

Jonathan D. Kent (SBN 292415)
KENT LEGAL, P.C.
9595 Wilshire Boulevard
Suite 900
Beverly Hills, CA 90212
(310) 300-4032
jkent@kentlegalpc.com
Attorney for Plaintiff JOSE GUTIERREZ, individually, and on behalf of other members of the
general public similarly situated;

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JOSE GUTIERREZ individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

CONTINENTAL GLAZING, INC., a
California Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: 23STCV03011

*Assigned for all purposes to: Hon. Elihu M.
Berle, Dept. 6*

CLASS ACTION

**DECLARATION OF JONATHAN D. KENT
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Conference Date: May 13, 2025
Conference Time: 10:00 a.m.
Department: 6

Complaint Filed: February 10, 2023
Trial Date: Not Set

1 **DECLARATION OF JONATHAN D. KENT**

2 I, Jonathan D. Kent, respectfully declare as follows:

3 1. I am an attorney duly admitted to the Bar of the State of California and most United
4 States District Courts in the State of California. I am the managing partner of Kent Legal, P.C.,
5 counsel of record for Plaintiff Jose Gutierrez (“Plaintiff”). I have personal knowledge of the facts
6 stated herein and if called as a witness I could and would competently testify thereto.

7 2. I have worked as an employment litigation attorney for approximately eight years. Of
8 that time, the majority of my practice consisted of litigating wage-and-hour claims, including
9 representative and class claims. Therefore, I am experienced in analyzing, litigating, and resolving
10 wage-and-hour claims, including claims for civil penalties under PAGA.

11 **CLASS COUNSEL’S BACKGROUND AND EXPERIENCE**

12 3. I am a duly licensed attorney and have been a member of the California State Bar since
13 2013. I graduated from the University of San Diego School of Law in 2013, and I am licensed to
14 practice before all state courts of the State of California, as well as the Northern and Central United
15 States District Courts in California.

16 4. In March 2022, I opened my own firm to practice labor and employment law with an
17 emphasis on wage and hour representative actions. Prior to opening my law firm, I developed
18 particular experience in the area of wage and hour litigation working on class actions, representative
19 actions, and multi-district litigations throughout California and the United States focusing on wage
20 and hour violations.

21 5. Between 2018 and 2022, I worked as an attorney for Jackson Lewis, PC, a national
22 AM Law 50 firm devoted to representing employers in all facets of labor and employment matters,
23 including defending against violations of the California Labor Code on individual and representative
24 bases.

25 6. During my employment with Jackson Lewis, PC, I focused my practice on the defense
26 of class action and PAGA claims. I was the day-to-day attorney on dozens of complex class actions
27 involving representative and class actions brought under the California Labor Code, including meal
28

1 and rest break violations, overtime, minimum wage claims, off-the-clock work, failure to reimburse
2 business expenses, and other related wage claims.

3 7. During my employment with Jackson Lewis, PC, I played a significant role in the class
4 actions and PAGA actions on which I worked. In particular, I was involved in the strategy of the cases
5 and drafting all of the briefs. I received a wide-array of wage and hour class action experience
6 performing the following types of tasks: drafting demurrers; motions to strike; removing actions from
7 state court to federal court; drafting and responding to written discovery; drafting and opposing
8 discovery related motions; arguing discovery related motions; drafting motions to consolidate related
9 matters; interviewing hundreds of putative class members and obtaining declarations in connection
10 with class certification; opposing motions for class certification; conducting exposure analyses to
11 assess the strengths and weaknesses of asserted claims, the likelihood of prevailing at class
12 certification and potential damages resulting from such claims; preparing for deposition and then
13 defending the depositions of the corporate Person Most Qualified, Senior Management, and percipient
14 witnesses; deposing and defending retained expert witnesses; and deposing plaintiffs and putative
15 class members. I was also intimately involved in mediating class action and PAGA matters, which
16 involved gathering class data, working with experts to prepare potential damages analysis, and
17 negotiating settlements at mediation. In short, I played an integral role in all aspects of litigation from
18 the receipt of the complaint through and beyond class certification and/or mediation.

19 8. During my practice and continuing today, I have been primarily devoted to working
20 in employment law and on complex class action and representative litigation and multi-plaintiff work.

21 9. Kent Legal, PC is a law firm specifically devoted to the representation of employees
22 against employers in California involving claims relating to violations of the California Labor Code,
23 including claims for failure to pay all wages owed, failure to pay overtime premiums, failure to pay
24 meal and rest premiums, failure to reimburse business expenses and failure to provide accurate wage
25 records. The practice of employment law is a very specific, narrow field which requires diligence in
26 an ever-evolving field of substantive and procedural law.

1 10. Although not exhaustive, below is a representative list of several of the wage and hour
2 class and PAGA actions that I performed substantial work on while I was an attorney with Jack son
3 Lewis, PC, including, but not limited to:

- 4 • *Riley v. B. Braun Med.* (Orange County) (30-2019-01069273-CU-OE-CXC)
- 5 • *Ferreira v. B. Braun Med.* (Orange County) (30-2020-01141094-CU-OE-CXC)
- 6 • *Foran v. B. Braun Med.* (Orange County) (30-2016-00881670-CU-OE-CXC)
- 7 • *Castillo v. Pac. College* (Orange County) (30-2017-00940796-CU-WT-CJC)
- 8 • *Li v. Apple Med. Ctr.* (U.S. Central District of California) (EDCV 19-1020 JGB (SHKx))
- 9 • *Ramos v. Adams Rite Aero.* (Orange County) (30-2019-01064298-CU-OE-CXC)
- 10 • *Marquez v. Ossur Am.* (Orange County) (30-2018-01024095-CU-WT-CXC)
- 11 • *Holmes v. Natures Image, Inc.* (Los Angeles County) (22STCV36319)
- 12 • *Flowers v. LA Organic Pharm., Inc.* (Los Angeles County) (22STCV11431)
- 13 • *Caro v. Bright SP, LLC* (Los Angeles County) (19STCV29884)
- 14 • *Leon v. Adcomm Installations, Inc.* (San Bernardino County) (CIVDS1832675)
- 15 • *Espindola v. Building Cleaning Systems, Inc.* (Orange County) (30-2019-01091001-CU-
- 16 OE-CXC)
- 17 • *Burdick v. Peach State Roofing, Inc.* (Los Angeles County) (20STCV20397)
- 18 • *Kim v. Sentinel Offender Services, LLC* (Orange County) (30-2020-01128352-CU-OE-
- 19 CXC)
- 20 • *Ossipoff v. SoulCycle, Inc.* (Orange County) (30-2020-01146813-CU-OE-CXC)
- 21 • *Hine v. Xponential Fitness, Inc.* (Orange County) (30-2020-01176106-CU-OE-CXC)

22 11. Since beginning my own firm three years ago, I have also continued practicing and
23 pursuing representative actions based on alleged wage and hour violations by employers. My firm
24 currently continues to focus its practice on this area keeping up to date on developments in this area
25 of the law.

1 12. I am fully familiar with the legal and factual issues in this matter and have specific
2 experience litigating complex wage and hour actions as class actions, including employment cases as
3 set forth above.

4 13. The Settlement presented here only resulted after having engaged in extensive
5 informal discovery and investigation and is the product of hard-fought litigation and extensive arms'
6 length negotiations. In my opinion as an experienced class counsel, the Settlement is fair, reasonable,
7 adequate, and in the best interests of the Class, Aggrieved Employees, and State of California.

8 **PROCEDURAL HISTORY AND FACTUAL BACKGROUND**

9 14. Defendant provides glazing services to commercial clients. Plaintiff was employed
10 by Defendant from December 4, 2020, to March 5, 2021, as a glazer. In early March 2021, Plaintiff
11 injured his back while lifting a heavy glass on the job. After filing a workers compensation claim,
12 Defendant terminated Plaintiff. Plaintiff, however, did not pursue a claim for wrongful termination,
13 and instead focuses only on the collective claims.

14 15. On February 1, 2022, Plaintiff filed a complaint with the Los Angeles Superior Court,
15 Case No. 22STCV03878, seeking penalties under the Private Attorney General Act (the "PAGA
16 Action") based on alleged violations of: (1) Unpaid Overtime; (2) Unpaid Meal Period Premiums; (3)
17 Unpaid Rest Period Premiums; (4) Unpaid Minimum Wages; (5) Final Wages Not Timely Paid; (6)
18 Wages Not Timely Paid During Employment; (7) Non-Compliant Wage Statements; (8) Failure to
19 Keep Requisite Payroll Records; and (9) Failure to Reimburse Expenses.

20 16. On February 10, 2023, Plaintiff filed a wage and hour class action complaint with the
21 Los Angeles Superior Court, Case No. 23STCV03011 ("the Class Action") against Defendant
22 alleging the following causes of action: (1) Unpaid Overtime; (2) Unpaid Meal Period Premiums; (3)
23 Unpaid Rest Period Premiums; (4) Unpaid Minimum Wages; (5) Final Wages Not Timely Paid; (6)
24 Wages Not Timely Paid During Employment; (7) Non-Compliant Wage Statements; (8) Failure to
25 Keep Requisite Payroll Records; (9) Failure to Reimburse Expenses; and (10) Violation of Business
26 and Professions Code § 17200, et seq. Plaintiff attempted to relate the cases, but Defendant opposed
27 and the Courts did not relate or consolidate the two actions.

1 17. Following the filing of the Action, Plaintiff and Defendant (collectively, “the Parties”)
2 engaged in formal discovery in both the PAGA Action and the Class Action. Discovery in the PAGA
3 Action was so contentious and heavily litigated that the Court in the PAGA Action appointed a
4 discovery referee, the costs of which were born by both sides unless the referee ruled otherwise.
5 Because of this, the costs incurred by Plaintiff in the two actions is higher than typical for a case of
6 this size. Following several discovery motions and hearings, the Parties agreed to engage in private
7 mediation with Kim Deck, Esq., a well-respected mediator with substantial experience handling wage
8 and hour matters.

9 18. In advance of mediation, Defendant took the deposition of Plaintiff, and Plaintiff
10 provided responses to written discovery. Defendant also provided Plaintiff with extensive discovery
11 including all relevant policies and handbooks in place during the Class Period, which included all
12 applicable policies relating to meal breaks, rest breaks, timekeeping, the payment of wages and other
13 relevant areas of investigation, Plaintiff’s personnel file, copies of the time and payroll data for the
14 putative class, and figures and information regarding the class size and composition. With this data
15 for the Class, Class Counsel were able to perform a comprehensive damages analysis and estimate
16 Defendant’s potential violations, liability, and exposure, including, and not limited to, analyzing time
17 and pay data, considering potential meal period violations, potential rest period violations, potential
18 synthetic meal period recordings, unpaid meal and rest period premiums, rounding, overtime and
19 premium payments, etc. Therefore, this discovery and investigation allowed Class Counsel to perform
20 a comprehensive damages analysis and estimate Defendant’s potential liability.

21 19. After extensive review of these documents, on December 2, 2024, the Parties attended
22 mediation with Kim Deck, Esq. At the mediation, Defendant maintained it had substantial defenses
23 to the alleged violations. At the mediation, the Parties also engaged in intensive settlement discussions
24 and debated their respective positions and exchanged views regarding the strengths and weaknesses
25 of the alleged claims.

26 20. After a full day of mediation the Parties did not reach a resolution. The mediator,
27 however, continued to speak with both sides and thereafter issued a mediator’s proposal for what she
28

1 thought would be a fair and reasonable settlement at the gross amount of \$200,000, which the Parties
2 accepted.

3 21. Thereafter, the Parties utilized the Los Angeles Superior Court’s class action and
4 PAGA settlement form and worked diligently to negotiate and memorialize the terms of a long form
5 settlement agreement. On or about March 27, 2025, after extensive discussions and multiple revisions
6 to the agreement, the Parties entered into a fully executed Class Action and PAGA Settlement
7 Agreement.

8 22. Pursuant to California Labor Code § 2699(l)(2), a copy of the proposed Class
9 Action and PAGA Settlement Agreement, as well as information regarding the preliminary
10 approval hearing on this matter, were submitted to the California Labor Workforce Development
11 Agency via online filing at [https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
12 [Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html) on May 27, 2025.

13 **SUMMARY OF THE TERMS OF SETTLEMENT**

14 23. Plaintiff seeks preliminary approval of the proposed Class Action and PAGA
15 settlement. Attached hereto as Exhibit 1 is a true and correct copy of the fully executed Class Action
16 and PAGA Settlement Agreement (hereinafter “Agreement” or “Settlement”). A true and correct copy
17 of the Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval
18 (“Class Notice”) is attached to the Agreement as Exhibit A.

19 24. Plaintiff seeks to provisionally certify the following class for settlement purposes: “all
20 persons employed by Continental in California and classified as non-exempt who worked for
21 Continental during the Class Period.” See Agreement ¶ 1.5. The Class Period and release of claims
22 covers the time period from February 10, 2019 to the date of final approval. See id. ¶¶ 1.13, 5.2. It is
23 estimated that there are approximately 83 Class Members.

24 25. The Parties have agreed that Aggrieved Employees shall be defined as: means a person
25 employed by Continental in California and classified as a non-exempt employee who worked for
26 Continental during the PAGA Period. See Agreement ¶ 1.4. The PAGA Period and release of PAGA
27
28

1 claims covers the time period from February 1, 2021 to the date of final approval. *See id.* ¶¶ 1.31, 5.3.
2 It is estimated that there are approximately 53 Aggrieved Employees.

3 26. Subject to Court approval, the Parties have agreed to settle the Class and PAGA claims
4 at issue in the Action for a non-reversionary Gross Settlement Amount of \$200,000, exclusive of any
5 employer-side payroll taxes. See Agreement ¶¶ 1.22, 3.1.

6 27. The Gross Settlement Amount will initially be allocated as follows:
7 a. Class Counsel’s attorneys’ fees in an amount of thirty-three and one-third
8 percent (33 1/3%) of the Gross Settlement Amount, amounting to \$66,600.00.
9 b. Class Counsel’s actual litigation costs and expenses, not to exceed \$45,000.
10 c. Administration Expenses Payment, not to exceed \$5,900.00.
11 d. A Class Representative Service Payment in the amount of \$5,000.00 to
12 Plaintiff Gutierrez.
13 e. PAGA Penalties of \$20,000, including the distribution of \$15,000 to the
14 LWDA, which constitutes 75% of the settlement amount allocated to the
15 PAGA claims, and \$5,000 to the Aggrieved Employees.

16 See Agreement ¶¶ 3.1, 3.2.

17 28. After deducting these amounts from the Gross Settlement Amount, the Net Settlement
18 Amount of approximately \$57,000.00 shall be distributed to the Participating Class Members. The
19 Net Settlement Amount will be distributed and paid to Participating Class Members on a pro-rata
20 basis based on the number of weekly pay periods worked during the Class Period. See Agreement ¶¶
21 1.28, 3.2.4.

22 29. The payment to each Participating Class Member will vary based on the number of
23 pay periods the Class Member worked and whether they are entitled to a share of the PAGA Penalties.

24 30. Payments to Participating Class Members shall be allocated as ten percent (10%)
25 wages and ninety percent (90%) penalties and interest. See Agreement ¶ 3.2.4.1.
26
27
28

1 31. Defendant shall be responsible for all employer-side payroll taxes on the wage portion
2 of each settlement payment; employer-side payroll taxes shall be paid by Defendant separately from
3 and in addition to the Gross Settlement Amount. See Agreement ¶ 3.1.

4 32. Additionally, as stated above, Aggrieved Employees will receive a pro-rata share of
5 the funds from the PAGA Penalties allocated for distribution to aggrieved employees based on the
6 number of pay periods worked during the PAGA Period. Payments to Aggrieved Employees shall be
7 allocated one hundred percent (100%) as penalties. See Agreement ¶¶ 3.2.5.1, 3.2.5.2.

8 33. Pursuant to the terms of the Agreement, Defendant shall pay \$200,000 and
9 Defendant's share of payroll taxes no later than fourteen (14) days after final approval is granted. See
10 Agreement ¶ 4.3. Within fourteen (14) days after Defendant funds the Gross Settlement Amount, the
11 Administrator will issue payments to: (a) the Participating Class Members; (b) Aggrieved Employees;
12 (c) the LWDA; (d) Plaintiff; (e) Class Counsel, and (f) itself. See id. at ¶ 4.4.

13 34. The proposed Settlement is a non-reversionary, non-claims made settlement. All
14 money from the Net Settlement Amount will be distributed to the Class Members. No money will
15 revert to Defendant. See Agreement ¶ 3.1.

16 35. Any residue from Individual Class Payment checks or Individual PAGA Payment
17 checks issued to Class Members and Aggrieved Employees remaining uncashed after 180 days will
18 be distributed to the State Controller's Office Unclaimed Property Fund to be held in trust for such
19 Class Members and Aggrieved Employees pursuant to California's Unclaimed Property Law. As
20 such, no "unpaid residue" under California Code of Civil Procedure §384 will result from the
21 Settlement. See Agreement ¶ 4.4.1, 4.4.3.

22 36. In exchange for participating in the Settlement, Participating Class Members will
23 release their wage and hour claims against Defendant and the Released Parties, as defined in the
24 Agreement. However, the release for Participating Class Members will only occur upon the complete
25 funding of the Gross Settlement Amount and is narrowly tailored to only release claims based upon
26 the facts alleged in the Operative Complaint in the Action, for the Class Period. The proposed
27
28

1 Settlement also resolves all of the Aggrieved Employees' claims arising under PAGA for the PAGA
2 Period. See Agreement ¶¶ 5, 5.2, 5.3.

3 **THE SETTLEMENT IS REASONABLE**

4 **Method of Distribution**

5 37. The proposed settlement is based on the number of Class Pay Periods worked by each
6 Class Member. This method is commonly used in wage and hour class actions because it relies upon
7 objective evidence of the total days of employment, which Class Members can easily review and
8 confirm for themselves. This information is readily available from Defendant's records, and the
9 Administrator can apply the formula in a fair and transparent manner.

10 38. Additionally, this method of distribution is commonly used in wage and hour class
11 actions because it allows for a distribution that corresponds closely to the alleged damages since
12 employees experience the same working conditions, so their damages are directly related to the
13 amount of time they were employed.

14 39. The effectiveness of my office in prosecuting this matter has translated into monetary
15 benefits for the Class, Aggrieved Employees, and State of California in the following respects: (1)
16 the Class, Aggrieved Employees, and State of California will recover over a reasonably short period
17 of time as opposed to waiting additional years for the same, or possibly, a worse, result; (2) a
18 guaranteed result that compares favorably with other similar class action settlements of this type, (3)
19 significant savings in Class Counsel's fees and costs which would have only increased significantly
20 had the cases progressed through trial, appeals, and continued litigation.

21 **Discovery and Informed Arms-Length Negotiations**

22 40. Settlement was reached in this matter only after extensive formal discovery and
23 investigations. Prior to mediation, the Parties exchanged extensive written discovery, which resulted
24 in multiple discovery hearings. Ultimately, Defendant produced time records and payroll records for
25 all Class Members, written policies including the employee handbooks in effect during the Class
26 Period, stand-alone wage and hour policies, and other relevant documents. Defendant also provided
27 records reflecting the number of putative class members, the number of current versus former
28

1 employees; the total weekly pay periods worked by the Class and Aggrieved Employees, the putative
2 class members' average rate of pay, and additional information regarding the Class Members' various
3 job positions and job duties. This discovery and investigation allowed me to conduct a class-wide
4 assessment and analysis of potential damages with the help of my retained expert, Larsen Analytics.
5 The Parties extensively briefed issues regarding class certification and liability and provided their
6 analyses to the mediator who helped the Parties debate the strengths and weakness of their positions.

7 41. The Parties engaged in a full day of private mediation with Kim Deck, Esq., a highly
8 respected mediator with particular experience in wage and hour class actions, during which the Parties
9 engaged in extensive settlement negotiations. This litigation was hotly contested, and settlement
10 negotiations were at all times arm's length and, although conducted in a professional manner, were
11 adversarial. Defendant at all times maintained that it had complied with California wage and hour
12 laws. Likewise, Plaintiff was willing and prepared to vigorously litigate this dispute. The proposed
13 settlement was reached at the end of a process that was neither fraudulent nor collusive and was
14 reached only after a full day of mediation that allowed the Parties to reach a compromise of the hotly
15 disputed claims with the help of the mediator. The mediator, in her experience, also issued a
16 mediator's proposal that was ultimately accepted by the parties. Following mediation, the Parties
17 engaged in extensive negotiations before finalizing the long-form agreement presently before the
18 Court.

19 42. My office analyzed all available data in conjunction with my retained expert, Larsen
20 Analytics, to perform a comprehensive damages analysis and estimate the class claims at issue, with
21 all claims adjudicated in favor of the Class. Based on that review, I estimated that Defendant faced a
22 potential liability of \$1,881,508.66. This estimated maximum liability includes: \$203,425.71 for meal
23 period violations; \$203,425.71 for rest period violations; \$305,138.57 for unpaid wages;
24 unreimbursed business expenses in the amount of \$54,247.20; waiting time penalties in the amount
25 of \$316,800.00; penalties for inaccurate wage statements in the amount of \$85,750.00; and
26 \$241,621.47 for interest on qualifying damages. Plaintiff also estimated non-duplicative PAGA
27
28

1 penalties of approximately \$471,100.00 including penalties for violations of Labor Code §§ 204 and
2 1174(d).

3 **Analysis of Specific Claims and Risks Considered**

4 43. Although the investigation and information discovered supports Plaintiff's
5 contentions, Defendant raised potential defenses that impacted the risk of proceeding on a class- wide
6 basis. Defendant proffered defenses to both certification and the merits of Plaintiff's claims.

7 44. Defendant contended that Plaintiff's claims were not suitable for class certification
8 because individual issues and affirmative defenses would predominate should these cases go to trial.
9 As with all class actions, these complex cases raise difficult management and proof issues and
10 consideration of these risks factored into the decision to enter this settlement.

11 **Meal Period Analysis**

12 45. A large portion of Defendant's overall liability lies in Plaintiff's meal period claim.
13 Plaintiff's meal period theory of liability was based upon Defendant's failure to provide timely, full,
14 and/or uninterrupted meal periods. Plaintiff contended that Defendant's practices throughout the
15 Class Period were unlawful, required employees to perform work during their meal periods and
16 interfered with employees' rights to take meal breaks where they were completely relieved of their
17 duties. Plaintiff contended that Defendant failed to pay meal period premiums for missed, late, short,
18 or interrupted meal periods that arose as a result of these practices. Based on a review and analysis of
19 the time and payroll data, my office estimated potential meal period damages of \$203,425.71.

20 46. However, meal period claims have become increasingly difficult to certify in recent
21 years and Defendant argued that its meal period policies and practices throughout the Class Period
22 were lawful. Defendant contended that to the extent that putative class members failed to take their
23 meal periods or took a short or late meal period, they did so voluntarily. As such, Defendant contended
24 that these highly individualized questions of fact would prevent class certification and serve as a
25 defense even if this claim was certified.

26 47. While my office disagreed with Defendant's arguments and factual contentions, my
27 office recognized the circumstances and realities of the case, applicable case law and regulations,
28

1 costs and expenses of further litigation and certification, and risks to recovery associated with this
2 claim. Accordingly, Plaintiff applied a 50% discount for risks associated with certification of this
3 claim and a 65% discount associated with the risks of succeeding on the merits, establishing liability,
4 and proving damages, leaving a resulting value of \$35,599.50 with respect to these claims.

5 Rest Period Analysis

6 48. Similar to Plaintiff's meal period claims, the alleged rest period violations were based
7 primarily on what Plaintiff believed was Defendant's practice of having employees work during
8 purported breaks. Plaintiff contended that Defendant failed to provide Class Members with timely,
9 full, and uninterrupted rest periods. Plaintiff also contended that Defendant utilized unlawful rest
10 period policies. Plaintiff further contended that rest periods, when provided, were regularly
11 interrupted or cut short. While rest periods were not required to be recorded, and were thus difficult
12 to analyze, Plaintiff estimated that the types of practices leading to meal period violations would
13 likely have a similar impact on employees' ability to take a compliant rest period. Therefore, as noted
14 above, Plaintiff estimated rest period damages would amount to \$203,425.71.

15 49. In contrast, Defendant claimed that its practices were lawful and that all employees
16 were provided an opportunity to take a rest period for every four hours worked or major fraction
17 thereof. Defendant argued that whether employees had received a compliant rest period, the reasons
18 why an employee failed to receive a compliant rest period, and whether such rest period was waived
19 raised individual issues that could not be certified and that even if such a claim could be certified,
20 Plaintiff would be unable to adequately prove the alleged damages given the lack of records.

21 50. Litigating rest period claims is inherently difficult as an employer's records, as is the
22 case here, do not usually indicate when a rest period is short, late, interrupted or missed entirely.
23 While my office disagrees with Defendant's arguments and factual contentions, there were significant
24 risks associated with this claim. Accordingly, my office applied a 50% discount for risks associated
25 with certification of this claim and a 65% discount associated with the risks of succeeding on the
26 merits, establishing liability, and proving the extent of damages and ultimately obtaining this award.
27 This resulted in a risk-based estimate of approximately \$35,599.50 with respect to these claims.

Minimum Wage and Overtime Claims

51. Plaintiff alleged that Defendant failed to pay putative Class Members overtime and minimum wages as a result of uniform policies, practices, and procedures, that required putative Class Members to perform work before clocking in and after clocking out. This off-the-clock work was work for which Plaintiff alleges he and other putative Class Members failed to receive any payment at all and additionally regularly caused Plaintiff and other putative Class Members to work more than eight hours in a day or 40 hours in a week thereby incurring additional overtime compensation. Plaintiff also alleged that Defendant utilized non-neutral rounding practices for at least a portion of the Class Period and that its practices substantially favored Defendant. Plaintiff estimated that as a result of this off-the-clock work and non-neutral rounding practices, class members incurred approximately \$305,138.57 in damages. In addition, my office calculated that these damages would also lead to an additional \$241,621.47 in accrued interest.

52. Defendant contended that its overtime and rounding policies and practices comply with the law and that it paid putative Class Members over the minimum wage for all hours worked. Defendant further contended its rounding practices were neutral and that such practices have been widely upheld. Defendant also produced wage records reflecting overtime compensation paid to many of the putative Class Members. Defendant further contended that all employees were required to record all time worked, and that Defendant was not aware that any work had been performed off-the-clock. Defendant also argued that individual liability issues predominate, including: (1) whether each employee worked off-the-clock; (2) whether Defendant knew or should have known about each employee's off-the-clock work; (3) whether each employee worked overtime; and (4) whether Defendant knew or should have known that each putative class member performed overtime work. Moreover, given that these claims were based on off-the-clock work not reflected in Defendant's time records, Defendant argued that proving damages at trial would not be manageable.

53. Plaintiff disagrees with Defendant's contentions but acknowledges that claims regarding off-the-clock work and rounding involve substantial challenges in obtaining and maintaining class certification, establishing liability and providing damages, in light of potential

1 individualized issues and the lack of records. Accordingly, my office discounted our initial valuation
2 of this claim by 50% to account for risks regarding certification and by 65% for the risks associated
3 with succeeding on the merits, establishing liability, proving the extent of damages, and ultimately
4 obtaining this award. This resulted in a risk-based estimate of approximately \$53,399.25 with respect
5 to these claims. My office applied an identical discount to the related interest, which resulted in a
6 discounted accrued interest of \$42,283.76.

7 Business Expense Claims

8 54. Plaintiff contended that Defendant failed to reimburse Plaintiff and other putative
9 Class Members for necessary business expenses such as the use of personal cellphones required for
10 putative class members to perform their job duties. Defendant disputed that Plaintiff and any putative
11 Class member were required to incur these expenses. Defendant further contended that the reason for
12 why a putative class member undertook certain expenses and failed to receive reimbursement for
13 certain expenses would raise individual issues that could not be certified. Plaintiff estimated that if it
14 could be established that employees were required to undertake these expenses, unreimbursed
15 business expenses could potentially amount to approximately \$54,247.20. My office then
16 discounted this amount by 50% for issues relating to certification of this claim and by 75% for issues
17 pertaining to the merits, establishing liability, proving damages, and obtaining an award. This resulted
18 in a risk-based adjustment of \$6,780.90 for this claim.

19 Waiting Time Penalties Claim

20 55. Plaintiff alleged that Defendant intentionally and willfully failed to pay Plaintiff and
21 other putative Class Members all wages due to them during employment and due to them upon
22 termination, within the time period permissible under California law as a result of Defendant's failure
23 to pay employees all wages due from off-the-clock work, as well as unpaid meal and rest period
24 premiums. Based on the information provided by Defendant at mediation, Plaintiff estimated waiting
25 time penalties incurred by former employees could have totaled as much as \$316,800.00.

26 56. However, there were substantial risks associated with Plaintiff's waiting time penalties
27 claims. These claims were derivative of Plaintiff's previous claims and if certification was denied on
28

1 those underlying claims, these claims would also likely fail. Further, even if Plaintiff prevailed on his
2 underlying off-the-clock claims, he would still be required to demonstrate that Defendant's violations
3 of Labor Code § 203 were willful violations, a difficult prospect. Accordingly, Plaintiff's initial
4 valuation of this claim was discounted by 50% to account for risks regarding certification and 75%
5 for risks associated with succeeding on the merits, establishing liability, proving the extent of
6 damages, and ultimately obtaining this award. This resulted in a risk-based estimate of approximately
7 \$39,600.00 with respect to this claim.

8 Wage Statement Claims

9 57. Plaintiff contended that throughout the Class Period there were derivative violations
10 arising from the claims alleged above such that the wage statements failed to list the total number of
11 hours worked, the actual gross wages earned, and the correct rates of pay. Based on these claims and
12 assuming a violation could be proven once per pay period for each of the employees employed during
13 the 1-year time period employees were eligible for penalties, Plaintiff estimated potential penalties
14 for wage statement violations of approximately \$85,750.00.

15 58. Defendant contended that derivative wage statement violations would rise or fall based
16 on the prior claims and that it could not be demonstrated that these violations for items such as off-
17 the-clock work were knowing and intentional. Wage statement claims have also seen varying
18 treatment at the appellate level because such claims have an element of discretion attached to them
19 rather than a pure calculation of damages after liability is proven. *Cf., Jaimez v. DAIOHS USA, Inc.*,
20 181 Cal.App.4th 1286 (2010) with *Price v. Starbucks Corp.*, 192 Cal.App.4th 1136 (2011). While my
21 office does not agree with this assessment, in light of the risks raised by Defendant, my office
22 discounted our initial valuation by 50% for risks pertaining to certification and 75% for risks
23 pertaining to succeeding on the merits, establishing liability, proving the extent of damages, and
24 ultimately obtaining this award. This resulted in a risk-based estimate of approximately \$10,718.75
25 with respect to this claim.

PAGA Claims

59. My office also separately contemplated the risks of proceeding with the PAGA claims and the potential liability Defendant could face from these claims. The Parties agreed during settlement negotiations to allocate \$20,000 of the Settlement towards the PAGA claims, which represents approximately 10% of the Gross Settlement Amount. The percentage of the settlement allocated to the PAGA claims is well above the range in PAGA settlements regularly approved in both state and federal court for cases that include both a class and PAGA action. Courts have approved allocations of as little as 1% of the Gross Settlement Amount. *See, e.g.,*

- *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$1.5 million class settlement);
- *Zamora v. Ryder Integrated Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5 million class settlement);
- *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement);
- *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist. Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of \$1,750,000 class settlement);
- *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement);
- *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties or 0.48% of \$21,000,000 settlement amount);
- *East v. Comprehensive Educational Services Inc.*, Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount);
- *Bararsani v. Coldwell Banker Residential Brokerage Company*, Case No. BC495767 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount);
- *Rico v. Cardinal Health 200 Inc.*, No. CIVRS-14-01451 (2017) (\$5,000 allotted as PAGA penalties or 0.14% of \$3,500,000 settlement amount);

- 1 • *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000
- 2 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount);
- 3 • *Scott-George v. PVH Corporation.*, No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000 allotted
- 4 as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
- 5 • *Hart v. Parkview Community Hospital Medical Center*, No. RIC-14-06044 (2016)
- 6 (\$10,000 allotted as PAGA penalties or 0.39% of \$2,550,000 settlement amount);
- 7 • *Nehrlich v. RPM Mortgage Inc.*, No. 30-2013-00666783-CU-OE-CXC (2017) (\$10,000
- 8 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount);
- 9 • *Kelley v. The Related Companies of California L.L.C.*, No. CIVDS-13-07167 (2016)
- 10 (\$10,000 allotted as PAGA penalties or 0.50% of \$2,000,000 settlement amount); and
- 11 • *Castrejon v. O'Connell Landscape Maintenance Inc.*, No. RIC-12-12798 (2015) (\$5,000
- 12 allotted as PAGA penalties or 0.33% of \$1,500,000 settlement amount.

13 60. In allocating \$20,000 to Plaintiff's PAGA claims, my office considered that PAGA
14 penalties would be subject to the same defenses and risks as Plaintiff's class claims, as well as
15 defenses unique to PAGA.

16 61. For instance, Defendant contended that violations of multiple provisions of the
17 California Labor Code do not give rise to cumulative penalties, but that instead, the initial violation
18 penalty and subsequent violation penalty provided by statute, should only apply once per pay period,
19 if at all, rather than cumulatively for each separate California Labor Code provision that is, arguably,
20 violated during a pay period. For example, as part of the valuation of the potential PAGA claims, my
21 office included claims under Labor Code § 204 could be recovered either through Labor Code § 210
22 or PAGA, but as a matter of law, Plaintiff is not entitled to a duplicative recovery. See Labor Code §
23 210(c) (permitting recovery of penalties through § 210 or PAGA, but not both). Plaintiff's claims
24 under Labor Code § 1174(d) were arguably only recoverable under PAGA. See *Caliber Bodyworks,*
25 *Inc. v. Superior Court*, 134 Cal.4th 365, 383 (2005).

26 62. Moreover, since Defendant denied and continued to deny that it ever violated any
27 provision of the California Labor Code, Defendant argued that, even if, arguendo, such violations
28

1 occurred, heightened penalties should not apply because Defendant had not received notice from a
2 labor agency or Court that they were violating the law. *See, e.g., Amaral v. Cintas Corp. No. 2*, 163
3 Cal.4th 1157, 1209 (2008).

4 63. Defendant also contended that when determining whether or not to assess a penalty,
5 the court exercises the same discretion as the Labor Commissioner and may reduce the penalties to
6 be assessed against the employer pursuant to California Labor Code section 2699(e)(1)-(2). As such,
7 Defendant contended that, with respect to a PAGA claim, the Court was unlikely to assess cumulative
8 penalties for the maximum number of possible, separate California Labor Code violations, because it
9 would be unjust, arbitrary, oppressive, and/or confiscatory, especially where certain conduct may be
10 governed by multiple provisions of the California Labor Code that are interrelated and work in
11 tandem.

12 64. Defendant also contended that adjudication of claims arising under PAGA would not
13 be manageable and that the individualized inquiries Defendant argued would defeat certification of
14 the alleged claims would also prevent Plaintiff from demonstrating that the PAGA claim could be
15 successfully managed and adjudicated without abridging Defendant's due process rights.

16 65. Defendant maintained that, in addition to its strong arguments against the underlying
17 claims, taking the current unsettled state of law, it would be unjust to award the maximum potential
18 PAGA penalties. There was a dearth of law and guidance regarding trials and/or assessment of
19 penalties under the PAGA statute, and there is no clearly-established methodology for the valuation
20 and/or assessment of PAGA penalties.

21 66. Based upon the violations alleged above, Plaintiff estimated PAGA penalties for
22 claims under Labor Code sections 204 and penalties for Defendant's failure to keep accurate payroll
23 records in this matter could potentially exceed \$471,100.00. However, a discount of 50% was applied
24 to account for the risks associated with establishing manageability, a discount of 50% was applied to
25 account for the risks associated with succeeding on the merits, establishing liability, proving the
26 extent of penalties that are warranted, and a discount of 75% was applied in light of the potential
27 appellate challenges and likely discretionary reduction of penalties by the Court given the
28

1 circumstances of the Action and outside considerations. This brought the relative value of the PAGA
2 claim to approximately \$58,887.50. This resulted in an overall adjusted liability of \$282,869.16.

3 General Considerations

4 67. For all claims and when considering the settlement generally, my office recognized
5 that, even if Plaintiff prevailed at class certification, proving the amount of wages due to each Class
6 Member would be an expensive, time-consuming, and extremely uncertain proposition. In order to
7 prove liability and damages, my office will need to request and analyze thousands of pages of
8 documents, many of which were handwritten and scanned, obtain the Class Members' contact
9 information, contact them and obtain numerous declarations at great expense. Obtaining the
10 cooperation of current employees would also be difficult, given the likely reluctance to aid
11 prosecution of a lawsuit against a current employer. On the other hand, Defendant would likely be
12 able to obtain the cooperation of its employees. Moreover, even if Plaintiff prevailed at class
13 certification and trial, possible appeals would substantially delay any recovery by the Class.

14 68. Based on these factors, I therefore submit that the Settlement is fair, reasonable, and
15 adequate. The Settlement is in the best interest of the Class Members, Aggrieved Employees, and
16 State of California and is within the accepted range of recoveries for this type of litigation given the
17 inherent risk of litigation, the risk of obtaining and maintaining class certification, and the costs of
18 further litigation.

19 **REQUESTED CLASS REPRESENTATIVE SERVICE PAYMENT**

20 69. As part of the Agreement, Plaintiff is requesting a reasonable service payment of
21 \$5,000. Plaintiff initiated and has stepped forward in this litigation to serve as a class representative
22 on behalf of his former co-workers, who will now benefit from the Settlement. Plaintiff invested
23 substantial time and effort into this litigation, including his own research, reviewing documents,
24 providing my office with relevant documents and information related to his employment with
25 Defendant, providing the facts and evidence necessary to attempt to prove his allegations, and having
26 numerous and extensive discussions with my office about the case. Plaintiff made himself available,
27 actively monitored the status of the case, assisted in preparation for mediation, and reviewed the
28

1 Settlement and discussed its terms with my office. In short, Plaintiff played an instrumental role in
2 the successful litigation to this case. Further, the requested amount is also extremely reasonable given
3 the benefit gained by other Class Members. The Class Representative Service Payment also serves to
4 recognize the actual risk Plaintiff assumed by putting himself on the public record in a class and
5 representative employment lawsuit. *See* Declaration of Plaintiff Jose Gutierrez in support of Motion
6 for Preliminary Approval (“Gutierrez Decl.”). Notice of the requested payment to Plaintiff is
7 disclosed to the Class Members in the Class Notice and should be preliminarily approved by the
8 Court. *See* Agreement, Ex. A.

9 **ATTORNEYS’ FEES AND COSTS**

10 70. The attorneys’ fees incurred by my office are in line with the common fund requested.
11 My office is seeking thirty-three and one-third (33 1/3%) of the Gross Settlement Amount or
12 \$66,600.00. My office has achieved an excellent result for the Class during hard fought negotiations.
13 My office has extensive experience in wage and hour disputes and was able to use our extensive
14 experience and skills to achieve this result. The Motion for Final Approval will elaborate on the nature
15 of the legal services provided, the time incurred in performing those services, and my office’s hourly
16 rates. The Motion for Final Approval will also elaborate on the reimbursement for costs sought by
17 my office, which are estimated not to exceed \$45,000. The costs in this case are particularly high
18 given the heavily litigated discovery issues in the PAGA Action that led to the Court in that matter
19 appointing a discovery referee, with fees to be shared by both parties, unless otherwise noted by the
20 referee. Notice of Class Counsel’s requested fees and costs are disclosed to the Class in the Class
21 Notice. *See* Agreement, Ex. A.

22 **THE METHOD OF NOTICE IS VERY LIKELY TO GIVE ACTUAL NOTICE**

23 71. Subject to the Court’s Approval, the Parties have agreed to having Apex Class
24 Administration administer the Settlement. My office does not have any financial interest in the
25 Administrator or otherwise have a relationship with the Administrator that could create a conflict of
26 interest. *See* Agreement ¶ 7.1.

1 72. No later than seven (7) days after the Court grants preliminary approval of the
2 Settlement, Defendant will provide the Class Data to the Administrator including the Class Member's
3 name, last-known mailing address, Social Security number, number of pay periods worked during the
4 Class Period, and number of pay periods worked during the PAGA Period. *See* Agreement ¶¶ 1.8,
5 4.2.

6 73. The Administrator shall perform any searches necessary for confirmation of the Class
7 Members' addresses and shall mail the Class Notice in both English and Spanish to all Class Members
8 within ten (10) days of receiving the Class Data from Defendant. *See* Agreement ¶ 7.4.2.

9 74. I am not aware of an alternative method of providing notice to the Class which would
10 result in a higher likelihood of actual notice. The original source of the mailing addresses is from each
11 Class Member, who provided the information to Defendant. As a fail-safe to this highly reliable
12 method, additional searches will be performed on any notice returned as non-deliverable. *See*
13 Agreement ¶ 7.4.3.

14 75. Any Class Member who wishes to be excluded from the Settlement must mail the
15 Administrator a signed and dated written request for exclusion including their name, address, and
16 email address or telephone number. The request for exclusion must be postmarked no later than sixty
17 (60) calendar days after mailing of the Class Notice. Aggrieved Employees who opt-out of the class
18 settlement shall still receive a payment from the PAGA Penalties, if eligible, and will release the
19 Released PAGA Claims regardless of their decision to opt-out of the class settlement. *See* Agreement
20 ¶¶ 7.5.1, 7.5.4.

21 76. Any Class Member wishing to object to the approval of this Settlement must send to
22 the Administrator a signed written statement containing their name, address, and phone number and
23 state the specific reason for the objection. Such written objections must be mailed to the Administrator
24 within sixty (60) calendar days following the initial mailing of the Class Notice. Class Members may
25
26
27
28

1 also appear and object at the final approval hearing, regardless of whether they have submitted a
2 written objection. See Agreement ¶ 7.7.2.

3 **NOTICE TO THE LWDA**

4 77. On May 24, 2024, my office submitted a copy of the fully executed Class Action and
5 PAGA Settlement Agreement, as well as information regarding the preliminary approval hearing on
6 this matter, to the California Labor Workforce Development Agency via online filing. A true and
7 correct copy of an email confirming submission of the Settlement to the LWDA on March 27, 2025,
8 is attached hereto as **Exhibit 2**.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing
11 is true and correct. Executed on March 27, 2025, at Laguna Beach, California.

12
13 
14 JONATHAN D. KENT

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff JOSE GUTIERREZ (“Plaintiff”) and defendant CONTINENTAL GLAZING, INC. (“Continental”). The Agreement refers to Plaintiff and Continental collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means, jointly, the Plaintiff’s lawsuits alleging wage and hour violations against Continental captioned Jose Gutierrez, individually and on behalf of other members of the general public similarly situated v. Continental Glazing, Inc., a California Corporation; and DOES 1 through 100, inclusive initiated on February 10, 2023 (23STCV03011) and February 1, 2022 (22STCV03878), respectively, and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means Apex Class Administration, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Continental in California and classified as a non-exempt employee who worked for Continental during the PAGA Period.
- 1.5. “Class” means all persons employed by Continental in California and classified as non-exempt who worked for Continental during the Class Period.
- 1.6. “Class Counsel” means Jonathan D. Kent, Esq. with Kent Legal, P.C.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Continental’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search

for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from February 10, 2019, to the Effective Date.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Continental” means named Defendant Continental Glazing, Inc.
- 1.17. “Defense Counsel” means Bernstein Law, PC.
- 1.18. “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$200,000.00, which is the total amount Continental agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual

PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

- 1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Continental for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from February 1, 2021 to the Effective Date.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. "PAGA Notice" means Plaintiff's November 2, 2021 letter to Continental and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.

- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiff” means Jose Gutierrez, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.40. “Released Parties” means: Continental and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.41. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.42. “Response Deadline” means 30 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.44. “Workweek” means any week during which a Class Member worked for Continental for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On February 10, 2023, Plaintiff commenced a class action suit (Case No. 23STCV03011) by filing a Complaint alleging causes of action against Continental for unpaid overtime, unpaid meal period premiums, unpaid rest period premiums, unpaid minimum wages, final wages not timely paid, wages not timely paid during employment, non-compliant wage statements, failure to keep records, failure to reimburse business expenses, and violation of Business & Professions Code § 17200. The Complaint is the operative complaint in the class action suit (the “Operative Complaint.”)

Continental denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Continental and the LWDA by sending the PAGA Notice.

2.3. On December 2, 2024, the Parties participated in an all-day mediation presided over by Kim Deck, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through formal discovery, documents including time records, payroll records, and Plaintiff's testimony. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Continental promises to pay \$200,000.00 and no more than the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Continental has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 5.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Continental.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$5,000.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Continental will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment,

Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$66,600.00 and a Class Counsel Litigation Expenses Payment of not more than \$45,000.00. Continental will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Continental harmless, and indemnifies Continental, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,490.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,490.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive

any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties \$5,000.00 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Continental estimates there are 83 Class Members who collectively worked a total of 6,781 Workweeks, and 53 of Aggrieved Employees who worked a total 4,703 of PAGA Pay Periods.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Continental will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Continental has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Continental must send the Class Data

to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of Gross Settlement Amount. Continental shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Continental's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Continental funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
 - 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks [to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid

residue” subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Continental to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Continental fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff’s Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff’s PAGA Notice, [or ascertained during the Action and released under 5.2, below]. (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them.

5.1.1 Plaintiff’s Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1 Continental's Declaration in Support of Preliminary Approval. Within 7 days of the full execution of this Agreement, Continental will prepare and deliver to Class Counsel a signed Declaration from Continental and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Continental shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.

(a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected Apex Administration to serve as the Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Continental, or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after

receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 30 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.1 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 30 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the

Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 30 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their

validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least [15] days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

- 8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE** Based on its records, Continental estimates that, as of the date of this Settlement Agreement, (1) there are 83 Class Members and 6,781 Total Workweeks during the Class period and (2) there were 53 Aggrieved Employees who worked 4,703 Pay Periods during the PAGA Period. The Settlement includes a 10% escalator/buffer, meaning so long as the actual workweeks do not exceed 4,702.57 plus 10% prior to the date of Final Approval then Continental will not need to pay any further sums. However, if the actual workweeks at the Effective Date exceed 10% more than 4,702.57, Continental shall have the option to pay a pro rata amount for each additional workweek or have the Release Period end on the date when the 10% is reached.
- 9. CONTINENTAL'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 20% of the total of all Class Members, Continental may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Continental withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Continental will remain responsible for paying all Settlement Administration Expenses incurred to that point. Continental must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
- 10. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement

solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Continental that any of the allegations in the Operative Complaint have merit or that Continental has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Continental's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Continental reserves the right to contest certification of any class for any reasons, and Continental reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Continental's defenses. The Settlement, this

Agreement and Parties' willingness settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Continental, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Continental, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Continental, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement

the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, Continental nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Continental in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Continental unless, prior to the Court's discharge of the Administrator's obligation, Continental makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

12.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Jonathan D. Kent
Kent Legal, PC
1403 S. Main Street
Santa Ana, CA 92707
jkent@kentlegalpc.com

To Continental:

David A. Bernstein
Bernstein Law, PC
4000 MacArthur Boulevard
Suite 600 East Tower
Newport Beach, CA 92660
david@bersteinlaw.com

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

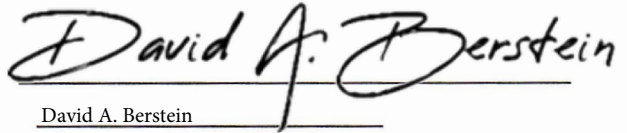
For Plaintiff



Mark A. Cassel/MAC

For Continental

Counsel For Plaintiff



David A. Bernstein

David A. Bernstein

Counsel For Continental

Signed by:
Jose Gutierrez
4FE5462D257246A...

_____ For Plaintiff

DocuSigned by:
Jonathan Kent
E36DFDBB2824441...

_____ Counsel For Plaintiff

For Continental

Counsel For Continental

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

Jose Gutierrez v. Continental Glazing, Inc. (LASC Case No. 23STCV03011)

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Continental Glazing, Inc. (abbreviate name; “Continental” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by a former Continental employee Jose Gutierrez (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members”) who worked for Continental during the Class Period (February 10, 2019 to the present); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for Continental during the PAGA Period (February 1, 2021 to the present) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Continental to fund Individual Class Payments, and (2) a PAGA Settlement requiring Continental to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

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

The above estimates are based on Continental’s records showing that **you worked _ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Continental to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Continental.

If you worked for Continental during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Continental.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Continental, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Continental that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Continental must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Continental's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Continental employee. The Action accuses Continental of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination, reimbursable expenses, and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Jonathan D. Kent, Kent Legal, P.C. ("Class Counsel.")

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

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

So far, the Court has made no determination whether Continental or Plaintiff is correct on the merits. In the meantime, Plaintiff and Continental hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Continental have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Continental does not admit any violations or concede the merit of any claims.

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

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

1. Continental Will Pay \$200,000.00 as the Gross Settlement Amount (Gross Settlement). Continental has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Continental will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$66,600.00 (33.33)% of the Gross Settlement to Class Counsel for attorneys' fees and up to \$45,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$5,490.00 to the Administrator for services administering the Settlement.
 - D. Up to \$20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross

Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Continental are asking the Court to approve an allocation of 10% of each Individual Class Payment to taxable wages (“Wage Portion”) and 90% to penalties and interest (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Continental will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.

If the monies represented by your check are sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Continental.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Continental based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Continental have agreed that, in either case, the Settlement will be void: Continental will not pay any money and Class Members will not release any claims against Continental.
8. Administrator. The Court has appointed a neutral company, Apex Administration (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re- mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Continental has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Continental or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Continental has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Continental, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Continental or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course of the Action, including any and all claims involving any alleged failure to pay minimum wage; overtime wages, business reimbursements, meal break premiums, rest break premiums, or failure to timely pay wages during work and/or after termination, and for failure to maintain and produce accurate wage statements.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Continental's records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Continental's calculation of Workweeks and/or Pay Periods based on Continental's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Continental's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)

including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Jose Gutierrez v. Continental Glazing, Inc., and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Continental are asking the Court to approve. At least _____ days before the _____ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website _____ (url) or the Court's website lacourt.org.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action _____ and include your name, current address,

telephone number, and approximate dates of employment for [Continental] and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) in Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website _____ beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Continental and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at _____ (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 23STCV03011. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: Jonathan D. Kent

Email Address: jkent@kentlegalpc.com

Name of Firm: Kent Legal, P.C.

Mailing Address: 1403 S. Main Street, Santa Ana, CA 92707

Telephone: (310) 300-4032

Settlement Administrator:

Name of Company: Apex Class Action LLC

Email Address: info@apexclassaction.com

Mailing Address: 18 Technology Drive, Suite 154, Irvine, CA 92618
Telephone: 1-800-355-0700

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void

☐ you should consult the Unclaimed Property Fund _____ for instructions on how to retrieve the funds

☐ you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

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