

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
4 **GAINES & GAINES, APLC**
4550 East Thousand Oaks Boulevard, Suite 100
5 Westlake Village, CA 91362
Telephone: (818) 703-8985
6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff Alejandro Ramirez
and Proposed Class Counsel
8

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF ORANGE**

11
12 ALEJANDRO RAMIREZ, on behalf of
13 himself and on behalf of all similarly
situated individuals,

14 Plaintiff,

15 v.

16 DE ANDA ENTERPRISES, INC., a
California corporation, and DOES 1
17 through 10, inclusive,

18 Defendants.
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CASE NO: 30-2021-01232142-CU-OE-CXC

*Assigned for all purposes to the Hon. William
Claster, Dept. CX104*

**DECLARATION OF DANIEL F. GAINES IN
SUPPORT OF UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND FOR LEAVE
TO FILE FIRST AMENDED COMPLAINT**

Date: May 5, 2023

Time: 9:00 a.m.

Dept.: CX104

Reservation # 73983637

Complaint Filed: November 16, 2021

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2 I, DANIEL F. GAINES, hereby declare and state as follows:

3 1. I am an attorney duly admitted to the practice of law in the State of California. I
4 am a shareholder of Gaines & Gaines, APLC, counsel for Plaintiff Alejandro Ramirez
5 ("Ramirez") or "Plaintiff") and proposed Class Counsel in this action. I have personal
6 knowledge of the facts set forth herein and if called as a witness to testify to them, I could and
7 would do so competently.

8 **Education and Experience:**

9 2. I obtained my BS degree from the University California at Berkeley in 2003. I
10 majored in Business Administration at the Haas School of Business.

11 3. Thereafter, I attended the University of Virginia School of Law. At Virginia, I
12 was a member of the editorial board of the Virginia Tax Review. I was also the recipient of the
13 Lacy Armour Scholarship, awarded to recognize academic excellence. At Virginia, I focused
14 my studies on tax and real estate. I earned my JD and became a member of the California Bar in
15 2007.

16 4. Since becoming a member of the Bar, and until his recent retirement, I practiced
17 law with my father, Kenneth, at Gaines & Gaines, APLC. Our practice specializes in litigation,
18 with an emphasis in employment disputes like this one. Over 95% of my practice is devoted to
19 complex employment litigation similar to the instant action.

20 5. My firm has represented employees in complex employment matters such as this
21 one, with an emphasis in wage and hour issues. I have participated in and have been certified as
22 class counsel in dozens of class action matters since my admission to the Bar. A list of the cases
23 in which I have been appointed as class counsel is attached hereto as **Exhibit A**.

24 **Factual and Procedural Background:**

25 6. On November 12, 2021, Plaintiff exhausted the pre-filing requirements of the
26 Labor Code Private Attorneys General Act of 2004 ("PAGA").

27 7. On or about November 16, 2021, Plaintiff initiated the Action by filing a Class
28 Action Complaint on behalf of himself and on behalf of all similarly situated individuals (the

1 “Complaint”). The First Amended Complaint, attached to the Settlement as Exhibit 4 and which
2 will be filed as part of the settlement approval process, asserts class and representative action
3 claims pursuant to PAGA against Defendant for (1) failure to pay all minimum and overtime
4 wages (Labor Code §§ 510, 1194, and 1194.2); (2) failure to provide compliant rest periods or
5 compensation in lieu thereof (Labor Code § 226.7; IWC Wage Order 5-2001); (3) failure to
6 provide compliant meal periods or compensation in lieu thereof (Labor Code §§ 226.7, 512,
7 1174, and 1174.5; IWC Wage Order 5-2001); (4) failure to comply with itemized employee
8 wage statement provisions (Labor Code § 226(a); (5) failure to timely pay wages due at
9 separation of employment (Labor Code §§ 201-203); (6) violation of Business and Professions
10 Code §§ 17200, *et seq.*; and (7) civil penalties pursuant to Labor Code §§ 2698, *et seq.* for
11 violations of Labor Code §§ 201-202, 226(a), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, and
12 1194 (the “First Amended Complaint”).

13 8. Defendant denies any liability or wrongdoing of any kind associated with the
14 claims alleged in the Action, and further denies that the Action is appropriate for class treatment
15 for any purpose other than this settlement. Defendant contends that it has complied at all times
16 with the California Labor Code, Industrial Welfare Commission Wage Orders, and all other
17 applicable federal, state, and local laws and regulations. It is Defendant’s position that, if this
18 case were to be litigated, class certification would be inappropriate because Plaintiff is not an
19 adequate class representative, Plaintiff’s claims are not typical of putative class members, and
20 individual issues predominate over class issues. The Action, the negotiation and execution of
21 this Settlement Agreement, and all acts performed or documents executed pursuant to or in
22 furtherance of the Settlement Agreement (i) shall not be used as an admission or evidence of
23 wrongdoing on behalf of Defendant; (ii) shall not be an admission or evidence of fault on behalf
24 of Defendant in any action before a civil, criminal, or administrative agency; and (iii) shall not
25 be deemed to be, and may not be used as, an admission or evidence of the appropriateness of
26 these or similar claims for class certification in the Action or with respect to any other
27 proceeding.

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2 9. The Class Representative contends that Defendant violated the California Labor
3 Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for
4 class certification.

5 **Investigation and Settlement Discussions**

6 10. My colleagues and I have conducted a thorough investigation into the facts and
7 law during the prosecution of this class action case, including the exchange of extensive informal
8 discovery and the review and verification of statistical data and other facts and information
9 provided by Defendant, including documents and data evidencing Defendant's financial
10 hardship. My colleagues and I have investigated the applicable law as applied to the facts
11 discovered regarding the alleged claims of Plaintiff and potential defenses thereto, and the
12 damages and other losses claimed by Plaintiff.

13 11. On November 30, 2022, following our exchange of information and documents
14 regarding the Settlement Class and the claims and defenses asserted by the Parties, we engaged
15 in arm's-length negotiations with the assistance of mediator Mark LeHocky, Esq., through which
16 we were able to reach the resolution of the Action set forth herein.

17 **Class Counsel's Assessment of the Fairness of the Settlement and the Risks of Continued**
18 **Litigation:**

19 12. Based on our independent investigation and evaluation, my colleagues and I are of
20 the opinion that settlement for the consideration and on the terms set forth in this Settlement
21 Agreement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in
22 light of all known facts and circumstances, including the risk of significant delay, the risk the
23 Settlement Class will not be certified by the Court, and the defenses asserted by Defendant.

24 13. The Parties agree that the Settlement Class described herein may be certified for
25 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
26 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
27 approved, the certification will have no force or effect and will immediately be revoked. The
28 Parties further agree that certification for purposes of the settlement is in no way an admission

1 that class certification is proper under the more stringent standard applied for litigation and that
2 evidence of this limited stipulation for settlement purposes only will not be admissible for any
3 purpose in this or any other proceeding

4 14. The Parties have jointly prepared the Settlement Agreement and Release of Claims
5 (“Settlement,” “Stipulation,” or “Stip.”). All of the terms of the Parties’ settlement are contained
6 within the Settlement. At all times, the Parties’ settlement negotiations have been non-collusive,
7 adversarial, and at arm’s length. A true and correct copy of the Settlement is attached hereto as
8 **Exhibit B.**

9 15. The Parties have agreed upon a settlement class: all persons who are or were
10 employed in California by Defendant as non-exempt employees at any point from November 16,
11 2017 through November 30, 2022. Defendant represents that this Class contains no more than
12 approximately 260 members who worked no more than 15,000 workweeks during the Class
13 Period.

14 **Settlement Notice Process:**

15 16. The Parties have agreed that Phoenix Settlement Administrations (“Phoenix”), an
16 experienced and competent settlement administration company, will administer the settlement.
17 Phoenix’s credentials and administration bid are included in the concurrently filed Declaration of
18 Jodey Lawrence.

19 17. A true and correct copy of the proposed Notice of Pendency of Proposed Class
20 Action Settlement and Final Hearing is attached to the Settlement as **Exhibit B-1**; the proposed
21 Request for Exclusion form is attached to the Settlement as **Exhibit B-2**; the proposed
22 Workweek Exclusion form is attached to the Settlement as **Exhibit B-3**;

23 **Class Counsel’s Assessment of the Fairness of the Settlement and the Risks of Continued**
24 **Litigation:**

25 18. Based on our independent investigation and evaluation, my colleagues and I
26 believe that settlement for the consideration and on the terms set forth in the Stipulation of
27 Settlement is fair, reasonable, and adequate and is in the best interest of the settlement class in
28

1 light of all known facts and circumstances, including the risk of significant delay, the risk the
2 settlement class will not be certified by the Court, and the defenses asserted by Defendants.

3 19. Prior to settlement, my office created a comprehensive damage analysis using
4 sampling information obtained through informal discovery. This damage analysis reveals that
5 the negotiated settlement falls within a realistic range of recovery on class members' claims.

6 20. Plaintiff contends that Defendant failed to permit or authorize Plaintiff and Class
7 Members to take timely 30-minute meal periods for shifts greater than 5 hours in length, in
8 violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001. Labor Code § 512
9 provides that employers (like Defendant) may not employ an employee for a work period of
10 more than 5 hours without providing a 30-minute meal period starting no later than the end of
11 the 5th hour. Plaintiff contends that Plaintiff and Class Members were routinely unable to take a
12 proper meal period when they worked shifts in excess of 5 hours in duration and a second meal
13 period when they worked shifts in excess of 10 hours in duration. Although Defendant
14 maintains a legally compliant meal period policy, in practice, Plaintiff contends that he rarely
15 took a proper meal period. According to Plaintiff, when Plaintiff and Class Members received
16 meal periods, they would typically be late (commencing after the fifth hour of work) or short
17 (less than 30 minutes in duration). Plaintiff also alleges that Defendant does not maintain any
18 meal period time records, which would make it impossible to determine with certainty whether
19 Class Members received a proper meal period. This would violate Labor Code §§ 226.7, 512,
20 1174, and 1174.5 and IWC Wage Order 5-2001. Based on Plaintiff's own experience working at
21 one of Defendant's taco shops, he estimated that half of his meal periods were short, denied, or
22 not taken. Plaintiff believes that Defendant will be unable to refute these allegations because
23 their records are insufficient to establish otherwise. Plaintiff has ascertained a meal period
24 violation rate of 50%. What's more, based on the data provided, Defendant never paid meal
25 period premiums during the Class Period. Significant meal period premiums are owed.
26 Accordingly, Plaintiff calculates damages on this claim at \$532,000, although a discount was
27 required to resolve it at this stage of the litigation, primarily as of result of Defendant's financial
28 hardship. In addition, certification of meal period claims is no guarantee because Defendant

1 would argue individualized issues surrounding waiver preclude class treatment, and proving a
2 substantial 50% violation rate among all employees was also not certain. The compromise
3 reached for this claim is reasonable based on the facts and circumstances of this case.

4 21. Plaintiff also contends that Defendant failed to pay Plaintiff and Class Members
5 premium wages for missed, denied and unauthorized rest periods in violation of Labor Code §§
6 226.7 and 558 and IWC Wage Order 5-2001. Plaintiff and Class Members argue that they were
7 denied, and therefore unable to take, 10-minute on-the-clock rest periods for every four hours of
8 work or major fraction thereof, but were not paid premium wages of one hour's pay for each
9 missed, denied and unauthorized rest period. Although Defendant maintains a legally compliant
10 rest period policy, in practice, Plaintiff contends he rarely took a proper rest period. Based on his
11 experience, Plaintiff has ascertained a rest period violation rate of 50%, valuing the claim at up
12 to \$532,000. This claim also required a discount to resolve it at this stage of the litigation,
13 primarily because of Defendant's financial hardship. In addition, certification of rest period
14 claims is more difficult than that for meal periods because they need not be recorded and can be
15 waived, arguments which Defendant raised at mediation. Proving a substantial 50% violation
16 rate among all employees was also not certain. The compromise reached for this claim is
17 reasonable based on the facts and circumstances of this case.

18 22. Plaintiff alleged that Defendant oftentimes failed to Plaintiff and Class Members
19 premium overtime wages, in violation of Labor Code §§ 510 and 1194. Based on an estimate
20 that Class Members worked one hour off the clock per week, Plaintiff calculates damages on this
21 claim at \$212,865.00. This claim, however, also required a discount for settlement purposes.
22 The time records would not show this violation – testimony and surveys would be the evidence
23 necessary to prove the violation, which Plaintiff would have to demonstrate affected all
24 employees. This was not guaranteed. This was Plaintiff's weakest claim because of difficulty in
25 proof and certification, and the compromise reached reflects this.

26 23. Defendant also allegedly failed to issue Plaintiff and Class Members accurately
27 itemized wage statements on a derivative basis. Specifically, Plaintiff and non-exempt Class
28 Members allege they were not paid all wages due, as detailed above. As a result, the wage

1 statements issued by Defendant to Plaintiff and Class Members allegedly failed to accurately
2 state all gross wages earned, in violation of Labor Code § 226(a)(1), total hours worked, in
3 violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5),
4 and all applicable hourly rates in effect during the pay period and the corresponding number of
5 hours worked at each hourly rate, in violation of Labor Code § 226(a)(9). Plaintiff calculates
6 damages on this claim at \$332,000 (employees were paid weekly, so these statutory damages are
7 capped at \$4000 for employees employed during the entire applicable one-year limitation
8 period).

9 24. Defendant also allegedly failed to pay Plaintiff and certain Class Members all
10 wages due upon separation of employment on a derivative basis, in violation of Labor Code §§
11 201-203, as a result of its failure to pay all wages due during the course of their employment.
12 Plaintiff calculates statutory damages on this claim at \$727,200 based on 202 former employee
13 Class Members.

14 25. Finally, PAGA penalties here are valued at up to \$541,700 based on the 5,417 pay
15 periods worked by the PAGA Members (without stacking; with stacking of penalties, the total
16 would be astronomical and exceed \$2,500,000, eclipsing the alleged value of the unpaid wages).
17 This claim is wholly derivative of the Labor Code claims and the penalties are discretionary.
18 Defendant's defenses to the merits of each claim and its financial hardship justify the
19 compromised PAGA settlement amount here.

20 26. A discount on the maximum value of Class members' claims was required (and
21 warranted) to resolve the matter at this stage of the litigation. Class certification is a substantial
22 risk in any class action case. Here, while Plaintiff maintains that the requirements of class
23 certification are met, Defendant proffers various arguments why class treatment is not
24 appropriate here, including but not limited to that individualized inquires among class members
25 predominate over common ones. If Defendant was to defeat Plaintiffs' class certification
26 motion, there would be no class wide relief whatsoever, and most class members would likely
27 not file individual claims.
28

1 27. Defendant strongly contends that its policies and practices do not violate any laws.
2 It contends that it provided all required wages in a timely manner.

3 28. Most important, Defendant is a small, family-owned enterprise with limited
4 financial resources to defend this action and pay any resulting judgment. In connection with the
5 mediation and settlement, Plaintiff reviewed Defendant's financial disclosures, which included
6 notices of substantial tax underpayments and installment payment plans with the Internal
7 Revenue Service, the Franchise Tax Board, and the California Department of Tax and Fee
8 Administration. Defendant has many pressing financial obligations; its settlement payment here
9 is a clearly substantial compromise but the compromise is necessary to ensure it can stay in
10 business, continue to employ California employees, and continue to serve its California
11 customers. If Plaintiff kills the proverbial golden goose, everyone loses; the settlement here is
12 intended to avoid such a situation.

13 29. When the costs and risks of non-certification and loss on the merits are considered,
14 my colleagues and I are of the opinion that the settlement reached is clearly a favorable one.

15 30. The settlement for each participating Class Member is fair, reasonable and
16 adequate, given the inherent risk of litigation, the risk relative to class certification and the costs
17 of pursuing such litigation. The settlement shall finally resolve all claims of the Class Members
18 as alleged in the Action.

19 **Class Certification Requirements:**

20 31. To date, no class has been certified. The Stipulation of Settlement contains a
21 provision pursuant to which we stipulate to the Court's provisional certification of the
22 approximately 260-member Settlement Class, but do so for purposes of this settlement only.

23 32. In this case, the Class Members are identifiable from Defendant's records.
24 Further, the settlement class is sufficiently numerous to warrant certification. According to
25 Defendant's records, the Class is comprised of approximately 260 individuals.

26 33. The Class Members' claims all stem from a common source: all Class Members
27 allege that Defendant violated the same Labor Code and Wage Order provisions in connection
28 with their work for Defendant. The same Labor Code and Wage Order violations are alleged on

behalf of all persons encompassed in the settlement class, arising out of or which could be pled based on the facts and the allegations set forth in the operative complaint in the Actions, including but not limited to claims for unpaid wages; meal period violations; rest period violations; failure to pay meal or rest period premiums; failure to pay wages; wage statement violations; waiting time penalties; civil penalties, including penalties under PAGA, based on the allegations set forth above; and violations of Business and Professions Code section 17200 based on the allegations set forth above.

34. In this case, the named Plaintiff and proposed Class Representative Alejandro Ramirez is a former non-exempt employee of Defendant whom, Plaintiff alleges, was not paid all wages; was not provided with proper uninterrupted (off-the-clock and free of all duties) 30-minute meal periods for every shift they worked which exceeded five hours in duration; was not provided with 10-minute rest breaks as required by California law; was not provided with compliant itemized employee wage statements; and was not timely paid all wages due at termination. Plaintiff alleges the same claims as those that the members of the Settlement Class would reasonably be expected to bring based on the course of conduct alleged herein.

35. Plaintiff has also demonstrated that he will aggressively and competently assert the interests of the proposed Settlement Class; he has taken an active role in the litigation and has no apparent conflicts with other class members.

Settlement of Claims Pursuant to Labor Code § 2699 et seq. (PAGA)

36. Concurrently with the filing of this Motion, my office is transmitting the Settlement Agreement (and these approval documents) to the LWDA, in compliance with Labor Code § 2699(1)(2).

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 29th day of March, 2023 at Westlake Village, California.

Daniel F. Gaines
DANIEL F. GAINES

EXHIBIT A

Adams v. Newell Rubbermaid, USDC – Central District of California (Los Angeles), Case No. EDCV 08-1499 JTM (CTx)

Adams v. Sam's West, Inc., San Bernardino County Superior Court, Case No. CIVDS1403987

Agredano v. GS Brothers, Inc., Los Angeles County Superior Court, Case No. BC445561

Allen v. Toms Sierra Company, Nevada County Superior Court, Case No. CU18-082823

Allen v. Valley Inventory Service, Inc., Solano County Superior Court, Case No. FCS034682

Alvarez v. Pilot Travel Centers, LLC, San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-4605

Alonzo v. Camblin Steel Service, Inc., Placer County Superior Court, Case No. SCV0034165

Amenhotep v. Google, Inc., Santa Clara County Superior Court, Case No. 17CV311528

Anaya v. Progressive Logistics Services, LLC, Riverside County Superior Court, Case No. RIC1308270

Andre v. Newell Rubbermaid, Inc., San Bernardino County Superior Court, Case No. CIVVS1200282

Anduha v. ABC Phones of North Carolina, Inc., Stanislaus County Superior Court, Case No. 2022729

Anslow v. Wellington Energy, Inc., USDC – Northern District of California (San Francisco), Case No. CV11-1596-JCS

Aranda, et al. v. Universal Lumpers of California, Inc., San Joaquin County Superior Court, Case No. STK-UOE-2017-7826

Armendariz v. Integrated Pain Management Medical Group, Inc., Kern County Superior Court, Case No. BCV-19-100267-SDS

Barrow, et al. v. Desmond Foods, L.P., Sacramento County Superior Court, Case No. 34-2015-00187227

Batmanghelich v. Sirius XM Radio Inc., USDC – Central District of California (Los Angeles), Case No. CV 09-9190 VBF (JCx)

Bosser v. Hooked on Solar, Yolo County Superior Court, Case No. CVCV-2016-876

Bourland v. Horizon Personnel Services, Inc., Sacramento County Superior Court, Case No. 34-2014-00161365-CU-OE-GDS

Bowen v. IMI Material Handling Logistics, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-0000192

Branson v. Mladen Buntich Construction, San Bernardino County Superior Court, Case No. CIVDS1609129

Brandt v. Sacramento Auto Insurance Center, Inc., San Joaquin County Superior Court, Case No. 39-2009-00202938-CU-OE-STK

Brown v. 22nd District Agricultural Association, United States District Court, Southern District of California, Case No. 15-cv-2578-DHB

Brown v. Sierra Central Credit Union, Sutter County Superior Court, Case No. CVCS18-0002161

Burgess v. Blue Cross and Blue Shield of South Carolina, San Joaquin County Superior Court, Case No. 39-2012-00277449-CU-BT-STK

Burgess v. Strategic Retail Solutions, LLC, Los Angeles County Superior Court, Case No. BC413791

Calhoun v. Celadon Trucking Services, Inc., USDC – Central District of California (Los Angeles), Case No. 5:16-cv-01351-PSG-FFM

Caporicci v. Owens & Minor Distribution, Inc., San Joaquin County Superior Court, Case No. 39-2013-00295662-CU-OE-STK

Carl v. Advanced Call Center Technologies, LLC, Sacramento County Superior Court, Case No. 34-2013-00148310

Carlisle, et al. v. Professional Technical Security Services, Inc., Case No. CGC18569791

Carrete v. Gamestop, Inc., Imperial County Superior Court, Case No. ECU08501

Carrillo v. Bimbo Bakeries, Inc., San Bernardino County Superior Court, Case No. CIVDS1606813

Caudillo v. Aegis Treatment Centers, LLC, Merced County Superior Court, Case No. 18CV-0744

Cerami v. Metlife, Inc., USDC – Central District of California (Orange County), Case No. 11-CV-00681-CJC (MLGx)

Charles v. Aaron's Inc., Los Angeles County Superior Court, Case No. BC431468

Charles v. Nursefinders, LLC, Imperial County Superior Court, Case No. ECU07422

Cheifer v. JetBlue Airways Corporation, Los Angeles County Superior Court, Case No. BC451887

Cheifer, et al. v. WHGM, Inc., Los Angeles County Superior Court, Case No. LC104900

Chong, et al. v. Crescent Northwoods Inn, Inc., Del Norte County Superior Court, Case No. CVUJ-2018-1133

Church v. GameStop, Inc., et. al., USDC – Central District of California (Los Angeles), Case No. 11-CV-00132-VAP-RZ

Clothier v. Spar Marketing Services, Inc., Alameda County Superior Court, Case No: RG12-639317

Coleman v. Wireless Lifestyle, Inc., USDC – Western District of Missouri, Case No. 4:12-cv-00855-ODS

Colombo-Beyeler, et al. v. Viking River Cruises, Inc., San Bernardino County Superior Court, Case No. CIVDS1611608

Conlee v. Clark Pacific Corporation, Yolo County Superior Court, Case No. CV14-1409

Contreras v. Osmose Utilities Services, Inc., San Bernardino County Superior Court, Case No. CIVDS1513998

Contreras v. West American Service Corporation, Kings County Superior Court, Case No. 14C0280

Corona v. Yosemite Meat & Locker Service, Inc., Stanislaus County Superior Court, Case No. 2006828

Cortellessa v. Dotnext, Inc., Alameda County Superior Court, Case No. RG09429971

County v. Ingram Mirco, Inc., San Bernardino Superior Court, Case No. CIVRS 1304445

Covarrubias, et al. v. Petersendean Builder Group, Inc., Kern County Superior Court, Case No. BCV-16-101122

Cowen, et al. v. Evergreen Alliance Golf Limited, L.P., d/b/a Arcis Golf, San Bernardino County Superior Court, Case No. CIVDS1719283

Cruz-Garcia v. Lemonade Restaurant Group, LLC, Los Angeles County Superior Court, Case No. BC478205

Cunningham v. Performance Contracting, Inc., Contra Costa County Superior Court, Case No. C16-02157

Dabney v. Coneybeare, LLC, et al., Orange County Superior Court, Case No. 30-2018-00999989-CU-OE-CXC

Dabney, et al. v. Panera, LLC., San Bernardino County Superior Court, Case No. CIVDS1516030

Diaz, et al. v. Seaworld Entertainment, Inc., Imperial County Superior Court, Case No. ECU10046

Diggs v. Western Waterproofing Company, Inc., San Francisco County Superior Court, Case No. CGC-14-539281

Dismuke v. Rhodes Retail Services, Inc., Sacramento County Superior Court, Case No. 34-2011-00105001

Dorsette v. TA Operating, LLC, USDC – Central District of California (Los Angeles), Case No. EDCV 09-1350 PA (RZx)

Duran v. The Image of California, Inc., Kern County Superior Court, Case No. S-1500-CV-284056 DRL

Edwards v. Trans World Entertainment Corp., San Diego County Superior Court, Case No. 37-2010-00095123-CU-OE CTL

Esakhani v. Central Valley Gaming, Stanislaus County Superior Court, Case No. 2020667

Escobar v. SMSSI of California, Inc., San Francisco Superior Court, JCCP No. 4776

Espinosa v. Taltech Construction, et al., Los Angeles County Superior Court, Case No. BC590176

Espinosa v. Bodycote Thermal Processing, Inc., Los Angeles County Superior Court, Case No. BC501617

Espinoza v. Pabco Building Products, LLC, Los Angeles County Superior Court, Case No. VC065660

Estrada v. Net Source Communications, Inc., Los Angeles County Superior Court, Case No. BC431169

Estrada v. OS Restaurant Services, LLC, Santa Clara County Superior Court, Case No. 16CV293249

Estupinan v. Global Development Strategies, Inc., Santa Clara County Superior Court, Case No. 110CV178898

Fadhl. v. Siemens Healthcare Diagnostics Inc., Sacramento County Superior Court, Case No. 34-2017-00209518

Fernandez v. The Regents of the University of California, Los Angeles County Superior Court, Case No. BC656256

Ferrer v. Dish Network Corporation, Los Angeles County Superior Court, Case No. BC441354

Findora v. Barry Callebaut USA LLC, Napa County Superior Court, Case No. 19CV000219

Flores v. Cintas Corporation, Los Angeles County Superior Court, Case No. BC400422

Friel v. Midwest Construction Services, Inc., San Joaquin County Superior Court, Case No. 39-2015-00329204-CU-OE-STK

Gagnon v. Banc of California, Contra Costa County Superior Court, Case No. C 15-00196

Galarza v. Bayou Well Services, LLC, Kern County Superior Court, Case No. S-1500-CV-279372 DRL

Galarza v. C & H Testing Service LLC, Kern County Superior Court, Case No. BCV-15-100008 SPC

Garcia v. Old Dominion Freight Line, Inc., San Bernardino County Superior Court, Case No. CIVDS1404636

Geer v. Applied Aerospace Structures Corp., San Joaquin County Superior Court, Case No. 39-2014-00313702-CU-OE-STK

Getz v. California Cinema Investments, Inc., Ventura County Superior Court, Case No. 56-2013-00437706-CU-MC-VTA

Gibbs v. M. Lehmann Enterprises, Orange County Superior Court, Case No. 30-2013-00678538-CU-OE-CXC

Gilles v. Schaefer Ambulance Service Inc., Imperial County Superior Court, Case No. ECU07970

Goldman, et al. v. Defender's, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-0009973

Gomez v. Low Desert Empire Pizza, Inc., San Bernardino County Superior Court, Case No. CIVVS900392

Gomez v. Pizza Hut of Southeast Kansas, Inc., San Bernardino County Superior Court, Case No. CIVVS900679

Gonzalez v. Harris Farms, Inc., USDC – Eastern District of California (Fresno), Case No. 1:14-cv-00038-LJO-SAB

Guerrero v. Main Electric Supply Company LLC, Ventura County Superior Court, Case No. 56-2019-00525427-CU-OE-VTA

Gutierrez v. Asset Management Specialists, Inc., Fresno County Superior Court, Case No. 12CECG03577

Gutierrez v. Linkus Enterprises, Inc., Madera County Superior Court, Case No. MCV065774

Gutierrez v. Shiekh, LLC, San Bernardino County Superior Court, Case Nos. CIVRS1206525, CIVRS1303408

Hairston v. Stanislaus Surgical Hospital, Stanislaus County Superior Court, Case No. CV-19-000651

Hindman v. Service Quick, Inc., San Bernardino County Superior Court, Case No. CIVDS1724229

Hogan v. iMobile of CA LLC, San Bernardino County Superior Court, Case No. CIVDS1409263

Hogan v. Wireless Evolution Inc., Riverside County Superior Court, Case No. MCC1300669

Hogan v. Wireless That's It! LLC, Riverside County Superior Court, Case No. RIC1201997

Holmes v. Bottling Group, LLC, Stanislaus County Superior Court, Case No. 2022584

Hooper, et al. v. URS Midwest, Inc., et al., San Bernardino Superior Court, Case No. CIVDS1607489

Humphrey v. Freedomroads, LLC, Shasta County Superior Court, Case No. 178228

Hurtado v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC427672

Hyde v. Dent Wizard International Corporation, Sacramento County Superior Court, Case No. 34-2015-00173882

Ibrihim v. Imperfect Foods, Inc., San Joaquin County Superior Court, Case No. STK-VI-UOE-2019-0000846

Id-deen v. Educational Services of America, Solano County Superior Court, Case No. FCS040803

Isherwood v. Mason Dixon Intermodal, Inc., San Joaquin County Superior Court, Case No. 39-2012-00279891-CU-OC-STK

Jahanbin v. Pacific Mercantile Bank, Orange County Superior Court, Case No. 30-2011-00480705CU-OE-CXC

Jenkins v. Sedgwick Claims Management Services, Inc., Los Angeles Superior Court, Case No. LC101648

Job v. California Security Services, Yuba County Superior Court, Case No. 14-0000820

Johnson v. The Goodyear Tire & Rubber Company, USDC – Northern District of California (San Francisco), Case No. 3:13-cv-01069-MMC

Jolin v. Bay Cities Recovery, Inc., El Dorado County Superior Court, Case No. PC20100458

Jordan v. Sutter Memorial Hospital, Stanislaus County Superior Court, Case No. 2023344

Keebaugh v. Mike Thompson Recreational Vehicles, San Bernardino County Superior Court, Case No. CIV-DS-1500718

Kelly v. Robin's Enviro Vac, Inc., Kern County Superior Court, Case No. S-1500-CV-282277 DRL

King v. Levy Premium Foodservice Limited Partnership, Alameda County Superior Court, Case No. HG15786353

Kunsman v. Punch Bowl Sacramento, LLC, et al., Sacramento County Superior Court, Case No. 34-2018-00243175

LaFear v. Encore Education Corporation, San Bernardino County Superior Court, Case No. CIVDS1802251

Lanzarin v. AWI Management Corporation, Solano County Superior Court, Case No. FCS041809

Lee, et al. v. Foster Dairy Farms, Stanislaus County Superior Court, Case Nos. 2006542, 2015679

Lemus, et al. v. Eastridge Workforce Technology, Inc., San Bernardino County Superior Court, Case No. CIV-DS-1611470

Lewis v. American Casino & Entertainment Properties LLC, San Bernardino County Superior Court, Case No. CIVDS1719094

Lemus v. On Assignment Staffing Services, San Bernardino County Superior Court, Case No. CIV-DS-1600497

Leon v. Piercey West Inc., Los Angeles County Superior Court, Case No. BC656874

Lopez v. Creative Communication Technologies, Inc., Imperial County Superior Court, Case No. ECU07851

Lopez v. Go Green Auto Spa Franchise, Inc., et al., Los Angeles County Superior Court, Case No. BC 562212

Lopez v. Truck Accessories Group, LLC, Yolo County Superior Court, Case No. CV13798

Ludlow v. Prince Telecom, LLC, Stanislaus County Superior Court, Case No. 684239

Luna v. Express Locations, LLC, Imperial County Superior Court, Case No. ECU09779

Macias v. American Tire Distributors, Inc., Kern County Superior Court, Case No. BCV-18-101586

Maldonado v. Hardwood Flooring Liquidators, Inc., Los Angeles County Superior Court, Case No. BC642170

Mansfield v. Cambridge Real Estate Services, Inc., Butte County Superior Court, Case No. 160175

Martinez v. DPI Specialty Foods West, San Joaquin County Superior Court, Case No. 39-2015-00327311-CU-OE-STK

Martinez v. Styles For Less, Inc., San Bernardino County Superior Court, Case No. CIVVS1203057

Mayne v. John Muir Behavioral Health, Contra Costa County Superior Court, Case No. C17-00998

Maze v. Bulldog Freightway, Inc., Imperial County Superior Court, Case No. ECU08716

McCormick v. G & O Body Shop, Inc., El Dorado Superior Court, Case No. PC20130291

McCrary v. Campbell Soup Supply Company, San Joaquin County Superior Court, Case No. 39-2013-00297698-CU-OE-STK

McDaniel v. Vancary, Inc., Tulare County Superior Court, Case No. 268036

Melgar-Farela v. Guardian Compliance, Inc., Los Angeles County Superior Court, Case No. BC481865

Mendiola v. Tyco Electronics Corporation, Riverside County Superior Court, Case No. RIC1400721

Mettler v. Les Schwab Tire Centers of California, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-476

Miller v. California Subshine, Inc., Los Angeles County Superior Court, Case No. BC637754

Miller v. Southwest Airlines Co., USDC – Northern District of California (San Francisco), Case No. 3:12-cv-05978-CRB

Mitchell v. Crossmark, Inc., USDC – Central District of California (Los Angeles), Case No. CV 11-2818-JAK (FMOx)

Moghrabi v. Vitaligent, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2018-1650

Molina v. Berkshire Hathaway Energy Company, et al., Imperial County Superior Court, Case No. ECU000522

Moore v. Horizon Solar Power, Inc., San Bernardino County Superior Court, Case No. CIVDS1410001

Murray v. Select Media Services, LLC, Los Angeles County Superior Court, Case No. BC424506

Myles v. Central Transport LLC, San Bernardino County Superior Court, Case No. CIVDS1401434

Navarro v. Mariana Packing Co., Inc., Solano County Superior Court, Case No. FCS045935

Nehrlich, et al. v. RPM Mortgage, Inc., Orange County Superior Court, Case No. 30-2013-00666783-CU-OE-CXC

Overton v. Hat World, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:11-CV-01645-LKK-KJN

Perez v. Alcatel-Lucent USA Inc., Imperial County Superior Court, Case No. ECU07977

Perez v. Major Gloves and Safety, Inc., San Bernardino County Superior Court, Case No. CIVDS1710445

Perry v. Cardinal Health 200, LLC, Solano County Superior Court, Case No. FCS035303

Phraxayavong-Briones v. RSM, Inc., Sacramento County Superior Court, Case No. 34-2012-00117524

Pugh v. Wi Spa, LLC, Imperial County Superior Court, Case No. ECU07932

Quist v. Knight Transportation, Inc., San Bernardino Superior Court, Case No. CIVDS 1615414

Quitco v. Aviation Fuel Systems Repair, Inc., San Bernardino Superior Court, Case No. CIVRS1302311

Rambeau v. C.C.M. Corporation, et al., Sacramento County Court, Case No. 34-2018-00244842

Rankins v. Roman Empire Living Skills, Inc., Los Angeles County Superior Court, Case No. BC713399

Rees v. Advantel, Incorporated, Santa Clara County Superior Court, Case No. 16-CV-292219

Renfrow v. Janra Enterprises, Inc., Sacramento County Superior Court, Case No. 3402010-00080471

Reynolds v. Diamond Pet Food Processors of Ripon, San Joaquin County Superior Court, Case No. 39-2014-00310818

Richard v. A-Para Transit Corp., Alameda County Superior Court, Case No. HG17870373

Richardson v. TEC Equipment, Inc., et al., Los Angeles County Superior Court, Case No. VC065536

Robles v. North County Health Project Incorporated, San Diego Superior Court, Case No. 37-2014-00001751-CU-OE-NC

Rodas v. Monetary Management of California, Inc., USDC – Eastern District of California (Sacramento), Case No. 2:14 cv 01389 TLN AC

Rodriguez v. 20/20 Plumbing & Heating, Inc., San Bernardino County Superior Court, Case No. CIVDS1705362

Rodriguez v. Commerce Distribution Company, Los Angeles County Superior Court, Case No. BC656259

Rodriguez v. Valley Oak, San Joaquin County Superior Court, Case No. STK-CV-UOE-2016-7980

Roden v. Service Champions, San Bernardino County Superior Court, Case No. CIVDS1613183

Russell v. Bradshaw International, Imperial County Superior Court, Case No. ECU00853

Rutledge, et al. v. Healthport Technologies, LLC, Alameda County Superior Court, Case No. RG16835813

Sabala v. Econtactlive, Inc., Stanislaus County Superior Court, Case No. 684981

Sabatier v. Picture Perfect Installation, Inc., Riverside County Superior Court, Case No. RIC10004953

Salameh v. Sonomaidence OPCO, LLC, Sonoma County Superior Court, Case No. SVC264228

Salazar v. Tag-3 Medical Investment Group, LLC, Los Angeles County Superior Court, Case No. BC527698

Salbeck v. Ingredion Incorporated, San Joaquin County Superior Court, Case No. STK-UOE-2017-0012622

Sampson v. Healthnet of California Inc., Sacramento County Superior Court, Case No. 34-2015-00183785-CU-OE-GDS

Sanchez v. Don Roberto Jewelers, Inc., Imperial County Superior Court, Case No. ECU06819

Sanders v. Lionakis, Sacramento County Superior Court, Case No. 34-2017-00223601

Santana v. United Staffing Associates, LLC, Tulare County Superior Court, Case No. 249338

Schrader v. Adidas Promotional Retail Operations, Inc., Los Angeles County Superior Court, Case No. BC414168

Sebrell v. Pomeroy IT Solutions, San Bernardino County Superior Court, Case No. CIVDS1721560

Seymour v. Quest Service Group, LLC, Sacramento County Superior Court, Case No. 34-2017-00206917

Silva v. Trical, San Benito County Superior Court, Case No. CU-16-00218

Simler v. Polly's Inc., Riverside County Superior Court, Case No. RIC 1117862

Sipin, Scott v. Salesforce.com, Inc., San Joaquin County Superior Court, Case No. STK-CV-UOE-2019-0004629

Skuro v. BMW of North America, LLC, USDC – Central District of California (Los Angeles), Case No.: CV 10-8672-GW (FFMx)

Smith v. Steelcase, Inc., San Bernardino County Superior Court, Case No. CIVDS1725850

Sohal v. Foster Poultry Farms, Stanislaus County Superior Court, Case No. 2026605

Solomon v. City of Los Angeles, Los Angeles County Superior Court, Case No. BC570345

Solano v. Vozzcom, Inc., Imperial County Superior Court, Case No. ECU09519

Smith, et al. v. Sente Development, Inc., Sacramento County Superior Court, Case No. 34-2016-00196614

Solorzano v. FDS Manufacturing Corporation, Los Angeles County Superior Court, Case No. BC542532

Solowitz v. BakeMark USA LLC, Los Angeles County Superior Court, Case No. BC467838

Spampinato v. Wind & Sea Restaurants, Inc., San Bernardino County Superior Court, Case No. CIVVS1205154

Spitzer, et al. v. FRHI Hotels & Resorts (Canada) Inc., San Bernardino County Superior Court, Case No. C IVDS1712220

Stephens v. C.S., Inc., Riverside County Superior Court, Case No. PSC1301224

Stevenson v. Harvest Management Sub LLC, Ventura County Superior Court, Case No. 56-2011-00397420-CU-OE-SIM

Thompson v. Continental Labor Resources, Inc. d/b/a Continental Labor & Staffing Resources, Kern County Superior Court, Case No. S-1500-CV-278751-DRL

Thompson v. Sidhu Truck Line, Inc., Kern County Superior Court, Case No. BCV-15-101308-DRL

Tigas v. Ajilon Communications, Los Angeles County Superior Court, Case No. BC409737

Torres v. Coastal Employment Inc., Los Angeles County Superior Court, Case No. BC529207

Tran v. CSP Fiber Services, San Bernardino County Superior Court, Case No. CIVDS172758

Tripp v. California Guest Services, Inc., Plumas County Superior Court, Case No. CV16-00036

Valdez v. Diamond Landscaping, Inc., Los Angeles County Superior Court, Case No. BC497097

Valencia v. American Team Managers, Inc., Orange County Superior Court, Case No. 30-2016-00857365-CU-CR-CXC

Van Son v. Rush Truck Centers of California, Inc., Los Angeles County Superior Court, Case No. BC494747

Vasquez v. Schurman Fine Papers, San Joaquin County Superior Court, Case No. STK-CV-LMC-2015-10035

Velasquez v. Modesto Ventures, LLC, Sacramento County Superior Court, Case No. 32-2012-00126159

Victoria v. Bali Limousines Inc., San Mateo County Superior Court, Case No. CIV507774

Victorian v. Vision X, Inc., Los Angeles County Superior Court, Case No. BC400333

Wade v. Frito Lay, Kern County Superior Court, Case No. BCV-17-102014

Walls v. E. & J. Gallo, Stanislaus County Superior Court, Case No. 2015874

Warner v. Waterdrops Express Car Wash, LLC, Tulare County Superior Court, Case No. 265708

Waybright v. EAH, Inc., Stanislaus County Superior Court, Case No. 2011677

Weiss v. C.A.R. Enterprises, Inc., Riverside County Superior Court, Case No. RIC1113165

White v. Sally Beauty Supply, LLC, Imperial County Superior Court, Case No. ECU08177

Williams v. Dennis Dillon RV, LLC, San Bernardino County Superior Court, Case No. CIVDS 16006879

Williams v. Closet World, Inc., Los Angeles County Superior Court, Case No. BC400178

Williams v. Progress Rail Services Corporation, Kern County Superior Court, Case No. S-1500-CV-280236 DRL

Wing v. Three Group, Inc., Los Angeles County Superior Court, Case No. BC643883

Wilson v. ALSCO, Inc., Imperial County Superior Court, Case No. ECU07406

Wilson v. Michael C. Stead, Inc., Contra Costa Superior Court, Case No. C1400135

Winningham v. Storer Transportation Service, San Joaquin County Superior Court, Case No. 39-2015-00324708-CU-STK

Woody v. WBN Home Design, San Bernardino County Superior Court, Case No. CIVDS1613367

Woods, et al. v. F&B Innovations, LLC, San Bernardino County Superior Court, Case No. CIVDS1717765

Woodyard v. Bellus ALC Acquisition, LLC, USDC – Central District of California (Los Angeles), Case No. 2:13-cv-05285 SJO AGRx

Wright v. Social Vocational Services, Inc., Kern County Superior Court, Case No. BCV-15-101264

Ybarra v. New Legend, Inc., Sutter County Superior Court, Case No. CVCS-16-2097

Zaragoza v. Center Automotive, Inc., Los Angeles Superior Court, Case No. BC505194

EXHIBIT B

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
4 **GAINES & GAINES, APLC**
4550 E. Thousand Oaks Blvd., Suite 100
5 Westlake Village, CA 91362
Telephone: (818) 703-8985
6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff Alejandro Ramirez

8 KARIN L. BACKSTROM, ESQ. SBN 163306
karin@backstromlaborlaw.com
9 **BACKSTROM LABOR LAW**
315 Laurel Street
10 San Diego, CA 92101
Telephone: (619) 851-7274
11 Facsimile:

12 Attorneys for Defendant De Anda Enterprises, Inc.

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF ORANGE**

16 ALEJANDRO RAMIREZ, on behalf of
17 himself and on behalf of all similarly
situated individuals,

18 Plaintiff,

19 v.

20 DE ANDA ENTERPRISES, INC., a
California corporation, and DOES 1 through
21 10, inclusive,

22 Defendants.

CASE NO: 30-2021-10232142-CU-OE-CXC

*Assigned for all purposes to the Hon. William J.
Claster, Dept. CX104*

CLASS ACTION

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

Complaint Filed: November 16, 2021

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SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

1 **SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

2 This Settlement Agreement and Release of Claims ("Settlement Agreement" or "Stipulation
3 of Settlement") is made and entered into by and between Plaintiff Alejandro Ramirez ("Ramirez"
4 or "Plaintiff" or "Class Representative"), individually and on behalf of the Settlement Class and all
5 others similarly situated, and Defendant De Anda Enterprises, Inc. ("Defendant"), subject to the
6 terms and conditions herein and the Court's approval.

7 **A. Definitions.**

8 1. Plaintiff and the Settlement Class (as defined below) and Defendant are collectively
9 referred to herein as "the Parties."

10 2. Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC are counsel of
11 record for Plaintiff. For purposes of this settlement only, the firm of Gaines & Gaines, APLC shall
12 be designated as "Class Counsel."

13 3. The "Action" means the case entitled *Alejandro Ramirez, Plaintiff, v. De Anda*
14 *Enterprises, Inc., and Does 1 Through 10, Inclusive, Defendants,* Case No. 30-2021-10232142-
15 CU-OE-CXC, pending before the Superior Court of the State of California for the County of
16 Orange.

17 4. The "Settlement Class" shall be defined as all persons who are or were employed in
18 California by Defendant as non-exempt employees at any point from November 16, 2017 through
19 November 30, 2022 (the "Class Period"). Defendant represents that this Class contains no more
20 than approximately 260 members who worked no more than 15,000 workweeks during the Class
21 Period.

22 5. Members of the Settlement Class shall collectively be referred to as a "Class
23 Member" or "Class Members." Any Class Member who files a timely Request for Exclusion, as
24 detailed below, will be excluded from the final Settlement Class.

25 6. The "Aggrieved Employees" or "PAGA Members" mean all persons who are or
26 were employed in California by Defendant as non-exempt employees at any point from November
27 12, 2020 through November 30, 2022 (the "PAGA Period").

1 **B. General.**

2 1. On November 12, 2021, Plaintiff exhausted the pre-filing requirements of the Labor
3 Code Private Attorneys General Act of 2004 ("PAGA").

4 2. On or about November 16, 2021, Plaintiff initiated the Action by filing a Class
5 Action Complaint on behalf of himself and on behalf of all similarly situated individuals (the
6 "Complaint"). The First Amended Complaint, attached hereto as Exhibit 4 and which will be filed
7 as part of the settlement approval process, asserts representative action claims pursuant to PAGA
8 against Defendant for (1) failure to pay all minimum and overtime wages (Labor Code §§ 510,
9 1194, and 1194.2); (2) failure to provide compliant rest periods or compensation in lieu thereof
10 (Labor Code § 226.7; IWC Wage Order 5-2001); (3) failure to provide compliant meal periods or
11 compensation in lieu thereof (Labor Code §§ 226.7, 512, 1174, and 1174.5; IWC Wage Order 5-
12 2001); (4) failure to comply with itemized employee wage statement provisions (Labor Code §
13 226(a); (5) failure to timely pay wages due at separation of employment (Labor Code §§ 201-203);
14 (6) violation of Business and Professions Code §§ 17200, *et seq.*; and (7) civil penalties pursuant
15 to Labor Code §§ 2698, *et seq.* for violations of Labor Code §§ 201-202, 226(a), 226.3, 226.7, 510,
16 512, 558, 1174, 1174.5, and 1194 (the "First Amended Complaint").

17 3. Defendant denies any liability or wrongdoing of any kind associated with the claims
18 alleged in the Action, and further denies that the Action is appropriate for class treatment for any
19 purpose other than this settlement. Defendant contends that it has complied at all times with the
20 California Labor Code, Industrial Welfare Commission Wage Orders, and all other applicable
21 federal, state, and local laws and regulations. It is Defendant's position that, if this case were to be
22 litigated, class certification would be inappropriate because Plaintiff is not an adequate class
23 representative, Plaintiff's claims are not typical of putative class members, and individual issues
24 predominate over class issues. The Action, the negotiation and execution of this Settlement
25 Agreement, and all acts performed or documents executed pursuant to or in furtherance of the
26 Settlement Agreement (i) shall not be used as an admission or evidence of wrongdoing on behalf
27 of Defendant; (ii) shall not be an admission or evidence of fault on behalf of Defendant in any
28 action before a civil, criminal, or administrative agency; and (iii) shall not be deemed to be, and

1 may not be used as, an admission or evidence of the appropriateness of these or similar claims for
2 class certification in the Action or with respect to any other proceeding.

3 4. The Class Representative contends that Defendant violated the California Labor
4 Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
5 certification.

6 5. Class Counsel represent that they have conducted a thorough investigation into the
7 facts and law during the prosecution of this class action case, including the exchange of extensive
8 informal discovery and the review and verification of statistical data and other facts and information
9 provided by Defendant. Counsel for the Parties also represent that they have investigated the
10 applicable law as applied to the facts discovered regarding the alleged claims of Plaintiff and
11 potential defenses thereto, and the damages and other losses claimed by Plaintiff.

12 6. On November 30, 2022, following their exchange of information and documents
13 regarding the Settlement Class and the claims and defenses asserted by the Parties, the Parties
14 engaged in arm's-length negotiations with the assistance of mediator Mark LeHocky, Esq., through
15 which they were able to reach the resolution of the Action set forth herein.

16 7. Based on their own independent investigation and evaluation, Class Counsel are of
17 the opinion (and will so represent to the Court) that settlement for the consideration and on the
18 terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
19 interest of the Settlement Class in light of all known facts and circumstances, including the risk of
20 significant delay, the risk the Settlement Class will not be certified by the Court, and the defenses
21 asserted by Defendant. Defendant and its counsel also agree (and will so represent to the Court)
22 that this settlement is fair and in the best interest of the Settlement Class.

23 8. The Parties agree that the Settlement Class described herein may be certified for
24 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
25 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
26 approved, the certification will have no force or effect and will immediately be revoked. The
27 Parties further agree that certification for purposes of the settlement is in no way an admission that
28 class certification is proper under the more stringent standard applied for litigation and that

1 evidence of this limited stipulation for settlement purposes only will not be admissible for any
2 purpose in this or any other proceeding.

3 **C. Terms of Settlement.**

4 1. The financial terms of the settlement are as follows:

5 (a) **Maximum Payment:** The Parties agree to settle this Action for a Maximum
6 Payment of One Hundred Fifty Thousand Dollars (\$150,000.00) ("the Maximum Payment"). The
7 Maximum Payment includes the attorneys' fees of Class Counsel; litigation costs and expenses
8 (which includes, without limitation, all such fees and costs incurred to date, as well as such fees
9 and costs to be incurred in documenting the settlement, providing any notices required as part of
10 the settlement, securing Court approval of the settlement, and obtaining judgment in the Action);
11 the enhancement payment to the Class Representative, as approved by the Court; the payments to
12 the California Labor and Workforce Development Agency ("LWDA") and Aggrieved Employees
13 pursuant to the PAGA claims in the Action; and all costs of administration, including, without
14 limitation, settlement administration fees and expenses. Defendant shall pay all employer payroll
15 tax obligations due on wage payments made from the Net Settlement Proceeds in addition to, and
16 separate and apart from, the Maximum Payment.

17 (b) **Net Settlement Proceeds:** "Net Settlement Proceeds" is defined as the
18 Maximum Payment less the amounts approved and awarded by the Court for: attorneys' fees and
19 documented litigation costs and expenses incurred or advanced by Class Counsel; the enhancement
20 payment to the Class Representative; the payments to the LWDA and Aggrieved Employees
21 pursuant to PAGA; and the costs of administering the settlement.

22 (c) **Individual Payment Amounts:** "Individual Payment Amount" means the
23 portion of the Net Settlement Proceeds distributable to each Class Member who participates in the
24 Settlement (i.e., who does not submit a valid request for exclusion form) and the portion of the
25 PAGA Payment distributable to each PAGA Member, regardless of whether they request exclusion
26 from the class settlement or not. The Individual Payment Amounts will be calculated by dividing
27 the Net Settlement Proceeds by the total weeks worked by all participating Class Members in
28 California in a non-exempt position during the Class Period, which will yield the applicable weekly

1 rate. The weekly rate shall be multiplied by the number of weeks each individual participating
2 Class Member worked for Defendant in California in a non-exempt position during the Class Period
3 to yield their Individual Payment Amount. Each Participating Settlement Class Member who does
4 not opt out will receive an Individual Payment Amount equal to their individual weeks worked in
5 California in a non-exempt position during the Class Period multiplied by the Workweek Value,
6 and the Individual Payment Amounts to be paid to each PAGA Member will also include their
7 Individual PAGA Payment Amount, as detailed below.

8 i. For tax purposes, each Individual Payment Amount will be
9 apportioned (a) 10% as wages (reported on an IRS Form W-2 and subject to applicable
10 withholdings); and (b) 90%, equally as penalties and interest (reported on an IRS Form 1099, if
11 required). Individual PAGA Payment Amounts will be apportioned as 100% non-wage penalties
12 (reported on an IRS Form 1099, if required). All Individual Payment Amounts paid to Class
13 Members will be subject to any applicable wage garnishments, liens, or other legally mandated
14 treatment as required by law.

15 (d) **PAGA Payments:** The Parties agree that Ten Thousand Dollars
16 (\$10,000.00) shall be allocated to settle Plaintiff's claims brought pursuant to PAGA. Of this
17 amount, Seventy-Five percent (75%), or Seven Thousand Five Hundred Dollars (\$7,500.00), shall
18 be paid to the LWDA, and the remaining Twenty-Five percent (25%), or Two Thousand Five
19 Hundred Dollars (\$2,500.00), shall be distributed to Aggrieved Employees on a pro rata basis based
20 on the number of workweeks worked by each PAGA Member during the PAGA Period.
21 "Individual PAGA Payment Amount" means the portion of the PAGA Payment distributable to
22 each PAGA Member. The Individual PAGA Payment Amounts will be calculated by dividing the
23 employee portion of the PAGA Payment (\$2,500.00) by the total weeks worked by all Aggrieved
24 Employees in California in a non-exempt position during the PAGA Period, which will yield the
25 applicable weekly rate. The weekly rate shall be multiplied by the number of weeks each individual
26 PAGA Member worked for Defendant in California in a non-exempt position during the PAGA
27 Period to yield their Individual PAGA Payment Amount. Aggrieved Employees will receive their
28 portion of the Individual PAGA Payment Amounts regardless of their decision to opt out of the

1 class settlement (i.e., Class Members who opt out will nevertheless receive their Individual PAGA
2 Payment Amount).

3 (e) **Enhancement Payment to Class Representative:** The amount awarded to
4 the Class Representative as an enhancement payment will be set by the Court in its discretion, not
5 to exceed Five Thousand Dollars (\$5,000.00). This amount will be deducted from the Maximum
6 Payment. An IRS Form 1099 will be issued to the Class Representative for his enhancement
7 payment. Defendant agrees not to dispute or otherwise object to the enhancement payment if
8 Plaintiff requests \$5,000.00 or less.

9 (f) **Attorneys' Fees:** An award to Class Counsel of attorneys' fees will be
10 deducted from the Maximum Payment in an amount to be set by the Court taking into account the
11 settlement award that has been made available for the Settlement Class by the efforts of Class
12 Counsel. The amount awarded shall not exceed one-third (33-1/3%) of the Maximum Payment
13 (i.e., Fifty Thousand Dollars (\$50,000.00)). An IRS Form 1099 will be issued to Class Counsel
14 with respect to its award of attorneys' fees. Defendant agrees not to dispute or otherwise object to
15 the attorneys' fee award requested by Class Counsel so long as the request does not exceed one-
16 third of the Maximum Payment.

17 (g) **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from
18 the Maximum Payment in an amount to be set by the Court for documented out-of-pocket litigation
19 costs and expenses, not to exceed Twelve Thousand Dollars (\$12,000.00). An IRS Form 1099 will
20 be issued to Class Counsel with respect to its award of costs and expenses. Defendant agrees not
21 to dispute or otherwise object to the attorneys' cost award requested by Class Counsel so long as
22 the request does not exceed \$12,000.

23 (h) **Settlement Administration Costs:** The fees and other charges of the
24 Settlement Administrator to administer the Settlement are expected to total no more than Five
25 Thousand Dollars (\$5,000.00), and will be paid from the Maximum Payment. These fees shall
26 include any costs associated with the required tax reporting on any Individual Payment Amounts,
27 and the issuing of any and all W-2 and 1099 forms. Subject to approval of the Court, the Parties
28 have agreed that Phoenix Settlement Administration will serve as a neutral third-party claims'

1 administrator ("Settlement Administrator") to perform all acts related to providing notice to the
2 Settlement Class. Settlement Administrator shall be responsible for (a) printing and distributing
3 the Court-approved Notice of Class Action Settlement ("Class Notice") to all Class Members; (b)
4 administering the settlement; (c) processing exclusions, objections, and field inquiries from Class
5 Members; (d) resolving disputes; (e) calculating the Individual Payment Amount each Participating
6 Class Members is eligible to receive, and the Individual PAGA Payment Amount each PAGA
7 Member shall receive; (f) distributing the Maximum Payment as directed by the Court and set forth
8 herein; (g) tax reporting; (h) providing necessary weekly status reports; and (i) other duties and
9 responsibilities set forth herein.

10 (i) **No Warranty by Defendant:** Plaintiff understands and agrees that
11 Defendant is not providing Plaintiff or Class Members with tax or legal advice and that Defendant
12 makes no representations regarding tax obligations or consequences, if any, related to this
13 Settlement Agreement.

14 **D. Release of Claims.**

15 1. **Settlement Class Members.** Upon the Effective Date, and subject to Defendant's
16 full payment of the Maximum Payment, Plaintiff and all Settlement Class Members who do not
17 timely opt-out will be deemed to have fully released and discharged Defendant and its respective
18 present and former parents, owners, subsidiaries and any affiliated or related persons or entities
19 and each of their respective officers, directors, employees, partners, shareholders, attorneys and
20 agents and any other successors, assigns or legal representatives ("Released Parties") from any
21 and all claims and/or causes of action, known or unknown, which accrued during the Class Period
22 during employment in a non-exempt position in California, that are alleged in the First Amended
23 Complaint, or that could have been alleged in the Action based on the facts set forth in the First
24 Amended Complaint.

25 2. **PAGA Members.** Upon the Effective Date, and subject to Defendant's full
26 payment of the Maximum Payment, Plaintiff and all PAGA Members will be deemed to have fully
27 released and discharged Defendant and Released Parties from any and all claims and/or causes of
28 action, known or unknown, which accrued during the PAGA Period during employment in a non-

1 exempt position in California, that are alleged in the First Amended Complaint, or that could have
2 been alleged in the Action based on the facts set forth in the First Amended Complaint.

3 **E. Notice and Exclusion Process.**

4 1. Within thirty (30) calendar days after entry of the order granting preliminary
5 approval of this Settlement, Defendant shall provide to the Settlement Administrator a list of all
6 Class Members, including their last known addresses, telephone numbers, social security numbers,
7 and their dates of employment in a non-exempt position in California during the Class Period
8 ("Settlement Class Information"). The names, addresses, telephone numbers, and Social Security
9 numbers will only be disclosed to the Settlement Administrator and not to Plaintiff's Counsel. All
10 information provided to the Settlement Administrator will be marked CONFIDENTIAL. This
11 information shall be kept confidential and shall not be disclosed, either in writing or orally, by the
12 Settlement Administrator. The Settlement Administrator shall use due care with respect to the
13 storage, custody, use, and/or dissemination of the confidential information. Such information must
14 be stored in a secure fashion and all persons who access the data must agree to keep it confidential.

15 2. A notice of pendency of class action, proposed settlement, and hearing date for
16 Court approval ("Class Notice") in the form attached hereto as Exhibit 1, and as approved by the
17 Court, shall be sent by the Settlement Administrator to the Class Members, by first class mail,
18 within fourteen (14) calendar days after receipt of the Settlement Class Information. Attached to
19 the Class Notice will be a request for exclusion form ("Request for Exclusion Form") in the form
20 attached hereto as Exhibit 2, and a workweek dispute form in the form attached hereto as Exhibit

21 3.

22 3. The Settlement Administrator will make reasonable efforts to ensure that the Class
23 Notice and Request for Exclusion Form are sent to all Class Members. It will conclusively be
24 presumed that if an envelope has not been returned within thirty (30) days of the mailing that the
25 Class Member received the Class Notice. In the event of returned or non-deliverable notices, the
26 Settlement Administrator will make reasonable efforts to locate Class Members and re-send the
27 notices.

1 4. Each Class Member will be fully advised of the settlement, the ability to object to
2 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
3 inform the Class Members of the Court-established deadlines for filing objections and a Request
4 for Exclusion Form. The Request for Exclusion shall not be effective as to the release of claims
5 arising under PAGA as to Aggrieved Employees.

6 5. Each Class Notice will contain personalized information setting forth the number of
7 weeks each Class Member worked for Defendant in California in a non-exempt position during the
8 Class Period and their estimated Individual Payment Amount. To the extent a Class Member
9 disputes any of the information listed on his or her Class Notice, the Class Member may produce
10 evidence to the Settlement Administrator showing such information the Class Member contends
11 should be reflected in the Class Notice. Defendant's records will be presumed determinative,
12 however, and the Settlement Administrator's decision on these matters will be final. The Class
13 Notice will also set forth IRS W-9 information if required.

14 6. All Class Members who do not submit a Request for Exclusion Form will be eligible
15 to receive an Individual Payment Amount—and Aggrieved Employees will receive their portion of
16 the PAGA Payment, if eligible, regardless of their decision to opt out of the class settlement—
17 which shall be mailed to them if and when the Effective Date occurs.

18 7. In order to elect not to participate in the Settlement, a Class Member must submit a
19 Request for Exclusion Form, and mail it to the Settlement Administrator no later than sixty (60)
20 calendar days after the initial mailing of the Class Notice and Request for Exclusion Form to Class
21 Members, unless the Court requires a longer period, in which case the Court ordered exclusion
22 period will apply. The date of the postmark shall be deemed the date of submission. The timeliness
23 of submitted Request for Exclusion Forms will be determined by valid postmark. If the 60th day
24 falls on a Sunday or federal holiday, the time to request exclusion will be extended to the next day
25 on which the U.S. Postal Service is open.

26 8. The deadline for submission of Exclusion Forms shall be extended once by 30 days
27 for those Class Members whose Class Notice and Exclusion Form are returned as "undeliverable."
28

1 If the 30th day falls on a Sunday or federal holiday, this deadline will be extended to the next day
2 on which the U.S. Postal Service is open.

3 9. The Settlement Administrator will search for additional addresses on returned mail
4 and will re-mail the Class Notice and Exclusion Form to an updated address (if any) within 15 days
5 of receipt of the returned mail. The 30-day extended time limit will run from the date of the second
6 mailing for those Class Members. To the extent a Class Notice from the initial mailing is not
7 returned within 30 days, it shall be deemed to have been sent to a valid address even if it is thereafter
8 returned. It is the intent of the Parties that reasonable, but not extraordinary, efforts be used to
9 locate Class Members. If the initial Class Notice and Request for Exclusion Form is returned, the
10 Settlement Administrator will search using the social security number for a more current address.
11 If no address is found within 10 days, no further action is required.

12 10. The Settlement Administrator will notify the Parties of the total number of valid
13 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
14 Request for Exclusion Forms (seventy (70) days following the initial mailing of the Class Notice
15 and Request for Exclusion Forms to Class Members).

16 11. In order to submit a written objection to the settlement, a Class Member must mail
17 his or her objection to the Settlement Administrator no later than sixty (60) calendar days after the
18 mailing of the Class Notice, Request for Exclusion Form, and Workweek Dispute Form to Class
19 Members, unless the Court requires a longer period, in which case the Court ordered objection
20 period will apply. If the 60th day falls on a Sunday or federal holiday, the time to object to the
21 settlement will be extended to the next day on which the U.S. Postal Service is open. Any Class
22 Member may appear at the final approval hearing to argue their objections, regardless if they have
23 submitted a written objection.

24 12. The Settlement Administrator shall provide to the Parties, at least twelve (12)
25 calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a declaration
26 of due diligence and proof of mailing with regard to the mailing of the Class Notice and Request
27 for Exclusion Forms. The Settlement Administrator will also provide to the Parties, at least twelve
28 (12) calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a report

1 listing the amount of all payments to be made to each Class Member without names or personal
2 identifying information.

3 13. Defendant shall deposit the Maximum Payment and all employer payroll taxes with
4 the Settlement Administrator no later than thirty (30) calendar days after the Effective Date. The
5 effective date of this Settlement Agreement ("Effective Date") is the date the Court approves this
6 Settlement and enters judgment in accordance therewith. If there are one or more objections filed
7 to the Settlement which are not withdrawn, the Maximum Payment shall be paid no later than thirty
8 (30) calendar days after the appeals period expires, unless an appeal from the judgment is filed, in
9 which case the Maximum Payment shall be paid no later than thirty (30) calendar days after (1)
10 the judgment is affirmed and no further appeals or petitions for review may be filed, or (2) the
11 appeal is dismissed.

12 14. The Settlement Administrator shall disburse the Maximum Payment within fifteen
13 (15) calendar days after its receipt thereof. Class Members and Aggrieved Employees must cash
14 each of their Individual Payment Amount checks within one hundred eighty (180) calendar days
15 after they are mailed by the Settlement Administrator. The value of any checks uncashed more
16 than one hundred eighty (180) days after mailing shall be paid to the State of California State
17 Controller's Office, to be held in the name of the respective Class Member or PAGA Member.

18 **F. Duties of the Parties Prior to Court Approval.**

19 1. Promptly after execution of this Settlement Agreement, Plaintiff shall move the
20 Court for preliminary approval of this settlement and entry of an order accomplishing the
21 following:

22 (a) scheduling a fairness hearing on the question of whether the proposed
23 settlement should be finally approved as fair, reasonable and adequate as to the Class Members;

24 (b) approving as to form and content the proposed Class Notice;

25 (c) approving as to form and content the proposed Request for Exclusion
26 Form and Workweek Dispute Form;

27 (d) preliminarily certifying the Settlement Class for purposes of settlement;
28

- 1 (e) preliminarily approving the PAGA payments of \$7,500 to the LWDA and
2 \$2,500 to Aggrieved Employees, based on the formulas specified herein;
3 (f) preliminarily setting attorneys' fees and costs payable to Class Counsel;
4 (g) preliminarily setting the enhancement payment to the Class Representative;
5 (h) preliminarily approving Phoenix Settlement Administration as the
6 Settlement Administrator and its estimated fees and costs of \$5,000; and
7 (i) permitting Plaintiff to file the First Amended Complaint.

8 The Parties shall submit this Settlement Agreement to the Court and the LWDA in support
9 of Plaintiff's unopposed motion for preliminary approval of the settlement.

10 **G. Duties of the Parties in Connection with and Following Final Court Approval.**

11 1. In connection with the hearing on final approval of the settlement provided for in
12 this Settlement Agreement, the Parties will submit a proposed final order no later than ten (10)
13 calendar days prior to the scheduled date of the hearing on final approval (unless otherwise ordered
14 by the Court):

15 (a) approving the settlement, adjudging the terms thereof to be fair, reasonable
16 and adequate, and directing consummation of its terms and provisions;

17 (b) approving Class Counsel's application for an award of attorneys' fees and
18 reimbursement of documented litigation costs and expenses, the enhancement payment to the
19 Class Representative, the PAGA Payments to the LWDA and Aggrieved Employees, and the
20 costs of administering the settlement; and

21 (c) entering judgment in this Action in accordance with this Stipulation,
22 pursuant to Cal. Rules of Court, Rule 3.769(h).

23 2. Class Counsel shall file an application for attorneys' fees and reimbursement of
24 costs and expenses no later than ten (10) calendar days prior to the scheduled date of the hearing
25 on final approval (unless otherwise ordered by the Court).
26
27
28

1 **H. Miscellaneous Provisions:**

2 1. **Voiding the Agreement.**

3 A failure of the Court to approve any material condition of this Settlement Agreement which
4 effects “a fundamental change of the Parties’ settlement,” or if the settlement is reversed or
5 materially modified on appellate review, shall render the entire Stipulation of Settlement voidable
6 and unenforceable as to all Parties herein at the option of any Party. Defendant retains the right, in
7 the exercise of its sole discretion, to nullify the settlement within thirty (30) days after expiration
8 of the opt out period, if five percent (5%) or more of the Class Members opt out of this Settlement.

9 2. **Parties’ Authority.**

10 The signatories hereto represent that they are fully authorized to enter into this Settlement
11 Agreement and bind the Parties hereto to the terms and conditions hereof.

12 3. **Mutual Full Cooperation.**

13 The Parties agree to fully cooperate with each other to accomplish the terms of this
14 Stipulation of Settlement, including but not limited to, execution of such documents and such other
15 action as may reasonably be necessary to implement the terms of this Settlement Agreement. The
16 Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated
17 by this Settlement Agreement and any other efforts that may become necessary by order of the
18 Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As
19 soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the
20 assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the
21 Court’s preliminary and final approval of the settlement.

22 4. **No Prior Assignments.**

23 The Parties hereto represent, covenant, and warrant that they have not directly or
24 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
25 person or entity any portion of any liability, claim, demand, action, cause of action or rights
26 released and discharged by this Stipulation of Settlement.

27

28

1 **5. No Admission.**

2 Nothing contained herein, nor the consummation of this Stipulation of Settlement, is to be
3 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
4 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
5 Settlement Agreement with the intention of avoiding further disputes and litigation with the
6 attendant inconvenience and expenses. This Settlement Agreement is a settlement document and
7 shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408
8 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or
9 proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

10 **6. Construction.**

11 The Parties hereto agree that the terms and conditions of this Settlement Agreement are the
12 result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement
13 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
14 any Party or his or its counsel participated in the drafting of this Settlement Agreement.

15 **7. Captions and Interpretations.**

16 Paragraph titles or captions contained herein are inserted as a matter of convenience and for
17 reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement
18 or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a
19 recital.

20 **8. Modification.**

21 This Settlement Agreement may not be changed, altered, or modified, except in writing and
22 signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be
23 discharged except by performance in accordance with its terms or by a writing signed by each of
24 the Parties hereto on their attorneys.

25 **9. Integration Clause.**

26 This Settlement Agreement contains the entire agreement between the Parties relating to
27 the settlement and transactions contemplated hereby, and all prior or contemporaneous agreements,
28

1 understandings, representations, and statements, whether oral or written and whether by a Party or
2 such Party's legal counsel, are merged herein. No rights hereunder may be waived except in
3 writing.

4 10. **Binding on Assigns.**

5 This Settlement Agreement shall be binding upon and inure to the benefit of the Parties
6 hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

7 11. **Governing Law.**

8 All terms of this Settlement Agreement and its exhibits shall be governed by and interpreted
9 according to the laws of the State of California, without giving effect to any conflict of law
10 principles or choice of law principles.

11 12. **Signatures of All Class Members Unnecessary to be Binding.**

12 It is agreed that, because the members of the Settlement Class are numerous, it is impossible
13 or impractical to have each Class Member execute this Settlement Agreement. The Class Notice,
14 attached hereto as Exhibit 1, will advise all Class Members of the binding nature of the release
15 provided herein and such shall have the same force and effect as if this Settlement Agreement was
16 executed by each Class Member.

17 13. **Counterparts.**

18 This Settlement Agreement may be executed in counterparts, and when each Party has
19 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
20 and when taken together with other signed counterparts, shall constitute one fully-signed Settlement
21 Agreement, which shall be binding upon and effective as to all Parties.

22 14. **Confidentiality**

23 Until Plaintiff files his motion for preliminary approval of the class action settlement, the
24 Parties and their Counsel agree to maintain confidentiality as to the Settlement, including the
25 amount and terms of the Settlement, except as to spouses, tax or financial advisors, attorneys, taxing
26 agencies, or as otherwise required by law.

27 15. **No Publicity**

28 Plaintiff and his Counsel will not contact the media about the settlement or respond to any

1 inquiries by the media regarding the Settlement, other than to state that the matter was amicably
2 settled, and the Court did not find Defendant liable. Plaintiff and his Counsel also will not post any
3 information about the settlement on social media or their firms' websites.

4 **16. Representation Regarding Class Size.**

5 Defendant has represented that there are no more than approximately 260 Class Members
6 who worked no more than 15,000 workweeks during the Class Period. Should either of these
7 numbers increase by more than 20%, the Maximum Payment shall increase proportionately with
8 the greater increase.
9

10 Dated: 03 / 06 / 2023

By: 

ALEJANDRO RAMIREZ
Plaintiff and Class Representative

11
12
13 Dated: 03 / 27 / 2023

DE ANDA ENTERPRISES, INC.

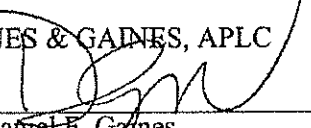
By: 

14
15
16 Its: President

17
18 **APPROVED AS TO FORM AND CONTENT:**

19 Dated: 3/6/2023

GAINES & GAINES, APLC

20 By: 
21 Daniel F. Gaines
22 Alex P. Katofsky
23 Evan S. Gaines
Counsel for Plaintiff and Class
Representative Alejandro Ramirez

24 Dated: 03/29/2023

BACKSTROM LABOR LAW

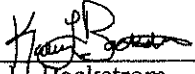
25 By: 
26 Karin L. Backstrom
27 Counsel for Defendant De Anda
28 Enterprises, Inc.

EXHIBIT 1

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ALEJANDRO RAMIREZ, on behalf of himself
and on behalf of all similarly situated
individuals,

Plaintiff,

v.

DE ANDA ENTERPRISES, INC., a California
corporation, and DOES 1 through 10, inclusive,

Defendants.

CASE NO: 30-2021-10232142-CU-OE-CXC

*Assigned For All Purposes to the Honorable
Judge William Claster, Dept. CX104*

**NOTICE OF PENDENCY OF PROPOSED
CLASS ACTION SETTLEMENT AND
FINAL HEARING**

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

A California court authorized this notice. This is not a solicitation from a lawyer.

- A settlement will provide \$150,000 to pay claims to and on behalf of all individuals who worked for De Anda Enterprises, Inc. ("Defendant") as non-exempt employees in California at any time between November 16, 2017 and November 30, 2022 (the "Class Period") and all non-exempt employees in California at any time between November 12, 2020 and November 30, 2022 (the "PAGA Period").
- The settlement resolves a lawsuit alleging that Defendant failed to pay all minimum and overtime wages; provide compliant meal and rest periods or premium compensation in lieu thereof; timely issue final wages upon separation of employment; and issue accurate and complete itemized wage statements. The Settlement avoids costs and risks of continuing the lawsuit; pays money to employees; and, in exchange, releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$50,000 as attorneys' fees and \$12,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. The above amounts will be paid from the total settlement amount.
- Defendant believes it has complied with the law in all respects and deny any liability for the claims asserted by Plaintiff. Defendant is not admitting liability of any of the factual and legal allegations asserted in the lawsuit, and deny that the lawsuit should proceed as a class action for any purpose other than this Settlement. After investigating the claims at issue, and the possible defenses to those claims, the Parties have agreed to settle this case in order to avoid the cost and risk of further litigation. In view of the costs and risks that continued litigation would entail, Plaintiff and his counsel believe the Settlement is in the best interests of all non-exempt employees who worked for Defendant in California during the Class Period ("Class Members") and the PAGA Period ("Aggrieved Employees").

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself	To exclude yourself from the class settlement, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you may receive no money from the Settlement . This is the only option that allows you to ever be part of any other lawsuit against De Anda Enterprises, Inc. about the legal claims that were brought in this case. Note that if you exclude yourself and you are an Aggrieved Employee, you will still receive a payment for PAGA penalties and be bound by the settlement of the PAGA claims.
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class and representative action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a Class Member and/or Aggrieved Employee on whose behalf this class and representative action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On November 16, 2021, Plaintiff Alejandro Ramirez ("Plaintiff"), a former employee of De Anda Enterprises, Inc., filed this lawsuit in Orange County Superior Court. The lawsuit, as amended, alleges violations of the California Labor Code and California Business and Professions Code. The lawsuit seeks to certify a class of all current and former non-exempt California employees of Defendant employed from November 16, 2017 through November 30, 2022. Specifically, the lawsuit alleges that Class Members and Aggrieved Employees were not paid all minimum and overtime wages due; were not provided all compliant meal and rest periods or premium compensation in lieu thereof; were not timely issued final wages upon separation of employment; and were not issued accurate and complete itemized wage statements. The Settlement seeks recovery of wages, damages, interest, statutory and civil penalties, restitution, attorneys' fees and costs. Defendant denies all of the material allegations in the lawsuit and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.

Alex P. Katofsky, Esq.

Gaines & Gaines, APLC

4550 E. Thousand Oaks Blvd., Suite 100

Westlake Village, CA 91362

Phone: (866) 550-0855

Defendant's Attorneys

Karin L. Backstrom, Esq.

BACKSTROM LABOR LAW

315 Laurel Street

San Diego, CA 92101

Telephone: (619) 851-7274

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes he would prevail on one or more of his claims at a trial, if he elected to and/or were forced to move forward formally. Defendant does not believe Plaintiff would win anything from a trial, if Defendant elected to and/or was forced to move forward formally, and if Plaintiff were to make it that far on one or more of his claims. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Settlement Agreement and Release of Claims ("Settlement Agreement" or "Stipulation of Settlement"), in order to avoid the further costs, risks, and uncertainty of a trial. Plaintiff and Plaintiff's Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members and Aggrieved Employees.

B. Who is in the Settlement Class?

The Settlement encompasses a class composed of all individuals who worked for De Anda Enterprises, Inc. as hourly and/or non-exempt employees in California at any time between November 16, 2017 and November 30, 2022, and, with regard to the PAGA Claims, all Aggrieved Employees who worked between November 12, 2020 and November 30, 2022.

C. What does the Settlement provide?

1. Maximum Payment.

The Settlement provides that Defendant will pay One Hundred Fifty Thousand Dollars (\$150,000.00) (the "Maximum Payment") to settle the lawsuit.

2. Net Settlement Proceeds.

The "Net Settlement Proceeds" is the portion of the Maximum Payment that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Proceeds is the Maximum Payment less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Class Members.

(a) **Class Counsel's Attorneys' Fees** in an amount set by the Court, not to exceed Fifty Thousand Dollars (\$50,000.00);

(b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed Twelve Thousand Dollars (\$12,000.00);

(c) **Enhancement Payment to the Class Representative** in an amount set by the Court, not to exceed Five Thousand Dollars (\$5,000.00), for his service in the lawsuit;

(d) **Settlement Administration Costs** which are currently estimated to not exceed Five Thousand Dollars (\$5,000), for administering the settlement; and

(e) **PAGA Payments** in the total amount of Ten Thousand Dollars (\$10,000.00) for the settlement of claims arising under the California Private Attorneys General Act ("PAGA"). Seventy-Five percent (75%), or Seven Thousand Five Hundred Dollars (\$7,500.00), shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining Twenty-Five percent (25%), or Two Thousand Five Hundred Dollars (\$2,500.00), will be distributed to non-exempt California employees who worked for Defendant from November 12, 2020 to November 30, 2022 ("Aggrieved Employees"), for the release of their claims arising under PAGA.

3. **Individual Payment Amount.**

Your share of the Net Settlement Proceeds will be determined by the formula detailed in section E below. Your Individual Payment Amount includes both your estimated share of the Net Settlement Proceeds and, if eligible, your share of the PAGA Payment ("Individual PAGA Payment Amount").

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon the "Effective Date," as defined below, and subject to Defendant's full payment of the Maximum Payment, Plaintiff and all Settlement Class Members who do not timely opt-out will be deemed to have fully released and discharged Defendant and its respective present and former parents, owners, subsidiaries and any affiliated or related persons or entities and each of their respective officers, directors, employees, partners, shareholders, attorneys and agents and any other successors, assigns or legal representatives ("Released Parties") from any and all claims and/or causes of action, known or unknown, which accrued during the Class Period during employment in a non-exempt position in California, that are alleged in the First Amended Complaint, or that could have been alleged in the Action based on the facts set forth in the First Amended Complaint.

Upon the Effective Date, and subject to Defendant's full payment of the Maximum Payment, Plaintiff and all PAGA Members will be deemed to have fully released and discharged Defendant and Released Parties from any and all claims and/or causes of action, known or unknown, which accrued during the PAGA Period during employment in a non-exempt position in California, that are alleged in the First Amended Complaint, or that could have been alleged in the Action based on the facts set forth in the First Amended Complaint.

The Effective Date of this Settlement Agreement ("Effective Date") is the date the Court approves the Settlement and enters judgment in accordance. If there are one or more objections filed to the Settlement which are not withdrawn, the Maximum Payment shall be paid no later than fifteen (15) calendar days after the appeals period expires, unless an appeal from the judgment is filed, in which case the Maximum Payment shall be paid no later than fifteen (15) calendar days after (1) the judgment is affirmed and no further appeals or petitions for review may be filed, or (2) the appeal is dismissed.

E. How Is My Share Of The Settlement Calculated?

Each participating Class Member (those who do not opt out of the Settlement) and all Aggrieved Employees shall receive an "Individual Payment Amount," which is distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form) and is a portion of the PAGA Payment distributable to each PAGA Member, regardless if they request exclusion from the class settlement or not.

As to Class Members, the Individual Payment Amounts will be calculated by dividing the Net Settlement Proceeds by the total weeks worked by all participating Class Members in California in a non-exempt position during the Class Period, which will yield the applicable weekly rate ("Workweek Value"). The Workweek Value shall be multiplied by the number of weeks each individual participating Class Member worked for Defendant in California in a non-exempt position during the Class Period to yield their Individual Payment Amount. Each Participating Settlement Class Member who does not opt out will receive an Individual Payment Amount equal to their individual weeks worked in California in a non-exempt position during the Class Period multiplied by the Workweek Value, and the Individual Payment Amounts to be paid to each Aggrieved Employee will also include their Individual PAGA Payment Amount, as detailed below.

As to Aggrieved Employees, individual PAGA Payment Amounts will be calculated by dividing the employee portion of the PAGA Payment (\$2,500.00) by the total weeks worked by all Aggrieved Employees in California in a non-exempt position during the PAGA Period (November 12, 2020 to November 30, 2022), which will yield the applicable weekly rate. The weekly rate shall be multiplied by the number of weeks each individual Aggrieved Employee worked for Defendant in California in a non-exempt position during the PAGA Period to yield their Individual PAGA Payment Amount. Aggrieved Employees will receive their portion of the PAGA Payment regardless of their decision to opt out of the class settlement (i.e., Class Members who opt out will nevertheless receive their Individual PAGA Payment).

For tax purposes, each Individual Payment Amount will be apportioned (a) 10% as wages (reported on an IRS Form W-2 and subject to applicable withholdings); and (b) 90% as non-wage statutory damages and interest (reported on an IRS Form 1099, if required). The PAGA Payment Amounts will be apportioned 100% as non-wage penalties (reported on an IRS Form 1099, if required). All Individual Payment Amounts paid to Class Members will be subject to any applicable wage garnishments, liens, or other legally mandated treatment as required by law.

According to the records of Defendant, you worked [] weeks while employed in a non-exempt position in California from November 16, 2017 through November 30, 2022 and you worked [] weeks while employed in a non-exempt position in California from November 12, 2020 through November 30, 2022. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit the enclosed workweek dispute form and provide an explanation and evidence in support of your position to the Settlement Administrator, postmarked, no later than [], 2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the "Final Settlement Hearing") on _____, at _____ a.m., in the Courtroom of Judge Claster of the Orange County Superior Court, Department CX104, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court's final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorneys' fees and costs to be awarded to Plaintiff's Attorneys; and (v) the amount that should be awarded to Plaintiff as an enhancement payment. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

• OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than _____. The Settlement Administrator's address is [Settlement Administrator address].

• OPTION 2 – OBJECT TO THE SETTLEMENT

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than _____.

• OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT AND RELEASE OF NON-PAGA CLAIMS

You have a right to exclude yourself ("opt out") from the Settlement Class and release of non-PAGA claims, but if you choose to do so, you will not receive any benefits from the proposed settlement. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Payment because the Request for Exclusion does not apply to this claim. You will not be bound by a judgment in this case, and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Class by completely filling out and mailing the enclosed Request for Exclusion Form to the Settlement Administrator at the above-stated address, such that it is postmarked no later than _____. The Request for Exclusion shall not be effective as to the release of claims arising under PAGA. Class Members who opt-out of the Settlement will nevertheless release Released Claims that arise under PAGA.

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed "Settlement Agreement and Release of Claims" which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Orange County Superior Court, located at 751 West Santa Ana Blvd, Santa Ana, CA 92701. You can also access the case file on the Court's website at <https://www.occourts.org/online-services/case-access>. The case number is 30-2021-10232142-CU-OE-CXC and the filing year is 2021.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT 2

REQUEST FOR EXCLUSION

ONLY COMPLETE THIS REQUEST FOR EXCLUSION FORM IF YOU WANT TO OPT OUT OF (NOT PARTICIPATE IN) THE SETTLEMENT OF THE CLASS ACTION KNOWN AS *Alejandro Ramirez, Plaintiff, v. De Anda Enterprises, Inc., and Does 1 Through 10, Inclusive, Defendants, Orange County Superior Court, Case No. 30-2021-10232142-CU-OE-CXC.*

I confirm that I was employed by Defendant De Anda Enterprises, Inc. as an hourly and/or non-exempt employee in California between November 16, 2017 and November 30, 2022 (the "Class Period").

I do not wish to receive any payment under the terms of the proposed class action settlement or to otherwise participate in the proposed class action settlement. I understand that I will receive a share of the PAGA Payment and be bound by a release of PAGA claims even if I opt out of the class settlement.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

IN ORDER TO BE VALID, THIS REQUEST FOR EXCLUSION FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE **[60 days after mailing of Notice]**. Send this signed request for exclusion form to the Settlement Administrator:

De Anda Enterprises, Inc. Claims Administrator
c/o Phoenix Settlement Administration

EXHIBIT 3

WORKWEEK DISPUTE FORM

ONLY COMPLETE AND SUBMIT THIS WORKWEEK DISPUTE FORM IF YOU DISAGREE WITH THE WORKWEEK CALCULATIONS BELOW.

According to the records of Defendant De Anda Enterprises, Inc., you worked [] weeks while employed in a non-exempt position in California from November 16, 2017 to November 30, 2022 and you worked [] weeks while employed in a non-exempt position in California from November 12, 2020 to November 30, 2022.

If you disagree with the workweek count above, please state below what you believe are the correct number of weeks worked:

I believe I worked _____ weeks while employed by Defendant in a non-exempt position in California from November 16, 2017 to November 30, 2022.

I believe I worked _____ weeks while employed in a non-exempt position in California from November 12, 2020 to November 30, 2022

Please submit any documentation or other evidence you have to support your proffered workweek calculations above.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

IN ORDER TO BE TIMELY, THIS WORKWEEK DISPUTE FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE **[60 days after mailing of Notice]**. Send this signed form to the Settlement Administrator:

De Anda Enterprises, Inc. Claims Administrator
c/o Phoenix Settlement Administration

EXHIBIT 4

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
4 **GAINES & GAINES, APLC**
4550 East Thousand Oaks Boulevard, Suite 100
5 Westlake Village, CA 91362
Telephone: (818) 703-8985
6 Facsimile: (818) 703-8984

7 Attorneys for Plaintiff Alejandro Ramirez, on behalf of himself and on behalf of all similarly
situated individuals

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF ORANGE**

11 ALEJANDRO RAMIREZ, on behalf of
12 himself and on behalf of all similarly situated
individuals,

13 Plaintiff,

14 v.

15 DE ANDA ENTERPRISES, INC., a
16 California corporation, and DOES 1 through
10, inclusive,

17 Defendants.

CASE NO: 30-2021-10232142-CU-OE-CXC

*Assigned for all purposes to the Hon. James
DiCesare, Dept. C-16*

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

**1. FAILURE TO PAY ALL MINIMUM
AND OVERTIME WAGES (LABOR
CODE §§ 510, 1194 AND 1194.2)**

**2. FAILURE TO PROVIDE REST
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE § 226.7; IWC
WAGE ORDER 5-2001)**

**3. FAILURE TO PROVIDE MEAL
PERIODS OR COMPENSATION IN LIEU
THEREOF (LABOR CODE §§ 226.7, 512,
1174, AND 1174.5; IWC WAGE ORDER 5-
2001)**

**4. KNOWING AND INTENTIONAL
FAILURE TO COMPLY WITH
ITEMIZED EMPLOYEE WAGE
STATEMENT PROVISIONS (LABOR
CODE § 226(a), (e))**

**5. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF
EMPLOYMENT (LABOR CODE §§ 201-
203)**

**6. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**

7. PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201-202, 226(a), 226.7,
510, 512, 1174, 1174.5 AND 1194 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3 AND 558

DEMAND FOR JURY TRIAL

Complaint Filed: November 16, 2021

Plaintiff ALEJANDRO RAMIREZ ("Plaintiff"), on behalf of himself, all similarly situated individuals (the "Class" or "Plaintiff Class"), and on behalf of the general public, and as an "aggrieved employee" under the Labor Code Private Attorneys General Act of 2004, complains of Defendants, and each of them, as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Class Action and Representative Action, pursuant to Code of Civil Procedure § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiff and the Class of individuals described in detail below against DE ANDA ENTERPRISES, INC., a California corporation, and/or any subsidiaries or affiliated companies (hereinafter collectively referred to as "Defendants").

2. For at least four (4) years prior to the filing of this action and continuing to the present (the "liability period"), Defendants have had a consistent policy of failing to pay all minimum and overtime wages due, provide legally compliant meal and rest periods, or compensation in lieu thereof; failing to pay all wages due upon separation of employment; and failing to issue accurately itemized wage statements.

3. Plaintiff, on behalf of himself members of the Class, brings this action pursuant to Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1194, and 1194.2 seeking compensation for all unpaid wages, meal and rest period premium wages, liquidated damages, statutory penalties, injunctive and other equitable relief, and reasonable attorneys' fees and costs.

4. Plaintiff, on behalf of himself and Class Members, pursuant to Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants enjoyed from their failure to pay all wages due.

5. Plaintiff, on behalf of himself and all aggrieved employees pursuant to Labor Code §§ 2698 *et seq.*, seeks penalties for Defendants' various violations of the California Labor Code.

6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants employed Plaintiff in Orange County, California.

7. Pursuant to the Judicial Council's Emergency Rule 9 of the California Rules of Court, Plaintiff's claims are subject to tolling from April 6, 2020, through October 1, 2020.

II.

PARTIES

A. Plaintiff

8. Plaintiff ALEJANDRO RAMIREZ was employed by Defendants from May 2020 through June 2020 as a non-exempt employee and performed work for Defendants in Orange County, California.

9. During his work with Defendants, Plaintiff was:

- a. Willfully denied all meal and rest periods or compensation in lieu thereof;
- b. Willfully denied the payment of all minimum and overtime wages due;
- c. Willfully denied accurately itemized wage statements; and
- d. Denied the timely payment of all wages upon separation of his employment.

B. Defendants

10. Defendant DE ANDA ENTERPRISES, INC. is a California corporation. Defendant DE ANDA ENTERPRISES, INC. employed Plaintiff in Orange County, California.

11. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

///

12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

13. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

III.

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action on behalf of himself, and all others similarly situated as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the following class composed of and defined as follows:

THE CLASS

All persons employed as non-exempt employees by Defendants in California at any time since the date four years preceding the filing of this Action.

15. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or modify this class description with greater specificity or further division into subclasses or limitation to particular issues.

16. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and each proposed Class is easily ascertainable.

A. Numerosity

17. The potential members of the Class as defined are so numerous that joinder of all class members is impracticable. While the precise number of members of the Class has not been ascertained at this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently employ, and during the relevant time periods employed, over 50 persons in the State of California who fall within the Class definition.

1 18. Accounting for employee turnover during the relevant period necessarily increases this
2 number. Plaintiff alleges Defendants' employment records would provide information as to the
3 number and location of members of the Class. Joinder of members of the Class is not practicable.

4 **B. Commonality**

5 19. There are questions of law and fact common to the Class that predominate over any
6 questions affecting only individual class members. These common questions of law and fact include,
7 without limitation:

- 8 a. Whether Defendants failed to pay all minimum and overtime wages due to
9 Plaintiff and Class Members, in violation of Labor Code §§ 510, 1194, and
10 1194.2;
- 11 b. Whether Defendants failed to properly provide rest periods, or compensation
12 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §
13 226.7, and IWC Wage Order 5-2001;
- 14 c. Whether Defendants failed to properly provide meal periods, or compensation
15 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §§
16 226.7, 512, 1174, and 1174.5, and IWC Wage Order 5-2001;
- 17 d. Whether Defendants failed to provide Plaintiff and Class Members with
18 accurately itemized wage statements, in accordance with Labor Code § 226(a)
19 and (e);
- 20 e. Whether Defendants failed to timely Plaintiff and pay members of the Class
21 all wages due and owing at the separation of their employment, in violation of
22 Labor Code §§ 201-203; and
- 23 e. Whether Plaintiff and members of the Class are entitled to equitable relief
24 pursuant to Business & Professions Code § 17200 *et seq.*

25 **C. Typicality**

26 20. The claims of the named Plaintiff are typical of the claims of members of the Class.
27 Plaintiff and members of the Class sustained injuries and damages arising out of and caused by
28

Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. Adequacy of Representation

21. Plaintiff will fairly and adequately represent and protect the interests of members of the Class. Counsel who represents Plaintiff are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

22. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed members of the Class is not practicable, and questions of law and fact common to the proposed Class predominate over any questions affecting only individual members of the proposed Class. Each member of the proposed Class has been damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

23. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES

(LABOR CODE §§ 510, 1194 AND 1194.2)

24. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set forth herein.

25. During the liability period, Defendants failed to pay all overtime wages due, in violation of Labor Code §§ 510 and 1194. Defendants paid Plaintiff and Class Members straight time wages only, with no adjustment for premium overtime wages. Specifically, Plaintiff and Class Members would work in excess of 8 hours per day and 40 hours per week, but were never properly

1 compensated for work performed in excess of eight (8) hours in a workday and work performed in
2 excess of forty (40) hours in a workweek at a rate of no less than one and one-half times the regular
3 rate of pay. Furthermore, Plaintiff and Class Members would routinely work without any
4 compensation whatsoever, thereby denying them all minimum and overtime wages due. This violates
5 Labor Code §§ 510, 1194, and 11942.

6 26. As a result of the unlawful acts of Defendants in willfully failing to pay all wages due,
7 Plaintiff and members of the Class have been deprived of wages in amounts to be determined at trial,
8 and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and
9 costs, pursuant to Labor Code § 1194 and liquidated damages pursuant to Labor Code § 1194.2.

10 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

11 **V.**

12 **SECOND CAUSE OF ACTION**

13 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

14 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

15 **(LABOR CODE § 226.7 AND IWC WAGE ORDER 5-2001)**

16 27. Plaintiff incorporates paragraphs 1 through 25 of this Complaint as though fully set
17 forth herein.

18 28. Plaintiff and Class Members are entitled to one hour of pay for each day that
19 Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and
20 IWC Wage Order 5-2001.

21 29. Defendants failed to pay premium wages to Plaintiff and Class Members who were
22 denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order 5-2001. Plaintiff and
23 Class Members were routinely unable to take a 10-minute rest period for every four (4) hours of work
24 or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest
25 period. When Plaintiff and Class Members were provided with a rest period, they would be interrupted
26 in the middle of such rest periods and would be required to continue working. This violates Labor
27 Code § 226.7 and IWC Wage Order 5-2001.

28 \\\

30. Pursuant to Labor Code § 226.7 and IWC Wage Order 5-2001, Plaintiff seeks the payment of all rest period compensation which he and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

VI.

THIRD CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE §§ 226.7, 512, 1174, AND 1174.5 AND IWC WAGE ORDER 5-2001)

31. Plaintiff incorporates paragraphs 1 through 30 of this Complaint as though fully set forth herein.

32. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001.

33. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001. Plaintiff and Class Members were routinely denied, and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked that exceeded five hours in duration, and a second meal period when they worked shifts greater than ten hours, but were not paid premium wages of one hour's pay for each missed meal period. When Plaintiff and Class Members did receive meal periods, they would typically be late (commencing after the fifth hour of work) or short (less than 30 minutes in duration). Defendants also failed to maintain meal period records. This violates Labor Code §§ 226.7, 512, 1174, and 1174.5 and IWC Wage Order 5-2001.

34. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001, Plaintiff seeks the payment of all meal period compensation which Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the class he seeks to represent request relief as described below.

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VII.
FOURTH CAUSE OF ACTION
PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS
KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED
EMPLOYEE WAGE STATEMENT PROVISIONS
(LABOR CODE § 226(a), (e))

35. Plaintiff incorporates paragraphs 1 through 34 of this Complaint as though fully set forth herein.

36. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide 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. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

37. Defendants failed to issue Plaintiff and Class Members wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). As stated above, Plaintiff and Class Members were not paid all minimum wages, overtime wages, and meal and rest period premium wages. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1) total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9).

38. As a consequence of Defendants' willful conduct in failing to provide Class Members with accurate itemized wage statements, Plaintiff and Class Members have been injured because they have not been paid all wages due and were issued wage statements which do not reflect, and fail to state, all information required by Labor Code § 226(a). The missing information cannot be discerned at all from the face of the wage statements themselves. Plaintiff and Class Members are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

VIII.

FIFTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO TIMELY PAY WAGES DUE AT

SEPARATION OF EMPLOYMENT (LABOR CODE §§ 201-203)

39. Plaintiff incorporates paragraphs 1 through 38 of this Complaint as though fully set forth herein.

40. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

41. Defendants paid Plaintiff and members of the Class their final wages beyond the time frames set forth in Labor Code §§ 201 and 202 in violation of Labor Code § 203. Plaintiff and members of the Class were not paid all wages due and owing throughout the course of their employment, including all minimum and overtime wages and premium wages for missed and denied meal and rest periods, as detailed above. Consequently, at the time of their separation from

1 employment with Defendants, they were not paid all final wages due and owing for the entirety of
2 their employment.

3 42. More than 30 days have passed since Plaintiff and certain members of the Class have
4 left Defendants' employ.

5 43. As a consequence of Defendants' willful conduct in not paying wages owed timely
6 upon separation of employment, Plaintiff and members of the Class are entitled to up to 30 days'
7 wages as a penalty under Labor Code §§ 203 for Defendants' failure to timely pay legal wages at
8 separation of employment.

9 Wherefore, Plaintiff and the Class he seeks to represent request relief as described below.

10 **IX.**

11 **SIXTH CAUSE OF ACTION**

12 **PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

13 **UNFAIR COMPETITION PURSUANT TO**

14 **BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.**

15 44. Plaintiff incorporates paragraphs 1 through 42 of this Complaint as though fully set
16 forth herein.

17 45. This is a Class Action for Unfair Business Practices. Plaintiff, on his own behalf and
18 on behalf of the general public, and on behalf of others similarly situated, brings this claim pursuant
19 to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this
20 Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public,
21 and members of the Class. Plaintiff seeks to enforce important rights affecting the public interest
22 within the meaning of Code of Civil Procedure § 1021.5.

23 46. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204,
24 and therefore has standing to bring this cause of action for injunctive relief, restitution, and other
25 appropriate equitable relief.

26 47. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business
27 practices.

28 ///

1 48. Wage and hour laws express fundamental public policies. Properly providing
2 employees with all wages due is a fundamental public policy of this State and of the United States.
3 Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor
4 standards, to ensure that employees are not required or permitted to work under substandard and
5 unlawful conditions, and to protect law-abiding employers and its employees from competitors who
6 lower their costs by failing to comply with minimum labor standards.

7 49. Defendants have violated statutes and public policies. Through the conduct alleged
8 in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have
9 violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair
10 business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff,
11 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
12 guaranteed to all employees under law.

13 50. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
14 §17200 *et seq.* of the Business & Professions Code.

15 51. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
16 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
17 17200 *et seq.* of the Business & Professions Code.

18 52. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others
19 similarly situated have been damaged in a sum as may be proven.

20 53. Unless restrained by this Court, Defendants will continue to engage in the unlawful
21 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court should
22 make such orders or judgments, including the appointment of a receiver, as may be necessary to
23 prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or deceptive
24 practice prohibited by the Business & Professions Code, and/or, including but not limited to,
25 disgorgement of profits which may be necessary to restore Plaintiff and members of the Class to the
26 money Defendants have unlawfully failed to pay.

27 \\

28 \\

1 X.

2 SEVENTH CAUSE OF ACTION

3 PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
4 PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
5 LABOR CODE §§ 201-202, 226(a), 226.7, 510, 512, 1174, 1174.5 AND 1194 AND PURSUANT
6 TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558

7 54. Plaintiff incorporates paragraphs 1 through 53 of this Complaint as though fully set
8 forth herein.

9 55. As a result of the acts alleged above, including the Labor Code violations set forth
10 herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.*

11 56. For each such violation, Plaintiff and all other aggrieved employees are entitled to
12 penalties in an amount to be shown at the time of trial subject to the following formula:

13 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
14 each subsequent violation of Labor Code §§ 201-202, 226(a), 226.7, 510, 512,
15 1174, 1174.5 and 1194; and

16 b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor
17 Code §§ 226.3 and 558.

18 57. Penalties recovered will be allocated 75% to the Labor and Workforce Development
19 Agency, and 25% to the affected employees.

20 58. On November 12, 2021, Plaintiff sent a letter, by online submission to the LWDA and
21 by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the
22 violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor
23 Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65)
24 calendar days of November 12, 2021. Plaintiff may therefore commence this action to seek civil
25 penalties pursuant to Labor Code § 2698 *et seq.*

26 Wherefore, Plaintiff and the aggrieved employees he seeks to represent request relief as
27 described below.

28 ///

1 **RELIEF REQUESTED**

2 WHEREFORE, Plaintiff prays for the following relief:

3 1. For compensatory damages and liquidated damages pursuant to Labor Code §§ 510,
4 1194 and 1194.2 in the amount of all unpaid overtime and minimum wages due to Plaintiff and
5 members of the Class;

6 2. For compensatory damages in the amount of one hour of wages for each day on which
7 a meal and/or rest period was not properly provided to Plaintiff and Class Members, pursuant to Labor
8 Code § 226.7;

9 3. For penalties pursuant to Labor Code § 226(e) for Plaintiff and Class Members;

10 4. For restitution for unfair competition pursuant to Business & Professions Code §
11 17200 *et seq.* for Plaintiff and Class Members;

12 5. An award providing for payment of costs of suit pursuant to Labor Code § 226(h) and
13 other applicable law;

14 6. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
15 Aggrieved Employees;

16 7. An award of attorneys' fees pursuant to Labor Code § 226(h) and other applicable law;

17 8. An award of prejudgment and post-judgment interest; and

18 9. Such other and further relief as this Court may deem just and proper.

19 Dated: February 23, 2023

Respectfully submitted,

20 GAINES & GAINES
21 A Professional Law Corporation

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23 By: _____
24 DANIEL F. GAINES
25 EVAN S. GAINES
26 Attorney for Plaintiff

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Dated: February 23, 2023

GAINES & GAINES
A Professional Law Corporation

By: DANIEL F. GAINES
EVAN S. GAINES
 Attorney for Plaintiff