be considered by the Court, you should submit a timely written objection, or a notice of intent to appear at the hearing. To do so, please timely submit the objection or notice of intent to appear to the Settlement Administrator listed in section 16 no later than *[45 days after mailing of postcard.]* Any notice of intent to appear should include a description of any arguments you intend to make.

GETTING MORE INFORMATION**20. Who may I contact if I have questions about the settlement?**

This Notice is only a summary of the Lawsuit and proposed Settlement. For more information, you may personally inspect the files and the Settlement Agreement at the U.S. District Court for the Eastern District of California located at the _____, during regular Court hours. You may also contact Class Counsel if you need more information or have questions. You may also contact the Settlement Administrator by calling toll free 1-_____, or you can write to Settlement Administrator, at **[insert address]**.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT OR ANY OF THEIR MANAGERS, SUPERVISORS, OWNERS OR ATTORNEYS FOR INFORMATION.

ADDITIONAL IMPORTANT INFORMATION

A. It is your responsibility to ensure that the Settlement Administrator has your current mailing address and telephone number on file, as this will be the address to which your Settlement Payment will be sent if the Settlement is approved.

B. Settlement Payment checks should be cashed promptly upon receipt. Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the Salvation Army Sacramento Metro. If your Settlement Payment check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
Shimoda & Rodriguez Law, PC
9401 East Stockton Boulevard, Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
Facsimile: (916) 760-3733

Attorneys for Plaintiff ANTHONY LINGLE,
individually and on behalf of all other similarly situated employees

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ANTHONY LINGLE, individually and on
behalf of all other similarly situated
employees,

Plaintiff,

vs.

CENTIMARK CORPORATION, a
Pennsylvania Corporation; and DOES 1 to
100, inclusive,

Defendants.

Case No.: 2:22-cv-01471-JDP

Sacramento County Superior Court
Case No. 34-2021-00311991

CLASS ACTION

**SECOND AMENDED COMPLAINT FOR
DAMAGES:**

- 1. Failure to Pay Overtime Wages**
- 2. Failure to Pay Minimum Wages**
- 3. Meal Period Violations**
- 4. Rest Period Violations**
- 5. Wage Statement Violations**
- 6. Waiting Time Penalties**
- 7. Failure to Reimburse Expenses**
- 8. Unfair Competition**
- 9. Private Attorneys General Act**

DEMAND FOR JURY TRIAL

1 Plaintiff ANTHONY LINGLE (“Plaintiff”), on behalf of himself and all other similarly
2 situated employees, hereby files this Second Amended Complaint against Defendants CENTIMARK
3 CORPORATION, a Pennsylvania Corporation; and DOES 1 to 100, inclusive (hereinafter all
4 collectively referred to as “Defendants”). On information and belief, Plaintiff alleges the following:

5 **INTRODUCTION**

6 1. This is a class action and Private Attorneys General Act (“PAGA”) lawsuit brought by
7 Plaintiff for failure to pay minimum wages, failure to pay overtime wages, meal period violations, rest
8 period violations, wage statement violations, failure to timely pay final wages, failure to reimburse
9 expenses, and unfair competition, statutory penalties, and civil penalties for violations of the California
10 Labor Code.

11 **JURISDICTION AND VENUE**

12 2. The United States District Court for the Eastern District of California has jurisdiction in
13 this matter under the Class Action Fairness Act. *See* 28 U.S.C. § 1332(d).

14 3. Venue is proper as this action was removed to the district court in which the state court
15 action was pending. *See* 28 U.S.C. §§ 1390(c), 1441(a).

16 4. Plaintiff has sought permission pursuant to California Labor Code section 2699 *et seq.* to
17 pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf
18 of himself and other similarly situated employees. Pursuant to California Labor Code section 2699.3,
19 Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency
20 (“LWDA”) on approximately November 19, 2021. Plaintiff provided facts and legal bases for his
21 claims within the notice to the LWDA on all violations asserted under the PAGA cause of action.
22 Plaintiff also submitted the \$75.00 filing fee. The November 19, 2021, notice was also sent via certified
23 mail to Defendants on the same day. To date, the LWDA has not provided any response to Plaintiff’s
24 notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies pursuant to the
25 PAGA and may bring this action on behalf of himself and all similarly situated employees, *i.e.*
26 aggrieved employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup.*
27 *Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005). Aggrieved employees include, but are not
28 limited to the following: all non-exempt employees who have or continue to work for Defendants in

1 California from November 19, 2020 to the present, excluding any individuals employed solely as office
2 or administrative staff.

3 **PARTIES**

4 5. ANTHONY LINGLE is an individual over the age of eighteen (18) and is a resident
5 of the State of California.

6 6. On information and belief, Plaintiff alleges, CENTIMARK CORPORATION, is now
7 and/or at all times mentioned in this Complaint was Pennsylvania Corporation and the owner and
8 operator of an industry, business and/or facility doing business in the State of California.

9 7. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
10 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
11 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
12 names and capacities of these DOE Defendants when they are ascertained.

13 8. At all times mentioned herein, each Defendant was the agent or employee of each of the
14 other Defendants and was acting within the course and scope of such agency or employment. The
15 Defendants are jointly and severally liable to Plaintiff.

16 9. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
17 were members of and/or engaged in a joint employment, joint venture, partnership and common
18 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
19 joint venture, partnership and common enterprise.

20 10. Defendants, and each of them, now and/or at all times mentioned in this Complaint
21 approved, ratified, acquiesced, aided or abetted the acts and omissions alleged in this Complaint.

22 11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
23 wrongs, complaints, injuries and/or damages alleged in this Complaint.

24 **CLASS ALLEGATIONS**

25 12. Plaintiff brings the First through Eighth Causes of Action on behalf of himself and all
26 others similarly situated as a class action pursuant to Federal Rule of Civil Procedure 23. The class
27 that Plaintiff seeks to represent is composed of and defined as follows:
28

1 UCL Class: All non-exempt employees who have or continue to work for
2 Defendants in California from July 11, 2018, to the present, excluding any
3 individuals employed solely as office or administrative staff.

4 Non-UCL Class: All non-exempt employees who have or continue to
5 work for Defendants in California from December 2, 2018, to the present,
6 excluding any individuals employed solely as office or administrative staff

7 13. This action has been brought and may be properly maintained as a class action,
8 pursuant to the provision of Federal Rule of Civil Procedure 23, because there is a well-defined
9 community of interests in the litigation and the proposed class is easily ascertainable.

10 (a) Numerosity: The putative class is so numerous that the individual joinder of all members
11 is impracticable under the circumstances of this case. While the exact number of class
12 members is unknown to Plaintiff at this time, Plaintiff is informed and believes that
13 Defendants have employed over (100) individuals falling within the above stated class
14 definitions throughout the State of California during the applicable statute of limitations,
15 who were subjected to the policies and practices outlined in this Complaint. As such,
16 joinder of all members of the putative class is not practicable.

17 (b) Common Questions Predominate: Common questions of law and fact exist as to all
18 members of the putative class and predominate over questions that affect only individual
19 members of the class. These common questions of law and fact include, without
20 limitation, the following:

- 21 (1) Whether Defendants paid Plaintiff and putative class members for all hours
22 worked, including drive time to the first worksite;
- 23 (2) Whether Defendants paid Plaintiff and putative class members all overtime wages
24 they were owed;
- 25 (3) Whether Defendants had a policy or practice of failing to take into account all
26 compensation paid, to calculate their regular rates of pay;
- 27 (4) Whether Defendants failed to authorize and permit Plaintiff and putative class
28 members to take meal periods;
- (5) Whether Defendants failed to authorize and permit Plaintiff and putative class
members to take rest periods;

- 1 (6) Whether Defendants failed to authorize and permit second meal periods and third
2 rest periods when Plaintiff and putative class members worked over 10 hours in a
3 day;
- 4 (7) Whether Defendants failed to authorize and permit Plaintiff and putative class
5 members to begin meal periods before the end of their fifth hour of work;
- 6 (8) Whether as a result of Defendants' policies and practices Plaintiff's and putative
7 class members received all wages, due and owing, at the time of their termination
8 or separation; and
- 9 (9) Whether Defendants provided Plaintiff's and putative class members with wage
10 statements that complied with Labor Code section 226.
- 11 (c) Typicality: Plaintiff's claims are typical of the claims of the members of the putative
12 class. The putative class also sustained damages arising out of Defendants' common
13 course of conduct in violation of the law as complained of herein. Plaintiff and all
14 members of the putative class were non-exempt employees who were not paid for all
15 hours worked and all overtime wages earned, did not receive all meal and rest periods,
16 and were not reimbursed for the use of their personal cellphones. Additionally,
17 Defendants issued Plaintiff and all members of the putative class wage statements that
18 did not comply with Labor Code section 226. As a result, Plaintiff and each member of
19 the putative class will have suffered the same type of harm and seek the same type of
20 recovery based on the same legal theories.
- 21 (d) Adequacy: Plaintiff will fairly and adequately protect the interests of the members of the
22 putative class. For all relevant times, Plaintiff resided in California and worked for
23 Defendants in California. Moreover, Plaintiff is an adequate representative of the
24 putative class as Plaintiff has no interests that are adverse to those of putative class
25 members. Additionally, Plaintiff has retained counsel who has substantial experience in
26 complex civil litigation and wage and hour matters.
- 27 (e) Superiority: A class action is superior to other available means for the fair and efficient
28 adjudication of the controversy since individual joinder of all members of the putative

1 class is impracticable. Class action treatment will permit a larger number of similarly
2 situated persons to prosecute their common claims in a single forum simultaneously,
3 efficiently, and without the unnecessary duplication of effort and expense that numerous
4 individual actions would engender. Further, as damages suffered by each individual
5 member of the class may be relatively small, the expenses and burden of the individual
6 litigation would make it difficult or impossible for individual members of the class to
7 redress the wrongs done to them, and an important public interest will be served by
8 addressing the matter as a class action. The cost to the court system of adjudication of
9 such individualized litigation would be substantial. Individualized litigation would also
10 present the potential for inconsistent or contradictory judgments.

11 14. Plaintiff is unaware of any difficulties that are likely to be encountered in the
12 management of this action that would preclude its maintenance as a class action.

13 **GENERAL ALLEGATIONS**

14 15. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 14 as though fully
15 set forth herein.

16 16. Plaintiff worked for Defendants from approximately November 1, 2019, to October 2021,
17 as an hourly, non-exempt employee. Similarly situated employees also worked for Defendants as non-
18 exempt, hourly employees. Plaintiff and similarly situated employees did not work as office or
19 administrative staff. Rather, Plaintiff and similarly situated employees performed work in crews as
20 laborers, apprentices, roofers, and/or flooring installers. Defendants generally divide the type of work
21 for non-office/administrative staff into two categories, either service or production. Plaintiff performed
22 work as a laborer and roofer in both the service and production department. Plaintiff is informed and
23 believes that the general worksite conditions are similar for those employed in the flooring department
24 as any and all policies Defendant communicated to Plaintiff and similarly situated employees did not
25 note any distinction or special exemptions for individuals depending on what department they worked
26 in. Defendant's policies and practices were always communicated as being generally applicable to all
27 non-exempt employees and/or its field personnel. For example, Defendants' handbook states the scope
28 of employees it applies to is "Field Personnel" with no distinction among different categories of

1 employees. Similarly, Defendants would issue policies that directly identified the scope of applicability
2 to all similarly situated employees. For example, one such statement of applicability in Defendants’
3 policy on non-overnight travel reads as follows: “This policy applies to all Non-Exempt Employees who
4 visit one customer facility in a particular day (i.e. to perform Production and/or “28” Jobs). It also
5 applies to Production Field Supervisors who visit more than one customer job site in a particular day.”
6 The policy goes on to define Non-Exempt Employees as “any Non-Exempt member of a roofing or
7 flooring crew and the foreman on such a crew and other Non-Exempt Employees.” Furthermore,
8 Plaintiff worked all across California and the general working conditions complained of herein
9 continued regardless of location. Locations Plaintiff worked include, but are not limited to, Shasta,
10 Folsom, Modesto, Taft, Tracy, Stockton, Roseville, Fairfield, Lincoln, and Wheatland.

11 17. Plaintiff and similarly situated employees were regularly scheduled to work more than
12 forty (40) hours per week. Plaintiff and similarly situated employees regularly worked five (5) to seven
13 (7) days per week on production jobs and five (5) to six (6) days per week on service jobs. Plaintiff and
14 similarly situated employees generally worked eight (8) to ten (10) hours per day on the job site.
15 Including drive time from the first place Plaintiff and similarly situated employees were required to
16 appear would increase these daily hours to approximately twelve (12) to fourteen (14) hours a per day or
17 more. Defendants failed to pay Plaintiff and similarly situated employees for all hours spent driving for
18 work purposes, including drive time from Defendants’ Roseville location/shop, or the designated meet
19 up location, to the job site. Plaintiff and similarly situated employees had to obtain materials and
20 equipment necessary to complete their job tasks from Defendants’ shop, or meet up location, and then
21 transport these materials to various worksites across California on a weekly and/or daily basis. This
22 time was supposed to be paid as travel time and/or zone pay or both, but Defendants failed to make these
23 payments approximately 30%-40% of the time despite managers and/or supervisors telling Plaintiff and
24 similarly situated employees to appear at these starting locations. For example, during the week of June
25 14, 2021, Plaintiff traveled approximately 3 hours from the designated meeting place, as defined in
26 Defendant’s policies, to a job site in Shasta, but these hours worked were not paid. Plaintiff worked on
27 the jobsite for approximately 9.7 hours in addition to the travel time on that day. Thus, Defendant’s
28 policies and practices resulted in unpaid minimum wages and overtime.

18. Additionally, Plaintiff and similarly situated employees earned remuneration in addition to their basic hourly rate, including, but not limited to, bonuses and zone pay. Bonuses could be earned by Plaintiff and similarly situated employees regardless of whether they worked a production job or a service job. The amount of the bonus was calculated based on the number of hours each job was scheduled to take, *i.e.* budgeted, and how far under that budgeted amount the job was able to be completed in. For example, if a job was budgeted to take 5,000 hours, but Plaintiff and similarly situated employees working on the job finished it in 4,750 hours, each of those individuals would be entitled to a bonus of \$1 per hour under (\$250). Defendants' zone pay policy specifically stated that it would be paid to Plaintiff and similarly situated employees regardless of whether they drove to a job site or rode as a passenger. The amount paid via zone pay would vary based on the distance travelled, *e.g.* \$0, \$7.50, or \$15.00, etc. Defendants maintain a meal and rest period policy that expressly applies to all non-exempt employees, including those in roofing and flooring, and states any meal and rest period premiums are paid at regular time, not the regular rate of pay.

19. The bonuses and zone pay were not properly accounted for when calculating Plaintiff's and similarly situated employees' regular rate of pay for overtime, sick leave, and meal and rest period premium purposes. For example, Plaintiff was paid a \$174 bonus during the 6/1/20 to 6/7/20 pay period. The jobs Plaintiff and similarly situated employees worked on lasted 2-3 weeks or longer. However, the amount paid for overtime on the paystub corresponding to this period (\$11.00) does not even account for the amount of overtime hours worked during this period in which the bonus was paid, let alone the accumulation of overtime hours during the preceding weekly pay periods that the bonus was earned over (*e.g.* $[\$174 / 47.35] / 2 = \$1.84$. $\$1.84 \times 7.35$ total overtime hours = \$13.53). The rest period premiums that Defendant's did pay were only paid at the basic rate of pay, not the modified rate of pay. For example, during the pay period immediately preceding 6/1/20-6/7/20, there was a rest period premium paid only at the basic hourly rate at the time, despite the bonus being earned over this same period. Similar instances occurred with the zone pay in, for example, the 7/6/20 to 7/12/20 pay period, 7/27/20 to 8/2/20 pay period, 8/24/20 to 8/30/20 pay period, and 9/14/20 to 9/20/20 pay period. The zone pay was also consistently underpaid both because it was often less than the contracted 'zone pay' rate or amounted to less than Plaintiff and similarly situated employees' hourly rate for all hours

1 worked. Thus, Plaintiff and similarly situated employees are owed unpaid overtime, sick leave, and
2 meal and rest period premiums.

3 20. Defendants, further, did not authorize and permit Plaintiff and similarly situated
4 employees to take a full, uninterrupted thirty (30) minute meal periods every five (5) hours and ten (10)
5 minute rest periods every four (4) hours or major fraction thereof. Defendants further did not authorize
6 and permit Plaintiff and similarly situated employees a second meal break after working more than ten
7 (10) hours, or a second or third rest period after working more than eight (8) and twelve (12) hours. In
8 fact, it was Defendants' expectation that Plaintiff and similarly situated employees would remain on call
9 during break time while driving to and from the work site and while at the actual job site. Plaintiff and
10 similarly situated employees had to remain on site and on call on job sites for various safety issues (*e.g.*
11 fire watch), inspections to be completed, and/or receiving of any onsite deliveries. Additionally, many
12 of the job sites required special access badges to be able to leave and return to the premises, but they
13 regularly expired and/or were damaged from environmental elements related to the job sites (*e.g.*
14 extreme heat on roofs) and Defendants would not procure replacements for extended periods of time.
15 For example, these issues occurred while Plaintiff worked on a jobsite at Primo Foods, but Plaintiff was
16 not paid a meal or rest period premium for each day he worked on this jobsite. Furthermore,
17 Defendants' policy was to have foreman track time through the use of a mobile time app on a single cell
18 phone, which rounded employee meal period times, resulting in the appearance of at least thirty minute
19 meal periods when, in actuality, the actual time of the meal period was less than thirty (30) minutes.
20 Additionally, foreman would clock Plaintiff and similarly situated employees out without their
21 knowledge, resulting in their being unable to take a full meal period because they would be required to
22 begin working again within thirty (30) minutes from the original clock out. A similar issue occurred at
23 the end of the workday when employees were clocked out by a foreman, though continued to work.

24 21. Finally, Defendants failed to reimburse Plaintiff and similarly situated employees for all
25 expenses they incurred for work, including the use of their personal cellphones. For instance, Plaintiff
26 and similarly situated employees were required to use their personal phones to consistently
27 communicate with office staff and management while at the work site or driving. These calls and/or
28 texts covered work issues such as job site access or directions, status of the work performed, sending

1 pictures to demonstrate job site conditions, and coordinating coverage if one of the crew members was
 2 absent and additional labor was needed. Defendants' managers and supervisors were aware of Plaintiff
 3 and similarly situated employees using their personal cell phones for these purposes because these
 4 managers would regularly initiate and/or respond these calls and/or text messages to Plaintiff and
 5 similarly situated employees on a weekly, sometime daily basis. Defendants' managers also required
 6 Plaintiff and similarly situated employees to call in to the office and/or their foreman Sunday afternoons
 7 and/or evenings to find out if they were scheduled to work the next day, where to they were required to
 8 meet, and what time they were required to meet. This took anywhere from ten (10) minutes to several
 9 hours depending on the day. Defendants failed to have any policy or practice to reimburse Plaintiff and
 10 similarly situated employees for such use. In fact, where Plaintiff had made requests for reimbursement
 11 before, Jeff Bushey, a Production Field Supervisor who was one of Plaintiff's supervisors, cursed at
 12 Plaintiff, told Plaintiff he was lucky to have a job, and that, if Plaintiff kept complaining about
 13 unreimbursed expenses, he would be on the unemployment line. Plaintiff estimates that approximately
 14 50% to 75% of his total phone usage during his employment was for the work purposes identified here
 15 and his cell phone bill was approximately \$83.00 a month.

16 22. As a result of these practices, Defendants failed to provide Plaintiff and similarly situated
 17 employees with accurate wage statements. The wage statements did not accurately itemize Plaintiff's
 18 and similarly situated employees' total hours worked, all applicable hourly rates in effect during the pay
 19 period and the corresponding number of hours worked at each hourly rate, and the correct amount of
 20 gross and net wages earned, including meal and rest period premiums.

21 23. At the time of Plaintiff's and similarly situated employees' termination and/or separation,
 22 Plaintiff and similarly situated employees had regular and overtime wages owing to them, meal and rest
 23 period premiums, and paid sick time. To date, Defendants have not paid Plaintiff and similarly situated
 24 employees these unpaid wages.

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CAUSES OF ACTION

FIRST CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(Non-UCL Class vs all Defendants)

24. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 23 as though fully set forth herein.

25. During the period Plaintiff was employed by Defendants, Defendants were required to compensate Plaintiff at one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See, e.g.*, IWC Wage Order No. 16, section (3)(A); Cal. Lab. Code §§ 510, 1194.

26. Plaintiff and similarly situated employees worked in excess of eight (8) hours per day and/or forty (40) hours per week on several occasions while employed by Defendants. However, Defendants failed to compensate Plaintiff and similarly situated employees for all overtime hours worked at 1.5x their regular rate of pay.

27. Plaintiff and similarly situated employees were not exempt from overtime protections employees under the California Wage Orders and Labor Code.

28. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

SECOND CAUSE OF ACTION
FAILURE TO PAY MINIMUM WAGES
(Non-UCL Class vs. all Defendants)

29. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 28 as though fully set forth herein.

30. For the period preceding the filing of this Complaint, Defendants were required to compensate Plaintiff and similarly situated employees with at least California's applicable minimum for every hour worked. *See* MW-Order 2019; IWC Wage Order, No. 16, section 4(A); Cal. Lab. Code § 1194.

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1 31. Plaintiff was not exempt to the State's Minimum Wage Order. Defendants aware of their
2 obligation to pay the minimum wage for each hour worked but failed to do so.

3 32. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees
4 have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to
5 the extent pertinent as if set forth here in full.

6 **THIRD CAUSE OF ACTION**
7 **MEAL PERIOD VIOLATIONS**
8 **(Non-UCL Class vs. all Defendants)**

9 33. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 32 as though fully
10 set forth herein.

11 34. An employer must provide an employee a meal period in accordance with the
12 applicable Wage Order, and California Labor Code sections 226.7 and 512.

13 35. California Labor Code sections 226.7 and 512 and IWC Wage Order No. 16, section
14 11(A) require an employer to provide an uninterrupted meal period of not less than thirty (30)
15 minutes for each work period of more than five (5) hours.

16 36. California Labor Code section 512 and Wage Order No. 16 section 11(B) further
17 provide that employers may not employ employees for a work period for more than ten (10) hours
18 per day without providing the employee with a second meal period of at least thirty (30) minutes.
19 However, if the total hours worked is no more than twelve (12) hours, the second meal period may
20 be waived so long as there was no waiver as to the first meal period. Employees are entitled to one
21 (1) hour of pay at their regular rate of compensation for each meal period not provided.

22 37. Defendants employed Plaintiff and similarly situated employees for periods of more
23 than five (5) hours without providing meal breaks of at least thirty (30) minutes or a second meal
24 period of at least thirty (30) minutes when Plaintiff and similarly situated employees worked more
25 than ten (10) hours in a day. Defendants also failed to allow Plaintiff and similarly situated
26 employees to take their first meal period before the completion of their fifth hour of work and failed
27 to allow Plaintiff and similarly situated employees to take their second meal period before the
28 completion of their tenth hour of work. Plaintiff and similarly situated employees did not waive their
rights to all meal periods throughout their employment.

38. Defendants further failed to pay Plaintiff and similarly situated employees the applicable meal period premiums for any such missed meal breaks.

39. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FOURTH CAUSE OF ACTION
REST PERIOD VIOLATIONS
(Non-UCL Class vs. all Defendants)

40. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 39 as though fully set forth herein.

41. An employer must provide an employee a rest period in accordance with the applicable Wage Order and California Labor Code section 226.7.

42. California Labor Code section 226.7 and Wage Order No. 16, section 12(A) require an employer to provide a rest period of not less than ten (10) minutes for each work period of more than four (4) hours or a major fraction thereof.

43. Plaintiff alleges that Defendants failed to authorize and permit Plaintiff and similarly situated employees to take paid rest periods of at least ten (10) minutes for each work period that they worked more than four (4) hours or a major fraction thereof.

44. Defendants further failed to pay Plaintiff and similarly situated employees the applicable rest period premiums for any such missed rest periods.

45. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

FIFTH CAUSE OF ACTION
WAGE STATEMENT VIOLATIONS
(Non-UCL Class vs. all Defendants)

46. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 45 as though fully set forth herein.

47. Pursuant to California Labor Code section 226(a), an employer must provide an itemized statement to an employee, semimonthly or at the time of each payment of wages, showing:

(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (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, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of 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. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

48. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an itemized statement or failed to provide an accurate and complete itemized statement showing the requirements set forth in California Labor Code section 226(a). Specifically, Defendants did not accurately itemize all applicable hourly rates in effect during the pay period, all regular, overtime and double time hours worked and corresponding rates of pay, and gross and net wages earned. The paystubs also did not accurately itemize Plaintiff's and similarly situated employees' total hours worked due to Defendants' failure to pay for all hours worked. Plaintiff and similarly situated employees were not able to promptly and easily determine their total hours worked from their paystubs alone. Additionally, Plaintiff and similarly situated employees suffered confusion over whether they received all wages owed and were prevented from effectively challenging information on their wage statements.

49. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

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SIXTH CAUSE OF ACTION
WAITING TIME PENALTIES
(Non-UCL Class vs. all Defendants)

50. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 49 as though fully set forth herein.

51. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. *See* Cal. Lab. Code § 201.

52. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of their resignation. *See* Cal. Lab. Code § 202.

53. Plaintiff and similarly situated employees did not receive all wages, including minimum and overtime wages, meal and rest period premiums, or all sick leave pay owed at their termination or within the required time after their separation from employment.

54. An employer who willfully fails to pay an employee wages in accordance with California Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. *See* Cal. Lab. Code § 203.

55. Defendants knew of their obligation to pay Plaintiff's and similarly situated employees' their final wages when their employment terminated. Indeed, Defendants had knowledge that Plaintiff and similarly situated employees were not paid for all hours worked, or paid the proper rate of pay for all hours worked, because it was Defendants' practices that authorized these under payments and Defendant had access to all of Plaintiff's and similarly situated employees time and employment records demonstrating their entitlement to these wages and premiums. Such conduct shows Defendants had knowledge of earned, but unpaid wages at the time of separation, yet Defendants still refused to pay the remaining wages owed.

56. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged and deprived of their wages and thereby seek their daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due.

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SEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(Non-UCL Class vs. all Defendants)

57. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 56 as though fully set forth herein.

58. California Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.”

59. Defendants required Plaintiff and similarly situated employees to use their personal phones and tools for work purposes but failed to reimburse them for such use. Further, while on out-of-town jobs, Defendants failed to properly reimburse Plaintiff and similarly situated employees for their meals.

60. As a proximate result of Defendants’ conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled “DAMAGES,” which is incorporated here to the extent pertinent as if set forth here in full.

EIGHTH CAUSE OF ACTION
UNFAIR COMPETITION
(UCL Class vs. all Defendants)

61. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though fully set forth herein.

62. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. See California Business and Professions (“B&P”) Code § 17200.

63. Plaintiff and similarly situated employees were not paid all sick leave wages owed during their employment or any time thereafter. Plaintiff lacks an adequate remedy at law for this violation because there is no private right of action for any violation of California Labor Code section 245 *et. seq.*

1 Instead, an individual is statutorily limited to only recovering equitable remedies, including restitution,
2 under the statute.

3 64. Plaintiff further alleges that such actions and/or conduct constitute a violation of the
4 California Unfair Competition Law (“UCL”) (Business and Professions Code 17200, *et seq.*) pursuant to
5 *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal. 4th 163 (2000).

6 65. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the
7 UCL (including B&P Code §17203), Plaintiff and similarly situated employees are entitled to
8 restitution, including, but not limited to, interest and penalties pursuant to Business & Professions Code
9 sections 17203, 17208, for violation of California Labor Code sections 245 *et seq.* all in an amount as
10 yet unascertained but subject to proof at trial, for four (4) years from the initial filing of this Action.

11 **NINTH CAUSE OF ACTION**
12 **PRIVATE ATTORNEYS GENERAL ACT**
13 **(As to all Defendants)**

14 66. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 65 as though fully
15 set forth herein.

16 67. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
17 following provisions of the Labor Code in their dealings with Plaintiff and other similarly situated
18 current and former employees:

- 19 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay
20 Overtime Wages)
- 21 • Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 16, § 4 (Failure to Pay
22 Minimum Wages)
- 23 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 16, §§ 11(A) and 11(B)
24 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 25 • Violation of Labor Code § 226.7 and Wage Order No. 16, § 12(A) (Failure to Provide
26 Rest Periods or Pay Premiums in Lieu Thereof)
- 27 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- 28 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

- Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)
- Violation of Labor Code §§ 223, 225 (Failure to Pay Contract Wages and Unlawful Deductions)
- Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

68. Plaintiff seeks civil penalties against Defendants as provided in the California Labor Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section 2699(f)(2).

69. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code sections 2699(a) and 2699.3.

70. As a proximate result of Defendants' conduct, Plaintiff and similarly situated employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. A jury trial;
2. As to the First Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
3. As to the Second Cause of Action:
 - a. Wages in an amount to be proven at trial;
 - b. Interest for the wages due pursuant to California Labor Code section 1194;
 - c. For reasonable attorney's fees and costs incurred pursuant to California Labor Code section 1194;
 - d. Liquidated damages pursuant to California Labor Code section 1194.2;
4. As to the Third Cause of Action:

- 1 a. Wages in an amount to be proven at trial;
- 2 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 3 section 1021.5;
- 4 5. As to the Fourth Cause of Action:
- 5 a. Wages in an amount to be proven at trial;
- 6 b. Attorney's fees, costs and interest pursuant to California Code of Civil Procedure
- 7 section 1021.5;
- 8 6. As to the Fifth Cause of Action:
- 9 a. Penalties as provided for in Labor Code section 226, including the greater of all
- 10 actual damages or fifty dollars (\$50.00) for the initial pay period in which the
- 11 violation occurred and one hundred dollars (\$100.00) per employee for each
- 12 violation in the subsequent pay periods, but not to exceed four thousand dollars
- 13 (\$4,000.00);
- 14 b. For reasonable attorney's fees and costs incurred pursuant to Labor Code section
- 15 226(e);
- 16 7. As to the Seventh Cause of Action:
- 17 a. An amount to be proven at trial;
- 18 b. For attorney's fees, interest, and costs pursuant to Labor Code section 2802(c);
- 19 8. As to the Ninth Cause of Action:
- 20 a. For civil penalties as provided in the Labor Code for each enumerated
- 21 violation;
- 22 b. For those Labor Code sections where there is no civil penalty provided for their
- 23 violation, the default penalty provided in Labor Code section 2699(f): for any
- 24 initial violation, one hundred dollars (\$100) for each aggrieved employee per pay
- 25 period; For any subsequent violation, two hundred dollars (\$200) for each
- 26 aggrieved employee per pay period;
- 27 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- 28

d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

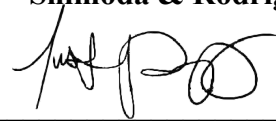
9. For such other and further relief as this Court may deem just and proper, including, but not limited to:

- a. Wages as proved at trial;
- b. Injunctive and Declaratory relief;
- c. Attorney's fees and costs as provided for by law; and
- d. Interest.

Dated: October 7, 2022

Shimoda & Rodriguez Law, PC

By: _____



Galen T. Shimoda
Justin P. Rodriguez
Attorneys for Plaintiff

Lingle v. Centimark Corporation
Eastern District of CA, Case No. 2:22-CV-01471-JDP

PROOF OF SERVICE — F.R.C.P., Rule 5

I, Elias Tapia, declare that:

I am a citizen of the United States and am over the age of eighteen years and not a party to the within above-entitled action.

On October 7, 2022, I served the following documents on the party below:

- SECOND AMENDED COMPLAINT FOR DAMAGES

Michael J. Nader (SBN 200425) Paul M. Smith (SBN 306644) Danielle Ocs (SBN 178677) OGLETREE DEAKINS NASH SMOAK & STEWART, P.C., 500 Capitol Mall, Suite 2500 Sacramento, CA 95814 Telephone: (916) 840-3150 Facsimile: (916) 840-3159 Email: paul.smith@ogletree.com Michael.Nader@ogletreedeakins.com maria.davis@ogletreedeakins.com noreen.witt@ogletreedeakins.com	
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[] [By Mail] I am familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service and that each day's mail is deposited with the United States Postal Service that same day in the ordinary course of business. On the date set forth above, I served the aforementioned document(s) on the parties in said action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, for collection and mailing on this date, following ordinary business practices, at Elk Grove, California, addressed as set forth above.

[] [By Personal Service] By personally delivering a true copy thereof to the office of the addressee above.

[XXX] [By Electronic Mail] I e-mailed the documents(s) to the person(s) shown above. No error was reported by the e-mail service that I used.

[] [By Overnight Courier] By causing a true copy and/or original thereof to be personally delivered via the following overnight courier service: UPS.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 7, 2022, at Elk Grove, California


Elias Tapia

EXHIBIT C



Shimoda Law Corp.
9401 East Stockton Blvd.
Suite #120
Elk Grove, CA 95624
Ph. (916) 525-0716
Fax (916) 760-3733
www.shimodalaw.com

November 19, 2021

For Online Filing:

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

Re: *Lingle v. Centimark Corporation, et al.*

Dear Labor Commissioner,

As counsel for Anthony Lingle ("Plaintiff"), I am writing to provide you and the following "employers" notice pursuant to California Labor Code section 2699.3:

Centimark Corporation
12 Grandview Circle
Canonsburg, PA 15317

Centimark Corporation c/o
CT Corporation System
330 N Brand Blvd, Suite 700
Glendale, CA 91203

Jeff Bushey
12 Grandview Circle
Canonsburg, PA 15317

Aaron Ellis
12 Grandview Circle
Canonsburg, PA 15317

We are setting forth the "facts and theories" to support each of the counts found within this complaint. Please notify us of your intent to investigate any or all of the claims alleged herein against Centimark Corporation, Aaron Ellis, and Jeff Bushey ("Defendants"). Should you decide not to investigate, we request that you allow us to bring the following action on behalf of Plaintiff and all Aggrieved Employees, pursuant to Labor Code section 2699(a). Specifically, Aggrieved Employees shall include, but are not limited to the following: all non-exempt employees who have or continue to work for Defendants in California. Plaintiff is clearly entitled to bring a Private Attorneys General Act ("PAGA") claim for civil penalties on behalf of these individuals pursuant to *Huff v. Securitas Security Services USA, Inc.*, 23 Cal.App.5th 745,



757 (2018) (finding a plaintiff has PAGA standing if affected by one of the alleged violations; the plaintiff need not have personally experienced all the violations pursued in PAGA action).

A. FACTS

Plaintiff worked for Defendants from approximately November 1, 2019, to October 2021, as an hourly, non-exempt employee. Aggrieved Employees also worked for Defendants as non-exempt, hourly employees. Plaintiff and Aggrieved Employees performed work as laborers and roofers across California.

Defendants failed to pay Plaintiff and Aggrieved Employees for all hours spent driving for work purposes, including drive time from Defendants' Roseville location/shop, or the designated meet up location, to the job site. Plaintiff and Aggrieved Employees had to obtain materials and equipment necessary to complete their job tasks from Defendants' shop, or meet up location, and then transport these materials to various worksites across California.

When Defendants did pay Plaintiff and Aggrieved Employees for travel time at their hourly rate, they were rarely paid for the full number of hours they were on the road for work purposes. Additionally, Plaintiff and Aggrieved Employees earned remuneration in addition to their basic hourly rate, including, but not limited to, bonuses and zone pay. However, the additional compensation was not properly accounted for when calculating Plaintiff and Aggrieved Employees' regular rate of pay for overtime, sick leave, and meal and rest period premium purposes. This 'zone pay' was also consistently underpaid both because it was often less than the contracted 'zone pay' rate or amounted to less than Plaintiff and Aggrieved Employees' hourly rate for all hours worked.

Defendants, further, did not authorize and permit Plaintiff and Aggrieved Employees to take a full, uninterrupted thirty (30) minute meal periods every five (5) hours and ten (10) minute rest periods every four (4) hours or major fraction thereof. Defendants further did not authorize and permit Plaintiff and Aggrieved Employees a second meal break after working more than ten (10) hours, or a second or third rest period after working more than eight (8) and twelve (12) hours. In fact, it was Defendants' expectation that Plaintiff and Aggrieved Employees would remain on call during break time while driving to and from the work site and while at the actual job site.

Finally, Defendants failed to reimburse Plaintiff and Aggrieved Employees for all expenses they incurred for work, including the use of their personal cellphones and tools required for work. For instance, Plaintiff and Aggrieved Employees used their personal phones to consistently communicate with staff and management while at the work site or driving. Despite this, Defendants failed to have any policy or practice to reimburse them for such use. In addition to using their personal phones for work purposes, Plaintiff and Aggrieved Employees



also used their own tools for job related purposes. Although Defendants did have company tools, these tools were often unavailable when they were needed for the job.

As a result of these practices, Defendants failed to provide Plaintiff and Aggrieved Employees with accurate wage statements. The wage statements did not accurately itemize Plaintiff's and Aggrieved Employees' total hours worked, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate, and the correct amount of gross and net wages.

At the time of Plaintiff's and Aggrieved Employees' termination and/or separation, Plaintiff and Aggrieved Employees had regular and overtime wages owing to them, meal and rest period premiums, and paid sick time. To date, Defendants have not paid Plaintiff and Aggrieved Employees these unpaid wages.

Aaron Ellis and Jeff Bushey were owners, directors, officers, and/or managing agents of Centimark Corporation, and caused each and every one of the aforementioned Labor Code violations.

B. ALLEGATIONS AND CHARGES

Count 1 – Violation of Labor Code §§ 510, 1194; IWC Wage Order 16, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees 1 ½ times their regular rate of pay for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay employees 1 ½ times their regular rate of pay for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay employees 2 times their regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Plaintiff and Aggrieved Employees worked over eight (8) hours per day and forty (40) hours per week and were not paid all overtime wages owed. Plaintiff and all Aggrieved Employees are entitled to recover all unpaid overtime wages. Failure to pay such wages is against the law.

Count 2 – Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order 16, § 4 (Failure to Pay Minimum Wages)

During the period Plaintiff and Aggrieved Employees were employed by Defendants they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. *See, e.g.,* IWC Wage Order MW-2019; IWC Wage Order No. 16, § (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendants did not pay Plaintiff and Aggrieved



Employees for all hours worked. Thus, Plaintiff and Aggrieved Employees were not paid at least the applicable state minimum wage for those hours worked. This is against the law.

Count 3 - Violation of Labor Code §§ 226.7, 512 and Wage Order No. 16, §§ 11(A) and 11(B) (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 16, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked, which is to be taken before the completion of the fifth hour. Labor Code section 512 and Wage Order No. 16, section 11(B) further provide that employers may not employ employees for a work period of more than ten (10) hours per day without providing the employee with a second meal period of thirty (30) minutes; however, if the total hours worked is no more than twelve (12) hours, the second meal period may be waived so long as there was no waiver as to the first meal period. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay any meal period premiums for their failure to provide meal periods. This was in violation of the law.

Count 4 – Violation of Labor Code § 226.7 and Wage Order No. 16 § 12(A) (Failure to Provide Rest Periods or Pay Premiums in Lieu Thereof)

Labor Code section 226.7 and Wage Order No. 16, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Plaintiff and Aggrieved Employees were not authorized and permitted to take legally compliant rest periods pursuant to California law. Defendants also failed to pay any rest period premiums for their failure to provide rest periods. This was in violation of the law.

Count 5 – Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

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



the reasons stated above, Defendants failed to comply with these requirements with respect to Plaintiff and Aggrieved Employees. This is in violation of the law.

Count 6 – Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)

Labor Code sections 201-203 require that all wages, including minimum wages, overtime wages, and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Plaintiff and Aggrieved Employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201-203. This is in violation of the law.

Count 7 – Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” Defendants failed to adequately pay Plaintiff and Aggrieved Employees reimbursements for cell phone use, use of personal tools for work purposes, and meal expenses as required by law.

Count 8 – Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work in Any Industrial Welfare Commission Order)

Labor Code section 558 states that it is unlawful for any employer, or other person acting on behalf of an employer, to violate or cause to be violated any of sections 500 to 558.1 of the Labor Code or any order of the Industrial Welfare Commission. Similarly, Labor Code section 558.1 states that it is unlawful for any employer or other person acting on behalf on an employer to violate, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, as well as Sections 203, 226, 226.7, 1193.6, 1194, or 2802 of the Labor Code. As described above, Defendants, by and through Defendants’ agents, violated Plaintiff and Aggrieved Employees’ rights provided for under Labor Code sections 558 and 558.1 as well as the incorporated Wage Orders and incorporated statutes therein. Aaron Ellis and Jeff Bushey were officers, directors, shareholders, and/or managing agents of Defendants responsible for the violations stated herein as they were in a position of authority with the power and responsibility to monitor, institute, and/or modify the unlawful practices, but chose to ratify them instead. This is against the law.



Count 9 – Violation of Labor Code §§ 221, 223, 225 (Failure to Pay Contract Wages and Unlawful Deductions)

Labor Code section 221 states that “[it] shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Labor Code section 223 prohibits employers from paying an employee less than a contractually obligated amount. As stated above, Defendants failed to pay Plaintiff and Aggrieved Employees their contracted compensation for all hours worked. This was against the law.

Count 10 – Violation of Labor Code §§ 226.3, 1174 (Failure to Maintain Accurate Records)

Labor Code section 226.3 provides that any employer who fails to maintain records required by Labor Code section 226(a) or provide records required by 226(a) shall be subject shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation. Labor Code section 1174(d) provides that employers must keep and maintain accurate payroll records showing the hours worked daily by, and the wages paid to, employees. Defendants failed to maintain the accurate records required by law and, instead, maintained incomplete, inaccurate records regarding Plaintiff and Aggrieved Employees’ wage records and hours worked. This was against the law.

Count 11 – Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)

Labor Code sections 246, *et seq.*, mandate that employers must provide California employees, who work thirty (30) or more days within a year for the employer, paid sick leave of at least one (1) hour for every thirty (30) hours worked that begins to accrue at the commencement of employment. An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than twenty-four (24) hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. An employer may limit the use of sick leave to either twenty-four (24) hours or the equivalent of three (3) days, whichever is greater, during a year period. However, employers using an accrual method rather than a lump sum method must allow employees to accrue up to forty-eight (48) hours or the equivalent of six (6) days at any given time. Employers must authorize employees to take paid sick leave under the conditions set forth in the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”) for the diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee’s family member. Any sick leave taken must be paid at the employee’s regular rate of pay. For the reasons state above, Defendants failed to provide Plaintiff and Aggrieved Employees with sick leave meeting the



requirements set forth in HWHFA. Plaintiff will be seeking equitable, injunctive, and restitutionary relief to remedy these violations.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact our office.

Very truly yours,

Shimoda Law Corp.

By: 
Justin P. Rodriguez

JPR/jh
cc: Client via e-mail

1 *Lingle v. Centimark Corporation, et al.*

2 **PROOF OF SERVICE — CCP §§ 1013a and 2015.5**
3 **and California Rules of Court, Rule 1.21 and Rule 2.150**

4 I, Caitlyn A. Lopez, declare that:

5 I am a citizen of the United States and am over the age of eighteen years and not a party to
6 the within above-entitled action.

7 On November 19, 2021, I served the following documents on the party below:

- 8 • Private Attorney General Act Letter

9 Centimark Corporation 10 12 Grandview Circle 11 Canonsburg, PA 15317	Centimark Corporation c/o CT Corporation System 330 N Brand Blvd, Suite 700 Glendale, CA 91203
12 Jeff Bushey 13 12 Grandview Circle 14 Canonsburg, PA 15317	Aaron Ellis 12 Grandview Circle Canonsburg, PA 15317

15 [XXX] [By Certified Mail] I am familiar with my employer's practice for the collection
16 and processing of correspondence for mailing with the United States Postal
17 Service and that each day's mail is deposited with the United States Postal
18 Service that same day in the ordinary course of business. On the date set forth
19 above, I served the aforementioned document(s) on the parties in said action by
placing a true copy thereof enclosed in a sealed envelope with postage thereon
fully prepaid, for collection and mailing on this date, following ordinary business
practices, at Elk Grove, California, addressed as set forth above.

20 [] [By Personal Service] By personally delivering a true copy thereof to the office
of the addressee above.

21 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
22 personally delivered via the following overnight courier service: _____.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct, and that this declaration was executed on November 19, 2021, at Elk Grove,
25 California.

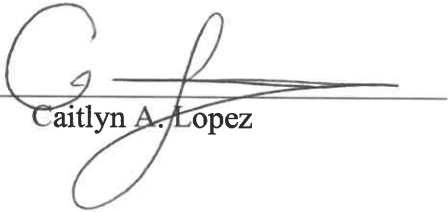
26 
Caitlyn A. Lopez

EXHIBIT D



Quotation Request:

Renald Konini
Shimoda & Rodriguez Law, PC
rkonini@shimodalaw.com
916.525.0716

Case Name:

Lingle v. CentiMark Corporation

Date:

Monday, September 25, 2023

RFP Number:

07160002

Prepared By:

Sean Hartranft
Apex Class Action LLC
Sean@apexclassaction.com
949.878.3676

Settlement Specifications	
Estimated Class Size:	265
Estimated Number of Aggrieved Employees	373
Certified Language Translation:	Yes
Static Settlement Website	No
Percentage of Undeliverable Mail	20%

Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
Data Analytics and Standardization				
Import and Standardize Data*	Per Hour	\$125.00	2	\$250.00
Data Analyst	Per Hour	\$150.00	2	\$300.00
*Data provided must be in a workable format. Apex can standardized provided data at an additional cost of \$150/hr.				
Sub Total:				\$550.00

Mailing of Class Notice				
Form Set Up	Per Hour	\$120.00	1	\$120.00
Print & Mail Class Notice	Per Piece	\$1.75	265	\$463.75
USPS First Class Postage	Per Piece	\$0.66	265	\$174.90
Remail Undeliverable Mail (Skip-Trace)	Per Piece	\$2.00	53	\$106.00
Receive and Process Undeliverable Mail	Per Hour	\$75.00	0.5	\$37.50
Process Class Member Correspondence via mail, e-mail & fax	Per Piece	\$75.00	1	\$75.00
NCOA Address Update (USPS)	Static Rate	\$43.82	1	\$43.82
Certified Language Translation: Spanish	Static Rate	\$1,200.00	1	\$1,200.00
Sub Total:				\$2,220.97

Project Management				
Project Management	Per Hour	\$150.00	2	\$300.00
Project Coordinator	Per Hour	\$90.00	2	\$180.00
Data Analyst and Reporting	Per Hour	\$140.00	1	\$140.00
Sub Total:				\$620.00



Professional Services	Fee Calculation	Rate(s)	Quantity	Estimated Cost
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Toll-Free Contact Center, Website & Reporting				
Bilingual Toll-Free Contact Center	Static Rate	\$55.00	1	\$55.00
Settlement Status Reports	Static Rate	\$750.00	1	Waived
Sub Total:				\$55.00

Distribution & Settlement Fund Management				
Settlement Calculations (Preliminary and Final)	Per Hour	\$120.00	3	\$360.00
Account Management and Reconciliation	Per Hour	\$140.00	3	\$420.00
Print & Mail Distribution Settlement Check (W-2/1099)	Per Piece	\$1.50	373	\$559.50
USPS First Class Postage	Per Piece	\$0.66	373	\$246.18
Remail Distribution to Updated Address (Skip Trace)	Per Piece	\$2.00	37	\$74.60
Individual Income Tax Preparation & Reporting	Per Hour	\$100.00	7	\$700.00
QSF Income Tax Reporting (per calendar year)	Per Year	\$1,250.00	1	\$1,250.00
Sub Total:				\$3,610.28

Post Distribution Reconciliation				
Bank Account Reconciliation	Per Hour	\$135.00	2	\$270.00
Project Management Reconciliation	Per Hour	\$100.00	2	\$200.00
Declarations	Per Hour	\$120.00	2	\$240.00
Sub Total:				\$710.00

WILL NOT EXCEED:				\$7,766.25
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Thank you for your business!

Terms & Conditions

The following Terms and Conditions govern the provision of all services to be provided by Apex Class Action and its affiliates ("Apex") to the Client. These terms and conditions are binding and shall apply to all services provided by Apex in relation to any related services or products.

1. **Services:** Apex commits to providing the Client with the administrative services detailed in the attached Proposal (the "Services").

2. **Payment Terms:** As compensation for the legal services to be provided, the Client agrees to pay Apex all fees detailed in the Proposal. The fees quoted in the Proposal (and any subsequent proposals for additional services) are estimates based on the information provided to Apex by the Client. Apex makes no representation that the estimated fees in the Proposal or any subsequent proposals for additional services shall equal the actual fees charged by Apex to the Client, which fees (including individual line items) may be greater or less than estimated. If additional services are requested on an hourly basis and are not specifically detailed in the Proposal, Apex will prepare estimates for such services subject to approval by the Client. In the performance of such additional services, Apex will charge standard hourly fees which shall apply.

3. **Incurred Expenses:** In relation to the provision of services outlined in this agreement, the Client agrees to reimburse Apex for all reasonable out-of-pocket expenses incurred. Such expenses may include, but are not limited to, costs associated with postage, media production or publication, banking fees, brokerage fees, messenger and delivery service expenses, travel expenses, filing fees, office supplies, meals, staff overtime expenses, and other related costs and expenses. If not otherwise specified in writing, fees for print notice and certain expenses, such as media publication and postage, must be paid immediately upon invoicing and, in certain cases, at least ten (10) days prior to the date on which such expenses will be incurred.

4. **Invoicing:** Apex shall present invoices for its fees and expenses on a monthly basis, except as provided in Section 3. The Client agrees to pay each invoice within 30 days of receipt. In case of non-payment within 90 days of the billing date, an additional service charge of 1.5% per month may apply. Apex reserves the right to increase its prices, charges, and rates annually, subject to reasonable adjustments. If any price increases exceed 10%, Apex shall give thirty (30) days' notice to the Client. In the event of any unpaid invoices beyond 120 days of the due date, Apex reserves the right to withhold services and reports until payment is received, subject to notice to the Client. It is important to note that Apex's failure to provide services and reports in such instances shall not constitute a default under this agreement.

5. **Case Duration:** The duration of these Terms and Conditions, except for the data storage obligations stated in Section 13, shall be in effect until 30 days following the completion of the Services as described in the Proposal. The parties may extend these Terms and Conditions in writing for a mutually agreed-upon period beyond this initial 30-day period.

6. **Termination of Services:** Either party may terminate the Services by providing thirty (30) days written notice to the other party. Alternatively, termination may occur immediately upon written notice for Cause, as defined below. Cause means (i) Apex's gross negligence or willful misconduct that causes serious and material harm to the Client; (ii) the Client's failure to pay Apex invoices for more than one hundred twenty (120) days from the date of the invoice; or (iii) the accrual of invoices or unpaid services where Apex reasonably believes it will not be paid. Termination of the Services shall not relieve the Client of its obligation to pay Apex for services rendered prior to the termination.

7. **Independent Contractor:** As an independent contractor, Apex will provide services under the terms of this agreement. It is agreed that neither Apex nor any of its employees will be considered an employee of the Client. Consequently, Apex and its employees will not be eligible for any benefits provided by the Client to its employees. The Client will not make any tax deductions from the payments due to Apex for state or federal tax purposes. Apex will be solely responsible for paying all taxes and other payments due on payments received from the Client under this agreement.

8. **Apex warrants that the Services outlined in the Proposal will be performed in accordance with the standards generally adhered to by professionals providing similar services. It is acknowledged that the Services may entail the likelihood of some human and machine errors, omissions, delays, and losses that may result in damage. However, Apex shall not be held liable for such errors, omissions, delays, or losses unless they are caused by its gross negligence or willful misconduct. In the event of any breach of this warranty by Apex, the Client's sole remedy will be limited to Apex's rerunning, at its expense, any inaccurate output provided that such inaccuracies occurred solely as a result of Apex's gross negligence or willful misconduct under this agreement.**

9. **Limitation of Liability:** The Client acknowledges that Apex shall not be held liable for any consequential, special, or incidental damages incurred by the Client in relation to the performance of Services, whether the claim is based on breach of warranty, contract, tort (including negligence), strict liability, or any other grounds. Under no circumstances shall Apex's liability to the Client, for any Losses (including court costs and reasonable attorney's fees), arising out of or in connection with these Terms and Conditions, exceed the total amount charged or chargeable to the Client for the specific service(s) that caused the Losses.

10. **Indemnification:** The Client agrees to indemnify and hold harmless Apex from any losses, suits, actions, judgments, fines, costs, liabilities, or claims arising from any action or proceeding relating to the Services provided by Apex, regardless of whether or not it results in liability (collectively referred to as "Indemnified Claims"). However, this indemnification provision shall not apply to the extent that such Indemnified Claims are caused by Apex's willful misconduct, gross negligence, or breach of these Terms and Conditions. This provision shall survive termination of the Services.

11. **Confidentiality:** Apex will uphold strict confidentiality between Apex and the Client and applies to all non-public records, documents, systems, procedures, processes, software, and other information received by either party in connection with the performance of services under these terms. Both Apex and the Client agree to keep confidential all such non-public information, including any material marked or identified as confidential or proprietary. Any such confidential information shall not be disclosed, provided, disseminated, or otherwise made available to any third party, except as required to fulfill the parties' obligations under these terms. The parties acknowledge that in the event of any request to disclose any confidential information in connection with a legal or administrative proceeding, or otherwise to comply with a legal requirement, prompt notice of such request must be given to the other party to enable that party to seek an appropriate protective order or other remedy or to waive compliance with the relevant provisions of these terms. If the Client seeks a protective order or another remedy, Apex, at the Client's expense, will cooperate with and assist the Client in such efforts. If the Client fails to obtain a protective order or waives compliance with the relevant provisions of these terms, Apex will disclose only that portion of the confidential information that it determines it is required to disclose. This confidentiality provision shall survive termination of the services provided. Both parties acknowledge and agree that any breach of these terms may cause irreparable harm to the non-breaching party and that injunctive relief may be necessary to prevent any actual or threatened breach. The terms set forth between the parties supersede all prior negotiations, understandings, and agreements between the parties concerning confidentiality. These terms may only be amended in writing and signed by both parties.

12. **Ownership of the programs, system data, and materials provided by Apex to the Client during the course of providing services herein shall solely belong to Apex. It is acknowledged that fees and expenses paid by the Client do not confer any rights in such property. It is also understood that the said property is made available to the Client solely for the purpose of using it during and in connection with the services provided by Apex.**

13. **Upon the completion of the administration and unless retention instructions are ordered by the court, Apex will notify the client that it will destroy and/or return all confidential information and property within 90 days upon the client's written request. Alternatively, the material may be stored for one year at a monthly fee of \$1.50 per storage box for paper documents and \$0.01 per image for electronic copies over a period of three years, which compensates Apex for its electronic and hard-copy storage costs. Apex will not be liable for any damages, liability, or expenses incurred in connection with any delay in delivery of, or damage to disks, magnetic tapes, or any input data provided by the client or its representatives unless Apex has agreed in writing to assume such responsibility.**

14. **COMPLETE AGREEMENT.** These Terms and Conditions, along with the attached Proposal, represent the complete agreement and understanding between the parties and override any prior agreements (whether written or oral) between Apex and the Client regarding the subject matter. Any modification to these Terms and Conditions may only be made in writing and must be signed by both Apex and the Client. The headings in this document are included for convenience only and do not alter or restrict any provisions in these Terms and Conditions. They may not be used in the interpretation of these Terms and Conditions.

15. **This provision outlines the requirements for providing notice or other communication under this agreement. All such communications must be in writing and can be delivered either by personal delivery or through U.S. Mail with prepaid postage or overnight courier. Once delivered personally or sent through the mail, the notice will be considered given after five (5) days from the deposit date in the U.S. Mail. Alternatively, if sent through an overnight courier, the notice will be considered given one business day after delivery to the such courier. It's important to note that the notice must be provided to a responsible officer or principal of the Client or Apex, depending on the case.**

16. **Force Majeure:** In the event of any failure or delay in performance due to circumstances beyond Apex's control, including but not limited to strikes, lockouts, fires, floods, acts of God or public enemy, riots, civil disorders, insurrections, war or war conditions, or interference by civil or military authorities, Apex shall not be held liable for any resulting loss or damage. The time for performance under this agreement shall be extended for a period equal to the duration of the disabling cause and a reasonable time thereafter. This provision shall constitute a force majeure clause and shall be construed accordingly.

17. **The applicable state and federal laws shall govern the interpretation and enforcement of these Terms and Conditions. No choice of law or conflict of laws provisions shall affect this governing law provision.**

18. **Severability:** This applies to all clauses and covenants contained within these Terms and Conditions. In the event that any clause or covenant is deemed invalid, illegal, or unenforceable, the remaining provisions shall remain valid and enforceable to the fullest extent permissible by law. The validity, legality, and enforceability of the remaining provisions shall in no way be affected or impaired by the invalidity, illegality, or unenforceability of any provision deemed so.

19. **Nonwaiver:** This applies to these Terms and Conditions. This means that any failure by one party to enforce a provision of these terms on one or more occasions shall not be construed as a waiver of that provision. In other words, any failure to enforce a provision does not give up the right to enforce it in the future. All provisions of these Terms and Conditions remain in full force and effect, regardless of any prior failure to enforce them.

EXHIBIT E

Shimoda & Rodriguez Law, PC - Anthony Lingle

Date	Description	Amount
10/22/2021	Administration/Copy Fee - Class Action - Phone, Fax, Scan, Copying, Non-Certified/Courier Postage, Lexis Legal Research Fees	\$500.00
11/19/2021	Payment to LWDA - PAGA Filing Fee	\$75.00
12/2/2021	Payment to Court - Complaint	\$435.00
12/2/2021	Service Fee to Court - Complaint	\$40.00
12/10/2021	One Legal Service Fee - Service of Complaint on Defendant	\$35.00
12/13/2021	Payment to Court - Complex Fees	\$1,000.00
12/13/2021	Service Fee to Court - Complex Fees	\$40.00
12/14/2021	Service Fee to Court - Proof of Service of Summons	\$40.00
1/14/2022	Service Fee to Court - Notice of Disassociation of Counsel	\$40.00
1/26/2022	Priority Mail - Discovery to opposing counsel	\$7.75
7/14/2022	One Legal Service Fee - Court filing fee \$20, filing fee \$79.35	\$99.35
7/26/2022	One Legal Service Fee - first Amended Complaint order 18599890	\$78.76
8/29/2022	Payment for Records -	\$4.90
10/13/2022	One Legal Service Fee - Case management statement 19004936	\$61.26
11/21/2022	Expenses - Westlaw search	\$219.00
5/17/2023	Mediation - Luis Marlin	\$9,000.00
	Total	\$11,676.02

EXHIBIT G