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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
VELASCO, and VICTOR GONZALEZ,
individually and on behalf of all others
similarly situated, and on behalf of the general
public as private attorney general,

Plaintiffs,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50,
inclusive;

Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:

Hon. Jill H. Talley

Dept. 23

**DECLARATION OF SAMUEL ALMON
SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: February 14, 2025

Time: 9:00 a.m.

Dept. 23

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1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Courts for the Central, Eastern, Northern, and Southern Districts of California, the Ninth Circuit Court of Appeals, as well as in the State of Georgia and the State of Massachusetts (inactive status). I am a partner at Makarem & Associates APLC, the counsel of record for Plaintiffs Andrew D. Tappin, Donyeisha Mish, Darnell Lee, Luis Robles, Xochitl Velasco, and Victor Gonzalez. I am one of the attorneys handling this case, and have personal knowledge of the facts set forth herein, except where indicated otherwise. If called upon to do so, I could and would testify competently thereto.

2. **Defendant and Plaintiff** - Defendant TForce, formerly known as UPS Ground Freight, a subsidiary of TFI International, is a renowned freight carrying corporation founded in 1935. It employs thousands of employees and owns and operates over 20 package and delivery locations throughout California.

(a) Plaintiff Donyeisha Mish was employed by Defendants as a non-exempt employee working as a parts clerk in California at Defendants' Bloomington, California location from approximately January 2007 to October 2020;

(c) Plaintiff Luis Robles was employed by Defendants as a non-exempt employee working as a Mechanic/Test Driver in California at Defendants' Rialto, California location from approximately May 5, 2007 to August 4, 2019;

3

1 by Defendants as a non-exempt employee in California from approximately 2007 through the
2 present. From approximately 2007 to 2012, she worked as a Dock Clerk and then an Appointment
3 Clerk. From 2012 to approximately November 2020, she worked in the job positions OS&D
4 (Overages, Shortages & Damages) and Yard Check. Since about November 2020 to the present,
5 she has worked as a Dispatch Clerk. She worked at the Defendants' Rialto, California location
6 until approximately December 2020, and since that time he has worked at Defendants' Fontana,
7 California location;

8 (e) Plaintiff Victor Gonzalez is a current employee of Defendants and has been employed
9 by Defendants as a non-exempt employee working as a local pickup and delivery driver in
10 California from approximately 2006 through the present. He worked at Defendants' Pico Rivera,
11 LAX Terminal, California location until 2018 when he transferred to Fontana, where he currently
12 works; and

13 (f) Plaintiff Andrew Tappin was employed by Defendants in approximately April 2021 as
14 a Non- Exempt Employee with the title of Dock Worker and worked during the liability period
15 for Defendants until Plaintiff Tappin's separation from Defendants' employ in approximately
16 September 2021.

17 4. Plaintiffs collectively allege a number of wage and hour violations by Defendant,
18 as set forth completely in the settlement agreement. First, they allege TForce failed to pay all
19 wages due, including minimum and overtime wages for hours worked off the clock and while
20 subject to employer the control, including time spend donning and doffing uniforms and
21 undergoing security checks, time spent working after having meal periods interrupted, and time
22 deducted by TForce for a so-called "grace period" prior to the scheduled start of a shift even
23 though the class members were clocked in for work, beginning their work duties, and under the
24 control of Defendant. Next, Plaintiffs alleged TForce failed to provide timely and uninterrupted
25 duty-free meal and rest periods. Plaintiffs argued that, in addition to maintaining non-compliant
26 written meal and rest break policies, Plaintiffs' review of the time and payroll data provided by
27 Defendant suggests significant de facto break violations for late, short, or missed meal breaks and
28 further that second meal breaks were practically non-existent on shifts of 10+ hours. Plaintiffs

1 also allege they were required to use their personal cell phones for work purposes, and incurred
2 additional expenses, without any reimbursement. Plaintiffs also alleged TForce did not maintain
3 accurate records and failed to pay all sick pay wages, including COVID-19 supplemental sick
4 pay. Finally, Plaintiffs allege derivative violations for failing to provide accurate itemized wage
5 statements and failing to timely pay wages upon separation of employment.

6 5. Based on these allegations, Plaintiffs filed several cases against TForce. On March
7 10, 2021, Plaintiff Donyeisha Mish filed a putative class action in Alameda County Superior
8 Court entitled *Mish v. UPS Ground Freight, Inc.*, Case No. RG21091722. Defendant removed
9 the *Mish* Class Action to the United States District Court for the Northern District of California,
10 where it is currently pending under Case No. 3:21-cv-04094-EMC. Plaintiffs Darnell Lee, Luis
11 Robles, and Xochtil Velasco later were added as party-plaintiffs and proposed class
12 representatives. On July 14, 2021, Plaintiff Mish filed her putative representative action under
13 PAGA in Alameda Superior Court in an action entitled *Mish v. UPS Ground Freight, Inc.*,
14 Alameda Superior Court Case No. RG21105108. A true and correct copy of Plaintiff Mish's
15 January 19, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code
16 section 2699.3(a) is attached hereto as Exhibit A.

17 6. On November 21, 2021, Plaintiff Victor Gonzalez filed his putative class action in
18 Riverside County Superior Court entitled *Gonzalez v. TForce Freight, Inc.*, Case No.
19 CVRI2105223. The *Gonzalez* Class Action was subsequently removed, transferred, and
20 consolidated with the *Mish* Class Action in the Northern District of California under Case No.
21 3:22-cv-01177. Also on November 21, 2021, Plaintiff Gonzalez filed his putative representative
22 action under PAGA in Riverside Superior Court, in an action entitled *Gonzalez v. TForce*
23 *Freight, Inc.*, Riverside County Superior Case No. CVRI2105225

24 7. On November 24, 2021, Plaintiff Andrew Tappin filed a putative class action in
25 Sacramento Superior Court in an action entitled *Tappin v. TForce Freight, Inc.*, Case No. 34-
26 2021-00311727. The *Tappin* Class Action was subsequently removed, transferred, and
27 consolidated with the *Mish* Class Action in the Northern District of California under 2:22-cv-
28 00322. On January 31, 2022, Plaintiff Tappin filed his putative representative action under PAGA

1 in Sacramento Superior Court, in an action entitled *Tappin v. TForce Freight, Inc.*, Sacramento
2 County Superior Court Case No. 34-2022-00314820. A true and correct copy of Plaintiff
3 Tappin's November 24, 2021 letter to Defendants and the LWDA providing notice pursuant to
4 Labor Code section 2699.3(a) is attached hereto as Exhibit B.

5 8. **Defendants' Response** – TForce has at all times denied Plaintiffs' collective
6 allegations and maintained its meal break and payroll policies and procedures comply with
7 California law, that it provided its employees with required meal and rest breaks, that it properly
8 tracked employee time and paid Plaintiffs and all other employees all wages due, and that any use
9 of personal cell phones was for the employee convenience and not reimbursable as a necessary
10 business expense, that it maintained accurate records, and that it properly paid all sick pay,
11 including COVID-19 supplemental sick pay. Additionally, Defendant strongly contends the case
12 cannot be maintained as any kind of class or representative action, arguing that to the extent class
13 members missed meal breaks, that such breaks were non-compliant, or that any unpaid "off the
14 clock" work occurred, it was intermittent and infrequent, against company policy, and done
15 without the company's knowledge. Thus, per TForce, evidence of such violations would be
16 purely anecdotal and therefore individualized issues predominate and trial would be
17 unmanageable.

18 9. **Investigation** - Before filing the lawsuit, Class Counsel investigated and
19 researched the facts and circumstances underlying the pertinent issues and the laws applicable
20 thereto. This required thorough discussions between Class Counsel and the Plaintiffs, as well as
21 preliminary research into the various legal issues and employment practices involved in the case.
22 After conducting their initial investigation, Class Counsel determined that Plaintiffs' claims were
23 well-suited for class action adjudication owing to what appeared to be a common set of policies
24 and procedures that impacted Plaintiffs and other putative class members in a similar fashion.

25 10. Since Plaintiffs filed their complaints, the Parties engaged in formal discovery,
26 both propounding and responding to written discovery, and Plaintiffs deposed six of TForce's
27 managers. After agreeing to mediation, the Parties also undertook additional informal discovery
28 to facilitate an exchange of information necessary to engage in a meaningful mediation.

1 Consequently, Plaintiffs' counsel reviewed payroll records, personnel policies/handbooks, meal
2 and rest break policies, personnel files, and a random sampling of paystubs and time records
3 produced by TForce for about 20% of the class. Defendant also provided documents and
4 information reflecting the estimated total amount of workweeks and pay periods the class
5 members worked, and average hourly pay rates, among other relevant data. Plaintiff had that data
6 reviewed and analyzed by Berger Consulting Group to assist with determining potential break
7 violation rates, amount of underpaid rest and recovery time and unproductive time, etc., and
8 preparing a damages model.

9 11. **Mediation** - The Parties then engaged Michael Young, Esq., a highly respected
10 mediator with extensive wage and hour class action experience and, in May 2022, participated in
11 a full-day mediation with Mr. Young. Throughout the day, the arms-length negotiations were
12 hard-fought and adversarial as the Parties exchanged extensive information on their legal and
13 factual positions, and made numerous offers and counter-offers. The Parties were not able to
14 reach a settlement at the mediation. Over the following several months, however, as depositions
15 and discover continued, the Parties continued to negotiate with Mr. Young's assistance, and he
16 ultimately issued a mediator's proposal that was accepted by all Parties in December 2022. The
17 Parties then collaboratively drafted the Stipulation of Class and PAGA Representative Action
18 Settlement ("Settlement Agreement") setting forth the full and final settlement terms.

19 12. In order to fully effectuate the Parties' agreement to resolve all pending cases on a
20 global basis and allow one court to preside over the approval process, they also agreed to stipulate
21 to the filing of an amended complaint in the Tappin Action to assert both class and PAGA claims,
22 and including the plaintiffs from all matters as proposed class representatives. On January 5,
23 2024, the Parties filed a stipulation and proposed order to allow the filing of the First Amended
24 Complaint, along with a copy of the proposed First Amended Complaint.

25 **TERMS OF THE SETTLEMENT**

26 13. Attached hereto as "**Exhibit C**" is a true and correct copy of the executed Stipulation
27 of Class and Representative Action Settlement and Release ("Settlement Agreement"). Attached
28 hereto as "**Exhibit D**" is a true and correct copy of the executed Amendment to Stipulation of Class

1 and Representative Action Settlement and Release (“Amendment”). The Court granted preliminary
2 approval on August 30, 2024. A true and correct copy of the “ORDER GRANTING MOTION
3 FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT” is attached hereto as
4 **“Exhibit E”**.

5 14. **Settlement Class** – “Class Member(s)” or “Settlement Class” means all current and
6 former California non-exempt employees of Defendant who have worked at least one Eligible
7 Workweek during the Class Settlement Period of September 13, 2016, through October 7, 2023.
8 There 3,878 class members who received notice of the settlement, three of which submitted valid
9 “Opt Outs” for a total of 3,875 participating class members.

10 15. **Gross Settlement Amount/Settlement Amount** - The settlement amount is the
11 amount of \$8,250,000.00 (the “Gross Settlement Amount” or “GSA”), to be paid by Defendant,
12 and which is inclusive of attorneys’ fees, costs, enhancement awards, claims administration
13 expenses, and PAGA penalties to the State of California and Aggrieved Employees. The Gross
14 Settlement Amount is an all-in common fund settlement. The Gross Settlement Amount is non-
15 reversionary and no portion of the Settlement Amount will be returned to the Defendants. The
16 following amounts will be deducted from the Gross Settlement Amount, with the amount remaining
17 after these deductions constituting the Net Settlement Amount.

18 16. **Attorney’s Fees/Costs:** Class Counsel will seek an award of Attorneys’ Fees not to
19 exceed one-third (1/3) of the Gross Settlement Amount, or \$2,750,000.00 in attorney’s fees, and
20 actual litigation costs and expenses not to exceed \$50,000 (though Plaintiffs’ costs have been
21 limited to \$29,369.62). Any fees awarded will be split between counsel as follows: Makarem &
22 Associates APLC – 71.25%; Blumenthal Nordrehaug - 21.25%, and James Hawkins 7.5%. This
23 division was agreed to by Plaintiffs in writing, pursuant to state requirements. The fee request is
24 in line with fee awards commonly granted across this state as well as the fee percentage commonly
25 contracted for by attorneys within this state.

26 17. **Class Representative Enhancement Payments.** Class Representative
27 Enhancement Payments will not exceed \$10,000.00 for each Class Representative, for a total of
28 \$70,000.00. The payment is for the service rendered in furtherance of class members’ claims, for

1 the risk undertaken for payment of costs in the event litigation was unsuccessful, for any stigma the
2 Plaintiffs may suffer going forward due to the public information available via the internet for
3 having filed a class action against an employer, and for their agreement to each provide a full release
4 of claims as compared to the limited release required of class members.

5 18. Here, the class representatives were not simply bystanders in the prosecution of this
6 action. From the time that this case was filed, the representatives whenever needed, actively
7 provided information and evidence. Further, the class representatives were always available to
8 consult with, and regularly did consult with counsel. The class representatives were also actively
9 involved in discussions regarding the resolution of this matter and approved the settlement terms
10 on behalf of themselves and the class members.

11 19. **Settlement Administration Costs:** The settlement administrator is CPT Group,
12 Inc. (“CPT”). CPT is an experienced class notice administration company, and has acted as claims
13 administrator in numerous wage and hour cases throughout the country. CPT has presented that its
14 charges to administer the proposed settlement will not exceed the \$26,000 authorized for such
15 expenses.

16 20. **PAGA Penalties and Payments.** \$165,000 of the Gross Settlement Amount will be
17 allocated to the PAGA Payment. Of the PAGA Payment, 75%, or \$123,750.00, will be paid to the
18 California Labor & Workforce Development Agency as the LWDA PAGA Payment, and 25%, or
19 \$41,250,000, will be paid to the PAGA Members as their Individual PAGA Payments.

20 21. **Net Settlement Amount and Payout to Class Members:** The Net Settlement
21 Amount was estimated to be approximately \$5,204,000, though this number will increase by at
22 least \$20,630.38 in authorized but unspent litigation costs. Each Participating Class Member shall
23 be eligible to receive an Individual Settlement Payment, which is a share of the Net Settlement
24 Amount based on the pro rata number of weeks worked by the Participating Class Members during
25 the Class Period as a proportion of all weeks worked by all Participating Class Members.

26 22. Assuming this Court makes no modification, the estimated settlement calculations,
27 prior to increasing the Net Settlement Amount for any unused costs, the average gross payment to
28 each Settlement Class Member is \$ 1,341.68, the highest is \$ 4,127.55, and the lowest is \$ 11.18.

Claims and Settlement Fund Distribution Procedure

23. According to the Settlement Agreement “Effective Date” means the date on which the Judgment becomes a Final Judgment. For purposes of this Settlement Agreement, the final judgment “becomes final” only after the Court grants the motion for final approval of the settlement and upon the latter of (i) the period for filing any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) any appeal, writ or other appellate proceeding challenging or opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (iii) any appeal, writ or other appellate proceeding has upheld the Court’s final order with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective, and Defendant will not be obligated to fund this Settlement, until the Court’s order approving the Settlement is completely final, and there is no further recourse by an appellant, objector, or intervenor who seeks to contest the Settlement. (Exh. C at 1.9). Within fifteen (15) calendar days after the Effective Date, Defendant shall pay the Gross Settlement Amount by wire transfer into the Qualified Settlement Fund set up, held, and controlled by the Settlement Administrator. (*Id.* at 4.9.1) Within fifteen (15) calendar days after Defendant funds the Qualified Settlement Fund, the Settlement Administrator shall issue Individual Settlement Payments to Participating Class Members, Individual PAGA Payments to the PAGA Members, the LWDA PAGA Payment to the LWDA, the Court-approved attorneys’ fees and costs to Class Counsel, and the court-approved Enhancement Awards to the Class Representatives. (*Id.* at 4.9.2)

24. According to the Agreement, after one hundred and eighty (180) calendar days of issuance, funds from undeposited Individual Settlement Payment and Individual PAGA Payment checks will be held by the Settlement Administrator. Thereafter, the Settlement Administrator will transmit the amount of that uncashed settlement payment to the State of California, to be held by the Controller in accordance with California’s Unclaimed Property Law for the benefit of those Participating Class Members and PAGA Members who did not cash their checks until such time that they claim their property. The Parties agree that this disposition results in no “unpaid residue,”

1 as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or
2 not they all cash their Individual Settlement Payments. (Exh. C at 4.10).

3 **25. Release By Class Members:** Under the terms of the proposed Settlement,
4 Participating Class Members will release “all claims, rights, demands, liabilities, and causes of
5 action, asserted in any of the complaints filed in the Action, and all claims that could have been
6 asserted in the Action reasonably arising from the same alleged facts and theories in the complaints
7 filed in the Action or the PAGA Actions, or alleged in the PAGA Notices sent by the Plaintiffs to
8 the LWDA, under any federal, state and local laws or the IWC Wage Orders, including claims for
9 (1) unpaid minimum wages; (2) unpaid overtime wages; (3) failure to provide meal periods; (4)
10 failure to provide rest periods; (5) failure to provide accurate wage statements; (6) waiting time
11 penalties; (7) failure to reimburse employees for required expenses; (8) violations of California
12 Labor Code sections 201-204, 210, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 248.2, 510, 512, 558,
13 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802 and 2804; (9) unfair competition based on the same
14 Labor Code violations; (10) all claims for interest, penalties, attorneys’ fees, costs and any other
15 monetary relief based upon the claims described above and including, but not limited to, pursuant
16 to Labor Code §§ 210, 218.5, 218.6, Code of Civil Procedure §1021.5, and/or Civil Code §§
17 3287(b) and 3289, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting that are
18 based on or related to the alleged Labor Code, Wage Order, and Business & Professions Code
19 violations, that accrue during the Class Settlement Period. In addition, by cashing their checks
20 containing their respective Individual Settlement Payments, Participating Class Member will be
21 deemed to release all claims under the FLSA that could have been asserted based on the alleged
22 facts and theories alleged in any of the complaints. Except as expressly set forth in this Agreement,
23 Participating Class Members do not release any other claims, including claims for vested benefits,
24 wrongful termination, violation of the Fair Employment and Housing Act, unemployment
25 insurance, disability, social security, workers’ compensation, or claims based on facts occurring
26 outside the Class Settlement Period.”

27 **26. PAGA Member Release.** Under the terms of the proposed Settlement, PAGA
28 Members will release “all claims for civil penalties under PAGA asserted in any of the complaints

1 filed in the Action or PAGA Actions, and all claims that could have been asserted in the Action or
2 PAGA Actions based on the same alleged facts and theories in the complaints or in the PAGA
3 Notices sent by the Plaintiffs to the LWDA, including claims for penalties based on violations of
4 the California Labor Code and IWC Wage Orders for (1) unpaid minimum wages; (2) unpaid
5 overtime wages; (3) unpaid meal period premiums; (4) unpaid rest period premiums; (5) inaccurate
6 wage statements; (6) failure to keep accurate records; (7) failure to indemnify for all necessary
7 business expenses; (8) failure to timely pay wages during employment or at termination; (9) failure
8 to pay and accurately calculate all sick pay wages; (10) failure to provide and accurately calculate
9 COVID-19 supplemental sick pay; and (11) violations of California Labor Code sections 201-204,
10 210, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 248.2, 510, 512, 558, 1174, 1174.5, 1194, 1197,
11 1197.1, 1198, 2802 and 2804. The Released PAGA Claims do not include other PAGA claims,
12 claims for wrongful termination, discrimination, unemployment insurance, disability and worker's
13 compensation, and claims outside of the PAGA Period.”.

14 27. **Released Claims with respect to Class Representatives Only** – As defined in the
15 Settlement Agreement- “Class Representatives’ Released Claims” means any and all claims,
16 obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties,
17 of whatever kind and nature, character, and description, whether in law or equity, whether sounding
18 in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other
19 source of law or contract, whether known or unknown, and whether anticipated or unanticipated,
20 including all unknown claims covered by California Civil Code Section 1542, by the Class
21 Representative, arising at any time up to and including the date on which the Court enters the Order
22 of Final Approval, for any type of relief, including without limitation claims for wages, premium
23 and other forms of pay, unpaid/unreimbursed costs, penalties (including waiting time penalties),
24 general damages, compensatory damages, liquidated damages, punitive damages, interest,
25 attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief.
26 The Class Representatives’ Released Claims also include, but are not limited to, the Released
27 Claims as well as any other claims under any provision of the Fair Labor Standards Act (“FLSA”),
28 the California Labor Code, including PAGA, any applicable California Industrial Welfare

1 Commission Wage Orders, any city or county Living Wage Ordinances, and claims under state or
2 federal discrimination statutes, including, without limitation, the California Government Code; the
3 Unruh Civil Rights Act, California Civil Code; the California Constitution; the California Business
4 and Professions Code, including but not limited to Sections 17200 et seq.; the United States
5 Constitution; the Age Discrimination in Employment Act (“ADEA”) and the Older Workers
6 Benefit Protection Act; the Uniformed Services Employment and Reemployment Rights Act, Title
7 VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq.; the Civil Rights Act of 1991; the
8 Family and Medical Leave Act, to the extent not prohibited by law; the Americans with Disabilities
9 Act, 42 U.S.C. § 12101 et seq.; the Employee Retirement Income Security Act of 1974, 29 U.S.C.
10 § 1001 et seq.; the Equal Pay Act; the Fair Credit Reporting Act; the Employee Retirement Income
11 Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Sarbanes-Oxley
12 Act of 2002; the California Family Rights Act; and all of their implementing regulations and
13 interpretive guidelines; any and all claims for monetary recovery and personal or individual relief,
14 except as prohibited by law; and any premiums, penalties, interest, punitive damages, costs,
15 attorneys’ fees, injunctive relief, declaratory relief, or accounting based on any of the foregoing
16 claims. For the avoidance of doubt, this is a complete and general release to the maximum extent
17 by law. Notwithstanding the foregoing, the release of the Class Representatives’ Released Claims
18 does not any claim or right that is not waivable as a matter of law.

19 28. The settlement amount was a negotiated compromise, factoring in the risks related
20 to certification, liability and damages. Taking into account all of the circumstances of the action
21 and the significant factual and legal defenses raised by Defendants against certification, liability
22 and damages, Class Counsel believe that the settlement is fair and reasonable. Each Class
23 Member’s individual share of the settlement amount is tailored to the number of workweeks
24 worked by each Class Member during the class period; so the distribution is weighted in favor of
25 those Class Members who were potentially most affected by the alleged violations. Moreover,
26 because the class consists of numerous employees, it was unlikely that the potential monetary
27 claims of individual Class Members would have proved viable without the class-action
28 mechanism.

29. The Settlement should be approved accordance with the holdings in *Clark v. American Residential Services LLC* (2009) 175 Cal. App. 4th 785 (hereinafter, “*Clark*”) and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116 (“*Kullar*”). The *Clark* and *Kullar* courts principally wanted to ensure that trial courts, when deciding whether a class action settlement is fair, adequate, and reasonable, should independently evaluate the settlement amount in light of the strength of the plaintiff’s case, and that plaintiff should provide the court the information necessary to make that evaluation. The *Clark* and *Kullar* courts cite the recognized factors set forth in cases like *Dunk v. Ford Motors Co.* (1996) 48 Cal. App. 4th 1794, 1801, that trial courts should examine during the approval process, including (1) the extent of discovery completed and the stage of the proceedings; (2) the strength of plaintiff’s case in light of the settlement amount; (3) the risk, expense, complexity, and likely duration of further litigation, as well as the risk of maintaining class-action status through trial; (4) the experience and views of counsel; and (5) the reaction of class members to the proposed settlement. *Id.* at 799

THE STRENGTH OF PLAINTIFFS' CASES AND COMPLEXITIES OF FURTHER LITIGATION

30. Plaintiffs believe that the Class claims in this action are legally meritorious and present a reasonable probability of a favorable determination on behalf of the class. At the same time, there is undeniably significant litigation risk avoided by the proposed Settlement, both at class certification proceedings, at trial, and potentially in the appellate courts.

31. Liability remains highly contested by Defendants who deny that they engaged in any violations of the law, and they further deny any liability or engagement in wrongdoing of any kind associated with the claims alleged in the Action by the Plaintiffs or any Class Member. Defendants contend that at all times they complied with all wage-and-hour laws in connection with the employment and/or retention of services of Plaintiffs and the Class Members.

32. Plaintiffs' counsel understood and appreciated the defenses and position of Defendants but believed that Plaintiffs would ultimately succeed in the action. In light of the strongly divergent views, the parties, were able to negotiate a fair settlement, considering the costs and risks of continued litigation. The negotiations were at all times conducted professionally and

1 at arm's length and have produced a result that the Parties believe to be in their respective best
2 interests.

3 33. Parties have also considered the uncertainty and risk of the outcome of further
4 litigation, and the difficulties and delays inherent in such litigation. Plaintiffs are also aware of the
5 burdens of proof necessary to establish liability for the claims asserted in the action, the defenses
6 thereto, and the difficulties in establishing damages. In evaluating the settlement, the Court will
7 seek a reasonable estimate of the nature and amount of recovery that each class member could have
8 obtained if the Plaintiffs had prevailed in the litigation. Numerous decisions summarize a trial
9 court's task when considering whether to approve the settlement of a putative class action.

10 34. Here, in preparation for mediation, Plaintiffs' counsel calculated Defendants'
11 liability to Class Members to be in excess of the settlement amount. Plaintiffs' valuation assumed
12 that Plaintiffs: (1) prevailed in certifying the case; (2) prevailed in establishing liability on the
13 merits; and (3) was awarded the full amount of all discretionary penalties.

14 35. The realistic range of outcomes for this litigation took into account the present state
15 of the law regarding meal and rest break claims and the other claims brought in the Action,
16 Defendant's defenses for each claim, and the likelihood of prevailing on a class certification motion
17 as well as trial and any appeals. Where both sides face significant uncertainty, the attendant risks
18 favor settlement. *Hanlon v. Chrysler Corp.* (9th Cir. 1998) 150 F.3d 1011,1026.

19 36. ***Kullar v. Footlocker Analysis*** - To allow this Court to make an informed
20 assessment pursuant to *Kullar v. Foot Locker Retail, Inc.* (2008) 18 Cal.App.4th 116, Plaintiffs'
21 Counsel provides the following assessment of the case and settlement. Plaintiffs' Counsel believe
22 that the settlement is a very good one for the class members. In this case, Plaintiff sought unpaid
23 wages and statutory penalties as well as equitable remedies of declaratory relief, disgorgement,
24 accounting, and restitution.

25 37. As stated in Plaintiffs' Motion for Preliminary Approval and supplemental briefing
26 Plaintiffs ran various calculations and estimated TForce's likely maximum exposure on the class
27 claims at approximately \$79.26 million, including \$10.1 million on the off-the-clock unpaid
28 minimum wage and overtime claims, \$28 million on the meal break claims, \$36.1 million on the

1 rest break claims, \$8.82 million on the wage statement claims, \$13.71 million on the waiting time
2 penalty claims, and \$1.91 million on the unreimbursed expenses claims. As such, the settlement
3 represents approximately 10.4% of Defendants' exposure based on Plaintiffs' analysis before
4 PAGA penalties. This is a reasonable recovery, particularly given that these figures are aggressive,
5 and in ongoing litigation such awards would be subject to the full panoply of Defendant's liability
6 defenses in addition to the Court's discretion to reduce such awards.

7 38. As explained before, multiple issues necessitated deductions from the maximum
8 potential value of this case to arrive at the reasonable Gross Settlement Amount in this action. Here
9 the class was estimated at 3,210 persons working approximately 423,211 workweeks extrapolated
10 through April 14, 2023.

11 39. **\$10.1 Million in Off-the-Clock Unpaid Minimum Wage & Overtime:**

- 12 a. Plaintiffs identified four separate sources of off-the-clock claims: Grace Period off-
13 the-clock work at the beginning shifts (deducted from class members' work time
14 despite their being clocked in, when they clocked prior to the start of their scheduled
15 shifts); Donning and Doffing time (estimated at 20 minutes per shift); Security
16 Checks (estimated at 5 minutes per shift); and work during Meal Periods (estimated
17 at 30 minutes per shift, on 25% of recorded meal breaks.
- 18 b. Extrapolated to the 3,210 class members, Plaintiffs' experts concluded that there
19 were approximately 67,015.3 extrapolated hours of Grace Period OTC work (at 2.7
20 minutes per shift in the relevant time period). Plaintiffs' experts further determined
21 that the average rate of pay was \$24.98, overall. In addition, based on analysis of
22 the appropriate ratio of regular, overtime, and double-time pay using the 117,896
23 shifts in the data where Grace Period OTC wages were unpaid, a blended hourly rate
24 of \$36.79/hr was the appropriate extrapolated wage rate. At \$36.79 per hour, with
25 67,015.3 hours of unpaid Grace Period OTC work, the *Grace Period subtotal is:*
26 *\$2,465,377.*
- 27 c. Applying a similar analysis, the data indicated that there were 19,310.6 hours of
28 Donning and Doffing OTC work, 56,538.7 hours of Security Checks OTC work,

and 146,981.3 hours of Meal Break OTC work extrapolated across the relevant time period. For these categories of OTC work, the data indicated a slightly lower average hourly rate of \$34.56 (i.e. 76.7% overtime), was appropriate. At \$34.56 per hour, with 19,310.6 hours of Donning and Doffing OTC work, the *Donning and Doffing subtotal* is \$667,369. At \$34.56 per hour, with 56,538.7 hours of Security Checks OTC work, the *Security Check subtotal* is \$1,953,969. And at \$34.56 per hour, with 146,981.3 hours of Meal Break OTC work, the *Meal Break subtotal* is \$5,079,647.

d. Thus, summarized in table form, the subtotals that comprise the total off-the-clock exposure calculation of \$10.1 million are as follows:

Grace Period:	\$2,465,377
Donning & Doffing:	\$667,369
Security Checks:	\$1,953,969
Meal Breaks:	\$5,079,647
Total Off-the-Clock Exposure:	\$10,166,362

40. \$28 Million on the Meal Break Claims:

Within the data analyzed, nearly 15% (14.9%) of shifts greater than five hours had no meal break recorded at all, and a high percentage of shifts with meal breaks recorded indicated other deficiencies (late, short, etc.). Nearly 100% (99.4%) of all shifts between 10-12 hours – 81,316 shifts in total, in the data – did not have a second meal break recorded, and 97.6% of shifts greater than 12 hours – 21,840 shifts – also did not have a second meal break recorded. Overall, the data reflected 197,631 unique meal break violations, or an overall violation rate of 76.3%. Extrapolating to the class, Plaintiffs experts calculated that there would be 1,112,958 unique violations across the relevant time period, totaling \$28,019,031 after an offset for the \$132,390 in meal premium payment that Defendant made from 9/13/2016 to 5/17/2022. In table form, the violations comprised the following:

Late First Meal Breaks:	\$19,190,817
Missed First Meal Breaks:	\$5,046,519

Short First Meal Breaks: \$791,706

Missed Second Meal Breaks: \$14,693,991

Minus Meal Premiums Paid: -\$132,390

Total Meal Break Exposure: \$28,019,031

41. \$36.1 Million on the Rest Break Claims:

Assuming a violation rate of 100%, Plaintiffs' experts analyzed shifts greater than 3.5 hours over the six years in the data set, finding 45,410 violations in 2017; 55,867 violations in 2018; 52,968 violations in 2019; 46,502 violations in 2020; 42,232 violations in 2021; and 11,008 violations through mid-May of 2022 – a total of 253,987 violations within the data. Extrapolated to the entire class, Plaintiffs' experts calculated that there would be approximately 1,448,319 violations in total across the relevant time period, for the entire putative class. Using the extrapolated hourly average pay rate of \$24.98 per hour, *1,448,319 violations multiplied by \$24.98 yields total rest break exposure of \$36,179,016.*

42. \$8.82 Million on the Wage Statement Claims:

Plaintiffs' experts calculated that there were 166,742 pay periods for 2,205 employees within the applicable wage statement penalty statute of limitations, reaching back to September 13, 2019. Plaintiffs' experts then assumed that each of these employees would reach the statutory \$4,000 cap for wage statement penalties. Multiplying \$4,000 by 2,205 yields **total Wage Statement Exposure of \$8,820,000.**

43. \$13.71 Million on the Waiting Time Penalty Claims: Within the applicable time period, going back to September 13, 2017, there were 1,906 terminated employees. Plaintiffs' experts further calculated that an average daily wage for the putative class of \$239.85, using 9.1 hours per day (the extrapolated average shift length) and \$24.98 as the base wage rate. *Multiplying 1,906 by \$239.85 per day, by 30 days yields total waiting time penalty exposure of \$13,714,623*

44. \$1.9 Million in Unreimbursed Business Expenses: Using the same data set, Plaintiffs' experts assumed \$20 per month, per class member. Within the data, that assumption indicated \$58,080 in unreimbursed expenses in 2017; \$71,940 in 2018; \$69,200 in 2019; \$61,700 in 2020; \$56,860 in 2021; and \$17,500 in the first portion of 2022 – a total of \$335,280 based on

1 the data. The data indicated that, when *extrapolated to the entire putative class across the relevant*
2 *time period, controlling for number of workweeks*, **total unreimbursed business expenses of**
3 **\$1,911,880.**

4 45. **\$157 Million in Civil and PAGA Penalties:** In addition to the \$13.7 million in
5 waiting time penalties discussed above, Plaintiffs' experts calculated that, if Plaintiffs were to
6 prevail on all claims, the total exposure on the PAGA penalties would come to approximately \$144
7 million with the PAGA period reaching back to November 14, 2019. Plaintiffs' experts determined
8 that there were approximately 156,161 PAGA pay periods for aggrieved employees, and calculated
9 the following totals amounts based on the statutory penalty scheme, imposing \$100 for the initial
10 violation and \$200 for each subsequent violation for all penalties except wage statement penalties
11 (which were assessed at \$250 per violation):

12 PAGA for Unpaid Wages: \$17,961,300

13 PAGA for Meal Breaks: \$25,095,100

14 PAGA for Rest Breaks: \$31,018,600

15 PAGA for Wage Statements: \$39,040,250

16 PAGA for Reimbursements: \$31,018,600

17 **Total PAGA Exposure: \$144,133,850**

18 46. Plaintiffs, in agreeing to the settlement had to take into account the difficulties in
19 certifying a class and maintaining any such certification. What's more, Plaintiff had to take into
20 account the Defendants' positions and legal determinations. For example, the Court might decline
21 to award *any* "derivative" PAGA penalties for wage statements if it already awarded the \$8.82
22 million in "direct" civil penalties for wage statements. These concerns weighed into Plaintiff's
23 analysis to eventually agree to a settlement that is less than Defendants' total projected liability
24 even if Plaintiff eventually won every aspect of this case including an appeal. A settlement now
25 guarantees that class members will 1) obtain a recovery and 2) that they will get the recovery in a
26 time period that is shorter than one if the case went through a full trial and appeal process.

27 47. The settlement amount was a negotiated compromise, factoring in the risks related
28 to certification, liability, and damages. Taking into account all of the circumstances of the action

1 and the significant factual and legal defenses raised by Defendant against certification, liability,
2 and damages, Class Counsel believe that the settlement is fair and reasonable. Each Class
3 Member's individual share of the settlement amount is tailored to the number of shifts worked by
4 each Class Member during the class period so the distribution is weighted in favor of those Class
5 Members who were potentially most affected by the alleged violations. Moreover, because the
6 class consists of several employees, it was unlikely that the potential monetary claims of individual
7 Class Members would have proved viable without the class-action mechanism.

8 **EXPERIENCE AND VIEWS OF COUNSEL**

9 48. I graduated cum laude from the University of Georgia with a B.B.A. in finance in
10 2001. In 2004 I graduated from the University of Chicago Law School, where I received the
11 Edmund A. Spencer Scholarship. From 2006 to 2007 I served as a law clerk to the Honorable
12 Stanley F. Birch, Jr. of the United States Court of Appeals for the Eleventh Circuit. I was selected
13 as a Southern California Super Lawyer in employment law in 2022, 2023, 2024, and 2025. I am
14 also an active member of the California Employment Lawyers Association (CELA), Consumer
15 Attorneys Association of Los Angeles (CAALA), Consumer Attorneys of California (CAOC) and
16 I have published in The Advocate, the magazine of the Consumer Attorneys Association of Los
17 Angeles.

18 49. My practice focuses on representing consumers and employees, and a substantial
19 portion of my practice is devoted to wage and hour class actions and representative actions. I am
20 currently the primary attorney in charge of litigating several wage and hour class actions and
21 California Private Attorneys General Act ("PAGA") cases in state and federal court. Earlier in my
22 career I practiced with several national law firms, including Latham & Watkins LLP and Schiff
23 Hardin LLP, where I practiced complex litigation including class actions.

24 50. Makarem & Associates has litigated numerous complex business matters, including
25 wage and hour class actions, PAGA actions, and employment cases. We are a six-attorney law
26 firm in West Los Angeles. The firm practices in the area of wage and hour law, employment
27 litigation, and complex business litigation. The firm's founding partner, Ron Makarem, was named
28 a Top 20 Attorney under the Age of 40, in California, by the Daily Journal in 2007, and a California

1 SuperLawyer from 2010 to the present. He was awarded "Top 100 Attorney" in Southern California
2 by Los Angeles Magazine and Super Lawyers for 2013 and 2019. In 2012, he received the CLAY
3 award for 'Attorney of the Year' by California Lawyer Magazine for his work on a landmark
4 California Supreme Court case. Mr. Makarem is a certified legal malpractice specialist by the
5 California State Bar. In 2015, he received the AALASC Trailblazer Award which recognizes
6 attorneys who demonstrate vision, courage and tenacity in their practice.

7 51. My Colleague Daniel Bass has litigated for over a decade, almost all of which was
8 representing employees in similar complex employment actions, including class actions and
9 representative actions. Mr. Bass been approved as class counsel in wage and hour class actions over
10 20 times, including matters certified on contested motions. He has been named a California Super
11 Lawyer "Rising Star" each year from 2020 to the present.

12 52. Over the past nine years, Makarem & Associates has engaged in all aspects of class
13 action litigation, including having interviewed potential class action representatives to determine
14 the potential merits of their allegations, conducted pre-litigation investigation, including interview,
15 research and analysis, drafted class action complaints, drafted class action discovery and responses
16 thereto, conducted and defended depositions, drafted, opposed and orally argued numerous class
17 action law and motion pleadings (including oppositions to removal, oppositions to demurrer,
18 oppositions to motions to dismiss, oppositions to motions to exclude expert testimony, oppositions
19 to motions to strike, motions to compel, oppositions to motions to compel, class certification
20 motions, oppositions to motions to decertify, and preliminary and final approval motions),
21 conducted class member interviews, legal research, settlement negotiations and meetings with
22 defense counsel, statistical analysis of potential damages, and attended numerous mediation
23 sessions for purposes of negotiating class action settlements.

24 53. Makarem & Associates presently has in excess of 30 wage and hour class actions
25 pending in various stages of the litigation process, from pre-litigation investigation to final approval
26 pending. In the past 2 years, the firm has been appointed as class counsel after certifying classes on
27 contested motions in multiple matters, including *Fodera v. Equinox Holdings, Inc.*, 341 F.R.D. 616
28 (N.D. Cal. May 24, 2022).

1 54. Makarem & Associates is well qualified because of our experience, knowledge, and
2 resources to act as counsel and represent Plaintiff and the putative class in this action. A substantial
3 percentage of our practice is devoted to litigating wage, hour, and working-conditions violations,
4 and the bulk of these cases are class actions.

5 55. This experience is helpful in assessing the reasonableness of settlements such as the
6 one at issue here, and from this experience Class Counsel concluded that this lawsuit could not
7 have been settled on better terms than provided under the present settlement agreement.

8 56. In sum, Class Counsel is experienced in employment class action litigation, and is
9 adequate to represent the putative class in the instant action.

10 57. The following is a partial list of putative class action in which Makarem &
11 Associates has been approved as class counsel through contested motions and through settlements:
12 *Becerra v. Sunridge Nurseries, Inc.*, Kern County Superior Court Case No. BCV-19-102625;
13 *Fodera et al v. Equinox Holdings, Inc.*, United States District Court for the Northern District of
14 California, Case No. 3:19-cv-05072-WHO; *Sanchez v. ARB, Inc.*, Orange County Superior Court
15 Case No. 30-2016-00837130; *Weckiewicz v. Execap, Inc.*, Stanislaus Superior Court Case No. CV-
16 18-001292; *Werner v. Crown Equipment Corp.*, Los Angeles Superior Court, Case No. BC439428;
17 *Castillo v. DHL Express (USA), Inc.*, Los Angeles Superior Court Case No. BC409169; *Aglubat v.*
18 *FormFactor, Inc.*, Alameda Superior Court Case No. RG13692639; *Lopez v. ADIR International,*
19 *LLC*, Los Angeles Superior Court Case No. BC436697; *Martinez v. G&M Oil, Inc.*, Orange County
20 Superior Court Case No. 30-2009-00238965; *Lopez-Gallardo v. L&R Auto Parks, Inc.*, Los
21 Angeles Superior Court Case No. BC394399; *Scanlan v. BLB Enterprises, Inc.*, Orange County
22 Superior Court Case No. 07CC00002; *Martinez v. Providian Holdings, Inc.*, Los Angeles Superior
23 Court Case NO. BC4612987; *DeLeon v. Westlake Services, LLC*, Los Angeles Superior Court Case
24 No. BC526750; *Reyes v. PQ Beverly Hills, Inc.*, Los Angeles Superior Court Case No. BC500609;
25 *Funez v. GMG Janitorial, Inc.* San Francisco Superior Court Case No. CGC-13-532261; *Fematt v.*
26 *Mission Linen Supply*, Santa Barbara Superior Court Case No. 15CV03714; *Orozco v. California*
27 *Terra Garden, Inc.*, San Mateo Superior Court Case No. CIV531629; *Powell v. Badger Daylighting*
28 *Corp.* No. Kern County Superior Court Case No. BCV-15-101202; *Barrerra v. Hacienda on the*

1 *Lake*, Orange County Superior Court Case No. 30-2016-00839837-CU-OE-CXC; *Pantoja v.*
2 *Autopia Car Wash*, Alameda County Superior Court Case No. RG14713663; *Galvez v. Ray Tech*,
3 Alameda County Superior Court Case No. RG14737391; *Guzman v. Pick N Pull Auto Dismantlers*,
4 Alameda County Superior Court Case No. RG16816283.

5 58. The foregoing discussion has sought to determine the fairness of the class action
6 settlement in the present case. It has done so by analyzing the settlement in light of the appellate
7 decisions in *Clark* and *Kullar*. This analysis has concluded that the Settlement is fair, reasonable,
8 and adequate. Class Counsel conducted a thorough investigation of the subject wage-and-hour
9 practices, and engaged in non-collusive, arm's-length negotiations through a respected wage and
10 hour mediator in order to reach settlement. Defendants have agreed to pay fair value to settle
11 Plaintiff's principal claims for failure to pay all overtime, and failure to provide compliant meal
12 and rest periods, as well as the derivative waiting time penalties claim. From Class Counsel's
13 substantial experience with wage-and-hour class action lawsuits, Class Counsel believes that this
14 case could not have been settled on better terms under the circumstances. Class Counsel's diligent,
15 efficient, and creative pursuit of this matter positioned Plaintiff to settle this action successfully,
16 affording redress to the entire Class and avoiding the inevitable expense and risk attendant to
17 protracted litigation. Request is therefore made that the settlement be granted final approval so that
18 those persons whom it is intended to benefit shall be afforded the opportunity to receive settlement
19 funds.

20 59. In sum, Class Counsel is experienced in employment class action litigation, and is
21 adequate to represent the putative class in the instant action.

22 **REQUEST FOR ATTORNEYS' FEES**

23 60. My firm took this case on a contingent-fee basis against a business represented by a
24 reputable defense firm. Plaintiffs signed a contingency-fee agreement with Makarem & Associates
25 stating that Class Counsel could receive a fee of up to 40% of the overall recovery. When we take
26 contingent cases, we must pay careful attention to the economics involved or one bad case can
27 destroy years of work. Accordingly, when we take contingency cases, we anticipate that we shall,
28 if successful, receive a fee that exceeds our normal hourly rate; otherwise, the risk is often too great

1 to bear. Even when we work long hours, the number of hours in a day is limited. Because of this,
2 when we take on one particular matter, we are unable to take on other matters. When Class Counsel
3 became involved in this case, we realized the time commitment that it would entail and we were
4 forced to turn down matters that we otherwise should have been able to handle. In sum, this case
5 claimed a significant portion of Class Counsel's time and attention throughout its pendency.

6 61. The settlement calls for the payment of up to 1/3 of the Gross Settlement Amount
7 or \$2,750,000.00 for attorneys' fees. This request is fair, reasonable, and adequate to compensate
8 Class Counsel for the substantial work they have put into this case and, moreover, the risk they
9 assumed by taking it in the first place. The attorneys' fees award is intended to reimburse Class
10 Counsel for all uncompensated work that they have already done and for all the work they will
11 continue to do in carrying out and overseeing the notification to class members, communicating
12 with class members regarding their claims, and assisting in the administration of the settlement if
13 it is finally approved and judgment entered.

14 62. In this case, my firm has incurred substantial attorney's fees conducting pre-filing
15 investigation, analyzing the claims, conducting legal research, reviewing records, speaking with
16 Plaintiffs, analyzing records with experts, negotiating the class settlement, preparing the long-form
17 settlement agreement, preparing this motion for preliminary approval, and otherwise litigating the
18 case including significant discovery.

19 63. In other words, my firm has expended a significant amount of time and effort in
20 litigating the present case. The proposed Settlement also does not place the attorneys' interests
21 ahead of class members' interests. Settlement provisions relating to attorneys' fees and litigation
22 expenses in the action were not negotiated until after an agreement was reached in principle with
23 respect to the direct class settlement benefits and the gross settlement. In achieving the
24 Settlement, which has been overwhelmingly embraced by the Class, the attorneys involved have
25 expended a significant number of hours. The following table summarizes the time spent by the
26 attorneys of Makarem & Associates regarding their time spent on this case, not even including the
27 hours spent on this motion and supporting documents:

Attorney	Experience	Billing	Types of Tasks Assigned	Hours	Lodestar
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		Rate			
Ronald W. Makarem	29+ years	\$850	Initial Investigation and Document Review, Pleadings, Violation Calculation & Analysis of Damages, Preparation for Mediation, Settlement Agreement, Preliminary Approval Motion and Final Approval Motion	214.7	\$182,495.00
Samuel Almon	19+ years	\$795	Client and Witness Communications, Pleadings, Discovery, Depositions, Violation Calculation & Analysis of Damages, Communication with OC, Meet and Confer/ Document Review, Motion Drafting, Expert Consultation, Preparation for Mediation, Settlement Agreement, Preliminary Approval Motion, Supplemental Brief and Final Approval Motion	373.5	\$296,932.50
Rex Phillips	19+ years	\$750	Expert Consultation, Preparation for Mediation, Violation Calculation & Analysis of Damages,	73.9	\$55,425.00

			Pleadings, Discovery		
Daniel Bass	12+ years	\$750	Client and Witness Communications, Motion Drafting, Discovery, Depositions, Pleadings, Document Review, Expert Consultation, Violation Calculation & Analysis of Damages, Preparation for Mediation, Final Approval Motion	326.6	\$244,950.00
John Kirk Donnelly	30+ years	\$750	Settlement Agreement, Preliminary Approval Motion,	35	\$26,250.00
Aidan McGlaze	12+ years	\$750	Pleadings, Settlement Agreement, Preliminary Approval Motion Supplemental Brief	35.2	\$26,400.00
Olivia Burgos	30+ years	\$750	Document Review, Discovery, Client and Witness Communications	32.5	\$24,375.00
Marina Serrano	4+ years	\$450	Document Review, Pleadings, Client and Witness Communications	20.3	\$9,135.00
Total				1111.7	\$865,962.50

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64. The rates used in the above chart are rates that have been submitted and accepted by courts in the State of California in applications and/or motions for attorney's fees, throughout the state. They are also less than the rates set by the Laffey Matrix, a true and correct copy of which is attached hereto as “**Exhibit F.**” California Courts have applied the Laffey Matrix with adjustments to the specific California locality where the Counsel’s office is located based on “Locality Pay Tables.” (*Syers Properties III, Inc. v. Rankin* (2014) 226 Cal.App.4th 691, 695-696 [affirming fee award based on Laffey Matrix with upward 9 percent rate adjustment from D.C. area compared to San Francisco Bay Area based on Locality Pay Tables]; *In re HPL Techs., Inc., Secs. Litig.* (N.D. Cal. April 22, 2005, No. C-02-3510 VRW) 365 F.Supp.2d 912, 921-922 [using Laffey Matrix with upward adjustment of 9 percent for San Francisco based on difference between D.C. Area’s +15.98 locality pay compared to San Francisco’s +26.39 percent locality pay differential from the federal courts’ “Judiciary Salary Plan Pay Tables.”].)

65. The total lodestar for all counsel for Plaintiffs, including our cocounsel, counsel exceeds \$1,229,949.50 and does not even include all of the time spent filing this motion and the over 30 additional hours that I would anticipate Makarem & Associates being required to finalize this motion, appear for final approval and facilitate the settlement, including answering questions brought by Class Members, assisting the Settlement Administrator, and submitting a final accounting to the Court.

66. The contingency fees Makarem & Associates fees have charged our clients have generally fallen within the range of 33.3% to 40% of the recovery achieved. Additionally, I am aware by virtue of my years in the field, that such contingency fees are normal and customary in the field, and have been for the entire length of my career. Of course, since we are a contingent firm, in the cases where we do not achieve a recovery, which has unfortunately occurred including on cases we have taken all the way through trial and appeal, we then recover nothing, and are normally out of pocket on all of the expenses and costs advanced.

67. Additionally, and to date, my firm has incurred costs of over \$24,514.77. These

1 costs reflect the type of expenses typically billed by attorneys to their paying clients in the
2 marketplace, and include such costs as the above noted payments to experts and mediation
3 expenses to date. The costs incurred in prosecuting this case are reflected in our firm records
4 which are attached hereto as **Exhibit G**. Coupled with the costs of our cocounsel, the costs
5 requested by all counsel for Plaintiffs totals \$29,369.62, less than the \$50,000 authorized by the
6 settlement and stated in the Class Notice.

7 68. It is only because of Plaintiffs' counsels' continued and aggressive litigation of
8 this lawsuit that a settlement was eventually achieved. But for our continued pursuit of this
9 litigation, a vast majority of Class Members would likely have received nothing from Defendant.
10 As such, we request that the Court award the requested fees and costs of \$2,750,000.00 and
11 \$29,369.62 respectively. The requested fee is reasonable for the services provided to class
12 members and for the benefits they are to receive.

13 **ENHANCEMENT AWARDS AND UNCASHED CHECKS**

14 69. Plaintiffs have taken the extraordinary step of challenging their former employer's
15 actions by bringing this case. Plaintiffs did so in the belief that they, and the members of the
16 Settlement Class, were, in fact, entitled to the relief sought in this case. Until Plaintiffs filed their
17 cases against the Defendant, no case was filed and no one was pursuing the claims raised in this
18 matter. Plaintiffs' actions have resulted in a recovery for the members of the Settlement Class, and
19 the Incentive Award she seeks is reasonable.

20 70. Plaintiffs fully participated in this action throughout the pendency of the litigation,
21 including through the very contentious pleadings stages in Federal Court. Plaintiffs were kept well
22 informed of the nature and extent of settlement discussions and approved the same. As such, the
23 Service Awards of \$10,000 each sought for Plaintiffs are reasonable and represents a small
24 percentage of the Net Settlement Amount. Absent the actions taken by Plaintiffs as a group, none
25 of the Class Members would have reaped the rewards of this action. Plaintiffs stated their
26 willingness to continue to assist the class and their work so far at Preliminary Approval. Those
27 Declarations are attached hereto for ease of reference. A true and correct copy of the Declaration
28 of Donyeisha Mish is attached as "**Exhibit H**". A true and correct copy of the Declaration of Darnell

1 Lee is attached as “**Exhibit I**”. A true and correct copy of the Declaration of Luis Robles has spent
2 is attached as “**Exhibit J**”. A true and correct copy of the Declaration of Xochitl Velasco is attached
3 as “**Exhibit K**”.

4 71. According to the Settlement Agreement after one hundred and eighty (180) calendar
5 days of issuance, funds from undeposited Individual Settlement Payment and Individual PAGA
6 Payment checks will be held by the Settlement Administrator. Thereafter, the Settlement
7 Administrator will transmit the amount of that uncashed settlement payment to the State of
8 California, to be held by the Controller in accordance with California’s Unclaimed Property Law
9 for the benefit of those Participating Class Members and PAGA Members who did not cash their
10 checks until such time that they claim their property. The Parties agree that this disposition results
11 in no “unpaid residue,” as the entire Net Settlement Amount will be paid out to Participating Class
12 Members, whether or not they all cash their Individual Settlement Payments. (Exh. C at 4.10).

13 **SUBMISSION TO THE LWDA AND REVIEW BY DEFENDANT**

14 72. Concurrently with this submission to the Court, my office uploaded this declaration
15 (save for the attached Exhibit L), the concurrently filed declarations, final approval motion, and the
16 Proposed Order and Judgment to the LWDA’s website. A true and correct copy of the LWDA’s
17 email confirmation is attached hereto as “**Exhibit L**.”

18 73. In accordance with the Settlement Agreement, a draft of Plaintiffs’ Motion and
19 Proposed Order and Judgment was provided to counsel for Defendant before they were filed.
20 Defendant did not raise any issues with the form or content of the Motion and therefore it is my
21 understanding that final approval will not be contested by the Defendant.

22 I declare under penalty of perjury of the laws of United States of America in the state of
23 California that the foregoing is true and correct.

24 Executed on January 22, 2025.

25
26 *Samuel Almon*

27 Samuel Almon
28

EXHIBIT A



MAKAREM
& ASSOCIATES
Attorneys At Law

Ronald W. Makarem
Cameron Stewart
Samuel Almon
Jared Walder
Rebecca Claudat
Alexis Hames

January 19, 2021

FILED ONLINE WITH THE LWDA

ATTN: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA U.S. CERTIFIED MAIL

UPS Ground Freight, Inc.
c/o Corporation Service Company
dba CSC – Lawyer’s Incorporating Service
(C1592199)
2710 Gateway Oaks Dr., Suite 150N
Sacramento, CA 95833

UPS Ground Freight, Inc.
1000 Semmes Avenue
Richmond, VA 23224

Re: *Donyeisha Mish, et al. v. UPS Ground Freight, Inc.*
Notice of Labor Code Violations Pursuant to Labor Code section 2699.3(a)(l)

Dear PAGA Administrator:

This letter shall constitute the required written notification under Labor Code section 2699.3(a)(l) of Labor Code violations alleged against **UPS Ground Freight, Inc.** (“Employer”). Our client, **Donyeisha Mish, and other similarly situated aggrieved employees** (together, “Claimants”), worked as non-exempt employees for Employer. Claimants hereby issue this Notice to both the LWDA and Employer in compliance with the notice requirements of Labor Code section 2699.3(a)(l).

Claimants hereby give Notice of the following specific provisions of the Labor Code that have been violated and the facts and theories to support the alleged violations:

Violation	Facts and Theories
Labor Code sections 204, 218, 218.5, 218.6 & 1194	Labor Code section 204 provides that covered employees are entitled to receive all wages earned for the pay period corresponding to the payday. Here, Employer regularly failed to pay Claimants all wages earned for labor performed each pay period. For example, Employer regularly

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	suffered or permitted Claimants to work off the clock, but Claimants were not compensated for hours worked off the clock. For example, Employer, among other things, rounded employee time punches such that employees overall lost hours worked. Additionally, Employer required Claimants to change into their mandatory uniform before they were able to clock in and required Claimants to clock out before they were able to change out of their mandatory uniform and undergo mandatory security checks, all of which constituted time not recorded or compensated by the Employer. Further, Employer failed to provide the requisite one hour of pay at the regular rate of compensation for shifts with missed or non-compliant meal and/or rest periods. Accordingly, Employer violated the above code sections.
Labor Code section 1194	Labor Code section 1194 provides: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Here, Employer failed to pay Claimants their earned minimum and/or overtime wages for all hours worked. For example, Employer regularly suffered or permitted Claimants to work off the clock, but Claimants were not compensated for hours worked off the clock. For example, Employer, among other things, rounded employee time punches such that employees overall lost hours worked. Additionally, Employer required Claimants to change into their mandatory uniform before they were able to clock in and required Claimants to clock out before they were able to change out of their mandatory uniform and undergo mandatory security checks, all of which constituted time not recorded or compensated by the Employer.
Labor Code sections 510 and 1194	Labor Code section 510 states: “Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” Labor Code section 1194 provides “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Here, Claimants worked in excess of eight hours in one workday and/or in excess of 40 hours in one workweek, and were not compensated with

	overtime pay. As a result of this practice, Labor Code sections 510 and 1194 were violated. For example, Employer suffered or permitted Claimants to work off the clock, including by rounding employee time punches such that employees overall lost hours worked and by requiring Claimants to spend time changing in/out of their uniforms and undergo mandatory security checks, which on occasion caused Claimants to work overtime. Yet Employer neither compensated Claimants for such work nor counted the time spent working off the clock for purposes of calculating overtime. As a result of this practice, Labor Code sections 510 and 1194 were violated.
Labor Code Sections 226.7 and 512	Labor Code Sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes. Under these provisions, a first meal period is required no later than the end of an employee's fifth hour of work, and a second meal period no later than the end of an employee's 10th hour of work. If an employer fails to provide an employee meal periods in accordance with this law, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided. Here, Employer regularly failed to provide compliant meal periods. For example, Employer regularly failed to provide full, uninterrupted 30 minute meal periods. Among other things, Claimants frequently had their meal periods interrupted such that they did last a full 30 minutes, because other employees would require assistance while performing their job duties. Claimants were not compensated with an hour of pay at their regular rate of pay for shifts when their meal periods were not taken, were taken late, or lasted less than 30 minutes without interruption. Accordingly, Employer violated these code sections. Additionally, Employer failed to pay Claimants employed as AFMs for one (1) hour of pay at their regular rate of compensation for each missed or non-compliant meal period.
Labor Code section 226.7	Labor Code section 226.7 provides that employers shall authorize and permit employees to take rest periods at the rate of (10) minutes net rest time per four (4) hours of work, or major fraction thereof. This means that an employer must provide 10 minutes net rest time for each four-hour period worked by employees. If an employer fails to provide an employee rest periods in accordance with this law, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

	Here, Employer did not comply with these rest period provisions, as Employer routinely failed to authorize and permit Claimants to take their ten (10) minute rest periods for each four (4) hours, or major fraction thereof, they had worked. For example, due to the press of business and/or lack of staffing, Claimants routinely performed four consecutive hours of work without receiving a ten-minute rest period, or had their rest period delayed or interrupted. Employer also failed to pay Claimants for one (1) hour of pay at their regular rate of compensation for each day on which Claimants did not receive one or more compliant rest periods.
Labor Code Section 226	Labor Code Section 226 provides: “An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay and the total hours worked for each temporary services assignment.” Here, Employer engaged in practices violating Labor Code section 226 and failed to provide compliant wage statements containing all information required by Labor Code section 226. For example, Employer failed to provide compliant wage statements because they failed to reflect all compensable hours Claimants worked, including time lost due to the rounding of employee time punches, time spent changing in/out of required uniforms, or time spent undergoing mandatory security checks. As another example, Employer failed to provide compliant wage statements because the wage statements failed to list meal and/or rest period premiums owed for shifts with non-compliant meal/rest periods.

Labor Code section 226, 1174, and 1174.5	Labor Code section 1174 provides that employers shall keep payroll records showing the hours worked and wages paid to each employee. These records are to be kept in accordance with rules established by the commission, but must be kept on file for a minimum of three (3) years. Labor Code section 1174.5 provides: “Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).” Here, as a result of the aforementioned practices, <i>i.e.</i>, Employer suffering or permitting Claimants to work off the clock, including hours worked lost due to rounding or during uncompensated time spent changing or undergoing mandatory security checks, failing to pay all overtime wages due, and failing to authorize and permit compliant meal and rest periods, Employer knowingly and intentionally failed to maintain records, including but not limited to: all hours worked by Claimants, meal periods taken, and accurate itemized wage statements.
Labor Code Sections 201, 202, and 203	Labor Code Section 201 states that if an employer discharges an employee, earned but unpaid wages at the time of discharge are due and payable immediately. Similarly, Labor Code Section 202 provides “[i]f an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.” Under section 203, if an employer willfully fails to pay in accordance with sections 201 or 202, any wages of an employee who is discharged or quits shall continue as a penalty. Here, Employer failed to pay all earned wages, including wages for hours worked lost due to rounding and hours worked while changing in/out of the required uniform or undergoing mandatory security checks, unpaid overtime, and wages for non-compliant meal and rest periods to employees who quit or were discharged, in violation of Sections 201 and 202. Nor has Employer paid any of the continuation wages under Section 203.

Please notify us within the required time period whether or not the Labor and Workforce Development Agency intends to investigate these alleged violations. If notice is not received within 65 calendar days of the postmark date of this letter, we will proceed with a civil action

for penalties pursuant to Labor Code Section 2699. This civil action will be pursued on behalf of Claimants. Please send the Notice to our office located at 11601 Wilshire Blvd., Suite 2440, Los Angeles, California 90025.

Thank you for your attention to this matter.

Respectfully,

MAKAREM & ASSOCIATES, APLC

By: _____
Samuel Almon

EXHIBIT B

JAMES *JH* HAWKINS

A PROFESSIONAL LAW CORPORATION

9880 RESEARCH DRIVE, SUITE 200, IRVINE, CALIFORNIA 92618
TELEPHONE (949) 387-7200; FACSIMILE (949) 387-6676

November 24, 2021

Via LWDA Website

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612
<http://www.dir.ca.gov/Private-Attorneys-General-Act>

Via Certified Mail

TFORCE FREIGHT, INC., a Virginia Corporation
Agent for Service of Process:
Corporation Service Company Which Will Do
Business in California as CSC – Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95883
Receipt No. 7021 0950 0000 7376 5996

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2698, *et seq.*

To Whom It May Concern:

PLEASE TAKE NOTICE that plaintiff Andrew D. Tappin individually and on behalf of all similarly situated representative aggrieved employees, gives NOTICE to commence and/or amend a civil action pursuant to California Labor Code Sections 2698, *et seq.* Plaintiff hereby gives written notice by certified mail to the Labor and Workforce Development Agency, and TForce Freight, Inc., a Virginia Corporation, through its Agent for Service of Process.

Plaintiff hereby attaches a copy of the Proposed PAGA Representative Action Complaint to be filed in the Sacramento County Superior Court, as though fully set forth herewith setting out the specific provisions of the Labor Code Plaintiff alleges have been violated, including the facts and theories. All labor provisions in the Proposed PAGA Representative Action Complaint alleged to have been violated pertain to all entities and individuals named in the Complaints, even if not expressly specified.

Please advise within sixty (60) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you, and if you have any questions, please do not hesitate to contact me.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Gregory Mauro', with a stylized, cursive script.

Gregory Mauro

Enclosure: Proposed PAGA Representative Action Complaint

1 JAMES HAWKINS APLC
2 James R. Hawkins, Esq. (#192925)
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12 Email: Michael@jameshawkinsaplc.com
13 Email: Jeanne@jameshawkinsaplc.com

14 Attorneys for Plaintiff ANDREW D. TAPPIN,
15 On behalf of the general public as private attorney general

16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF SACRAMENTO**
19

20 ANDREW D. TAPPIN, on behalf of the
21 general public as private attorney general,

22
23 Plaintiff,

24
25 v.

26 TFORCE FREIGHT, INC., a Virginia
27 Corporation; and DOES 1-50, inclusive,

28
29 Defendants.

CASE NO.:

ASSIGNED FOR ALL PURPOSES TO:
JUDGE:
DEPT:

**PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq*).**

COMES NOW Plaintiff ANDREW D. TAPPIN (“Plaintiff”), on behalf of the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, and asserts claims against Defendants TFORCE FREIGHT, INC., a Virginia Corporation; and DOES 1-50, inclusive (collectively “Defendants”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to Defendant’s: (a) failure to provide meal periods for every work period exceeding more than five (5) or ten (10) hours per day and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a meal period; (b) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour’s of pay or accurately pay an additional hour’s of pay in lieu of providing a rest period; (c) failing to pay all wages earned and owed upon separation from Defendant’s employ; (d) failing to provide accurate itemized wage statements; (e) failing to provide and accurately calculate COVID-19 supplemental sick pay; (f) failing to reimburse expenses. As a result Plaintiff seeks penalties under Labor Code 2698, *et seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

4. This Court has jurisdiction over Defendants because, upon information and belief, each Defendant either has sufficient minimum contacts in California, or otherwise intentionally

1 avails itself of the California market so as to render the exercise of jurisdiction over it by the
2 California Courts consistent with traditional notions of fair play and substantial justice.

3 5. Venue as to each Defendant is proper in this judicial district pursuant to Code of
4 Civil Procedure section 395. Defendants are doing business throughout California, including but
5 not limited to Tulare County, and each Defendant is within the jurisdiction of this Court for
6 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
7 all other aggrieved employees within the State of California. Defendants employ numerous
8 aggrieved employees in in the State of California.

9 6. On information and belief, Defendants have conducted business within the State of
10 California during the purported liability period and continue to conduct business throughout the
11 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
12 similarly situated non-exempt aggrieved employees within California.

13 7. The California Superior Court also has jurisdiction in this matter because on
14 information and belief there are no federal questions at issue, as the issues herein are based solely
15 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
16 California Code of Civil Procedure, the California Civil Code, and the California Business and
17 Professions Code.

18 8. On information and belief, during the statutory liability period and continuing to
19 the present ("liability period"), Defendant consistently maintained and enforced against
20 Defendant's Non-Exempt Aggrieved Employees, among others, the following unlawful practices
21 and policies, in violation of California state wage and hour laws: (a) failure to provide meal
22 periods for every work period exceeding more than five (5) or ten (10) hours per day and failure to
23 pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a
24 meal period; (b) failure to provide rest breaks for every four hours or major fraction thereof
25 worked and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay
26 in lieu of providing a rest period; (c) failing to pay all wages earned and owed upon separation
27 from Defendant's employ; (d) failing to provide accurate itemized wage statements; (e) failing to
28

1 provide and accurately calculate COVID-19 supplemental sick pay; (f) failing to reimburse
2 expenses.

3 9. Plaintiff on behalf of the general public as private attorney general and all other
4 aggrieved employees bring this action pursuant to Labor Code 2698, et seq. for violations
5 enumerated under 2699.5 as follows: sections 201-203, 248.2, 512, 558, 226, 226.3, 226.7, 1174,
6 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, and seeking penalties, interest, attorneys' fees and
7 costs.

8 **III. PARTIES**

9 **A. Plaintiff**

10 10. Plaintiff, ANDREW D. TAPPIN, was at all times relevant to this action, a resident
11 of California. Plaintiff was employed by Defendants in approximately April 2021 as a Non-
12 Exempt Employee with the title of Dock Worker and worked during the liability period for
13 Defendants until Plaintiff's separation from Defendants' employ in approximately September
14 2021. Plaintiff's duties included, but were not limited to, the loading and unloading of trailers for
15 delivery.

16 11. As Defendants' employee, Plaintiff, and all other aggrieved employees were
17 regularly required to and subsequently suffered:

- 18 a. work without being permitted or authorized a minimum ten-minute rest period for
19 every four hours or major fraction thereof worked and not compensated one (1)
20 hour of pay at his regular rate of compensation for each workday that a rest period
21 was not provided, all in violation of California labor laws, regulations, and the
22 Industrial Welfare Commission Wage Orders ("IWC");
- 23 b. work in excess of five and ten hours per day without being provided meal periods
24 and not compensated one (1) hour of pay at the regular rate of compensation for
25 each workday that a meal period was not provided, all in violation of California
26 labor laws, regulations, and the Industrial Welfare Commission Wage Orders
27 ("IWC");
- 28 c. not provided and accurately paid COVID-19 supplemental sick pay;

- d. not reimbursed for business expenses incurred;
- e. not timely paid wages;
- f. not provided accurate itemized wage statements.

12. On information and belief, Defendants willfully failed to pay all earned wages in the form regular wages and overtime wages, and meal and rest period premium wages, to its Non-Exempt Employees and members of the Representative Group; nor have Defendants returned to Plaintiff or members of the Representative Group, upon or after separation from employment with Defendants, all wages earned and owing. Plaintiff seeks penalties under Labor Code 2698, *et seq.* on behalf of the general public as private attorney general and all other aggrieved employees..

B. Defendants

13. Defendants TFORCE FREIGHT, INC., a Virginia Corporation, operates as a transit and shipping company. Plaintiff estimates there are in excess of 100 Non-Exempt Employees who work or have worked for Defendants over the last year.

14. Other than identified herein, Plaintiff is unaware of the true names, capacities, relationships and extent of participation in the conduct alleged herein, of the defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint when their true names and capacities are ascertained.

15. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the Representative Group, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

IV. GENERAL ALLEGATIONS

16. At all times set forth herein, Defendants employed Plaintiff and other persons in the

1 capacity of non-exempt positions, however titled, throughout the state of California.

2 17. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent
3 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing
4 rules and regulations of the IWC California Wage Orders.

5 18. Defendants continue to employ Non-Exempt Employees, however titled, in
6 California and implement a uniform set of policies and practices to all non-exempt employees, as
7 they were all engaged in the generic job duties related to Defendants' transit and shipping
8 business.

9 19. Plaintiff is informed and believes, and thereon alleges, that Defendants are and
10 were advised by skilled lawyers and other professionals, employees, and advisors with knowledge
11 of the requirements of California's wage and employment laws.

12 20. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
13 Employees frequently worked well over eight (8) hours in a day and forty (40) hours in a work
14 week.

15 21. During the relevant time frame, Defendants compensated Plaintiff and Aggrieved
16 Employees based upon an hourly rate.

17 22. On information and belief, during the relevant time frame, Plaintiff and Aggrieved
18 Employees typically worked five (5) days a week.

19 23. Plaintiff is informed and believes that the Aggrieved Employees were required to
20 keep similar schedules.

21 24. Plaintiff and the Aggrieved Employees were regularly required to work shifts in
22 excess of five hours without being provided a lawful meal period and over ten hours in a day
23 without being provided a second lawful meal period as required by law.

24 25. Plaintiff and Aggrieved Employees were required to wait to take their meal breaks
25 until after training had concluded, even when that training was held after five hours without being
26 provided a lawful meal period.

27 26. Indeed, during the relevant time, as a consequence of Defendants' staffing and
28 scheduling practices, work demands, and Defendants' policies and practices, Defendants

1 frequently failed to provide Plaintiff and the Aggrieved Employees timely, legally complaint
2 uninterrupted 30-minute meal periods on shifts over five hours as required by law.

3 27. Similarly, as a consequence of Defendants' staffing and scheduling practices, work
4 demands, and Defendants' policies and practices, Defendants frequently failed to provide Plaintiff
5 and the Aggrieved Employees legally compliant second meal periods on shifts over ten hours as
6 required by law.

7 28. On information and belief, Plaintiff and Aggrieved Employees did not waive their
8 rights to meal periods under the law.

9 29. Plaintiff and the Aggrieved Employees were not provided with valid lawful on-duty
10 meal periods.

11 30. Despite the above-mentioned meal period violations, Defendants failed to
12 compensate Plaintiff, and on information and belief, failed to compensate Aggrieved Employees,
13 one additional hour of pay at their regular rate as required by California law when meal periods
14 were not timely or lawfully provided in a compliant manner.

15 31. Plaintiff is informed and believes, and thereon alleges, that Defendants know,
16 should know, knew, and/or should have known that Plaintiff and the other Aggrieved Employees
17 were entitled to receive premium wages based on their regular rate of pay under Labor Code
18 §226.7 but were not receiving such compensation.

19 32. In addition, during the relevant time frame, Plaintiff and the Non-Exempt
20 Employees were systematically not authorized and permitted to take one net ten-minute paid, rest
21 period for every four hours worked or major fraction thereof, which is a violation of the Labor
22 Code and IWC wage order.

23 33. Defendants maintained and enforced scheduling practices, policies, and imposed
24 work demands that frequently required Plaintiff and Aggrieved Employees to forego their lawful,
25 paid rest periods of a net ten minutes for every four hours worked or major fraction thereof. Such
26 requisite rest periods were not timely authorized and permitted as a result of Defendants' failure to
27 provide relief for Plaintiff and Aggrieved Employees to take their lawfully required breaks.

28 34. Despite the above-mentioned rest period violations, Defendants did not compensate

1 Plaintiff, and on information and belief, did not pay Aggrieved Employees one additional hour of
2 pay at their regular rate as required by California law, including Labor Code section 226.7 and the
3 applicable IWC wage order, for each day on which lawful rest periods were not authorized and
4 permitted.

5 35. In addition, upon information and belief, Plaintiff alleges that Defendants failed to
6 provide COVID-19 supplemental paid sick leave to Plaintiff and the Aggrieved Employees as
7 required by law when its employees were suffering from enumerated COVID-19 related issues.

8 36. Defendants also failed to reimburse Plaintiff and Aggrieved Employees for
9 business expenses incurred pursuant to Labor Code § 2802. For instance, Plaintiff and Aggrieved
10 Employees were required to drive their personal vehicles to different locations during work hours,
11 for work-related purposes.

12 37. Defendants also failed to provide accurate, lawful itemized wage statements to
13 Plaintiff and the Aggrieved Employees in part because of the above specified violations. In
14 addition, upon information and belief, Defendants omitted an accurate itemization of total hours
15 worked, including premiums due and owing for meal and rest period violations, gross pay and net
16 pay figures from Plaintiff and the Aggrieved Employees' wage statements.

17 38. Plaintiff is informed and believes, and thereon alleges, that at all times herein
18 mentioned, Defendants knew that at the time of termination of employment (or within 72 hours
19 thereof for resignations without prior notice as the case may be) they had a duty to accurately
20 compensate Plaintiff and Aggrieved Employees for all wages owed including minimum wages,
21 meal and rest period premiums, and that Defendants had the financial ability to pay such
22 compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so in part
23 because of the above-specified violations.

24 39. Upon information and belief, Defendants knew and or should have known that it is
25 improper to implement policies and commit unlawful acts such as:

26 (a) requiring employees to work four (4) hours or a major fraction thereof without
27 being provided a minimum ten (10) minute rest period and without compensating the employees
28 with one (1) hour of pay at the employees' regular rate of compensation for each workday that a

1 rest period was not provided;

2 (b) requiring employees to work in excess of five (5) hours or ten (10) hours per day
3 without being provided an uninterrupted thirty minute meal period and/or a second meal period,
4 and without compensating employees with one (1) hour of pay at the regular rate of compensation
5 for each workday that such a meal period was not provided;

6 (c) failing to provide accurate itemized wage statements;

7 (d) failing to timely pay Plaintiff and Aggrieved Employees;

8 (e) failure to reimburse business expenses; and

9 (f) failure to provide and accurately pay COVID-19 supplemental sick pay.

10 40. In addition to the violations above, and on information and belief, Defendants knew
11 they had a duty to compensate Plaintiff and Aggrieved Employees for the allegations asserted
12 herein, and that Defendants had the financial ability to pay such compensation, but willfully,
13 knowingly, recklessly, and/or intentionally failed to do so.

14 **V. REPRESENTATIVE CLAIMS**

15 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 et seq.**

16 41. Plaintiff incorporates by reference and re-alleges each and every allegation
17 contained above, as though fully set forth herein.

18 42. On or about November 24, 2021, Plaintiff complied with notice requirements
19 pursuant to Labor Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto
20 as **Exhibit A**, indicating that the LWDA and Defendants were put on notice of the claims alleged
21 here and that the notice requirement has been satisfied. Sixty-five days have passed and the
22 LWDA has not indicated intent to investigate the claims. Therefore, Plaintiff may proceed with
23 this action in a representative capacity. The substance and violations set forth in this Complaint of
24 which the LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA
25 Representative Action Complaint to the LWDA.

26 43. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
27 Plaintiff brings this cause of action on behalf of all current and former California Non-Exempt
28 Employees of Defendants.

1 44. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
2 which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,
3 including without limitation Labor Code section 201-203, 248.2, 512, 558, 226, 226.3, 226.7,
4 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, and 2698 *et seq.*, applicable IWC Wage
5 Orders and California Code of Regulations, Title 8, section 11000 *et seq.*

6 45. At all times relevant, Plaintiff and all other aggrieved employees regularly
7 performed non-exempt work in excess of 50% of the time, and thus, were subject to the meal and
8 rest break requirements of the applicable IWC wage order and the Labor Code.

9 46. Defendants failed to provide Plaintiff and all other aggrieved employees
10 uninterrupted duty free meal periods of not less than thirty (30) minutes. Defendants implemented
11 and enforced policies of on duty meal period practices which required employees to work during
12 their meal periods, to forego their meal periods, and/or to return to work from meal periods prior
13 to thirty (30) uninterrupted minutes. As a proximate result of the aforementioned violations,
14 Plaintiff and all other aggrieved employees have been damaged in an amount according to proof at
15 time of trial.

16 47. Plaintiff, and on information and belief, all aggrieved employees, were
17 systematically not permitted or authorized to take ten minute rest periods for every four hours
18 worked or major fraction thereof, which is a violation of the Labor Code and IWC wage order.
19 Plaintiff and on information and belief, aggrieved employees, were not compensated with one
20 hour of wages for every day in which a rest period was missed or untimely as a result of
21 Defendants' policies, practices, or work demands. By failing to authorize and permit a ten-minute
22 rest period for every four hours or major fraction thereof worked per day by its Non-Exempt
23 Employees, and by failing to provide compensation for such non-provided or shortened rest
24 periods, as alleged above, Defendants willfully violated the provisions of Labor Code sections
25 226.7, 512 and the applicable IWC Wage Order.

26 48. Defendants also willfully violated Labor Code sections 201-203 by failing to
27 provide all owed wages at separation from employment. Labor Code sections 201 and 202 require
28 Defendants to pay their employees all wages due either at time of firing, or within seventy-two

1 (72) hours of voluntary separation, if not sooner. Section 203 of the Labor Code provides that if
2 an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to
3 pay the subject employee's wages until the back wages are paid in full or an action is commenced.
4 The penalty cannot exceed 30 days of wages.

5 49. Plaintiff and all other aggrieved employees who were separated from employment
6 are entitled to compensation for all forms of wages earned, including but not limited to
7 compensation regular and overtime wages, and for non-provided meal and rest periods, but to date
8 have not received such compensation, therefore entitling them to penalties under PAGA for
9 violations of Labor Code sections 201-203.

10 50. On information and belief, Defendants willfully failed to pay all wages due and
11 owing upon separation from employment. These wages include regular and overtime wages, and
12 meal and rest period premiums.

13 51. On information and belief, Defendants failed to provide accurate itemized wage
14 statements which failed to include the rate of pay and total hours worked per pay period, failed to
15 account for all hours worked, including overtime, and lastly the accurate accounting of, the lawful
16 meal and rest period premiums due and owing to Plaintiff and the aggrieved employees, pursuant
17 to Labor Code section 226(a).

18 52. Defendants have failed to provide Plaintiff and Aggrieved Employees rates of pay
19 and the hours for which they worked for any given pay period.

20 53. Defendants have failed to accurately record all time worked.

21 54. Defendants have also failed to accurately record the meal and rest period premiums
22 owed and all wages owed per pay period.

23 55. Plaintiff and Aggrieved Employees have been injured as they were unable to
24 determine whether they had been paid correctly for all hours worked per pay period among other
25 things

26 56. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a)
27 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
28 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee

1 for each violation in a subsequent citation, for which the employer fails to provide the employee a
2 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

3 57. On information and belief, Defendants failed to reimburse Plaintiff and Aggrieved
4 Employees for business expenses incurred as described above. Labor Code § 2802 requires
5 Defendants to indemnify Plaintiff and Aggrieved Employees for necessary expenditures incurred
6 in direct consequences of the discharge of his or her duties. Despite these realities of the job,
7 Defendants failed to provide reimbursements.

8 58. Labor Code §2804 states in pertinent part: “Any contract or agreement, express or
9 implied, made by any employee to waive the benefits of this article or any part thereof is null and
10 void, and this article shall not deprive any employee or his or her personal representative of any
11 right or remedy to which he is entitled under the laws of this State.

12 59. Labor Code Section 248.2(b)(1)(A)-(G) provides that: “An employer shall provide
13 COVID-19 supplemental paid sick leave to each covered employee if that covered employee is unable
14 to work or telework” due to a COVID-19 related quarantine; is attending an appointment to receive a
15 vaccine for COVID-19; is experiencing symptoms related to a COVID-19 vaccine or is experiencing
16 COVID-19 symptoms and seeking medical diagnosis; is caring for a family member who is subject to
17 quarantine; or who is caring for a child whose school or place of care is closed or unavailable due to
18 COVID-19 on the premises. Defendants failed to provide COVID-19 supplemental paid sick leave to
19 its employees when they were suffering from one of the enumerated COVID-19 related issues.

20 60. Labor Code § 248.2(b)(3) provides that the employer shall calculate supplemental
21 paid sick leave for nonexempt employees by the highest of the following: “(i)(I) Calculated in the
22 same manner as the regular rate of pay for the workweek in which the covered employee uses
23 COVID-19 supplemental paid sick leave, whether or not the employee actually works overtime in
24 that workweek; (II) Calculated by dividing the covered employee’s total wages, not including
25 overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior
26 90 days of employment; (III) The state minimum wage; (IV) The local minimum wage to which
27 the covered employee is entitled.” Defendants have violates Labor Code § 248.2 by failing to
28 accurately pay COVID-19 supplemental paid sick leave to its employees at the regular rate.

61. Additionally, Defendants have no accurate records relating to aggrieved employees' work periods, meal periods, total daily hours worked, total hours worked per payroll period and applicable pay rates, in violation of Wage Order. Similarly, Defendants failed to maintain accurate records relating to hours worked daily in violation of Labor Code sections 1174(d), 1174.5.

62. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours worked.

63. Plaintiff and the Representative Aggrieved Employees are entitled to recover Penalties and attorneys' fees and costs sunder Labor Code section 2698, et seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

64. For penalties according to proof, pursuant to Labor Code §§ 2698 et seq.;

65. For reasonable attorneys' fees and costs; and

66. For such other and further relief as the Court deems proper.

Dated: November 24, 2021

JAMES HAWKINS APLC

By:

JAMES R. HAWKINS, ESQ.
GREGORY MAURO, ESQ.
MICHAEL CALVO, ESQ.
JEANNE SARMIENTO, ESQ.
Attorneys for Plaintiff ANDREW D. TAPPIN
On behalf of the general public as private
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EXHIBIT C

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7 TFORCE FREIGHT, INC.
(f/k/a UPS GROUND FREIGHT, INC.)

8 *[Additional counsel on next page]*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SACRAMENTO**

11
12
13 ANDREW D. TAPPIN, individually, and on
behalf of all other similarly situated,

14 Plaintiffs,

15 v.

16 TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
17 Defendants.

Case No. 34-2022-00314820

**STIPULATION OF CLASS AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Consolidated Complaint Filed: June 27, 2022
Trial Date: None Set

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15 VELASCO, VICTOR GONZALEZ, and ANDREW D. TAPPIN
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1 This Stipulation of Settlement (“Stipulation” or “Settlement”) is made and entered into, as
2 of the date set forth below, between Plaintiffs Donyeisha Mish, Darnell Lee, Luis Robles, Xochitl
3 Velasco, Victor Gonzalez, and Andrew Tappin (“Plaintiffs”), as individuals and as representatives
4 of the proposed Class described herein and, as to Mish, Gonzalez and Tappin, as representatives of
5 the State of California, and Defendant TForce Freight, Inc. (“Defendant”) who are parties to the
6 Action, as defined below (together, the “Parties”).

7 **1. DEFINITIONS**

8 1.1 “Action” collectively means *Mish v. UPS Ground Freight, Inc.*, Northern District
9 of California Case No. 3:21-cv-04094-EMC, consolidated with *Gonzalez v. TForce Freight, Inc.*,
10 Case No. 3:22-cv-01177, and *Tappin v. TForce Freight, Inc.*, Case No. 2:22-cv-00322; *Mish v.*
11 *UPS Ground Freight, Inc.*, Case No. RG21105108 pending in the Superior Court of California,
12 County of Alameda, *Gonzalez v. TForce Freight, Inc.*, Case No. CVRI2105225, pending in the
13 Superior Court of California, County of Riverside; and *Tappin v. TForce Freight, Inc.* Case No.
14 34-2022-00314820 pending in the Superior Court of California, County of Sacramento .

15 1.2 “Class Counsel” means Ronald W. Makarem, Samuel Almon and Daniel J. Bass of
16 Makarem & Associates, APLC (“M&A”); Norman B. Blumenthal, Kyle R. Nordrehaug, Aprajit
17 Bhowmik Nicholas J. De Blouw, Jeffrey S. Herman and Sergio J. Puche of Blumenthal Nordrehaug
18 Bhowmik De Blouw LLP (“BNBD”); and James R. Hawkins, Gregory Mauro, Michael Calvo and
19 Jeanne Sarmiento of James Hawkins APLC (“JH”).

20 1.3 “Class Data” means a confidential spreadsheet that includes, for each Settlement
21 Class Member, their name, last known address, social security number, and number of Eligible
22 Workweeks and Eligible Pay Periods or data sufficient for the Settlement Administrator to
23 determine Eligible Workweeks and Eligible Pay Periods.

24 1.4 “Class Settlement Period” means the time period from September 13, 2016, through
25 the Preliminary Approval Date, subject to section 3.2.2.

26 1.5 “Class Representatives” or “Plaintiffs” means Plaintiffs Donyeisha Mish, Darnell
27 Lee, Luis Robles, Xochitl Velasco, Victor Gonzalez, and Andrew Tappin.
28

1 1.6 “Class Representatives’ Released Claims” means any and all claims, obligations,
2 demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever
3 kind and nature, character, and description, whether in law or equity, whether sounding in tort,
4 contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source
5 of law or contract, whether known or unknown, and whether anticipated or unanticipated, including
6 all unknown claims covered by California Civil Code Section 1542, by the Class Representative,
7 arising at any time up to and including the date on which the Court enters the Order of Final
8 Approval, for any type of relief, including without limitation claims for wages, premium and other
9 forms of pay, unpaid/unreimbursed costs, penalties (including waiting time penalties), general
10 damages, compensatory damages, liquidated damages, punitive damages, interest, attorneys’ fees,
11 litigation and other costs, expenses, restitution, and equitable and declaratory relief. The Class
12 Representatives’ Released Claims also include, but are not limited to, the Released Claims as well
13 as any other claims under any provision of the Fair Labor Standards Act (“FLSA”), the California
14 Labor Code, including PAGA, any applicable California Industrial Welfare Commission Wage
15 Orders, any city or county Living Wage Ordinances, and claims under state or federal
16 discrimination statutes, including, without limitation, the California Government Code; the Unruh
17 Civil Rights Act, California Civil Code; the California Constitution; the California Business and
18 Professions Code, including but not limited to Sections 17200 *et seq.*; the United States
19 Constitution; the Age Discrimination in Employment Act (“ADEA”) and the Older Workers
20 Benefit Protection Act; the Uniformed Services Employment and Reemployment Rights Act, Title
21 VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*; the Civil Rights Act of 1991; the
22 Family and Medical Leave Act, to the extent not prohibited by law; the Americans with Disabilities
23 Act, 42 U.S.C. § 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C.
24 § 1001 *et seq.*; the Equal Pay Act; the Fair Credit Reporting Act; the Employee Retirement Income
25 Security Act of 1974; the Worker Adjustment and Retraining Notification Act; the Sarbanes-Oxley
26 Act of 2002; the California Family Rights Act; and all of their implementing regulations and
27 interpretive guidelines; any and all claims for monetary recovery and personal or individual relief,
28 except as prohibited by law; and any premiums, penalties, interest, punitive damages, costs,

1 attorneys' fees, injunctive relief, declaratory relief, or accounting based on any of the foregoing
2 claims. For the avoidance of doubt, this is a complete and general release to the maximum extent
3 by law. Notwithstanding the foregoing, the release of the Class Representatives' Released Claims
4 does not any claim or right that is not waivable as a matter of law.

5 1.7 "Court" means the Superior Court of California, County of Sacramento.

6 1.8 "Defendant's Counsel" means Brian Berry, Sarah Zenewicz, J.P. Schreiber and
7 Ashlee N. Cherry of Morgan, Lewis & Bockius LLP.

8 1.9 "Effective Date" means the date on which the Judgment becomes a Final Judgment.
9 For purposes of this Settlement Agreement, the final judgment "becomes final" only after the Court
10 grants the motion for final approval of the settlement and upon the latter of (i) the period for filing
11 any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has elapsed
12 without any appeal, writ, or other appellate proceeding having been filed; (ii) any appeal, writ or
13 other appellate proceeding challenging or opposing the Settlement has been dismissed finally and
14 conclusively with no right to pursue further remedies or relief; or (iii) any appeal, writ or other
15 appellate proceeding has upheld the Court's final order with no right to pursue further remedies or
16 relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective,
17 and Defendant will not be obligated to fund this Settlement, until the Court's order approving the
18 Settlement is completely final, and there is no further recourse by an appellant, objector, or
19 intervenor who seeks to contest the Settlement.

20 1.10 "Eligible Workweeks" shall mean the workweeks that each Settlement Class
21 Member worked for Defendant in California during the Class Settlement Period, excluding any
22 Settlement Class Member's workweeks covered by a prior release, or in one instance a dismissal
23 with prejudice, of the Released Class Claims in the matters of *Robert Amaya v. United Parcel*
24 *Service, Inc. et al.*, Los Angeles Superior Court Case No. BC617526, *Lawrence Abeyta et al. v.*
25 *United Parcel Service, Inc. et al.*, San Bernardino Superior Court Case No. CIVDS1617272, *Jose*
26 *Alfaro v. United Parcel Service, Inc. et al.*, Los Angeles Superior Court Case No. BC676920,
27 *Patrick Bruins v. United Parcel Service, Inc. et al.*, Ventura County Superior Court Case No. 56-
28

1 2018-00510065-CU-OE-VTA, and *Michael Babb v. United Parcel Service, Inc. et al.*, San
2 Bernardino Superior Court Case No. CIVDS1831252.

3 1.11 “Eligible Pay Periods” shall mean the pay periods that each PAGA Member worked
4 for Defendant in California during the PAGA Settlement Period, excluding any PAGA Member’s
5 pay periods covered by a prior release, or in one instance a dismissal with prejudice, of the Released
6 PAGA Claims in the matters of *Robert Amaya v. United Parcel Service, Inc. et al.*, Los Angeles
7 Superior Court Case No. BC617526, *Lawrence Abeyta et al. v. United Parcel Service, Inc. et al.*,
8 San Bernardino Superior Court Case No. CIVDS1617272, *Jose Alfaro v. United Parcel Service,*
9 *Inc. et al.*, Los Angeles Superior Court Case No. BC676920, *Patrick Bruins v. United Parcel*
10 *Service, Inc. et al.*, Ventura County Superior Court Case No. 56-2018-00510065-CU-OE-VTA,
11 and *Michael Babb v. United Parcel Service, Inc. et al.*, San Bernardino Superior Court Case No.
12 CIVDS1831252.

13 1.12 “Enhancement Award” means the amount approved by the Court to be paid to the
14 Class Representatives, in recognition of each of their efforts in coming forward as Class
15 Representatives and as consideration for a full, general, and comprehensive release of the Class
16 Representatives’ Released Claims, which shall be in addition to their portions of the Net Settlement
17 Amount.

18 1.13 “Final Approval Date” means the date on which the Court enters the Order of Final
19 Approval.

20 1.14 “Final Approval Hearing” means a hearing set by the Court, to take place on a date
21 established by the Court, for the purpose of (i) determining the fairness, adequacy, and
22 reasonableness of the Stipulation terms and associated Settlement pursuant to class action
23 procedures and requirements; (ii) determining the amount of the award of attorneys’ fees and costs
24 to Class Counsel; (iii) determining the amounts of the Enhancement Awards to the Class
25 Representatives; and (iv) entering the Judgment.

26 1.15 “Gross Settlement Amount” shall mean the amount that Defendant will pay in
27 settlement of this matter, subject to section 3.2.2 below. The Gross Settlement Amount includes
28 all awards of attorneys’ fees and costs to Class Counsel, Settlement Administration Costs,

1 Enhancement Awards, the PAGA Settlement Payment (paid to the PAGA Members and the
2 LWDA), and payments to the Participating Class Members.

3 1.16 “Individual PAGA Payment” means the individual amounts paid from the PAGA
4 Payment to the individual PAGA Members for settlement of claims for civil penalties under PAGA.

5 1.17 “Individual Settlement Payment” means the settlement amount due each
6 Participating Class Member from the Net Settlement Amount.

7 1.18 “LWDA” means the California Labor and Workforce Development Agency.

8 1.19 “LWDA PAGA Payment” means the payment to the LWDA from the PAGA
9 Payment for settlement of claims for civil penalties under PAGA.

10 1.20 “Net Settlement Amount” is the portion of the Gross Settlement Amount available
11 for distribution to the Participating Class Members, which shall equal the Gross Settlement Amount
12 less PAGA Payment, Court-approved attorneys’ fees and costs award to Class Counsel, Settlement
13 Administration Costs, and the Enhancement Awards.

14 1.21 “Notice of Settlement” means the document provided to Settlement Class Members
15 to notify them of the settlement, a copy of which is attached hereto as **Exhibit 1**.

16 1.22 “PAGA Actions” means *Mish v. TForce Freight, Inc.*, Alameda Superior Court Case
17 No. RG21105108, *Gonzalez v. TForce Freight, Inc.*, Riverside Superior Court Case No.
18 CVRI2105225 and *Tappin v. TForce Freight, Inc.*, Sacramento Case No. 34-2022-00314820.

19 1.23 “PAGA Members” means all current and former California non-exempt employees
20 of Defendant who have worked at least one Eligible Pay Period during the PAGA Settlement
21 Period.

22 1.24 “PAGA Notice” collectively means Plaintiff Mish’s January 19, 2021 letter to
23 Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a);
24 Plaintiff Gonzalez’s August 27, 2021 letter to Defendants and the LWDA providing notice pursuant
25 to Labor Code section 2699.3, subd.(a); and Plaintiff Tappin’s November 24, 2021 letter to
26 Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1 1.25 “PAGA Payment” means the payment in settlement of all claims for PAGA
2 penalties, 75% of which will be distributed as the LWDA PAGA Payment and 25% of which will
3 be distributed as Individual PAGA Payments to the PAGA Members.

4 1.26 “PAGA Settlement Period” means the period from May 10, 2020, through the
5 Preliminary Approval Date or June 15, 2023, whichever is later, subject to section 3.2.2.

6 1.27 “Participating Class Members” means the Settlement Class Members who do not
7 timely request to be excluded from the class portion of the settlement. No claim form is required
8 for a Settlement Class Member to become a Participating Class Member.

9 1.28 “Preliminary Approval Date” means the date the Court enters the Order preliminary
10 approving the Stipulation of Settlement and setting the Final Approval Hearing.

11 1.29 “Qualified Settlement Fund” means the Qualified Settlement Fund (“QSF”) created
12 under Internal Revenue Code Section 468B, to be overseen by the Settlement Administrator.

13 1.30 “Released Class Claims” means all claims, rights, demands, liabilities, and causes
14 of action, asserted in any of the complaints filed in the Action, and all claims that could have been
15 asserted in the Action reasonably arising from the same alleged facts and theories in the complaints
16 filed in the Action or the PAGA Actions, or alleged in the PAGA Notices sent by the Plaintiffs to
17 the LWDA, under any federal, state and local laws or the IWC Wage Orders, including claims for
18 (1) unpaid minimum wages; (2) unpaid overtime wages; (3) failure to provide meal periods; (4)
19 failure to provide rest periods; (5) failure to provide accurate wage statements; (6) waiting time
20 penalties; (7) failure to reimburse employees for required expenses; (8) violations of California
21 Labor Code sections 201-204, 210, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 248.2, 510, 512, 558,
22 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802 and 2804; (9) unfair competition based on the same
23 Labor Code violations; (10) all claims for interest, penalties, attorneys’ fees, costs and any other
24 monetary relief based upon the claims described above and including, but not limited to, pursuant
25 to Labor Code §§ 210, 218.5, 218.6, Code of Civil Procedure §1021.5, and/or Civil Code §§
26 3287(b) and 3289, costs, attorneys' fees, injunctive relief, declaratory relief, or accounting that are
27 based on or related to the alleged Labor Code, Wage Order, and Business & Professions Code
28 violations, that accrue during the Class Settlement Period. In addition, by cashing their checks

1 containing their respective Individual Settlement Payments, Participating Class Member will be
2 deemed to release all claims under the FLSA that could have been asserted based on the alleged
3 facts and theories alleged in any of the complaints. Except as expressly set forth in this Agreement,
4 Participating Class Members do not release any other claims, including claims for vested benefits,
5 wrongful termination, violation of the Fair Employment and Housing Act, unemployment
6 insurance, disability, social security, workers' compensation, or claims based on facts occurring
7 outside the Class Settlement Period

8 1.31 "Released PAGA Claims" means all claims for civil penalties under PAGA asserted
9 in any of the complaints filed in the Action or PAGA Actions, and all claims that could have been
10 asserted in the Action or PAGA Actions based on the same alleged facts and theories in the
11 complaints or in the PAGA Notices sent by the Plaintiffs to the LWDA, including claims for
12 penalties based on violations of the California Labor Code and IWC Wage Orders for (1) unpaid
13 minimum wages; (2) unpaid overtime wages; (3) unpaid meal period premiums; (4) unpaid rest
14 period premiums; (5) inaccurate wage statements; (6) failure to keep accurate records; (7) failure
15 to indemnify for all necessary business expenses; (8) failure to timely pay wages during
16 employment or at termination; (9) failure to pay and accurately calculate all sick pay wages; (10)
17 failure to provide and accurately calculate COVID-19 supplemental sick pay; and (11) violations
18 of California Labor Code sections 201-204, 210, 221, 226, 226.2, 226.3, 226.7, 227.3, 246, 248.2,
19 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2802 and 2804. The Released PAGA
20 Claims do not include other PAGA claims, claims for wrongful termination, discrimination,
21 unemployment insurance, disability and worker's compensation, and claims outside of the PAGA
22 Period.

23 1.32 "Released Parties" means Defendant TForce Freight, Inc. (formerly known as UPS
24 Ground Freight, Inc.) and any current or prior parent (including United Parcel Service, Inc.),
25 subsidiary, affiliated or related entities (including any companies, corporations, partnerships, alter
26 egos, joint venturers, and actual or alleged joint employers), and each of their respective past,
27 present and future agents, employees, servants, officers, directors, partners, members, trustees,
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1 fiduciaries, representatives, shareholders, stockholders, attorneys, equity sponsors, divisions,
2 assigns, predecessors, successors, insurers, and consultants.

3 1.33 “Response Deadline” means forty-five (45) days after the Settlement Administrator
4 mails the Notice of Settlement to Settlement Class Members. It shall be the last date on which
5 Settlement Class Members may: (a) postmark any Opt-Out Request from the class portion of the
6 Settlement, (b) postmark any written objection to the Settlement, and (c) postmark any Eligible
7 Workweek or Eligible Pay Period Dispute. The Response Deadline for Settlement Class Members
8 to whom the Notice of Settlement is remailed after having been returned as undeliverable to the
9 Settlement Administrator shall be fifty-five (55) calendar days after the Settlement Administrator’s
10 initial mailing of the Notice of Settlement to Settlement Class Members, or fourteen (14) days after
11 the re-mailing, whichever is later.

12 1.34 “Settlement Administration Costs” means the costs payable from the Gross
13 Settlement Amount to the Settlement Administrator for administering this Settlement in accordance
14 with the Settlement Administrator’s responsibilities outlined in this Settlement Agreement.

15 1.35 “Settlement Administrator” means CPT Group, Inc. who shall be responsible for,
16 the administration of the Settlement, distribution of any amounts owed under this Settlement, and
17 matters necessarily related thereto, pursuant to the terms of this Settlement, and subject to
18 appointment by the Court.

19 1.36 “Settlement Class” or “Settlement Class Members” means all current and former
20 California non-exempt employees of Defendant who have worked at least one Eligible Workweek
21 during the Class Settlement Period.

22 23 2. **RECITALS**

24 2.1 **Background and Procedural History**

25 2.1.1 On March 10, 2021, Plaintiff Donyeisha Mish filed a putative class action in
26 Alameda County Superior Court in action entitled *Mish v. UPS Ground Freight, Inc.*, Case No.
27 RG21091722. Defendant removed the *Mish* Class Action to the United States District Court for
28

1 the Northern District of California, where it is currently pending under Case No. 3:21-cv-04094-
2 EMC.

3 2.1.2 On July 14, 2021, Plaintiff Donyeisha Mish filed her putative representative
4 action under PAGA in Alameda Superior Court in an action entitled *Mish v. UPS Ground Freight,*
5 *Inc.*, Alameda Superior Court Case No. RG21105108.

6 2.1.3 On November 21, 2021, Plaintiff Victor Gonzalez filed his putative class
7 action in Riverside County Superior Court in an action entitled *Gonzalez v. TForce Freight, Inc.*,
8 Case No. CVRI2105223 The *Gonzalez* Class Action was subsequently removed, transferred, and
9 consolidated with the *Mish* Class Action in the Northern District of California under Case No. 3:22-
10 cv-01177.

11 2.1.4 Also on November 21, 2021, Plaintiff Victor Gonzalez filed his putative
12 representative action under PAGA in Riverside Superior Court, in an action entitled *Gonzalez v.*
13 *TForce Freight, Inc.*, Riverside County Superior Case No. CVRI2105225.

14 2.1.5 On November 24, 2021, Plaintiff Andrew Tappin filed a putative class action
15 in Sacramento Superior Court in an action entitled *Tappin v. TForce Freight, Inc.*, Case No. 34-
16 2021-00311727. The *Tappin* Class Action was subsequently removed, transferred, and
17 consolidated with the *Mish* Class Action in the Northern District of California under 2:22-cv-00322.

18 2.1.6 On January 31, 2022, Plaintiff Andrew Tappin filed his putative
19 representative action under PAGA in Sacramento Superior Court, in an action entitled *Tappin v.*
20 *TForce Freight, Inc.*, Sacramento County Superior Court Case No. 34-2022-00314820.

21 2.1.7 Through substantial and extensive formal and informal discovery, Defendant
22 provided Class Counsel with written policies and data reflecting the Settlement Class Members'
23 time worked, pay, workweeks, meal premiums paid, and employment status during the Class
24 Settlement Period. In addition to extensive written discovery and document productions, Plaintiff
25 took depositions of several of Defendant's managers.

26 2.1.8 On May 17, 2022, the Parties participated in a full-day, private mediation
27 with experienced wage and hour mediator Michael Young, Esq., regarding the claims and defenses
28 in the Action and the PAGA Actions and the data provided for the Settlement Class.. The case did

1 not settle on May 17, 2022, but the Parties continued to negotiate through Mr. Young for several
2 months until they reached an agreement in principle in December 2022. All of the terms of the
3 settlement are contained within this Stipulation of Settlement. At all times, the Parties' settlement
4 negotiations have been non-collusive, adversarial, and at arm's length.

5 2.1.9 As part of this Agreement, the Parties agree to stipulate to consolidate all
6 claims asserted in the Action, including class and PAGA claims, by filing an Amended
7 Consolidated Complaint in Sacramento County Superior Court (See Section 3.7.1 below), where
8 the Parties will seek approval of the Class Action Settlement. The Consolidated Amended
9 Complaint shall be the operative complaint in the Action (herein referred to as the "Operative
10 Complaint"), but if for any reason final approval of this Class Action Settlement is not obtained,
11 the Consolidated Amended Complaint shall be null and void, and the operative complaints on file
12 in the Action immediately prior to the date of this Agreement shall be the operative complaints.
13 The Parties shall file the stipulation for permission to file the "Operative Complaint" prior to filing
14 this Stipulation of Class and PAGA Representative Action Settlement.

15 2.2 **Benefits of Settlement**

16 2.2.1 Based on their own independent investigations and evaluations, Class
17 Counsel is of the opinion that the Settlement with Defendant for the consideration and terms set
18 forth herein, considering the representative and class claims, and the risk of loss, is fair, reasonable,
19 and adequate in light of all known facts and circumstances, and is in the best interests of the
20 Settlement Class. Class Counsel is also of the opinion that the total consideration and payment set
21 forth in this Stipulation of Settlement is fair, reasonable, and adequate in light of the uncertainties
22 surrounding the risk of further litigation, the possibility of losing class certification, that the PAGA
23 claims could be deemed unmanageable, and the defenses that Defendant has asserted and/or could
24 assert as to the substantive merit of the claims.

25 2.2.2 Class Counsel has weighed the monetary benefit under the Settlement to the
26 Settlement Class against the expenses and length of continued proceedings that would be necessary
27 to prosecute the Action and PAGA Actions against Defendant through class certification, through
28 manageability motions, summary judgment, trial and possible appeals. Class Counsel has also

1 taken into account the uncertain outcome and risk of any litigation, especially in complex actions
2 such as class and representative actions, as well as the difficulties and delay inherent in such
3 litigation. As a result, Class Counsel has determined that the settlement set forth in this Stipulation
4 of Settlement is in the best interests of the Settlement Class.

5 2.2.3 Defendant specifically and generally denies any and all liability or
6 wrongdoing of any sort with regard to the claims alleged in the Action, the PAGA Actions, and the
7 Operative Complaint, makes no concessions or admissions of liability of any sort, and contends
8 that for any purpose other than Settlement, the Action , the PAGA Actions, and the Operative
9 Complaint are not appropriate for class or representative action treatment. Nonetheless, Defendant
10 has concluded that further conduct of the Action and PAGA Actions would be protracted,
11 distracting, and expensive, and that it is desirable that the Action and PAGA Actions be fully and
12 finally settled in the manner and upon the terms and conditions set forth in this Stipulation.
13 Defendant has also taken into account the uncertainty and risks inherent in any litigation.
14 Defendant has therefore determined that it is desirable and beneficial to it to settle the Action and
15 PAGA Actions in the manner and upon the terms and conditions set forth in this Stipulation.

16 2.2.4 Neither this Stipulation of Settlement, nor any document referred to in it, nor
17 any actions taken pursuant to this Stipulation of Settlement, is or should be construed as an
18 admission by Defendant of any fault, wrongdoing, or liability whatsoever. Nor should the
19 Stipulation of Settlement be construed as an admission that Plaintiffs could meet any of the class
20 action requirements or that any PAGA claims would be manageable. There has been no final
21 determination by any court as to the merits of the claims asserted by Plaintiffs against Defendant,
22 as to whether a class action should be certified, or that any PAGA claim is manageable.

23 3. **SETTLEMENT TERMS**

24 3.1 **Conditional Class Certification.** The Parties stipulate, for settlement purposes
25 only, to the certification by the Court of the Settlement Class. If, for any reason, the Court does
26 not approve this Stipulation, fails to enter the Judgment, or if this Stipulation is terminated for any
27 other reason, the Settlement Class will be decertified and Defendant shall, and hereby does, retain
28 the right to dispute the appropriateness of class certification.

1 **3.2 Gross Settlement Amount**

2 **3.2.1 Gross Settlement Amount:** Defendant shall pay a non-reversionary amount
3 in the amount of Eight Million, Two Hundred and Fifty Thousand Dollars and Zero Cents
4 (\$8,250,000) as the Gross Settlement Amount to resolve the Action and the PAGA Actions on a
5 class and representative basis, subject to section 3.2.2. The Gross Settlement Amount shall be used
6 to pay, as approved by the Court, Class Counsel’s attorneys’ fees and costs, Enhancement Awards
7 to Class Representatives, Settlement Administration Costs, the PAGA Payment to the LWDA and
8 the PAGA Members, and the Individual Settlement Payments to the Participating Class Members.
9 To eliminate doubt, the Gross Settlement Amount is an “all in” payment, and Defendant shall not
10 be obligated to pay any additional amount. Notwithstanding the foregoing, in addition to the Gross
11 Settlement Amount, Defendant will pay the employer’s portion of payroll taxes, including FICA
12 and FUTA, on the portion of each Individual Settlement Payment allocated as unpaid wages.

13 **3.2.2 Escalation of Gross Settlement Amount or Truncation of Class Settlement**
14 **Period:** In connection with mediation, Defendant identified 423,311 estimated Eligible Workweeks
15 projected through April 14, 2023, At Defendant’s option, if the Eligible Workweeks exceed
16 465,642 (423,311 plus 10%) it can either (1) pay a pro rata amount for those Eligible Workweeks
17 above the 10%; or (2) the Class Settlement Period and PAGA Settlement Period shall end as of the
18 date the actual number of Eligible Workweeks reaches 465,642.

19 **3.3 Allocation of Gross Settlement Amount**

20 **3.3.1 Class Representative Enhancement Awards:** The Class Representatives’
21 Enhancement Awards, which are in addition to each Class Representative’s Individual Settlement
22 Payment from the Net Settlement Amount and Individual PAGA Payment as PAGA Members,
23 will, subject to Court approval, be paid out of the Gross Settlement Amount and will not exceed
24 \$10,000, less taxes and withholdings, for the Class Representatives’ services and assistance to the
25 Class. Defendant will not oppose Plaintiffs’ request for Class Representative Service Payments
26 that do not exceed this amount. Any amount of the Class Representative Enhancement Awards
27 that is not awarded by the Court shall be added to the Net Settlement Amount.
28

1 3.3.2 Attorneys' Fees and Costs: Class Counsel may apply to the Court for an
2 award of reasonable attorneys' fees not to exceed one third (1/3) of the Gross Settlement Amount,
3 which presently equals \$2,750,000.00, and will seek an award of costs for reimbursement of Class
4 Counsel's out-of-pocket costs incurred up to an additional \$50,000.00, to be paid out of the Gross
5 Settlement Amount, and Defendant agrees not to oppose a request that does not exceed these
6 amounts. Attorneys' fees will be allocated among Class Counsel as follows: 71.25% to M&A,
7 21.25% to BNBD, and 7.5% to JH. Defendant reserves the right to challenge Class Counsel's
8 requests for fees and costs if the requests exceed the parameters established by this Settlement
9 Agreement. The Settlement Administrator shall issue IRS Forms 1099 to Class Counsel for the
10 payments made pursuant to this section. Class Counsel shall be solely and legally responsible for
11 paying any and all applicable taxes on their fees and costs award and shall indemnify, defend, and
12 hold the Released Parties harmless from any claim or liability for taxes, penalties or interest arising
13 as a result of any payments received by Class Counsel pursuant to this Agreement. Any amount of
14 Class Counsel's requested fees and costs that is not awarded by the Court shall be added to the Net
15 Settlement Amount. Neither Class Counsel nor any other attorneys acting for, or purporting to act
16 for, the Settlement Class, Settlement Class Members, or Plaintiffs, may recover or seek to recover
17 any amounts for fees, costs, or disbursements from the Defendant or the Released Parties except as
18 expressly provided herein.

19 3.3.3 Settlement Administrator Costs: The Settlement Administration Costs
20 incurred by the Settlement Administrator as a result of the procedures and processes expressly
21 required by this Stipulation shall be paid out of the Gross Settlement Amount and are estimated not
22 to exceed \$21,000.00. Under no circumstances will Defendant be required to contribute additional
23 funds, above and in addition to the Gross Settlement Amount, to cover any unexpected Settlement
24 Administration Costs. The Settlement Administration Costs shall include: all costs of
25 administering the Settlement, including providing CAFA notice to relevant state and federal
26 authorities, all tax document preparation, custodial fees, and accounting fees incurred by the
27 Settlement Administrator; all costs and fees associated with establishing and maintaining a
28 Qualified Settlement Fund; all costs and fees associated with preparing, issuing and mailing the

1 Notice of Settlement and other correspondence to Settlement Class Members; all costs and fees
2 associated with communicating with Settlement Class Members, Class Counsel, and Defendant's
3 Counsel; all costs and fees associated with computing, processing, reviewing, and paying the
4 payments due under this Stipulation, and resolving disputed claims; all costs and fees associated
5 with calculating tax withholdings and payroll taxes, making related payment to federal and state
6 tax authorities, and issuing tax forms relating to payments made under the Settlement; all costs and
7 fees associated with preparing any tax returns and any other filings required by any governmental
8 taxing authority or agency; all costs and fees associated with preparing any other notices, reports,
9 or filings to be prepared in the course of administering payments due under this Stipulation; and
10 any other costs and fees incurred and/or charged by the Settlement Administrator in connection
11 with the execution of its duties under this Stipulation.

12 3.3.4 Individual Settlement Payments to Participating Class Members: Each
13 Participating Class Member will be entitled to receive an Individual Settlement Payment, which
14 will be paid out of the Net Settlement Amount. The amount of each Individual Settlement Payment
15 will be calculated on a pro rata basis, based on the Eligible Workweeks each Participating Class
16 Member worked during the Class Settlement Period. There is no need for a Participating Settlement
17 Class Member to submit a claim form in order to be eligible for and to receive an Individual
18 Settlement Payment. To determine each Settlement Class Member's estimated "Individual
19 Settlement Payment," the Settlement Administrator will use the following formula: estimated
20 Individual Settlement Payment = individual Eligible Workweeks ÷ all Settlement Class Member
21 Eligible Workweeks × Net Settlement Amount. The Parties recognize that the Individual
22 Settlement Payments to be paid to Participating Class Members reflect settlement of a dispute over
23 claimed wages, interest, penalties, and other alleged damages.

24 3.3.5 PAGA Payment: A total amount of \$165,000 from the Gross Settlement
25 Amount will be allocated as the PAGA Payment to be paid as penalties under PAGA, seventy-five
26 percent (75%) of this amount (\$123,750) will be the LWDA PAGA Payment to be paid to the LWDA
27 and the remaining twenty-five (25%) of this amount (\$41,250) shall be distributed to the PAGA
28 Members as Individual PAGA Payments. Any portion of the PAGA Payment not approved by the

1 Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court
2 shall be paid from the Gross Settlement Amount. The 25% of the PAGA Payment to be distributed
3 to the PAGA Members as Individual PAGA Payments and shall be distributed based on a pro rata
4 share based on the number of Eligible Pay Periods each PAGA Member worked during the PAGA
5 Settlement Period.

6 3.4 Taxation

7 3.4.1 Tax Treatment of Individual Settlement Payments. All Individual
8 Settlement Payments to Participating Class Members shall be allocated as follows for tax purposes:
9 33% of each Individual Settlement Payment reflects compromise of a claim for alleged unpaid
10 wages; 67% of each Individual Settlement Payment reflects compromise of a claim for alleged
11 interest, reimbursable expenses and penalties. The portion of the Individual Settlement Payment
12 attributable to unpaid wages will be subject to regular and/or applicable payroll and income tax
13 withholdings (for the employee portion only), and will be reported on an IRS Form W-2.
14 Participating Class Members will each indemnify and hold harmless the Released Parties for any
15 taxes due or owing by the Participating Class Members with respect to such payments and/or any
16 penalties and interest owed by the Released Parties for the failure to withhold with respect to such
17 payments. The Settlement Administrator shall make appropriate tax withholdings from the portion
18 of each Individual Settlement Payment designated as unpaid wages, and shall pay the employer
19 portion of payroll taxes with funds separate from the Gross Settlement Amount to be furnished by
20 Defendant. Participating Class Members will be responsible for paying all other taxes due on their
21 Individual Settlement Payments. Other than as set forth above, the Settlement Administrator will
22 not make any deductions, withholdings, or additional payments, including without limitation,
23 medical or other insurance payments or premiums, employee 401(k) contributions or matching
24 employer contributions, wage garnishments to the extent permitted by law, or charity withholdings,
25 from or with respect to the Individual Settlement Payments, and entry of the Order of Final
26 Approval by the Court shall be deemed authority not to make any such deductions, withholdings,
27 or additional payments.
28

1 3.4.2 Tax Treatment of Individual PAGA Payments: All Individual PAGA
2 Payments shall be allocated as 100% penalties, for which a 1099 will be issued if required. PAGA
3 Members will be responsible for paying all other taxes due on their Individual PAGA Payments.
4 PAGA Members will be responsible for paying all taxes due on their Individual PAGA Payments.
5 The Settlement Administrator will not make any deductions, withholdings, or additional payments,
6 including without limitation, medical or other insurance payments or premiums, employee 401(k)
7 contributions or matching employer contributions, wage garnishments to the extent permitted by
8 law, or charity withholdings, from or with respect to the Individual PAGA Payments.

9 3.4.3 Circular 230 Disclaimer: Each Party to this Stipulation (for purposes of this
10 section, the “acknowledging party” and each Party to this Stipulation other than the acknowledging
11 party, an “other party”) acknowledges and agrees that (1) no provision of this Stipulation, and no
12 written communication or disclosure between or among the Parties or their attorneys and other
13 advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be
14 construed or be relied upon as, tax advice within the meaning of United States Treasury Department
15 Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively
16 upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in
17 connection with this Agreement, (b) has not entered into this Stipulation based upon the
18 recommendation of any other party or any attorney or advisor to any other party, and (c) is not
19 entitled to rely upon any communication or disclosure by any attorney or adviser to any other party
20 to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no attorney or
21 adviser to any other party has imposed any limitation that protects the confidentiality of any such
22 attorney’s or adviser’s tax strategies (regardless of whether such limitation is legally binding) upon
23 disclosure by the acknowledging party of the tax treatment or tax structure of any transaction,
24 including any transaction contemplated by this Stipulation.

25 3.5 **No Effect on Employee Benefits.** Neither the Settlement nor any amounts paid
26 under the Settlement will modify any previously credited hours or service under any employee
27 benefit plan, policy, or bonus program sponsored by the Released Parties. Such amounts will not
28 form the basis for additional contributions to, benefits under, or any other monetary entitlement

1 under the Released Parties' sponsored benefit plans, policies, or bonus programs. The payments
2 made under the terms of this Stipulation shall not be applied retroactively, currently, or on a going
3 forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of
4 the Released Parties' benefit plans, policies, or bonus programs. The Released Parties retain the
5 right to modify the language of their benefit plans, policies and bonus programs to effectuate this
6 intent, and to make clear that any amounts paid pursuant to this Settlement are not for "hours
7 worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable
8 plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other
9 purpose, and that additional contributions or benefits are not required by this Stipulation of
10 Settlement.

11 3.6 Releases

12 3.6.1 Class Representatives Release. As of the Effective Date, the Class
13 Representatives shall each be deemed to have fully, finally, and forever released the Released
14 Parties from all Class Representatives' Released Claims through the Final Approval Date. The
15 Class Representatives may hereafter discover claims or facts in addition to, or different from, those
16 which they now know or believe to exist, but Class Representatives expressly agree to fully, finally
17 and forever settle and release any and all claims against the Released Parties, known or unknown,
18 suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of
19 execution of this Agreement. The Class Representatives shall be deemed to have expressly waived
20 and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits they
21 may otherwise have had relating to the Class Representatives' Released Claims pursuant to Section
22 1542 of the California Civil Code, which provides as follows:

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

28 Notwithstanding the foregoing, Class Representatives do not waive or release any claim which
cannot be waived or released by private agreement or law, including worker's compensation claims.
Further, nothing in this Agreement shall prevent Class Representatives from filing a charge or

1 complaint with, or from participating in, an investigation or proceeding conducted by the SEC,
2 OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the
3 enforcement of any employment or other applicable laws. Class Representatives, however,
4 understand that by signing this Agreement, they waive the right to recover any damages or to
5 receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other
6 state or local deferral agency on his behalf to the fullest extent permitted by law, but expressly
7 excluding any monetary award or other relief available from the SEC/OSHA, including an
8 SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

9 3.6.2 Participating Class Member Release. As of the Effective Date, all
10 Participating Class Members fully and finally release the Released Parties from the Released
11 Claims that arose during the Class Settlement Period.

12 3.6.3 PAGA Member Release. As of the date of the Effective Date, Plaintiffs
13 Mish, Gonzalez and Tappin, as representatives of the State of California and on behalf of the
14 LWDA and as representatives of the PAGA Members, fully and finally release the Released Parties
15 from the PAGA Released Claims for the PAGA Settlement Period.

16 3.7 **Consolidation, Amendments, Exhaustion, and Dismissals**

17 3.7.1 Consolidation and Amendment. The Parties will stipulate and request the
18 Court's approval to file in the Tappin PAGA Action, Superior Court of California, County of
19 Sacramento, Case No. 34-2022-00314820 an amended consolidated complaint for settlement
20 purposes only that adds all the facts, claims, and legal theories from each of the claims asserted in
21 the Action, conditioned upon final approval of the settlement. If, for any reason, the Court does
22 not grant preliminary or final approval of the settlement, or the Effective Date of the agreement is
23 not triggered, the consolidated complaint shall be stricken, the operative complaints on file in the
24 Action immediately prior to the date of this Agreement shall be the operative complaints, and the
25 Parties will return to the status quo prior to the execution of this agreement, which includes a stay
26 of each PAGA action in state court and active litigation in the consolidated *Mish* action in the
27 Northern District of California.

1 **4. APPROVAL OF SETTLEMENT, NOTICE TO CLASS AND ADMINISTRATION**

2 **4.1 Preliminary Approval**

3 4.1.1 Class Counsel shall submit to the Court this Stipulation of Settlement and
4 exhibits thereto for preliminary approval by the Court. Class Counsel will prepare and file the
5 motion for preliminary approval and supporting papers for the Court, subject to Defendant's prior
6 review and approval. Plaintiffs will provide the motion for preliminary approval to Defendant for
7 its review and approval at least seven days before filing.

8 4.1.2 Pursuant to California Labor Code § 2699(l), concurrently with the filing of
9 the motion for Preliminary Approval, Plaintiffs will provide notice of the proposed Settlement to
10 the LWDA.

11 4.1.3 The Court's preliminary approval of this Settlement shall be embodied in an
12 order certifying the Class for settlement purposes only, preliminarily approving the Settlement and
13 providing for Notice of Settlement to be mailed to the Class in materially the same format attached
14 hereto as **Exhibit 1**, and which will also set the date for the Final Approval Hearing. The Notice
15 of Settlement shall advise Settlement Class Members of their options, which include filing an Opt-
16 Out Request to the class settlement; filing an objection to the Settlement and receiving an Individual
17 Settlement Payment and an Individual PAGA Payment (if applicable); or taking no action and
18 receiving an Individual Settlement Payment and an Individual PAGA Payment (if applicable).

19 **4.2 Notice**

20 4.2.1 Delivery of Class Data: No later than thirty (30) calendar days after the
21 Preliminary Approval Date, Defendant shall provide the Class Data to the Settlement
22 Administrator. The Settlement Administrator shall maintain the Class Data, and all data contained
23 within the Class Data, as private and confidential and shall not disclose such data to any persons or
24 entities, unless otherwise required by law. The information in the Class Data is being supplied
25 solely for purposes of the administration of the settlement and cannot be used by the Settlement
26 Administrator or any agent or representative of the Settlement Administrator for any purpose other
27 than to administer the Settlement. Upon receipt of the Class Data, the Settlement Administrator
28

1 shall check with the U.S. Postal Service National Change of Address Database and update any
2 addresses for the Settlement Class Members.

3 4.2.2 Notice By First-Class Mail. Within fourteen (14) calendar days of the
4 receipt of the Class Data, the Settlement Administrator will send via United States first class mail
5 the Notice of Settlement to the Settlement Class Members. If any Notice of Settlement is returned
6 to the Settlement Administrator as undeliverable, the Settlement Administrator shall run a skip-
7 trace using that Settlement Class Member's social security number in an effort to attempt to
8 ascertain the current address of the Settlement Class Member. If such an address(es) is ascertained,
9 the Settlement Administrator shall re-mail the Notice of Settlement within ten (10) calendar days.
10 If alternative addresses are obtained for a Settlement Class Member, the Settlement Administrator
11 shall send the Notice of Settlement to up to two (2) alternative addresses.

12 4.3 **Opt-Out Requests**

13 4.3.1 Settlement Class Members, except for the Class Representatives, will have
14 until the Response Deadline within which to opt out of the class portion of this Settlement; however,
15 exercising this option has no effect on the PAGA portion of this settlement, PAGA Members will
16 be mailed an Individual PAGA Payment and be bound by the release of the Released PAGA Claims
17 regardless of whether they opt out of the class settlement. Settlement Class Members who want to
18 opt out must timely submit a signed and dated written request to be excluded from the class portion
19 of the Settlement to the Settlement Administrator ("Opt-Out Request"). The Opt-Out Request must
20 be postmarked on or before the Response Deadline, include the case name and number, the
21 Settlement Class Member's name, address, and last four of their social security number, must be
22 signed by the Settlement Class Member, and must reasonably communicate the Settlement Class
23 Member's election to be excluded from the class Settlement.

24 4.3.2 Settlement Class Members who do not timely submit an executed Opt-Out
25 Request shall be deemed a Participating Class Member and bound by this Settlement including the
26 Participating Class Member Release. Settlement Class Members who timely submit an executed
27 Opt-Out Request will not be bound by the Participating Class Member Release and will not receive
28 an Individual Settlement Payment. The Notice of Settlement shall advise Settlement Class

1 Members of their ability to opt out of the class portion of the Settlement and of the consequences
2 thereof, and further inform them that they cannot opt out of the PAGA settlement. Neither the
3 Parties nor any of their counsel will solicit any Settlement Class Member to submit an Opt-Out
4 Request.

5 4.3.3 If a Settlement Class Member submits both an Opt-Out Request and an
6 Objection within the Response Deadline, then the Opt-Out Request will be deemed valid and the
7 Objection invalid and the individual will not be deemed a Participating Class Member.

8 4.4 **Objections.** Participating Class Members, except for the Class Representatives,
9 may object to the Settlement in person at the Final Approval Hearing and/or in writing.
10 Participating Class Members, except for the Class Representatives, will have until the Response
11 Deadline to mail a written objection to the Settlement and a notice of intent to appear at the Final
12 Approval Hearing, which must be mailed to the Settlement Administrator. The written objection
13 should state the Participating Class Member's name and address and describe the reason(s) why
14 the Participating Class Member objects to the Settlement and include or attach any documents upon
15 which the objection is based. The Parties and their counsel agree that they will not solicit,
16 encourage, counsel or advise any individual to object to the Settlement.

17 4.5 **Eligible Workweek and Eligible Pay Period Disputes.** Participating Class
18 Members and PAGA Members may dispute their Eligible Workweeks and Eligible Pay Periods if
19 they believe they were employed for more Eligible Workweeks or Eligible Pay Periods in the Class
20 Settlement Period or PAGA Settlement Period than stated on their Notice of Settlement.
21 Participating Class Members and PAGA Members may do this by submitting information to the
22 Settlement Administrator in writing no later than the Response Deadline. The Settlement
23 Administrator will jointly work with Class Counsel and Defendant's Counsel to resolve the dispute
24 in good faith. If the Parties cannot agree on the Eligible Workweeks or Eligible Pay Periods to be
25 credited to that Participating Class Member or PAGA Member, the Court shall make the final
26 decision based on the information presented by the individual and the Parties.

27 4.6 **Certification Reports by the Settlement Administrator.** The Settlement
28 Administrator will, on a weekly basis during and for a reasonable period following distribution of

1 the Notice of Settlement, provide updates to Class Counsel and Defendant's Counsel as to the
2 number of persons in the Settlement Class who submitted (i) valid Opt-Out Requests; (ii) written
3 objections, and (iii) Eligible Workweeks or Eligible Pay Period disputes. All written objections
4 shall be provided to the Parties' counsel within 2 days of receipt by the Settlement Administrator.
5 To the extent practicable, the weekly updates shall also provide updated data on the extent of
6 Notices of Settlement that are returned undeliverable and any re-mailing efforts.

7 **4.7 Nullification of Settlement.** Defendant shall have the sole right to void and
8 withdraw from this Agreement if at any time prior to the Final Approval Date: (a) three percent
9 (3%) or more of all Settlement Class Members submit timely and valid Opt-Out Requests; or (b)
10 the Settlement is construed in such a fashion that Defendant would be required to pay more than
11 the Gross Settlement Amount (except if pursuant to section 3.2.2), exclusive of Defendant's share
12 of the employer payroll taxes; or (c) the Court does not certify the Settlement Class, or does not
13 certify a class releasing all of the Released Class Claims defined in this Agreement, or does not
14 approve the PAGA settlement including the release of the Released PAGA Claims, or otherwise
15 makes an order inconsistent with any of the material terms (as determined by Defendant) of this
16 Agreement; (d) any pending litigation or litigation filed prior to the Final Approval Date in any
17 way prevents this Agreement from resolving all claims identified in the Class Representatives'
18 Released Claims, Released Class Claims and Released PAGA Claims, as defined herein; or (e)
19 Plaintiffs or Class Counsel materially breach this Agreement.

20 **4.8 Final Approval and Entry of Final Judgment**

21 **4.8.1** Prior to the Final Approval Hearing, Plaintiffs will move the Court for entry
22 of an "Order of Final Approval" and associated entry of Judgment: (a) certifying the Settlement
23 Class for Settlement purposes only, (b) finding the Settlement fair, reasonable, adequate, and in the
24 best interests of the Participating Class Members, (c) approving the PAGA Payment to the LWDA
25 and the PAGA Members; (d) approving Class Counsel's application for an award of attorneys' fees
26 and costs, (e) approving the Class Representatives' application for Enhancement Awards, (f)
27 approving the payment of reasonable Settlement Administration Costs, and (g) releasing and
28 barring any further Released Class Claims by Participating Class Members and Released PAGA

1 Claims by or on behalf of the PAGA Members. Plaintiffs will provide the motion for final approval
2 to Defendant for its review and approval at least seven days before filing. The Parties and their
3 respective counsel shall make all reasonable efforts to secure entry of the Order of Final Approval.
4 The proposed Order of Final Approval and the associated proposed Judgment shall be filed with
5 the Court with the motion for final approval, or as otherwise directed by the Court.

6 4.8.2 Class Representatives and Class Counsel shall be responsible for justifying
7 the amount of the Enhancement Awards and attorneys' fees and costs to the Court, and they agree
8 to submit, as appropriate, the necessary materials to justify these payments. If the Court (or any
9 appellate court) awards less than the amount requested for attorneys' fees and/or costs, or less than
10 the amount requested for the Enhancement Awards for the Class Representatives, only the awarded
11 amounts shall be paid and shall constitute satisfaction of the obligations of Defendant under this
12 Stipulation.

13 4.8.3 If an appeal results in an order materially modifying, setting aside, or
14 vacating any portion of the Stipulation, with the exception of any modification of the amount of
15 attorneys' fees or costs to be paid to Class Counsel, or the amount of the Enhancement Awards
16 paid to the Class Representatives, each party adversely impacted by the order shall have the right
17 to treat such order as an event preventing Final Approval. To exercise this right, the party must
18 inform the other party and the Settlement Administrator, in writing, of the exercise of this right,
19 within ten (10) calendar days of receiving notice of any order modifying, setting aside, or vacating
20 any portion of the Stipulation. Before any Party elects to exercise its right to treat such order as an
21 event permanently preventing Final Approval, that Party must meet and confer in good faith with
22 the other Party to determine if an agreement can be reached modifying this Settlement to the mutual
23 satisfaction of the Parties.

24 4.8.4 If the Final Approval does not occur, or if this Stipulation is terminated or
25 canceled pursuant to its terms, the Parties to this Stipulation shall be deemed to have reverted to
26 their respective status as of the date and time immediately prior to the execution of this Stipulation.
27 In such an event, if the Stipulation is not approved by the Court substantially in the form agreed to
28 by the Parties, or if the Settlement set forth in the Stipulation is terminated, cancelled, declared

1 void, or fails to become effective in accordance with its terms, or if the Judgment does not become
2 a Final Judgment, or if the Final Approval Date does not occur, the Parties agree to cooperate and
3 use their best efforts to obtain approval of the Settlement, and address any issues or concerns raised
4 by the Court, including moving again for approval, filing supplemental briefing, and/or taking other
5 reasonable steps to obtain Final Approval. If Final Approval still is not obtained, this Stipulation
6 (except for those provisions relating to non-admission, denial of liability set forth herein, and the
7 confidentiality agreements entered into by the Parties) shall be deemed null and void, its terms and
8 provisions shall have no further force and effect and shall not be used in this Action or the PAGA
9 Actions or in any other proceeding for any purpose, and any Judgment or order entered by the Court
10 in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*.
11 Notwithstanding any other provision of this Stipulation, no order of the Court, or modification or
12 reversal on appeal of any order of the Court, reducing the amount of any attorneys' fees or costs to
13 be paid by Defendant to Class Counsel, or reducing the amount of any Enhancement Award paid
14 to the Class Representatives, shall constitute grounds for cancellation or termination of the
15 Stipulation, or grounds for limiting any other provision of the Judgment.

16 **4.9 Funding and Distribution of the Settlement Proceeds**

17 4.9.1 Within fifteen (15) calendar days after the Effective Date, Defendant shall
18 pay the Gross Settlement Amount by wire transfer into the Qualified Settlement Fund set up, held,
19 and controlled by the Settlement Administrator.

20 4.9.2 Within fifteen (15) calendar days after Defendant funds the Qualified
21 Settlement Fund, the Settlement Administrator shall issue Individual Settlement Payments to
22 Participating Class Members, Individual PAGA Payments to the PAGA Members, the LWDA
23 PAGA Payment to the LWDA, the Court-approved attorneys' fees and costs to Class Counsel, and
24 the court-approved Enhancement Awards to the Class Representatives. Payments to M&A shall
25 be made payable to "Makarem & Associates Settlement Account," or sent by wire transfer to wire
26 information to be provided by M&A, which the Settlement Administrator shall confirm orally with
27 M&A prior to sending any wire transfer.
28

1 4.9.3 The Settlement Administrator shall keep counsel for the Parties apprised of
2 all distributions from the Qualified Settlement Account and upon completion of administration of
3 that portion of the Settlement, the Settlement Administrator shall provide written certification,
4 under penalty of perjury, of such completion to the Court and counsel for all Parties.

5 4.9.4 Upon completion of administration of the Settlement, the Settlement
6 Administrator shall provide written certification, under penalty of perjury, of such completion to
7 the Court, Class Counsel and Defendant's Counsel.

8 4.10 **Uncashed Checks.** After one hundred and eighty (180) calendar days of issuance,
9 funds from undeposited Individual Settlement Payment and Individual PAGA Payment checks will
10 be held by the Settlement Administrator. Thereafter, the Settlement Administrator will transmit
11 the amount of that uncashed settlement payment to the State of California, to be held by the
12 Controller in accordance with California's Unclaimed Property Law for the benefit of those
13 Participating Class Members and PAGA Members who did not cash their checks until such time
14 that they claim their property. The Parties agree that this disposition results in no "unpaid residue,"
15 as the entire Net Settlement Amount will be paid out to Participating Class Members, whether or
16 not they all cash their Individual Settlement Payments.

17 **5. MISCELLANEOUS PROVISIONS**

18 5.1 **This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
19 Settlement is a fair, adequate and reasonable settlement of the Lawsuits and have arrived at this
20 Settlement in arms-length negotiations, taking into account all relevant factors, present and
21 potential.

22 5.2 **Invalidity of Any Provision.** Before declaring any provision of this Settlement
23 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
24 possible consistent with applicable precedents so as to define all provisions of this Settlement
25 Agreement valid and enforceable. Should the Court deem any clause or provision of this
26 Agreement be invalid, illegal, or unenforceable, it shall first attempt to modify or reform it as
27 minimally necessary to be valid, lawful, and enforceable.
28

1 **5.3 No Admission.** Neither the acceptance nor the performance by Defendant of the
2 terms of this Stipulation, nor any of the related negotiations or proceedings, is or shall be claimed
3 to be, construed as, or deemed to be, an admission by Defendant of the truth of any of the allegations
4 in the Complaint, the representative character of the Action and the PAGA Actions, the validity of
5 any of the claims that were or could have been asserted by Plaintiffs, Settlement Class Members
6 and/or PAGA Members in the Action and the PAGA Actions, or of any liability or guilt of
7 Defendant or the Released Parties in the Action and PAGA Actions. Nothing in this Stipulation
8 shall be construed to be or deemed an admission by Defendant of any liability, culpability,
9 negligence, or wrongdoing toward Plaintiffs, the Settlement Class Members, or any other person,
10 and Defendant specifically disclaims any liability, culpability, negligence, or wrongdoing toward
11 Plaintiffs, the Settlement Class Members, PAGA Members and any other person. Each of the
12 Parties has entered into this Stipulation with the intention to avoid further disputes and litigation
13 with the attendant inconvenience, expenses, and contingencies.

14 **5.4 Cooperation.** The Parties agree to cooperate fully with one another to accomplish
15 and implement the terms of this Settlement. Such cooperation shall include, but not be limited to,
16 execution of such other documents and the taking of such other action as may reasonably be
17 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall exercise
18 reasonable efforts, including all efforts contemplated by this Settlement and any other efforts that
19 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms set
20 forth herein.

21 **5.5 Privacy of Documents and Information.** Plaintiffs and Class Counsel agree that
22 none of the documents and information provided to them by Defendant in connection with the
23 Action and this Settlement shall be used for any purpose (including in any other litigation) other
24 than settlement of the Action and PAGA Actions.

25 **5.6 Notices.** Unless otherwise specifically provided herein, all notices, demands, or
26 other communications given hereunder shall be in writing and shall be deemed to have been duly
27 given as of the third business day after mailing by United States certified mail, return receipt
28 requested, addressed as follows:

1 **To the Class Counsel:**

2 Ronald W. Makarem, Esq.
3 Samuel Almon, Esq.
4 Daniel J. Bass, Esq.
5 **MAKAREM & ASSOCIATES APLC**
6 11601 Wilshire Boulevard, Suite 2440
7 Los Angeles, California 90025-1760

8 Norman B. Blumenthal
9 Kyle R. Nordrehaug
10 Aprajit Bhowmik
11 Nicholas J. De Blouw
12 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**
13 2255 Calle Clara
14 La Jolla, CA 92037

15 James R. Hawkins, Esq.
16 Gregory Mauro, Esq.
17 Michael Calvo, Esq.
18 Jeanne Sarmiento, Esq.
19 **JAMES HAWKINS APLC**
20 9880 Research Drive, Suite 200
21 Irvine, CA 92618

22 **To Defendant:**

23 Brian D. Berry
24 Sarah Zenewicz
25 J.P. Schreiber
26 Ashlee Cherry
27 Morgan, Lewis & Bockius LLP
28 One Market, Spear Street Tower
 San Francisco, California 94105-1126

5.7 **Drafting.** The Parties hereto agree that the terms and conditions of this Stipulation of Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that this Stipulation shall not be construed in favor of or against any party by reason of the extent to which any party or its counsel participated in the drafting of this Stipulation.

5.8 **Publicity.** Neither Plaintiffs nor Class Counsel shall issue any press release or announcement of any kind related in any way to the settlement. Plaintiffs and Class Counsel agree that, prior to final approval of the settlement and entry of judgment, they will keep the terms of the settlement confidential. From preliminary approval of the settlement through entry of judgment, Plaintiffs and Class Counsel may: (1) as required by law; (2) as required under the terms of the settlement; or (3) as required under counsel's duties and responsibilities as class counsel, comment

1 regarding the specific terms of the settlement. Nothing in this Paragraph is intended to interfere
2 with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel,
3 including but not limited to, communicating with Settlement Class Members regarding the
4 settlement, and nothing shall prohibit Class Counsel from referring to the settlement in adequacy
5 of counsel declarations or related court filings.

6 **5.9 No Exclusion by Class Representatives.** The Class Representatives, by signing
7 this Stipulation, are bound by the terms herein and further agree not to request to be excluded from
8 the Settlement and not to object to any terms of this Stipulation. Any such request for exclusion or
9 objection shall therefore be void and of no force or effect. Class Counsel and the Class
10 Representatives waive their rights to file an appeal, writ, or any challenge whatsoever to the terms
11 of this Stipulation, except either Party may appeal in the event an objector's objection is upheld by
12 the trial court.

13 **5.10 Modification.** This Stipulation may not be changed, altered, or modified, except in
14 writing signed by the Parties hereto and approved by the Court. This Stipulation may not be
15 discharged except by performance in accordance with its terms or by a writing used by the Parties
16 hereto.

17 **5.11 Binding on Successors.** This Stipulation shall be binding upon and inure to the
18 benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
19 successors, and assigns.

20 **5.12 Execution in Counterparts.** This Stipulation shall become effective upon its
21 execution by all of the undersigned. The Parties may execute this Stipulation in counterparts, and
22 execution of counterparts shall have the same force and effect as if all Parties had signed the same
23 instrument.

24 **5.13 Jurisdiction.** The Court shall retain jurisdiction with respect to the implementation
25 and enforcement of the terms of the Stipulation, and all Parties hereto submit to the jurisdiction of
26 the Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.
27 Any action to enforce this Stipulation shall be commenced and maintained only in the Court.
28

5.14 **Headings.** Paragraph titles or captions contained in the Stipulation are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Stipulation, or any provision thereof.

5.15 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.

IN WITNESS WHEREOF, this Stipulation of Settlement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

AGREED AND UNDERSTOOD.

DATED: _____, 2024
Donyeisha Mish

DATED: _____, 2024 _____
Darnell Lee

DATED: _____, 2024

Luis Robles

DATED: _____, 2024

Xochitl Velasco

DATED: 2/9, 2024

DATED: _____, 2023

Andrew D. Tappin

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TFORCE FREIGHT, INC. (F/K/A UPS GROUND
FREIGHT, INC.)

DATED: _____, 2024
By: _____
Its: _____

APPROVED AS TO FORM:

MAKAREM & ASSOCIATES, APLC

Dated: _____
By: _____
Ronald W. Makarem
Samuel Almon
Daniel J. Bass
Counsel for Plaintiffs

Dated: 1/8/24
By: *Kyle Nordrehaug*
Norman B. Blumenthal
Kyle R. Nordrehaug
Aprajit Bhowmik
Nicholas J. De Blouw

Dated: _____
By: _____
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Jeanne Sarmiento, Esq.

MORGAN, LEWIS & BOCKIUS LLP

Dated: _____
By: _____
Brian D. Berry
Sarah Zenewicz
J.P. Schreiber
Ashlee Cherry
Attorneys for Defendant

EXHIBIT D

1 MORGAN, LEWIS & BOCKIUS LLP
Brian D. Berry, Bar No. 229893
2 brian.berry@morganlewis.com
Sarah Zenewicz, Bar No. 258068
3 sarah.zenewicz@morganlewis.com
J.P. Schreiber, Bar No. 317829
4 jp.schreiber@morganlewis.com
One Market, Spear Street Tower
5 San Francisco, CA 94105
Tel: +1.415.442.1000

6 Attorneys for Defendant
7 TFORCE FREIGHT, INC.
(f/k/a UPS GROUND FREIGHT, INC.)

8 *[Additional counsel on next page]*

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

10 **FOR THE COUNTY OF SACRAMENTO**

11 Case No. 34-2022-00314820

12 ANDREW D. TAPPIN, individually, and on
13 behalf of all other similarly situated,

14 Plaintiffs,

15 v.

16 TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
17 Defendants.

**AMENDMENT TO STIPULATION OF
CLASS AND PAGA REPRESENTATIVE
ACTION SETTLEMENT**

Consolidated Complaint Filed: June 27, 2022
Trial Date: None Set

18 MORGAN, LEWIS & BOCKIUS LLP
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19 ashlee.cherry@morganlewis.com
1400 Page Mill Road
20 Palo Alto, CA 94304
Tel: +1.650.843.4000
21 Fax: +1.650.843.4001

22 Attorneys for Defendant
23 TFORCE FREIGHT, INC.
(f/k/a UPS GROUND FREIGHT, INC.)

24 MAKAREM & ASSOCIATES APLC
Ronald W. Makarem, Esq. (SB# 180442)
25 Samuel Almon, Esq. (SB# 243569)
Aidan C. McGlaze, Esq. (SB# 277270)
26 Daniel J. Bass, Esq. (SB# 287466)
11601 Wilshire Boulevard, Suite 2440
27 Los Angeles, California 90025-1760
Tel: (310) 312-0299
28 Fax: (310) 312-0296

1 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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2 Kyle R. Nordrehaug (State Bar #205975)
Aprajit Bhowmik (State Bar #280922)
3 Nicholas J. De Blouw (State Bar #280922)
2255 Calle Clara
4 La Jolla, CA 92037
Tel: (858) 551-1223
5 Fax: (858) 551-1232
Website: www.bamlawca.com
6

7 JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
8 Michael Calvo, Esq. (#314986)
Jeanne Sarmiento, Esq. (#309660)
9 9880 Research Drive, Suite 200
Irvine, CA 92618
10 Tel: (949) 387-7200
Fax: (949) 387-6676
11 Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
12 Email: Michael@jameshawkinsaplc.com
Email: Jeanne@jameshawkinsaplc.com
13

14 Attorneys for Plaintiffs DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
15 VELASCO, VICTOR GONZALEZ, and ANDREW D. TAPPIN
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1 This Amendment to Stipulation of Settlement (“Amendment” or “Settlement Amendment”)
2 is made and entered into, as of the date set forth below, between Plaintiffs Donyeisha Mish, Darnell
3 Lee, Luis Robles, Xochitl Velasco, Victor Gonzalez, and Andrew Tappin (“Plaintiffs”), as
4 individuals and as representatives of the proposed Class described herein and, as to Mish, Gonzalez
5 and Tappin, as representatives of the State of California, and Defendant TForce Freight, Inc.
6 (“Defendant”) who are parties to the Action, as defined below (together, the “Parties”).

7 This Amendment is made to effectuate certain changes to the Stipulation of Class and
8 PAGA Representative Action Settlement (the “Settlement Stipulation”) and its exhibits, as
9 specified below, regarding the release of class member claims under the FLSA. In response to the
10 order of the Sacramento County Superior Court, dated June 20, 2024, the Parties hereby stipulate
11 and agree to make the following changes to the Settlement Stipulation and to the Notice of
12 Settlement that was attached as Exhibit 1 to the Settlement Stipulation:

13 *In the Settlement Stipulation:*

14 Section 1.30, page 7, defines “Released Class Claims” to include claims that could have
15 been asserted under the FLSA. That section is amended by deletion of the sentence: “In addition,
16 by cashing their checks containing their respective Individual Settlement Payments, Participating
17 Class Member will be deemed to release all claims under the FLSA that could have been asserted
18 based on the alleged facts and theories alleged in any of the complaints.”

19 *In the Notice of Settlement (Exhibit 1 to the Settlement Stipulation):*

20 Section 3.9, pages 6-7 (defining “Participating Class Members’ Release”) in the Notice of
21 Settlement to be sent to Class Members is amended by deleting the same sentence set forth in
22 Section 1.30 of the Settlement Stipulation, as addressed *supra*: “In addition, by cashing the check
23 containing their Individual Settlement Payments, Participating Class Members will be deemed to
24 release all claims under the FLSA that could have been asserted based on the alleged facts and
25 theories alleged in any of the complaints.”

26 IN WITNESS WHEREOF, this Settlement Amendment is executed by the Parties and their
27 duly authorized attorneys, as of the day and year herein set forth, and shall be deemed entered into
28

as of the date of the final signature among the Parties below, subject to the approval of the Court pursuant to Section 5.10 of the Stipulated Settlement.

AGREED AND UNDERSTOOD.

DATED: 08/05, 2024



Donyeisha Mish

DATED: 08/05, 2024



Darnell Lee

DATED: 08/05, 2024



Luis Robles

DATED: 08/05, 2024



Xochitl Velasco

DATED: Jul 31, 2024, 2024



[Victor Gonzalez \(Jul 31, 2024 10:59 PDT\)](#)
Victor Gonzalez

DATED: , 2024

Andrew D. Tappin

TFORCE FREIGHT, INC. (F/K/A UPS GROUND FREIGHT, INC.)

DATED: , 2024

By: _____

Its: _____

AGREED AND UNDERSTOOD.

DATED: _____, 2024

Donyeisha Mish

DATED: _____, 2024

Darnell Lee

DATED: _____, 2024

Luis Robles

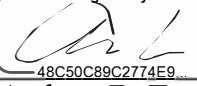
DATED: _____, 2024

Xochitl Velasco

DATED: _____, 2024

Victor Gonzalez

DATED: 8/1/2024, 2024

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Andrew D. Tappin

TFORCE FREIGHT, INC. (F/K/A UPS GROUND
FREIGHT, INC.)

DATED: _____, 2024

By: _____

Its: _____

1 **APPROVED AS TO FORM:**

MAKAREM & ASSOCIATES, APLC

2
3 Dated: July 26, 2024

By: Samuel Almon

Ronald W. Makarem

Samuel Almon

Daniel J. Bass

Counsel for Plaintiffs

4
5
6
7 Dated: July 26, 2024

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

8
9 By: Kyle Nordrehaug

Aparajit Bhowmik

Nicholas J. De Blouw

10
11
12
13 Dated: July 26, 2024

JAMES HAWKINS APLC

14 By: James R. Hawkins, Esq.

Gregory Mauro, Esq.

Michael Calvo, Esq.

Jeanne Sarmiento, Esq.

15
16
17
18 MORGAN, LEWIS & BOCKIUS LLP

19 Dated: July 26, 2024

20 By: Brian D. Berry

Sarah Zenewicz

J.P. Schreiber

Ashlee Cherry

Attorneys for Defendant

EXHIBIT E

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
Jeanne Sarmiento; Esq. (#309660)
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Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Jeanne@jameshawkinsaplc.com

Attorneys for Plaintiff ANDREW D. TAPPIN,
individually and on behalf of all others similarly situated.

[Additional Counsel Listed On Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO**

ANDREW D. TAPPIN, on behalf of the general
public as private attorney general,

Plaintiff,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:
Hon. Jill Talley
Dept. 23

~~[PROPOSED]~~ ORDER GRANTING MOTION
FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

Date: June 21, 2024
Time: 9:00 a.m.
Dept. 23

Reservation No.: A-314820-003

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BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)
Kyle R. Nordrehaug (State Bar #205975)
Aparajit Bhowmik (State Bar #248066)
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MAKAREM & ASSOCIATES APLC

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Samuel Almon, Esq. (SB #243569)
Daniel J. Bass, Esq. (SB#287466)
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Los Angeles, California 90025-1760
Telephone: (310) 312-0299;
Facsimile: (310) 312-0296

Attorneys for Plaintiffs DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, and
XOCHITL VELASCO, and VICTOR GONZALEZ.

1 The Court, having read the papers filed regarding Plaintiffs’ unopposed Motion for
2 Preliminary Approval of Class Action Settlement and supplemental briefing from the parties, and
3 having heard argument on the Motion, hereby finds and ORDERS as follows:

4 1. The Stipulation of Class and PAGA Representative Action Settlement attached as
5 Exhibit 1 to the Declaration of Samuel Almon in support of Plaintiffs’ unopposed Motion for
6 Preliminary Approval of Class Action Settlement, filed on or about May 29, 2024 (the “Settlement
7 Agreement”), is within the range of possible recovery and, subject to further consideration at the
8 Final Approval Hearing described below, is preliminarily approved as fair, reasonable, and
9 adequate. The Court, for purposes of this Order, adopts all defined terms as set forth in the
10 Settlement Agreement.

11 2. For purposes of settlement only, the Court provisionally and conditionally certifies
12 the following class: “All individuals who worked an Eligible Workweek (as defined in section 1.10
13 of the Settlement Agreement) for Defendant TForce Freight, Inc. (“TForce”) as a non-exempt
14 employee in California during the Class Period, which runs from September 13, 2016 through the
15 Preliminary Approval Date, subject to section 3.2.2 of the Settlement Agreement.”

16 3. The Court finds the Settlement Class, consisting of at least 3,640 members, is so
17 numerous that joinder of all members is impracticable, and that the Settlement Class is
18 ascertainable by reference to the business records of TForce.

19 4. The Court finds further there are questions of law and fact common to the entire
20 Settlement Class, which common questions predominate over any individualized questions of law
26 or fact, and these common questions include (1) whether TForce paid Settlement Class Members
22 for all hours worked, including overtime hours, at the correct hourly wage; (2) whether TForce
23 provided Settlement Class Members with all required meal periods on a compliant basis; (3)
24 whether TForce provided Settlement Class Members with all required rest periods on a compliant
25 basis; (4) whether TForce reimbursed Settlement Class Members for reasonable and necessary
26 business expenses; (5) whether TForce provided Settlement Class Members with compliant wage
27 statements; and (5) whether TForce paid all wages due on separation of employment.

28 5. The Court finds further the claims of named Plaintiffs Donyeisha Mish, Darnell Lee,

1 Luis Robles, Xochitl Velasco, Victor Gonzalez, and Andrew Tappin are typical of the claims of the
2 Settlement Class, and that they will fairly and adequately protect the interests of the Settlement
3 Class. Accordingly, the Court appoints Donyeisha Mish, Darnell Lee, Luis Robles, Xochitl
4 Velasco, Victor Gonzalez, and Andrew Tappin, as the Class Representatives, and appoints their
5 counsel of record, Ronald W. Makarem, Samuel Almon and Daniel J. Bass of Makarem &
6 Associates, APLC, Norman B. Blumenthal, Kyle R. Nordrehaug, Aprajit Bhowmik Nicholas J. De
7 Blouw, Jeffrey S. Herman and Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De Blouw
8 LLP, and James R. Hawkins, Gregory Mauro, Michael Calvo and Jeanne Sarmiento of James
9 Hawkins APLC, as Class Counsel.

10 6. The Court finds further that certification of the Settlement Class is superior to other
11 available means for the fair and efficient adjudication of the controversy.

12 7. The Court finds further that, in the present case, the proposed method of providing
13 notice of the Settlement to the Settlement Class via First Class U.S. Mail to each Settlement Class
14 Member's last known address, is reasonably calculated to notify the Settlement Class Members of
15 the proposed Settlement and provides the best notice possible under the circumstances. The Court
16 also finds the Notice of Class Action Settlement form is sufficient to inform the Settlement Class
17 Members of the terms of the Settlement and their rights thereunder, including the right to object to
18 the Settlement or any part thereof and the procedure for doing so, their right to exclude themselves
19 from the Settlement and the procedure for doing so, their right to obtain a portion of the Settlement
20 proceeds, and the date, time and location of the Final Approval Hearing. The proposed revised
26 Notice of Class Action Settlement attached to the Supplemental Almon Declaration and the
22 procedure for providing Notice set forth in the Settlement Agreement, all are approved by the
23 Court.

24 8. Under the terms of the Settlement Agreement, the Court approves the Parties'
25 selection of CPT Group, Inc. as the Settlement Administrator. The Settlement Administrator is
26 ordered to mail the Class Notice to the Settlement Class Members via First-Class U.S. Mail as
27 specified in the Settlement Agreement, and to otherwise carry out all other duties set forth in the
28 Settlement Agreement. The Parties are ordered to carry out and comply with all terms of this

Order and the Settlement Agreement, and particularly with respect to providing the Settlement Administrator all information necessary to perform its duties under the Settlement Agreement.

9. Any member of the Settlement Class who wishes to comment on or object to the Settlement or any term thereof, including any proposed award of attorney's fees and costs to Class Counsel or any proposed representative enhancement to the Class Representatives, shall have forty-five (45) days from the mailing of the Class Notice to submit his or her comments and/or objection to the Settlement Administrator, as set forth in the Settlement Agreement and Class Notice.

10. Any member of the Settlement Class who wishes to exclude themselves from the Settlement shall have forty-five (45) days from the mailing of the Class Notice to submit his or her Request for Exclusion to the Settlement Administrator, as set forth in the Settlement Agreement and Class Notice.

11. The Settlement Administrator is ordered to file a declaration in advance of the Final Approval Hearing attaching and authenticating all Requests for Exclusion, if any, and further attaching and authenticating all Objections, if any.

12. The Court has reviewed and hereby approves the Settlement Amendment filed with the Parties' supplemental briefing.

13. A Final Approval Hearing is hereby set for February 14, 2025, at 9:00 a.m. in Department 23 of the Sacramento County Superior Court, to consider any objections to the Settlement, determine if the proposed Settlement should be found fair, adequate and reasonable and given full and final approval by the Court, and to determine the amount of attorney's fees and costs awarded to Class Counsel, the amount of any representative enhancement award to the Class Representative, and to approve the fees and costs payable to the Settlement Administrator. All legal memoranda, affidavits, declarations, or other evidence in support of the request for final approval, the award of attorney's fees and costs to Class Counsel, the enhancement awards to the Class Representatives, and the fees and costs of the Settlement Administrator, shall be filed no later than sixteen (16) court days prior to the Final Approval Hearing. The Court reserves the right to continue the Final Approval Hearing without further notice to the Settlement Class Members.

1 13. Provided he or she has not submitted a timely and valid Request for Exclusion, any
2 Settlement Class Member may appear, personally or through his or her own counsel, and be heard
3 at the Final Approval Hearing regardless of whether he or she has submitted a written objection.
4

5 **IT IS SO ORDERED.**

6 Dated: 08/30/2024



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Jill Talley

Judge of the Superior Court:
Jill Talley

EXHIBIT F

LAFFEY MATRIX

History

Case Law

Contact us

Home

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $i_{\frac{1}{2}}$ Years Out of Law School $i_{\frac{1}{2}}$ is calculated from June 1 of each year, when most law students graduate. $i_{\frac{1}{2}}1-3$ " includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $i_{\frac{1}{2}}4-7$ " applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $i_{\frac{1}{2}}1-3$ " from June 1, 1996 until May 31, 1999, would move into tier $i_{\frac{1}{2}}4-7$ " on June 1, 1999, and tier $i_{\frac{1}{2}}8-10$ " on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT G

MAKAREM & ASSOCIATES

A Professional Law Corporation
11601 Wilshire Boulevard • Suite 2440 • Los Angeles, California 90025-1760
Telephone (310) 312-0299 • Fax (310) 312-0296
www.makaremlaw.com

Invoice Date 1/6/2025

Invoice # 15911

Invoice submitted to:

Donyeisha Mish
Address Redacted

UPS Freight (TForce Freight)(Class Action)

In Reference To: 1825.001

Matter No.

Professional services rendered January 6, 2025
through

Additional Charges :

	Amount
3/29/2021 Filing fee for: Civil Case Cover Sheet, Summons, and Complaint. Complex case fee; Bosco, Invoice #5443691.	1,768.45
4/30/2021 Fee for service of: Summons, Civil Case Cover Sheet, Complaint, Notice of Hearing, and Alternative Dispute Resolution on UPS Ground Freight, Inc.; Bosco, Invoice #5615122.	139.95
6/4/2021 Filing fee for Proof of Service for UPS Ground Freight; Bosco, Invoice #5635918.	139.95
6/15/2021 Filing fee for Civil Case Cover Sheet, Summons, and Complaint and Advance filing fees; Bosco, Invoice #5893777.	1,768.45
7/10/2021 Document image access fee; PACER.	0.10
7/28/2021 Document image access fee; PACER.	0.50
8/5/2021 Fee for delivery of Appearance of Counsel and First Amended Complaint to Judge Edward M. Chen; Bosco, Invoice #03483706.	189.95
8/18/2021 Filing fee for Notice of Acknowledgement of Receipt; One Legal, Invoice #03483706.	69.49
9/21/2021 Filing and conformation fee for Case Management Statement; Bosco, Invoice #6134626.	189.95
10/8/2021 Filing and conformation fee for Case Management Conference Order; Bosco, Invoice #6203770.	139.95
10/10/2021 Document access retrieval fee; Pacer, invoice #2623694-Q32021.	3.60
1/6/2022 Full day mediation rate for 5/17/22; Judciate West, Invoice #552156.	6,250.00
2/22/2022 Document access retrieval fee; PACER	0.10
9/11/2022 Fees for follow up; Berger invoice #6753.	350.00
9/27/2022 Document access retrieval fee; Pacer invoice #PR-IC3VGFADKDJWJO2P.	1.00

We accept Mastercard and Visa

In Reference To: UPS Freight (TForce Freight)(Class Action)

Professional services rendered through January 6, 2025

	Amount
9/27/2022 Document access retrieval fee; Pacer.	2.00
Document access retrieval fee; Alameda Superior Court, invoice #PR-RVCHTKJDNQY57YK9N.	1.00
9/30/2022 Deposition fees for legal support services on the deposition of Raymond Tang taken on 9/16/22; Steno invoice #408597.	3,585.75
10/12/2022 Deposition fees for the deposition of Mario Cardenas taken on 9/23/22; Esquire invoice #INV2315159.	1,570.55
10/17/2022 Document access retrieval fees; San Diego Superior Court confirmation #2197907.	3.00
10/19/2022 Transcript fees for the deposition of Jeremy Ficek taken on 10/13/22; Esquire invoice #INV2320035.	1,239.90
Filing fees for: Opposition, Request for Judicial Notice, Declaration, and Proof of Service; One Legal invoice #04460644.	20.02
10/24/2022 Fees for delivery of: (Opposition, Declaration, Request for Judicial Notice, and Proof of Service) on Department 520; Bosco invoice #7842612.	149.95
10/31/2022 Transcript fees for the deposition of Ramon Baez taken on 9/28/22; Veritext invoice #6112971.	2,379.75
11/1/2022 Transcript fees for the deposition of Elizabeth Perez taken on 10/27/22; Esquire, invoice #INV2330528.	1,544.70
11/13/2022 Transcript fees for the deposition of Samuel Kamande taken on 10/27/22; Esquire, invoice #INV2332067.	2,384.95
10/26/2023 Document Download	2.00
12/6/2023 One Legal inv. # 21770631 - Stipulation and Proposed Order Granting Leave of Court to File First Amended Complaint	288.26
1/11/2024 One Legal inv. # 21952555 - First Amended Class and Representative Complaint; Demand for Jury Trial	149.28
5/30/2024 One Legal inv. # 23009820 - Motion for Preliminary Approval of Settlement	80.20
7/19/2024 DOCUMENT DOWNLOAD	2.00
DOCUMENT DOWNLOAD	2.00
7/24/2024 One Legal inv. # 23374066 - Notice of Settlement	22.55
7/31/2024 One Legal inv. # 23406887 - Brief, Supplemental Declaration, Proof of Service	18.43
8/27/2024 One Legal inv. # 23607186 - Notice	18.99
10/9/2024 One Legal inv. # 23893237 - Case Management Statement	22.61
10/12/2024 One Legal inv. # 23885450 - Joint Status Conference Statement	15.44
Total additional charges	\$24,514.77
Balance due	\$24,514.77

EXHIBIT H

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
Jeanne Sarmiento, Esq. (#309660)
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Email: Jeanne@jameshawkinsaplc.com

Attorneys for Plaintiff ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

[Additional Counsel Listed On Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
VELASCO, and VICTOR GONZALEZ,
individually and on behalf of all others similarly
situated, and on behalf of the general public as
private attorney general,

Plaintiff,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:
Hon. Jill Talley
Dept. 23

DECLARATION OF DONYEISHA MISH

Date: June 21, 2024
Time: 9:00 a.m.
Dept. 23

Reservation No.: A-314820-003

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

2 Norman B. Blumenthal (State Bar #068687)

3 Kyle R. Nordrehaug (State Bar #205975)

4 Aparajit Bhowmik (State Bar #248066)

5 Nicholas J. De Blouw (State Bar #280922)

6 Jeffrey S. Herman (State Bar #280058)

7 Sergio Julian Puche (State Bar #289437)

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15 **MAKAREM & ASSOCIATES APLC**

16 Ronald W. Makarem, Esq. (SB#180442)

17 Samuel Almon, Esq. (SB #243569)

18 Daniel J. Bass, Esq. (SB#287466)

19 11601 Wilshire Boulevard, Suite 2440

20 Los Angeles, California 90025-1760

21 Telephone: (310) 312-0299;

22 Facsimile: (310) 312-0296

23 Attorneys for Plaintiff ANDREW D. TAPPIN, DONYEISHA MISH,
24 DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
25 VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

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1 I, Donyeisha Mish, declare as follows:

2 1. I am an adult over the age of eighteen (18) years old. I am the Named Plaintiff who
3 filed the above-captioned lawsuit. I have personal knowledge of the facts set forth in this
4 declaration. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of
5 Class Action Settlement.

6 2. I was employed by Defendant TForce as a non-exempt employee working as a parts
7 clerk in California at the Bloomington, California location from approximately January 2007 to
8 October 2020. While working for TForce, I don't think I was paid for all of my work time, including
9 time spend putting on work uniforms and undergoing security checks, time spent working after
10 having meal periods interrupted, and time deducted by TForce where I was clocked in and starting
11 work a few minutes before the scheduled start of a shift. I also don't think I got all of my meal and
12 rest breaks like I was supposed to, and breaks were interrupted frequently by other supervisors and
13 other employees needing parts. I had to use my personal cell phone for work as well but never got
14 any reimbursement.

15 3. I decided to bring this lawsuit because I did not feel that I was treated fairly as an
16 employee of Defendant, especially with regard to not being paid properly for all the hours I worked,
17 and not getting all of my proper lunches and rest breaks. As a result, I believe the other class members
18 and myself are owed additional compensation for all of the work we did that was not paid for by
19 TForce.

20 4. It is my understanding this lawsuit could not have been prosecuted or settled unless
26 I or some other employee decided to serve as a named plaintiff and pursue the case. In deciding to
22 serve as a named plaintiff, I understood that my name would be publicly attached to this lawsuit
23 and that my work experiences to some extent would be set forth in a public court file. I recognized
24 that I would need to devote a certain amount of time that I could have spent otherwise. I also
25 recognized that my bringing the lawsuit carried some degree of risk. Despite this, I decided to serve
26 as the named plaintiff without any promise of recovery or compensation.

27 5. I am familiar with the work involved in prosecuting this case. I have participated in
28 numerous meetings and communications with my lawyers regarding this case. I am familiar with

1 the allegations and defenses of the claims in this case. I am familiar with the major events in this
2 case, including the investigation performed by my lawyers, the mediation with Defendant that
3 resulted in this settlement, and the preparation of settlement papers and the need to obtain court
4 approval of the proposed settlement. I also was deposed for a full day and I participated in all
5 stages of the litigation and provided my lawyers with information and documents regarding my
6 employment with Defendant.

7 6. I believe that the proposed settlement obtained on behalf of the other aggrieved
8 employees is excellent in view of the issues and risks involved with the case.

9 7. I believe I have fulfilled my duties as a named plaintiff and class representative,
10 which required a significant amount of time and effort during the course of this case. These efforts
11 required dedicating numerous hours to lawsuit activities including, but not limited to:
12 (a) communicating with my attorneys to stay informed of ongoing developments in the case and to
13 discuss the proposed settlement ultimately negotiated; (b) searching for and providing documents
14 and other materials relating to my work experience; (c) responding to requests for information
15 relating to my work experience; and (d) reviewing filings and key documents including drafts of
16 the complaint and the settlement agreement. These tasks required my dedication of at least 20 or
17 more hours of my time, which time I honestly could have spent on family, personal time, school
18 time, or work. My understanding is that future tasks may require several more hours of my time. I
19 believe I have been diligent and that I have acted above and beyond that of which is expected of a
20 named plaintiff to date and will continue to do so.

26 8. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
22 named plaintiff and class representative, and in consideration for my general release of all claims
23 against IPC. I believe that amount is fair and reasonable in view of the work I have and will
24 continue to perform on behalf of the State and the aggrieved employees. I believe that my role in
25 this lawsuit has resulted in a valuable benefit to the State of California and other aggrieved
26 employees, and I accepted the potential risk of being liable for the opposing parties' costs if we
27 were unsuccessful in this lawsuit. I believed in this case, so I was willing to be the named plaintiff
28 to risk this and pursue this class action litigation. I also accepted the risk that news of this lawsuit

could also potentially impact my ability to secure other work. At all times I believe I have acted in the best interests of the entire class.

9. Based on the time, service, risk, stress, potential stigma, loss of benefits and excellent outcome of this case, I believe the enhancement for me is fair and reasonable.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on 05 / 24 / 2024, at SanBernardino, California.



Donyeisha Mish

EXHIBIT I

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
Jeanne Sarmiento, Esq. (#309660)
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Attorneys for Plaintiff ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

[Additional Counsel Listed On Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
VELASCO, and VICTOR GONZALEZ,
individually and on behalf of all others similarly
situated, and on behalf of the general public as
private attorney general,

Plaintiff,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:
Hon. Jill Talley
Dept. 23

DECLARATION OF DARNELL LEE

Date: June 21, 2024
Time: 9:00 a.m.
Dept. 23

Reservation No.: A-314820-003

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

2 Norman B. Blumenthal (State Bar #068687)

3 Kyle R. Nordrehaug (State Bar #205975)

4 Aparajit Bhowmik (State Bar #248066)

5 Nicholas J. De Blouw (State Bar #280922)

6 Jeffrey S. Herman (State Bar #280058)

7 Sergio Julian Puche (State Bar #289437)

8 Trevor G. Moran (State Bar #330394)

9 2255 Calle Clara

10 La Jolla, CA 92037

11 Telephone: (858)551-1223

12 Facsimile: (858) 551-1232

13 Website: www.bamlawca.com

14

15 **MAKAREM & ASSOCIATES APLC**

16 Ronald W. Makarem, Esq. (SB#180442)

17 Samuel Almon, Esq. (SB #243569)

18 Daniel J. Bass, Esq. (SB#287466)

19 11601 Wilshire Boulevard, Suite 2440

20 Los Angeles, California 90025-1760

21 Telephone: (310) 312-0299;

22 Facsimile: (310) 312-0296

23 Attorneys for Plaintiff ANDREW D. TAPPIN, DONYEISHA MISH,
24 DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
25 VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

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1 I, Darnell lee, declare as follows:

2 I am an adult over the age of eighteen (18) years old. I am the Named Plaintiff who
3 filed the above-captioned lawsuit. I have personal knowledge of the facts set forth in this declaration.
4 I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action
5 Settlement.

6 2. I am a current employee of Defendant TForce, and have worked there as a non-exempt
7 employee as a local pickup and delivery driver from approximately 2003 through the present. I
8 worked at the Rialto, California location until approximately early 2021, and since that time have
9 been at the Fontana, California location.

10 3. While working for TForce, I don't think I was paid for all of my work time, including
11 time spend putting on work uniforms and undergoing security checks, time I had to work when my
12 lunch break was interrupted, and time deducted by TForce where I was clocked in and starting work
13 a few minutes before the scheduled start of a shift. I also don't think I got all of my meal and rest
14 breaks like I was supposed to, and breaks were interrupted frequently. I had to use my personal cell
15 phone for work as well but never got any reimbursement.

16 4. I decided to bring this lawsuit because I did not feel that I was treated fairly as an
17 employee of Defendant, especially with regard to not being paid properly for all the hours I worked,
18 and not getting all of my proper lunches and rest breaks. As a result, I believe the other class members
19 and myself are owed additional compensation for all of the work we did that was not paid for by
20 TForce.

26 5. It is my understanding this lawsuit could not have been prosecuted or settled unless
22 I or some other employee decided to serve as a named plaintiff and pursue the case. In deciding to
23 serve as a named plaintiff, I understood that my name would be publicly attached to this lawsuit
24 and that my work experiences to some extent would be set forth in a public court file. I recognized
25 that I would need to devote a certain amount of time that I could have spent otherwise. I also
26 recognized that my bringing the lawsuit carried some degree of risk. Despite this, I decided to serve
27 as the named plaintiff without any promise of recovery or compensation.
28

1 6. I am familiar with the work involved in prosecuting this case. I have participated in
2 numerous meetings and communications with my lawyers regarding this case. I am familiar with
3 the allegations and defenses of the claims in this case. I am familiar with the major events in this
4 case, including the investigation performed by my lawyers, the mediation with Defendant that
5 resulted in this settlement, and the preparation of settlement papers and the need to obtain court
6 approval of the proposed settlement. I also was deposed for a full day and I participated in all
7 stages of the litigation and provided my lawyers with information and documents regarding my
8 employment with Defendant.

9 7. I believe that the proposed settlement obtained on behalf of the other aggrieved
10 employees is excellent in view of the issues and risks involved with the case.

11 8. I believe I have fulfilled my duties as a named plaintiff and class representative,
12 which required a significant amount of time and effort during the course of this case. These efforts
13 required dedicating numerous hours to lawsuit activities including, but not limited to:
14 (a) communicating with my attorneys to stay informed of ongoing developments in the case and to
15 discuss the proposed settlement ultimately negotiated; (b) searching for and providing documents
16 and other materials relating to my work experience; (c) responding to requests for information
17 relating to my work experience; and (d) reviewing filings and key documents including drafts of
18 the complaint and the settlement agreement. These tasks required my dedication of at least 20-25
19 hours of my time, which time I honestly could have spent on family, personal time, school time, or
20 work. My understanding is that future tasks may require several more hours of my time. I believe I
26 have been diligent and that I have acted above and beyond that of which is expected of a named
22 plaintiff to date and will continue to do so.

23 9. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
24 named plaintiff and class representative, and in consideration for my general release of all claims
25 against IPC. I believe that amount is fair and reasonable in view of the work I have and will
26 continue to perform on behalf of the State and the aggrieved employees. I believe that my role in
27 this lawsuit has resulted in a valuable benefit to the State of California and other aggrieved
28 employees, and I accepted the potential risk of being liable for the opposing parties' costs if we

1 were unsuccessful in this lawsuit. I believed in this case, so I was willing to be the named plaintiff
2 to risk this and pursue this class action litigation. I also accepted the risk that news of this lawsuit
3 could also potentially impact my ability to secure other work. At all times I believe I have acted in
4 the best interests of the entire class.

5 10. Based on the time, service, risk, stress, potential stigma, loss of benefits and
6 excellent outcome of this case, I believe the enhancement for me is fair and reasonable.

7 I declare under penalty of perjury under the laws of the United States that the foregoing is
8 true and correct. Executed on 05 / 24 / 2024, at San Bernardino, California.

9
10 

11 _____
Darnell Lee

EXHIBIT J

JAMES HAWKINS APLC
James R. Hawkins, Esq. (#192925)
Gregory Mauro, Esq. (#222239)
Michael Calvo, Esq. (#314986)
Jeanne Sarmiento, Esq. (#309660)
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Email: Michael@jameshawkinsaplc.com
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Attorneys for Plaintiff ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

[Additional Counsel Listed On Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
VELASCO, and VICTOR GONZALEZ,
individually and on behalf of all others similarly
situated, and on behalf of the general public as
private attorney general,

Plaintiff,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:
Hon. Jill Talley
Dept. 23

DECLARATION OF LUIS ROBLES

Date: June 21, 2024
Time: 9:00 a.m.
Dept. 23

Reservation No.: A-314820-003

1 **BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

2 Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

3 Nicholas J. De Blouw (State Bar #280922)

Jeffrey S. Herman (State Bar #280058)

4 Sergio Julian Puche (State Bar #289437)

Trevor G. Moran (State Bar #330394)

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6 Telephone: (858)551-1223

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7 Website: www.bamlawca.com

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MAKAREM & ASSOCIATES APLC

9 Ronald W. Makarem, Esq. (SB#180442)

Samuel Almon, Esq. (SB #243569)

10 Daniel J. Bass, Esq. (SB#287466)

11601 Wilshire Boulevard, Suite 2440

11 Los Angeles, California 90025-1760

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12 Facsimile: (310) 312-0296

13 Attorneys for Plaintiffs DONYEISHA MISH,

14 DARNELL LEE, LUIS ROBLES, and

XOCHITL VELASCO, and VICTOR GONZALEZ.

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1 I, LUIS ROBLES, declare as follows:

2 1. I am an adult over the age of eighteen (18) years old. I am the Named Plaintiff who
3 filed the above-captioned lawsuit. I have personal knowledge of the facts set forth in this
4 declaration. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of
5 Class Action Settlement.

6 2. I was employed by TForce as a non-exempt employee working as a Mechanic/Test
7 Driver in California at the Rialto, California location from approximately May 5, 2007 to August 4,
8 2019. While working for TForce, I don't think I was paid for all of my work time, including time
9 spent putting on work uniforms and undergoing security checks and time spent working after having
10 meal periods interrupted. TForce also deducted time if I clocked in and started working a few minutes
11 before the scheduled start of a shift. I also don't think I got all of my meal and rest breaks like I was
12 supposed to, and breaks were interrupted frequently by supervisors or because of issues with a
13 vehicle. I had to use my personal cell phone for work as well but never got any reimbursement.

14 3. I decided to bring this lawsuit because I did not feel that I was treated fairly as an
15 employee of Defendant, especially with regard to not being paid properly for all the hours I worked,
16 and not getting all of my proper lunches and rest breaks. As a result, I believe the other class members
17 and myself are owed additional compensation for all of the work we did that was not paid for by
18 TForce.

19 4. It is my understanding this lawsuit could not have been prosecuted or settled unless
20 I or some other employee decided to serve as a named plaintiff and pursue the case. In deciding to
26 serve as a named plaintiff, I understood that my name would be publicly attached to this lawsuit
22 and that my work experiences to some extent would be set forth in a public court file. I recognized
23 that I would need to devote a certain amount of time that I could have spent otherwise. I also
24 recognized that my bringing the lawsuit carried some degree of risk. Despite this, I decided to serve
25 as the named plaintiff without any promise of recovery or compensation.

26 5. I am familiar with the work involved in prosecuting this case. I have participated in
27 numerous meetings and communications with my lawyers regarding this case. I am familiar with
28 the allegations and defenses of the claims in this case. I am familiar with the major events in this

1 case, including the investigation performed by my lawyers, the mediation with Defendant that
2 resulted in this settlement, and the preparation of settlement papers and the need to obtain court
3 approval of the proposed settlement. I also was deposed for a full day and I participated in all
4 stages of the litigation and provided my lawyers with information and documents regarding my
5 employment with Defendant.

6 6. I believe that the proposed settlement obtained on behalf of the other aggrieved
7 employees is excellent in view of the issues and risks involved with the case.

8 7. I believe I have fulfilled my duties as a named plaintiff and class representative,
9 which required a significant amount of time and effort during the course of this case. These efforts
10 required dedicating numerous hours to lawsuit activities including, but not limited to:
11 (a) communicating with my attorneys to stay informed of ongoing developments in the case and to
12 discuss the proposed settlement ultimately negotiated; (b) searching for and providing documents
13 and other materials relating to my work experience; (c) responding to requests for information
14 relating to my work experience; and (d) reviewing filings and key documents including drafts of
15 the complaint and the settlement agreement. These tasks required my dedication of at least 20 or 25
16 hours of my time, which time I honestly could have spent on family, personal time, school time, or
17 work. My understanding is that future tasks may require several more hours of my time. I believe I
18 have been diligent and that I have acted above and beyond that of which is expected of a named
19 plaintiff to date and will continue to do so.

20 8. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
26 named plaintiff and class representative, and in consideration for my general release of all claims
22 against IPC. I believe that amount is fair and reasonable in view of the work I have and will
23 continue to perform on behalf of the State and the aggrieved employees. I believe that my role in
24 this lawsuit has resulted in a valuable benefit to the State of California and other aggrieved
25 employees, and I accepted the potential risk of being liable for the opposing parties' costs if we
26 were unsuccessful in this lawsuit. I believed in this case, so I was willing to be the named plaintiff
27 to risk this and pursue this class action litigation. I also accepted the risk that news of this lawsuit
28

1 could also potentially impact my ability to secure other work. At all times I believe I have acted in
2 the best interests of the entire class.

3 9. Based on the time, service, risk, stress, potential stigma, loss of benefits and
4 excellent outcome of this case, I believe the enhancement for me is fair and reasonable.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct. Executed on 05 / 24 / 2024, at Fontana, California.

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8 _____
9 LUIS ROBLES
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EXHIBIT K

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VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

[Additional Counsel Listed On Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SACRAMENTO

ANDREW D. TAPPIN, DONYEISHA MISH,
DARNELL LEE, LUIS ROBLES, XOCHITL
VELASCO, and VICTOR GONZALEZ,
individually and on behalf of all others similarly
situated, and on behalf of the general public as
private attorney general,

Plaintiff,

vs.

TFORCE FREIGHT, INC., a Virginia
Corporation; and DOES 1 through 50, inclusive,
Defendants.

Case No. 34-2022-00314820-CU-OE-GDS

Assigned for All Purposes to:
Hon. Jill Talley
Dept. 23

DECLARATION OF XOCHITL VELASCO

Date: June 21, 2024
Time: 9:00 a.m.
Dept. 23

Reservation No.: A-314820-003

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14 DARNELL LEE, LUIS ROBLES, XOCHITL VELASCO and
VICTOR GONZALEZ, individually and on behalf of all others similarly situated.

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1 I, XOCHITL VELASCO declare as follows:

2 1. I am an adult over the age of eighteen (18) years old. I am the Named Plaintiff who
3 filed the above-captioned lawsuit. I have personal knowledge of the facts set forth in this
4 declaration. I make this declaration in support of Plaintiffs' Motion for Preliminary Approval of
5 Class Action Settlement.

6 2. I am a current employee of TForce, and I've been with the company since
7 approximately 2007 through the present. From approximately 2007 to 2012, I worked as a Dock
8 Clerk and then an Appointment Clerk. From 2012 to around November 2020 I was an OS&D
9 (Overages, Shortages & Damages) and Yard Check clerk. Since about November 2020, I've been a
10 Dispatch Clerk. I worked at the Rialto, California location until approximately December 2020, and
11 since then moved to the Fontana, California location. Since I've been with TForce, I don't think I
12 have been paid for all the hours I've worked, as I spend time putting on/taking off work uniforms
13 and undergoing security checks that is not paid for. I lose time during my lunches if they are
14 interrupted, which happens a lot when issues come up in the yard or related to dispatch that I have
15 to deal with. I also sometimes clock in and start my shift a few minutes early, and TForce will deduct
16 any time before the scheduled start time, so I don't get paid for it. I also don't think I got all of my
17 meal and rest breaks like I was supposed to, and as I mentioned breaks can be interrupted frequently.
18 I've also had to use my personal cell phone for work without any reimbursement.

19 4. I decided to bring this lawsuit because I did not feel that I was treated fairly as an
20 employee of Defendant, especially with regard to not being paid properly for all the hours I worked,
26 and not getting all of my proper lunches and rest breaks. As a result, I believe the other class members
22 and myself are owed additional compensation for all of the work we did that was not paid for by
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11 7. I believe that the proposed settlement obtained on behalf of the other aggrieved
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18 relating to my work experience; (c) responding to requests for information relating to my work
19 experience; and (d) reviewing filings and key documents including drafts of the complaint and the
20 settlement agreement. These tasks required my dedication of at least 25 hours of my time, which
26 time I honestly could have spent on family, personal time, school time, or work. My understanding
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25 9. It is my opinion that \$10,000.00 is a fair and adequate award for my service as the
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1 this lawsuit has resulted in a valuable benefit to the State of California and other aggrieved
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3 were unsuccessful in this lawsuit. I believed in this case, so I was willing to be the named plaintiff
4 to risk this and pursue this class action litigation. I also accepted the risk that news of this lawsuit
5 could also potentially impact my ability to secure other work. At all times I believe I have acted in
6 the best interests of the entire class.

7 10. Based on the time, service, risk, stress, potential stigma, loss of benefits and
8 excellent outcome of this case, I believe the enhancement for me is fair and reasonable.

9 I declare under penalty of perjury under the laws of the United States that the foregoing is
10 true and correct. Executed on 05 / 24 / 2024, at Fontana, California.

11 *Xochitl R Velasco*
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13 XOCHITL VELASCO
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EXHIBIT L