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County of Sacramento

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

OSCAR AGUILAR, individually, on behalf of all
others similarly situated, and on behalf of the State
of California and other aggrieved persons,

Plaintiff,

v.

AMERICAN PASTEURIZATION COMPANY,
LLC, a Limited Liability Company; and DOES 1
through 10, inclusive,

Defendants.

Case No. 34-2021-00312027-CU-OE-GDS

CLASS & REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Lauri A.
Damrell, Dept. 22]

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

FINAL APPROVAL HEARING

Date: August 30, 2024
Time: 9:00 a.m.
Dept.: 22

Complaint filed: November 30, 2021
FAC filed: November 18, 2022
Trial date: Not set

DECLARATION OF JUSTIN F. MARQUEZ

I, Justin F. Marquez, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Oscar Aguilar (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Final Approval of Class Action Settlement.

CASE BACKGROUND

2. This is a wage and hour class action and Private Attorneys General Act (“PAGA”) (Labor Code §§ 2699, *et seq.*) representative action. Plaintiff and putative Class Members worked in California as hourly-paid or non-exempt employees for Defendant during the Class Period. Defendant American Pasteurization Company, LLC was founded in 2004 and has two plants in the United States, one of which is located in Sacramento, California. Defendant provides High Pressure Processing to the food and beverage industry on a pay-as-you-go basis, co-manufacturing of many premium food products, and post HPP-packaging, pack-off and assembly services.

3. Plaintiff alleges that Defendant's payroll, timekeeping, and wage and hour practices resulted in Labor Code violations. Plaintiff alleges that Defendant failed to pay for all hours worked. Plaintiff further alleges that Defendant failed to provide employees with legally compliant meal and rest periods. Based on these allegations, Plaintiff asserts claims against Defendant for failure to timely pay all final wages at termination, failure to provide accurate itemized wage statements, unfair business practices, and civil penalties under PAGA.

4. On November 30, 2021, Plaintiff filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages (Labor Code §§ 204, 1194, 1194.2, and 1197); (2) failure to pay overtime wages (Labor Code §§ 1194 and 1198); (3) failure to provide meal periods (Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (Labor Code §§ 226.7); (5) failure to timely pay final wages

1 at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage
2 statements (Labor Code § 226); and (7) unfair business practices (Business and Professions
3 Code § 17200 *et seq.*). On February 25, 2022, Plaintiff separately filed a PAGA-only action
4 against Defendant. On December 2, 2021, Plaintiff sent notice to Defendant and the California
5 Labor & Workforce Development Agency (“LWDA”) alleging similar wage-and-hour
6 violations pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2699, *et*
7 *seq.*). On November 18, 2022, Plaintiff amended his class action complaint to add the PAGA
8 cause of action to the complaint and later dismissed the separately filed PAGA action.

9 DISCOVERY, INVESTIGATION, AND SETTLEMENT

10 5. Following the filing of the Complaint, the Parties exchanged documents and
11 information before mediating this action. Defendant produced a sample of time and pay records
12 for class members. Defendant also provided documents of its wage and hour policies and practices
13 during the class period and produced information regarding the total number of current and former
14 employees in its informal discovery responses.

15 6. After reviewing documents regarding Defendant’s wage and hour policies and
16 practices, analyzing Defendant’s timekeeping and payroll records, and interviewing Class
17 Members, Class Counsel was able to evaluate the probability of class certification, success on the
18 merits, and Defendant’s maximum monetary exposure for all claims. Class Counsel also
19 investigated the applicable law regarding the claims and defenses asserted in the litigation. Class
20 Counsel reviewed these records and prepared a damage analysis prior to mediation. This extensive
21 investigation and discovery allowed Class Counsel to act intelligently and effectively in
22 negotiating the Settlement.

23 7. On November 23, 2022, the Parties participated in private mediation with
24 experienced class action mediator Steve Cerveris, Esq. The settlement negotiations were at arm’s
25 length and, although conducted in a professional manner, were adversarial. The Parties went into
26 the mediation willing to explore the potential for a settlement of the dispute, but each side was also
27 prepared to litigate their position through trial and appeal if a settlement had not been reached.
28 After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiff’s

claims and Defendant's defenses, the Parties reached a settlement the material terms of which are encompassed within each Settlement Agreement. Attached as **Exhibit 1** is a true and correct copy of the Class Action and PAGA Settlement Agreement and Class Notice. On April 18, 2024, the Parties executed an Amendment to the Settlement Agreement to amend the litigations costs. Attached as **Exhibit 2** is a true and correct copy of the Amendment to Class Action and PAGA Settlement Agreement and Class Notice. On May 17, 2024, the Parties executed a Second Amendment to the Settlement Agreement to amend language in the releases for the class members and aggrieved employees as advised by the Court. Attached as **Exhibit 3** is a true and correct copy of the Second Amendment to Class Action and PAGA Settlement Agreement and Class Notice (Class Action and PAGA Settlement Agreement and Class Notice with the two Amendments collectively, the "Settlement Agreement").

8. Class Counsel has conducted a thorough investigation into the facts of this case. Based on the foregoing discovery and their own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best interests of the Settlement Class Members in light of all known facts and circumstances, the risk of significant delay, the defenses that could be asserted by Defendant both to certification and on the merits, trial risk, and appellate risk.

9. The settlement obviates the significant risk that this Court may deny certification of all or some of Plaintiff's claims. While Plaintiff is confident in the merits of his claims, a legitimate controversy exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due to each class member would be an expensive, time-consuming, and uncertain proposition. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be expensive, involving a trial and possible appeals, and would substantially delay and reduce any recovery by the class. When considering the risks of litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the settlement amount of \$505,000.00 is within the "ballpark" of reasonableness, and preliminary settlement approval is appropriate.

1 10. The Court granted Plaintiff's Motion for Preliminary Approval of the Settlement on
2 June 6, 2024. The deadline for class members to opt out or object to the Settlement was August 5,
3 2024. The reaction of the Class to the settlement has been overwhelmingly positive. Indeed, as of
4 the filing of this Motion, no Class Member has opted out of the settlement, and no Class Members
5 have objected to the settlement.

6 11. The proposed Settlement Agreement was provided to the LWDA in advance of
7 Plaintiff filing their Motion for Preliminary Approval.

8 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

9 12. Class Counsel represent that Plaintiff devoted a great deal of time and work assisting
10 counsel in the case, communicated with counsel very frequently for litigation and to prepare for
11 mediation, and were frequently in contact with Class Counsel during the mediation. Plaintiff's
12 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff
13 generated for all class members.

14 13. Throughout this litigation, Plaintiff, who is a former employee of Defendant, has
15 cooperated immensely with my office and has taken many actions to protect the interests of the
16 class. Plaintiff provided valuable information regarding unpaid overtime, meal period, and rest
17 period claims. Plaintiff also informed my office of developments and information relevant to this
18 action, participated in decisions concerning this action, made themselves available to answer
19 questions during the mediation, and provided my office with the names and contact information of
20 potential witnesses in this action. Before we filed this case, Plaintiff provided my office with
21 several documents, including policy documents, and communications from Defendant regarding
22 the claims alleged in this action. The information and documentation provided by Plaintiff was
23 instrumental in establishing the wage and hour violations alleged in this action, and the recovery
24 provided for in the Settlement Agreement would have been impossible to obtain without Plaintiff's
25 participation.

26 14. At the same time, Plaintiff faced many risks in adding themselves as the class
27 representatives in this matter. Plaintiff faced actual risks with his future employment, as putting
28 himself on public record in an employment lawsuit could also very well affect his likelihood for

future employment. Furthermore, as part of this settlement, Plaintiff is executing a general release of all claims against Defendant.

15. In turn, class members will now have the opportunity to participate in a settlement, reimbursing them for alleged wage violations they may have never known about on their own or been willing to pursue on their own. If these class members would have each tried to pursue their legal remedies on their own, that would have resulted in each having to expend a significant amount of their own monetary resources and time, which were obviated by Plaintiff putting himself on the line on behalf of these other class members.

16. In the final analysis, this class action would not have been possible without the aid of Plaintiff, who put his own time and effort into this litigation, sacrificed the value of his own individual claims, and placed himself at risk for the sake of the class members. The requested enhancement awards for Plaintiff for his service as the class representative and for his general release of all individual claims is a relatively small amount of money when the time and effort put into the litigation are considered and in comparison to enhancements granted in other class actions. The requested incentive award is therefore reasonable to compensate Plaintiff for his active participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation*, et al., No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00 class representative incentive award for each named plaintiff.

THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

17. The settlement provides for attorney's fees and costs to Class Counsel in an amount up to 33 and 1/3% of the Gross Settlement Amount, for a maximum fees award of \$168,333.33, plus reasonable litigation expenses of up to \$22,000.00.

18. The total current lodestar for Wilshire Law Firm, PLC is not less than the following:

Person	Role	Hours	Rate	Lodestar
Justin F. Marquez	Senior Partner (14+ years)	34	\$1,500	\$51,000
Benjamin H. Haber	Associate Attorney (7th Year)	67	\$775	\$51,925

Arrash Fattahi	Associate Attorney (4th Year)	29	\$625	\$18,125
Maxim Gorbunov	Associate Attorney (3rd Year)	33	\$575	\$18,975
Bradford Smith	Settlement Attorney (2nd Year)	9	\$525	\$4,725
Total:		172		\$144,750

19. Class Counsel has spent over 172 hours litigating this Action to bring it to resolution, not including time which will be expended monitoring the administration of the settlement and distribution of funds to the Class Members. The efforts expended by Plaintiff's counsel to achieve this result include, but are not limited to, the following:

- a. the investigation of the matter, including meeting with Plaintiff, reviewing Defendant's policies, and requesting and reviewing Plaintiff's time and pay records, personnel files, and exploring the corporate structure of Defendant;
- b. filing the Action;
- c. attending status conferences and meeting and conferring with Defendant regarding the case;
- d. drafting discovery to propound;
- e. meeting and conferring with Defendant regarding mediation, exchange of informal discovery beforehand, and negotiating with opposing counsel regarding the parameters thereof;
- f. selecting a mediator and mediation date;
- g. working with opposing counsel and an expert consultant for the receipt of a representative sampling and analyzing the same with the aid of expert consultant and Plaintiff to perform analyses of liability and exposure prior to attendance of the mediation in this matter;
- h. reviewing policy documents from Defendant and researching applicable defenses;
- i. preparation of a mediation brief and damages model for use at mediation;
- j. attendance at mediation by all Parties and Counsel;
- k. communicating with Plaintiff who requested updates or other information regarding

1 this matter;

- 2 l. engaging in extensive settlement negotiations, including gathering updated
3 workweek and class member counts;
- 4 m. finalizing and fully executing the settlement agreement;
- 5 n. preparing and drafting the Motion for Preliminary Approval and supporting
6 documents;
- 7 o. preparing and executing two amendments to the settlement agreement;
- 8 p. Meeting and conferring with Defendant's counsel, and drafting and submitting
9 supplemental documentation addressing the concerns the Court raised in response
10 to Plaintiff's Motion for Preliminary Approval;
- 11 q. communicating with class members who sought additional information regarding
12 the settlement, including answering questions regarding the settlement and
13 obtaining updated addresses from class members for purposes of receiving the class
14 notices and administering the settlement checks;
- 15 r. communicating with the Settlement Administrator to ensure the Class Notice was
16 properly distributed and engaging in extensive follow-up communications with the
17 Settlement Administrator regarding class members who sought additional
18 information about the Settlement; and
- 19 s. preparing the instant Motion for Final Approval and supporting documents.

20 20. There are additional hours devoted by me (and by my colleagues) to this litigation
21 that are not reflected in Class Counsel's request for attorney's fees.

22 21. We can provide additional billing records in the event the Court requests them, but
23 would request the opportunity to redact attorney-client privileged information and any other
24 privileged information.

25 22. I am informed and believe that the fee and costs provision is reasonable. The fee
26 percentage requested is less than that charged by my office for most employment cases. My office
27 invested significant time and resources into the case, with payment deferred to the end of the case,
28 and then, of course, contingent on the outcome.

1 23. It is further estimated that my office will need to expend at least another 20 to 30
2 hours to monitor the process leading up to payments made to the class. My office also bears the
3 risk of taking whatever actions are necessary if Defendant fails to pay.

4 24. The risk to my office has been very significant, particularly if we would not be
5 successful in pursuing this class action. In that case, we would have been left with no compensation
6 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases
7 that have resulted in thousands of attorney hours being expended and ultimately having
8 certification denied or the defendant company going bankrupt. The contingent risk in these types
9 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
10 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

11 25. Because most individuals cannot afford to pay for representation in litigation on an
12 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
13 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
14 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
15 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
16 her case, we cannot afford to represent an individual employee on a contingency basis if, at the
17 end of our representation, all we are to receive is our regular hourly rate for services. It is essential
18 that we recover more than our regular hourly rate when we win if we are to remain in practice so
19 as to be able to continue representing other individuals in civil rights employment disputes.

20 26. As of the drafting of this motion, my office has incurred around \$20,244.57 in
21 expenses litigating this action, and we anticipate accruing additional costs up to Final Approval of
22 the Settlement. These expenses were reasonably necessary to the litigation and were actually
23 incurred by my office. We also anticipate additional costs in the amount of \$300.00, which
24 includes the costs for filing Plaintiff's Motion for Final Approval, the distribution compliance
25 report, and appearing at the hearing. Accordingly, my office respectfully requests reimbursements
26 of \$20,544.57 in expenses, which should be reimbursed in full. Attached as **Exhibit 4** is a list of
27 the costs and the categories of costs for the costs incurred in this case to date.

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PLAINTIFF'S COUNSEL'S EXPERIENCE AND QUALIFICATIONS

27. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World Report as one of the nation's Best Law Firms for every year since 2020 and is comprised of over 70 attorneys and over 500 employees. Wilshire Law Firm, PLC is actively and continuously practicing in employment litigation, representing employees in both individual and class actions in both state and federal courts throughout California.

28. Wilshire Law Firm, PLC is qualified to handle this litigation because its attorneys are experienced in litigating Labor Code violations in both individual, class action, and representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling, numerous wage and hour class action lawsuits, as well as numerous class actions involving consumer rights and data privacy litigation.

29. I graduated from the University of California, Los Angeles's College Honors Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in 2008.

30. My practice is focused on advocating for the rights of consumers and employees in class action litigation and appellate litigation. I am currently the primary attorney in charge of litigating several class action cases in state and federal courts across the United States.

31. I have received numerous awards for my legal work. From 2017 to 2020, Super Lawyers selected me as a "Southern California Rising Star," and from 2022 to 2024, I was selected as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America" in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under 40" attorney. In 2024, I, along with my colleagues at Wilshire Law Firm, received a CLAY (California Lawyer Attorneys of the Year) award for my work on a false advertising case against Apple which ultimately led to a \$25 million settlement. I am also rated 10.0 ("Superb") by Avvo.com.

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1 32. I am on the California Employment Lawyers Association (“CELA”)’s Wage and
2 Hour Committee and Mentor Committee. I have been selected to speak at multiple CELA
3 conferences throughout my career – in 2019, I spoke on the topic of manageability of class actions
4 at CELA’s 2019 Advanced Wage & Hour Seminar, and in 2024, I spoke on the topic of dealings
5 with multiple cases against the same defendant at CELA’s 2024 Advanced Wage & Hour Seminar.
6 Since 2013, I have actively mentored young attorneys through CELA’s mentorship program.

7 33. I am also a past member of the Consumer Attorneys of California (“CAOC”). In
8 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of
9 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm
10 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
11 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
12 Labor Code § 226.

13 34. As the attorney responsible for day-to-day management of this matter at the
14 Wilshire Law Firm, PLC, I have over fourteen years of experience with litigating wage and hour
15 class actions. Over the last fourteen years, I have managed and assisted with the litigation and
16 settlement of several wage and hour class actions. In those class actions, I performed similar tasks
17 as those performed in the course of prosecuting this action. My litigation experience includes:

- 18 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
19 million in gross recovery to class members for each year since 2020, including
20 over \$37.5 million in 2022 and over \$75 million in 2023.
- 21 b. I led a team of attorneys that successfully obtained class certification of meal
22 period, rest period, and related derivative claims on April 5, 2024 in *Aguilar-
23 Flores, et al., v. Javier’s CC LLC, et al.*, Los Angeles Superior Court, Case No.
24 19STCV36438 (Hon. Elihu M. Berle).
- 25 c. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical
26 Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in
27 a data breach class action holding that consumer plaintiffs adequately alleged
28 injury in fact under the benefit of the bargain theory and monitoring-costs

theory.

- d. In 2023, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 15 for the \$3.5 million settlement in Black & Decker Wage and Hour Cases) and three additional cases in the Top 50 Labor & Employment Settlements (number 21, 29, and 39).
- e. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 19 for the \$4.1 million settlement in The FPI Management Wage and Hour Cases) and four additional cases in the Top 50 Labor & Employment Settlements (numbers 36, 39, 41, and 49).
- f. In 2021, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6 million settlement in *Moreno v. Pretium Packaging, L.L.C*) and four additional cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- g. To my knowledge, I am the only attorney to appear on each of the following Top Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- h. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by winning class certification on behalf of hundreds of thousands of consumers for misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct. C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- i. As lead counsel, I prevailed against Bank of America by: winning class certification on behalf of thousands of employees for California Labor Code violations; defeating appellate review of the court's order certifying the class; defeating summary judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.* (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th

1 Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L.
2 3659251 (N.D. Cal. Aug. 2, 2018).). The decision certifying the class in *Frausto*
3 is also discussed in Class Certification Under Fed. R. Civ. P. 23 in Action by
4 Information Technology or Call Center Employees for Violation of State Law
5 Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.

6 j. I was the primary author of the class certification and expert briefs in *ABM*
7 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class
8 action for over 40,000 class members for off-the-clock, meal period, split shift,
9 and reimbursement claims. *ABM Industries Overtime Cases* is the first
10 published California appellate authority to hold that an employer’s “auto-deduct
11 policy for meal breaks in light of the recordkeeping requirements for California
12 employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)¹
13 Notably, the Court of Appeal also held that expert analysis of timekeeping
14 records can also support the predominance requirement for class certification.
15 (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of
16 the largest ever wage and hour class action settlements for hourly-paid
17 employees in California.

18 k. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795
19 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class
20 claims under California’s Private Attorney Generals Act (“PAGA”) cannot be
21 used to calculate the amount in controversy under the Class Action Fairness Act
22 (“CAFA”). This case is cited in several leading treatises such as Wright &
23 Miller’s Federal Practice & Procedure, and Newberg on Class Actions. In
24 October 2016, the U.S. Supreme Court denied review of a case that primarily
25 concerned Yocupicio. That effort was led by Theodore J. Boutsous, who
26

27 ¹ As a California district court observed before the *ABM Industries Overtime* decision,
28 “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity*
Networks, Inc. (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.² Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining Yocupicio case, but failed, this demonstrates the national importance of the Yocupicio decision.

1. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (Id. at p. *10.)
- m. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a reported decision permitting class-wide discovery even though the employer has a lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered Defendants to pay for the cost of *Belaire-West* notice.
- n. In 2013, I represented a whistleblower that reported that his former employer was defrauding the State of California with the help of bribes to public employees. The case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution of State of California employees by the California Attorney General’s Office.
- o. In 2013, I was part of a team of attorneys that obtained conditional certification for over 2,000,000 class members in a federal labor law case for misclassification of independent contractors that did crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-plaintiff reported decisions:

² <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

- 1) 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an unaccepted Rule 68 offer doesn't moot plaintiff's claims, and granting plaintiff's motion to strike Defendants' affirmative defenses based on *Twombly/Iqbal*).
- 2) 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
- 3) 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the magistrate judge's discovery ruling which held that "evidence of other sources of income is irrelevant to the question of whether a plaintiff is an employee within the meaning of the FLSA").
- 4) 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because "an FLSA plaintiff is entitled to discovery from locations where he never worked if he can provide some evidence to indicate company-wide violations").

p. From 2012 to 2013, I was part of a team of attorneys that obtained class certification for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

35. My current contingent billing rate of \$1,500 per hour is consistent with my actual billing rate for paid legal industry consulting services, my practice area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly rates:

- a. I have been paid for legal industry consulting services at \$1,500 per hour by Gerson Lehrman Group (GLG), a company that provides financial information and advises investors and consultants with business clients seeking expert advice. GLG is one of the largest companies that provides expert consulting services. GLG's clients include corporations, hedge funds, private equity firms,

1 and consulting firms. I have worked with GLG on numerous occasions at a rate
2 of \$1,500 per hour, including on three recent occasions in October and
3 November of 2023.

4 b. On January 11, 2024, the Hon. Laurel Beeler of the United States District Court,
5 Northern District of California approved my \$1,500 hourly rate when she
6 granted final approval of the class action settlement in *Suarez v. Bank of*
7 *America, N.A.* (N.D. Cal. Jan. 11, 2024), No. 18-cv-01202-LB, 2024
8 WL150721, *3 (“As for the lodestar cross-check, the billing rates are normal
9 and customary for timekeepers with similar qualifications and experience in the
10 relevant market.”)

11 c. My \$1,500 hourly rate was approved by many California state courts:

12 1) On December 8, 2023, the Hon. Marcella O. McLaughlin of the San
13 Diego County Superior Court approved my \$1,500 hourly rate
14 when she granted final approval of the class action settlement in
15 *Payabyab v. Bridge Hospice, LLC*, Case No. 7-2021-00046218-CU-
16 OE-CTL.

17 2) On January 11, 2024, the Hon. Harold Hopp of the Riverside
18 County Superior Court approved my \$1,500 hourly rate when he
19 granted final approval of the class action settlement in *Gutierrez v.*
20 *Next Level Door & Millwork, Inc.*, Case No. CVRI2105455.

21 3) On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento
22 County Superior Court approved my \$1,500 hourly rate when she
23 granted final approval of the class action settlement in *Sunshine*
24 *Retirement Wage and Hour Cases*, Case No. JCCP 5247.

25 4) On January 26, 2024, the Hon. Loren G. Freestone of the San Diego
26 Superior Court approved my \$1,500 hourly rate when he granted
27 final approval of the class action settlement in *Lupercio v. Western*
28 *CNC, Inc.*, Case No. 37-2021-00010314-CU-OE-CTL.

- 5) On February 1, 2024, the Hon. Joseph T. Ortiz of the San Bernardino Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Jackson, et al. v. Apple Valley Communications, Inc.*, et al., Case No. CIVSB2124721.
- 6) On February 2, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved by \$1,500 hourly rate when he granted final approval of the class action settlement in *Barrera v. Paradise Chevrolet Cadillac*, Case No. CVSW2107199.
- 7) On January 11, 2024, the Hon. Harold Hopp of the Riverside County Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Gutierrez v. Next Level Door & Millwork, Inc.*, No. CVRI2105455.
- 8) On May 7, 2024, the Hon. Elaine Lu of the Los Angeles County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Meza v. Argus Management Company, LLC, et al.*, Case No. 21STCV31612.
- 9) On May 6, 2022, the Hon. Jay A. Garcia-Gregory of the United States District Court in Puerto Rico approved my \$850 hourly rate when he granted final approval of the class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt. 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- d. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court approved my \$800 hourly rate when he granted final approval of the class action settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-01066522-CU-OE-CXC.
- e. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District Court granted final approval of the \$1,600,000 class action settlement

1 in *Carlos Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-
2 cv-02500-SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In
3 doing so, the Court approved my then \$750 hourly rate after finding it was
4 “reasonable, given the qualifications of the attorneys who worked on this
5 matter.” (*Id.* at p. *3.)

6 36. The reasonableness of my firm’s hourly rates is also supported by several surveys
7 of legal rates, including the following:

8 a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents the
9 real market rates of Los Angeles area attorneys who practice litigation. For that
10 category, the third quartile 2022 rate was \$1,045 per hour for partners and \$855 for
11 associates. Likewise, page 32 of the Report describes the rates charged by 183 Los
12 Angeles partners with “21 or more years of experience” and “Fewer than 21 years.”
13 For those categories, the third quartile Los Angeles partner rate in 2022 were \$1,133
14 per hour for 21 or more years and \$1,075 for attorneys with fewer than 21 years. A
15 true and correct copy of portions of the 2022 Real Rate Report is attached hereto as
16 **Exhibit 5.**

17 b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of
18 Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9,
19 2022, the author describes how Big Law firms have crossed the \$2,000-per hour
20 rate. The article also notes that law firm rates have been increasing by just under
21 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 6.**

22 37. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire Law Firm. His
23 current hourly rate is \$775. He graduated from the University of California, Los Angeles, with a
24 Bachelor of Arts in Political Science, and received his Juris Doctor from the University of
25 California, Hastings College of the Law in 2016. During law school, he was a member of the
26 executive board for the Hastings Law Journal and student mediator at the San Francisco Superior
27 Court, Small Claims Division. He was admitted to practice law in the State of California in 2017.
28 Since graduating from law school, he has focused his legal work primarily on wage-and-hour

litigation and has helped obtain dozens of settlements on behalf of tens of thousands of workers in California. He was also selected as a “Southern California Rising Star” in 2024.

38. Arrash T. Fattahi is a fourth-year Associate Attorney at Wilshire Law Firm, PLC. He was admitted to practice law in the State of California and the Central and Southern Districts of California in January 2021. Arrash graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political Science, *summa cum laude*. He received his Juris Doctor from The George Washington University Law School. During law school, he was a member of the student editorial board for the *Federal Circuit Bar Journal*. Since January 2021, his practice has mainly been focused on wage and hour class action litigation. His current contingent billing rate for this case is \$625 per hour.

39. Maxim Gorbunov is a third-year Associate Attorney at Wilshire Law Firm, PLC. He was admitted to practice law in the State of California in 2021, the Northern and Central District of California in 2022, and the Southern and Eastern Districts of California in 2023. He graduated from the University of California, Irvine, with a Bachelor of Arts in Cognitive Science, completing the Psychology Honors Program. He received his Juris Doctor from the University of California, Hastings College of Law in 2021. During law school, he was a Board Member, competitor, and student coach of the Hastings Moot Court Team, being awarded the Student Coach of the Year award. Since November 2021, his practice has mainly been focused on employment and wage and hour class actions. His current contingent billing rate for this case is \$575 per hour.

40. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated from the University of California, Irvine with a Bachelor of Arts in History and received his Juris Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the State of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm specializing in insurance defense litigation. His focus now is on wage and hour class action litigation. His current contingent billing rate for this case is \$525 per hour.

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1 I declare under penalty of perjury under the laws of the State of California and the United
2 States that the foregoing is true and correct.

3
4 Executed on August 9, 2024, in Los Angeles, California.

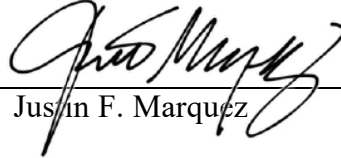
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Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Settlement” or “Agreement”) is made by and between Plaintiff Oscar Aguilar (“Plaintiff”) and Defendant American Pasteurization Company, LLC (“APC”). The Agreement refers to Plaintiff and APC collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against APC captioned *Oscar Aguilar v. American Pasteurization Company, LLC*, Case No. 34-2021-00312027, initiated on November 30, 2021 and pending in Superior Court of the State of California, County of Sacramento.
- 1.2. “Administrator” means Apex Class Action, or any other third-party, neutral entity agreed to by the Parties and approved by the Court to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all persons employed by APC, whether directly or indirectly, in California, or employed by the staffing agency IMKO Workforce Solutions (“IMKO”) and assigned to work at APC’s Sacramento Plant in California, and classified as hourly paid or non-exempt employees during the PAGA period.
- 1.5. “Class” means all persons employed by APC, whether directly or indirectly, in California, or employed by the staffing agency IMKO and assigned to work at APC’s Sacramento Plant in California, and classified as hourly paid or non-exempt employees during the Class Period.
- 1.6. “Class Counsel” means Justin F. Marquez, Benjamin H. Haber, and Maxim Gorbunov of Wilshire Law Firm, PLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts awarded to Class Counsel by the Court for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in APC’s or IMKO’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, if applicable in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement, after the Court enters its Preliminary Approval Order.
- 1.12. “Class Period” means the period from June 5, 2017 to November 23, 2022.
- 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as the Class Representative.
- 1.14. “Class Representative Service Payment” means the Court-approved payment to the Class Representative for initiating the Action and providing services in support of the Action, and in consideration for the Class Representative’s general release under the Agreement.
- 1.15. “Court” means the Superior Court of California, County of Sacramento.
- 1.16. “APC” means named Defendant American Pasteurization Company, LLC.
- 1.17. “Defense Counsel” means Christopher L. Nickels, Aaron A. Buckley, and Tyler J. Roth of Quarles & Brady LLP.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” or “Final Approval Order” means the Court’s Order Granting Final Approval of the Settlement.

- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21. “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$505,000 which is the total amount APC agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any pay period or fraction thereof during which an Aggrieved Employee worked for APC during the PAGA Period.
- 1.31. “PAGA Period” means the period from December 2, 2020 to November 23, 2022.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

- 1.33. "PAGA Notice" means Plaintiff's December 2, 2021 letter to APC and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500) and the 75% to LWDA (\$7,500) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Oscar Aguilar, the named plaintiff in the Action.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.
- 1.41. "Released Parties" means: Defendant and its present and former parent companies, subsidiaries, divisions, related, or affiliated companies, including IMKO and those other staffing agencies that provided temporary workers to Defendant during the Class or PAGA periods, and their officers, directors, employees, agents, attorneys, insurers, successors, and assigns.
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Settlement signed by the Class Member.
- 1.43. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement; or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45. "Workweek" means any week or fraction thereof during which a Class Member worked for APC during the Class Period.

2. RECITALS.

- 2.1. On November 30, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against APC for (1) Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Periods (Cal. Lab. Code §§ 226.7); (5) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (6) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); (7) Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.). On February 25, 2022, Plaintiff separately filed a PAGA action seeking civil penalties, *Oscar Aguilar, et al. v. American Pasteurization Company, LLC*, Sacramento County Superior Court, Case No. 34-2022-00315990-CU-OE-GDS. On November 18, 2022, Plaintiff filed a First Amended Complaint consolidating his PAGA claim with this Action. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”) APC denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.3. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to APC and the LWDA by sending the PAGA Notice.
- 2.4. On November 23, 2022, the Parties participated in an all-day mediation presided over by Steve Cerveris, Esq., and thereafter engaged in private settlement discussions, which led to this Agreement to settle the Action.
- 2.5. Prior to mediation, Plaintiff obtained, through informal discovery, documents produced by Defendant which included timekeeping records and payroll information for a randomized sampling of the class, Defendant’s policies relating to Plaintiff’s claims, and Plaintiff’s personnel file. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.6. The Court has not granted class certification.
- 2.7. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, APC promises to pay \$505,000 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the

Individual Class Payments. APC has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to APC.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). APC will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the Final Approval motion, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$168,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$15,000. APC will not oppose requests for these payments provided that they do not exceed these amounts. As part of the Final Approval motion, Plaintiff and/or Class Counsel will request approval of the Class Counsel Fees Payment and Class Litigation Expenses Payment. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds APC harmless, and indemnifies APC, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$18,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$18,000, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000 to be paid from the Gross Settlement Amount, with 75% (\$7,500) allocated to the LWDA PAGA Payment and 25% (\$2,500) allocated to the Individual PAGA Payments.

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

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, APC estimates that there are a total of 13,736.4 Workweeks.

- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, APC will deliver the Class Data to the Administrator, in the form of Microsoft Excel spreadsheets. APC is permitted to delegate IMKO the responsibility to provide the Class Data (i.e. their Social Security numbers and addresses) for IMKO employees who were assigned to work at APC's Sacramento Plant in California. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. APC has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which APC must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. APC shall fully fund the Gross Settlement Amount and also fund the amounts necessary to fully pay APC's share of payroll taxes by transmitting the funds to the Administrator no later than 21 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after APC funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1. The Administrator will issue checks for the Individual Class Payments and Individual PAGA Payments and send them to the Participating Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all Participating Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Participating Class Members and Aggrieved Employee whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Participating Class Member and/or Aggrieved Employee whose original check was lost or misplaced, requested by the Participating Class Member and/or Aggrieved Employee prior to the void date.

4.4.3. For any Participating Class Member and/or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

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

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

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542.

For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees:

All class members who do not opt-out will release Defendant from any and all claims asserted in the Operative Complaint, and any future amendments to the Operative Complaint, including, but not limited to, state wage and hour claims for any and all violations of California's Labor Code and Unfair Competition Law based on Defendant's failure to pay for all hours worked (including minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, failure to furnish accurate itemized wage statements, failure to indemnify employees for expenditures, civil penalties under PAGA based on the alleged Labor Code violations, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under said causes of action under California law, to the extent permissible, including, but not limited to, the California Labor Code and the applicable Wage Orders.

5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees:

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

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

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

6.2 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If

the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Apex Class Action to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than 3 business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation, if applicable substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the

USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5 If the Administrator, APC or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

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

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

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Class Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of the Class Notice, the total number of Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from the Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements of all payments made under this Agreement. At least 15 days before any compliance deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.** Based on its records, APC estimates that, as of the date of this Settlement Agreement, there are 13,736.4 total Workweeks during the Class Period. In the event the number of workweeks worked by the Class Members increases by more than 5%, or 686.82, then the Gross Settlement Amount shall be increased by a proportional amount over the 5%. For example, if the number of Workweeks is 15% more than the estimated 13,736.4 workweeks (for a total of 15,796.9 Workweeks), then the total amount increase of the Gross Settlement Amount will be an additional 10% (10% over the 5% limit), for an additional \$50,500 increase in the Gross Settlement Amount.
9. **APC'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, APC may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if APC withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, APC will remain responsible for paying all Settlement Administration Expenses incurred to that point. APC must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code

section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel as soon as practicable prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Participating Class Members or Aggrieved Employees), this Agreement shall be null and void. The Parties shall nevertheless

expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

- 12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by APC that any of the allegations in the Operative Complaint have merit or that APC has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that APC's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, APC reserves the right to contest certification of any class for any reasons, and APC reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest APC's defenses. The Settlement, this Agreement and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, APC and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, APC and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This

paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and APC, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, APC nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by APC and/or IMKO in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from APC and/or IKMO unless, prior to the Court's discharge of the Administrator's obligation, APC makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Justin Marquez
justin@wilshirelawfirm.com
Benjamin Haber
benjamin@wilshirelawfirm.com

Maxim Gorbunov
mgorbunov@wilshirelawfirm.com
WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd., 12th Floor
Los Angeles, CA 90010

To APC:

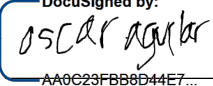
Christopher L. Nickels (*pro hac vice*)
christopher.nickels@quarles.com
Tyler J. Roth (*pro hac vice*)
tyler.roth@quarles.com
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101 West Broadway, Ninth Floor
San Diego, California 92101
Telephone: (619) 237-5200
Facsimile: (414) 615-0700

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

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

Dated: 3/1/2024 _____

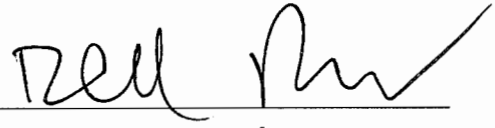
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AA0C23FB88D44E7...
Oscar Aguilar
Plaintiff

Dated: 3/1/2024 _____


WILSHIRE LAW FIRM

Justin Marquez, Esq.
Benjamin Haber, Esq.
Maxim Gorbunov, Esq.
Counsel for Plaintiff and the Putative
Class/Aggrieved Parties

Dated: 3/7/2024



By: Ronald Rickey
Its: CFO
American Pasteurization Company
LLC

Dated: 3/7/2024

Christopher L. Nickels

QUARLES & BRADY LLP
Christopher L. Nickels
Aaron A. Buckley
Tyler J. Roth

Exhibit 2

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Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com
Maxim Gorbunov (SBN 343128)
mgorbunov@wilshirelawfirm.com

WILSHIRE LAW FIRM

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Facsimile: (213) 381-9989

Attorneys for OSCAR AGUILAR, individually, and on behalf
all others similarly situated

[Additional counsel on following page]

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

OSCAR AGUILAR, individually, and on behalf
of all others similarly situated,

Plaintiff,

v.

AMERICAN PASTEURIZATION COMPANY,
LLC, a Limited Liability Company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 34-2021-00312027-CU-OE-GDS

CLASS & REPRESENTATIVE ACTION

*[Assigned for all purposes to: Hon. Lauri A.
Damrell, Dept. 22]*

**AMENDMENT TO CLASS ACTION AND
PAGA SETTLEMENT AGREEMENT
AND CLASS NOTICE**

PRELIMINARY APPROVAL HEARING

Date: May 3, 2024

Time: 9:00 a.m.

Dept: 22

Complaint filed: November 30, 2021

FAC filed: November 18, 2022

Trial date: Not set

1 Christopher L. Nickels (*pro hac vice*)
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3 Tyler J. Roth (*pro hac vice*)
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6 Aaron A. Buckley (SBN 202081)
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8 Kevin B. Hambly (SBN 312426)
9 kevin.hambly@quarles.com
10 **QUARLES & BRADY LLP**
11 101 West Broadway, 9th Floor
12 San Diego, California 92101
13 Telephone: (619) 237-5200
14 Facsimile: (619) 615-0700

11 Attorneys for Defendant

**AMENDMENT TO CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Oscar Aguilar ("Plaintiff" or "Class Representative"), individually, on behalf of all others similarly situated, and on behalf of the State of California and other aggrieved persons on one hand, and American Pasteurization Company, LLC ("Defendant") (collectively, the "Parties") on the other hereby agree, by and through their attorneys of record, to be bound by this Amendment to the Class Action and PAGA Settlement Agreement and Class Notice ("Amendment") which is intended to replace and supersede the sections of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement") as specifically set forth below:

Terms used herein shall have the same meaning as in the Settlement Agreement unless defined differently in this Amendment. This Amendment is being made in accordance with the Settlement Agreement which states: "Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and APC, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement" (*See Settlement Agreement, p.18 ¶ 12.5*).

The Parties further agree that the Class Notice will be modified accordingly to reflect the modification in the Amendment.

Except as specifically provided herein, the Settlement Agreement shall remain in full force and effect. The Settlement Agreement shall be modified as follows:

1. Section Heading: "To Class Counsel"

Paragraph 3.2.2, on page 6 of the Settlement Agreement is amended to read as follows:

Delete: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$168,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$15,000.

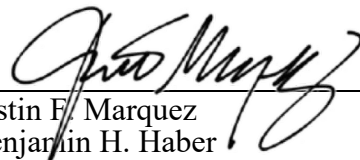
Replace With: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$168,333.33 and a Class Counsel Litigation Expenses Payment of not more than \$22,000.

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Respectfully submitted,

Dated: April 18, 2024

WILSHIRE LAW FIRM

By: 
Justin F. Marquez
Benjamin H. Haber
Maxim Gorbunov

Attorneys for Plaintiff OSCAR AGUILAR

Dated: April 18, 2024

QUARLES & BRADY LLP

By: 
Christopher L. Nickels
Aaron A. Buckley
Tyler J. Roth

*Attorneys for Defendant AMERICAN
PASTEURIZATION COMPANY, LLC*

Exhibit 3

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Attorneys for OSCAR AGUILAR, individually, and on behalf
all others similarly situated

[Additional counsel on following page]

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

OSCAR AGUILAR, individually, and on behalf
of all others similarly situated,

Plaintiff,

v.

AMERICAN PASTEURIZATION COMPANY,
LLC, a Limited Liability Company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 34-2021-00312027-CU-OE-GDS

CLASS & REPRESENTATIVE ACTION

*[Assigned for all purposes to: Hon. Lauri A.
Damrell, Dept. 22]*

**SECOND AMENDMENT TO CLASS
ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

PRELIMINARY APPROVAL HEARING

Date: May 3, 2024

Time: 9:00 a.m.

Dept: 22

Complaint filed: November 30, 2021

FAC filed: November 18, 2022

Trial date: Not set

1 Christopher L. Nickels (*pro hac vice*)
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3 Tyler J. Roth (*pro hac vice*)
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11 Attorneys for Defendant

**SECOND AMENDMENT TO CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND CLASS NOTICE**

Oscar Aguilar ("Plaintiff" or "Class Representative"), individually, on behalf of all others similarly situated, and on behalf of the State of California and other aggrieved persons on one hand, and American Pasteurization Company, LLC ("Defendant") (collectively, the "Parties") on the other hereby agree, by and through their attorneys of record, to be bound by this Second Amendment to the Class Action and PAGA Settlement Agreement and Class Notice ("Amendment") which is intended to replace and supersede the sections of the Class Action and PAGA Settlement Agreement and Class Notice ("Settlement Agreement") as specifically set forth below:

Terms used herein shall have the same meaning as in the Settlement Agreement unless defined differently in this Amendment. This Amendment is being made in accordance with the Settlement Agreement which states: "Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and APC, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement" (*See Settlement Agreement, p.18 ¶ 12.5*).

The Parties further agree that the Class Notice will be modified accordingly to reflect the modification in the Amendment.

Except as specifically provided herein and the previously executed Amendment to the Class Action and PAGA Settlement Agreement and Class Notice, the Settlement Agreement shall remain in full force and effect. The Settlement Agreement shall be modified as follows:

1. Section Heading: "RELEASES OF CLAIMS"

Paragraph 5.2, on page 10 of the Settlement Agreement is amended to read as follows:

Delete Paragraph Heading: "Release by Participating Class Members Who Are Not Aggrieved Employees:"

Replace Paragraph Heading With: "Release by Participating Class Members:"

Delete from Paragraph Body: "civil penalties under PAGA cased on the alleged Labor Code violations,"

Paragraph 5.3, on page 10 of the Settlement Agreement is amended to read as follows:

Delete Paragraph Heading: “Release by Non-Participating Class Members Who Are Aggrieved Employees:”

Replace With: “Release by Aggrieved Employees:”

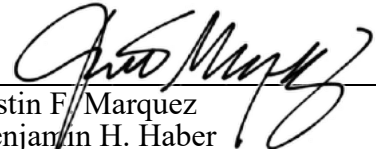
Delete from Paragraph Body: “All Non-Participating Class Members who are Aggrieved Employees are deemed to release,”

Replace With: “All Aggrieved Employees are deemed to release”

Respectfully submitted,

Dated: May 17, 2024

WILSHIRE LAW FIRM

By: 
Justin F. Marquez
Benjamin H. Haber
Maxim Gorbunov

Attorneys for Plaintiff OSCAR AGUILAR

Dated: May 17, 2024

QUARLES & BRADY LLP

By: /s/ Tyler J. Roth
Christopher L. Nickels
Aaron A. Buckley
Tyler J. Roth

*Attorneys for Defendant AMERICAN
PASTEURIZATION COMPANY, LLC*

Exhibit 4

Wilshire Law Firm, PLC
Transaction Detail by Account
All Transactions

8/9/2024
Accrual Basis

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Memo</u>	<u>Amount</u>	<u>Balance</u>
COS					
Mediation Fees					
	5/6/2022	700342a	Mediation Fee	7,000.00	7,000.00
Total MEDIATION FEES				7,000.00	7,000.00
Expert Fees					
	12/2/2022	7164	Expert Fees	3,750.00	3,750.00
Total EXPERT FEES				3,750.00	3,750.00
Legal Expenses					
	12/7/2021	100241	PAGA Fee	75.00	75.00
	12/13/2021	845458138	Legal Research	25.62	25.62
	7/18/2022	INV76406-01-01	Investigation Services	1,825.00	1,825.00
	11/2/2022		Document Retrieval	4.00	4.00
	12/6/2022	847456782	Legal Research	312.78	312.78
	1/11/2023	847619313	Legal Research	13.70	13.70
	9/13/2023	7072D9F3-0005-B	Legal Research	68.49	68.49
	9/13/2023	7072D9F3-0005-C	Legal Research	68.49	68.49
	9/13/2023	7072D9F3-0005-D	Legal Research	68.49	68.49
	11/15/2023	7072D9F3-0006-A	Legal Research	68.49	68.49
	11/15/2023	7072D9F3-0006-B	Legal Research	82.19	82.19
	11/15/2023	7072D9F3-0006-C	Legal Research	95.89	95.89
	11/15/2023	7072D9F3-0006-D	Legal Research	95.89	95.89
Total LEGAL EXPENSES				2,804.03	2,804.03
Process Service Fees					
	12/8/2021	42570	Attorney Services	1,708.50	1,708.50
	12/14/2021	43022	Attorney Services	131.00	131.00
	12/21/2021	43027	Attorney Services	85.00	85.00
	3/1/2022	45253	Attorney Services	608.50	608.50
	3/9/2022	45295	Attorney Services	125.00	125.00
	3/25/2022	46108	Attorney Services	145.00	145.00
	4/18/2022	46144	Attorney Services	85.00	85.00
	6/8/2022	48175	Attorney Services	140.00	140.00
	10/6/2022	51431	Attorney Services	135.00	135.00
	10/20/2022	51889	Attorney Services	300.00	300.00
	11/10/2022	52286	Attorney Services	180.95	180.95
	11/10/2022	52558	Attorney Services	135.00	135.00
	11/17/2022	52763	Attorney Services	147.00	147.00
	11/21/2022	52837	Attorney Services	144.00	144.00
	11/29/2022	52840	Attorney Services	135.00	135.00
	1/5/2023	53918	Attorney Services	135.00	135.00
	1/12/2023	54423	Attorney Services	159.95	159.95
	1/20/2023	54724	Attorney Services	135.00	135.00
	3/3/2023	56249	Attorney Services	159.95	159.95
	3/21/2023	56945	Attorney Services	135.00	135.00
	5/5/2023	59049	Attorney Services	199.95	199.95
	8/18/2023	63552	Attorney Services	159.95	159.95
	10/5/2023	65958	Attorney Services	162.95	162.95
	10/20/2023	66585	Attorney Services	135.00	135.00
	11/17/2023	67805	Attorney Services	159.95	159.95
	12/4/2023	68313	Attorney Services	139.00	139.00
	2/1/2024	22118290	Attorney Services	39.02	39.02
	2/14/2024	22237100	Attorney Services	18.43	18.43
	3/5/2024	22378641	Attorney Services	18.43	18.43
	4/12/2024	22664624	Attorney Services	80.20	80.20
	4/23/2024	22737747	Attorney Services	18.43	18.43
	5/20/2024	22933211	Attorney Services	19.46	19.46
	6/6/2024	22118290(2)	Attorney Services	1.00	1.00
	6/6/2024	22237100(2)	Attorney Services	1.00	1.00
	6/6/2024	22664624(2)	Attorney Services	1.00	1.00
	6/6/2024	22737747(2)	Attorney Services	1.00	1.00
	6/7/2024	23069333	Attorney Services	49.46	49.46
Total PROCESS SERVICE FEES				6,134.08	6,134.08
Other Costs					

	9/1/2021		Case Administration Fee for In-House Services	500.00	500.00
	9/10/2021	E-579576	Printing Cost	8.75	8.75
	9/13/2021	E-577618	Postage Cost	6.13	6.13
	9/13/2021	E-577625	Postage Cost	6.13	6.13
	10/22/2021	E-635598	Postage Cost	6.13	6.13
	10/22/2021	E-635599	Postage Cost	6.13	6.13
	12/7/2021	E-723635	Postage Cost	6.33	6.33
	12/7/2021	E-723636	Postage Cost	6.33	6.33
	12/7/2021	E-727238	Printing Cost	5.50	5.50
	12/8/2021	E-727621	Printing Cost	1.25	1.25
	2/6/2024	E-3190275	Printing Cost	1.89	1.89
	4/11/2024	E-3195849	Printing Cost	1.89	1.89
Total OTHER COSTS				556.46	556.46
TOTAL				20,244.57	20,244.57

Exhibit 5



ELM Solutions

2022 Real Rate Report[®]

The industry's leading
analysis of law firm rates,
trends, and practices

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Report Use Considerations

2022 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

Some key factors¹ that drive rates²:

Attorney location - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

Litigation complexity - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

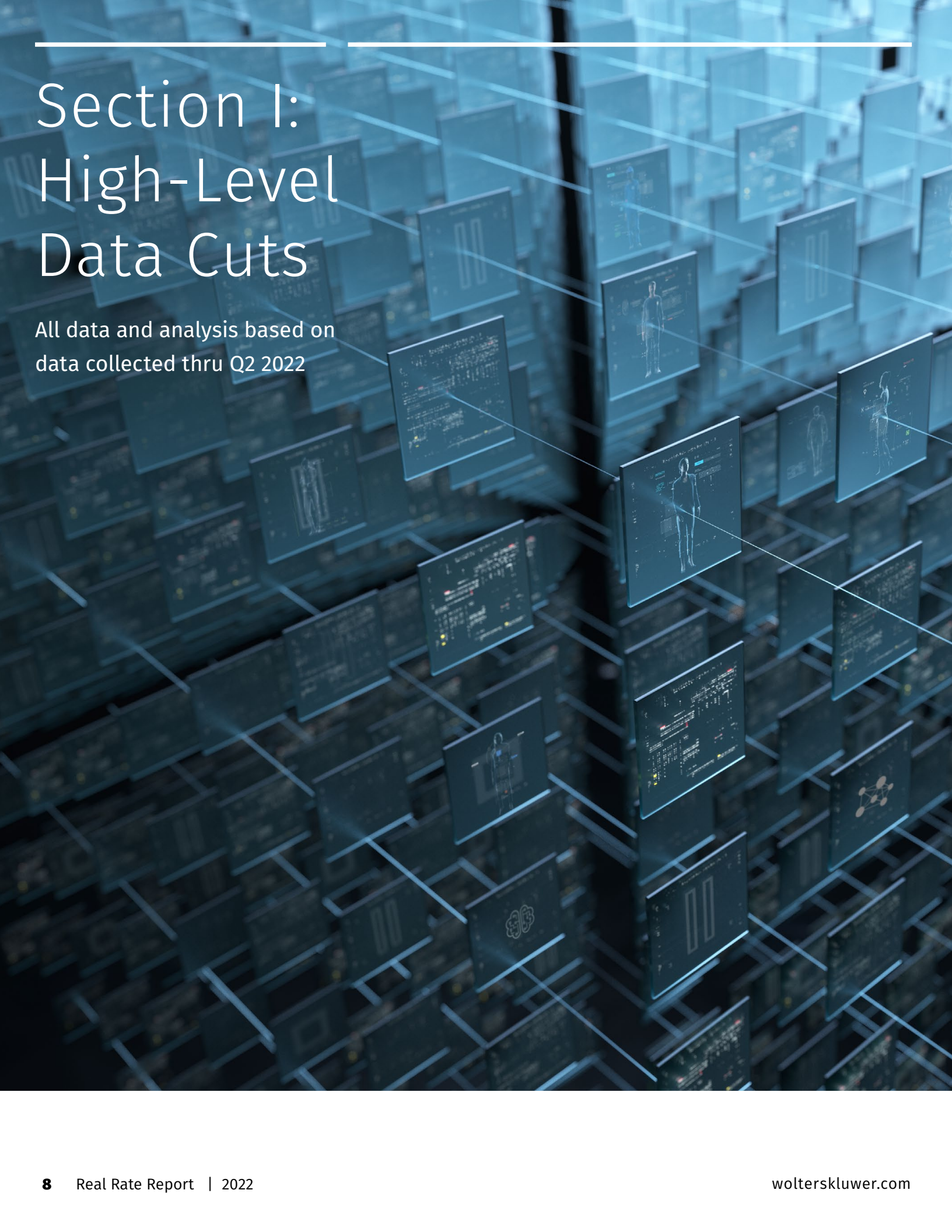
Years of experience and reputation - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

Overhead - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

Firm size - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

¹ David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

² Source: 2018 RRR. Factor order validated in multiple analyses since 2010



Section I: High-Level Data Cuts

All data and analysis based on
data collected thru Q2 2022

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Jackson MS	Litigation	Associate	56	\$55	\$225	\$250	\$178	\$203	\$175
	Non-Litigation	Partner	24	\$315	\$420	\$485	\$418	\$394	\$375
		Associate	25	\$55	\$126	\$255	\$155	\$125	\$259
Kansas City MO	Litigation	Partner	74	\$413	\$450	\$556	\$472	\$450	\$450
		Associate	50	\$252	\$329	\$385	\$319	\$316	\$305
	Non-Litigation	Partner	101	\$411	\$487	\$615	\$519	\$487	\$464
		Associate	73	\$250	\$320	\$385	\$322	\$312	\$285
Las Vegas NV	Non-Litigation	Partner	20	\$350	\$425	\$525	\$440	\$422	\$432
		Associate	11	\$238	\$267	\$368	\$301	\$297	\$282
Little Rock AR	Non-Litigation	Partner	11	\$215	\$215	\$308	\$264	\$256	\$298
Los Angeles CA	Litigation	Partner	322	\$516	\$725	\$1,045	\$799	\$739	\$702
		Associate	408	\$400	\$615	\$855	\$642	\$606	\$564
	Non-Litigation	Partner	521	\$596	\$868	\$1,201	\$903	\$902	\$858
		Associate	667	\$441	\$603	\$845	\$653	\$712	\$648

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Minneapolis MN	Non-Litigation	Associate	83	\$340	\$421	\$528	\$425	\$408	\$384
Nashville TN	Litigation	Partner	24	\$275	\$320	\$456	\$363	\$378	\$403
	Non-Litigation	Partner	78	\$412	\$484	\$576	\$505	\$481	\$470
		Associate	59	\$270	\$330	\$384	\$340	\$315	\$285
New Orleans LA	Litigation	Partner	47	\$290	\$332	\$412	\$343	\$330	\$340
		Associate	42	\$231	\$243	\$340	\$278	\$290	\$275
	Non-Litigation	Partner	32	\$295	\$347	\$405	\$419	\$380	\$391
		Associate	21	\$244	\$250	\$278	\$273	\$303	\$258
New York NY	Litigation	Partner	614	\$475	\$675	\$1,088	\$808	\$784	\$746
		Associate	631	\$323	\$460	\$729	\$545	\$527	\$509
	Non-Litigation	Partner	1,376	\$765	\$1,235	\$1,638	\$1,189	\$1,139	\$1,090
		Associate	1,809	\$550	\$776	\$1,050	\$796	\$766	\$716
Oklahoma City OK	Non-Litigation	Partner	14	\$235	\$338	\$393	\$337	\$319	\$311
Omaha NE	Litigation	Partner	12	\$293	\$339	\$353	\$329	\$338	\$341

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Rochester NY	Non-Litigation	Partner	12	\$270	\$360	\$488	\$386	\$341	\$446
		Associate	13	\$220	\$310	\$375	\$314	\$278	\$287
Sacramento CA	Non-Litigation	Partner	11	\$381	\$437	\$682	\$534	\$559	\$516
Salt Lake City UT	Litigation	Partner	14	\$246	\$353	\$468	\$363	\$333	\$379
	Non-Litigation	Partner	42	\$297	\$371	\$447	\$391	\$363	\$353
		Associate	22	\$220	\$240	\$270	\$248	\$247	\$228
San Diego CA	Litigation	Associate	23	\$151	\$225	\$300	\$255	\$258	\$264
	Non-Litigation	Partner	89	\$332	\$540	\$1,066	\$699	\$667	\$649
		Associate	71	\$250	\$325	\$424	\$373	\$378	\$351
San Francisco CA	Litigation	Partner	143	\$423	\$675	\$995	\$742	\$711	\$691
		Associate	98	\$325	\$430	\$731	\$525	\$517	\$470
	Non-Litigation	Partner	221	\$475	\$750	\$950	\$758	\$746	\$741
		Associate	151	\$338	\$486	\$702	\$545	\$563	\$507
San Jose CA	Litigation	Partner	33	\$654	\$921	\$1,133	\$916	\$907	\$864

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
San Jose CA	Litigation	Associate	22	\$461	\$580	\$745	\$608	\$593	\$498
	Non-Litigation	Partner	50	\$660	\$864	\$1,303	\$969	\$985	\$887
		Associate	46	\$380	\$460	\$775	\$616	\$639	\$567
Seattle WA	Litigation	Partner	76	\$497	\$655	\$760	\$635	\$567	\$510
		Associate	61	\$394	\$468	\$530	\$447	\$453	\$395
	Non-Litigation	Partner	148	\$410	\$526	\$760	\$571	\$547	\$547
		Associate	113	\$310	\$395	\$502	\$422	\$401	\$377
St. Louis MO	Litigation	Partner	46	\$260	\$350	\$435	\$376	\$373	\$388
		Associate	17	\$197	\$225	\$250	\$228	\$237	\$232
	Non-Litigation	Partner	57	\$352	\$419	\$540	\$451	\$446	\$473
Tampa FL	Litigation	Partner	31	\$369	\$508	\$595	\$490	\$467	\$452
		Associate	15	\$269	\$298	\$368	\$316	\$302	\$306
Trenton NJ	Non-Litigation	Partner	21	\$408	\$600	\$700	\$569	\$620	\$581
		Associate	12	\$480	\$495	\$500	\$448	\$376	\$387

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Associate

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	3 to Fewer Than 7 Years	15	\$270	\$325	\$360	\$318	\$295	\$283
	7 or More Years	28	\$292	\$334	\$391	\$333	\$312	\$302
Los Angeles CA	Fewer Than 3 Years	63	\$429	\$595	\$654	\$556	\$524	\$488
	3 to Fewer Than 7 Years	144	\$486	\$688	\$838	\$662	\$626	\$530
	7 or More Years	171	\$351	\$550	\$840	\$600	\$634	\$586
Miami FL	3 to Fewer Than 7 Years	19	\$300	\$360	\$457	\$380	\$331	\$313
	7 or More Years	36	\$295	\$450	\$595	\$460	\$433	\$385
Minneapolis MN	Fewer Than 3 Years	11	\$374	\$405	\$446	\$408		\$230
	3 to Fewer Than 7 Years	27	\$340	\$451	\$510	\$421	\$358	\$356
	7 or More Years	27	\$423	\$468	\$585	\$478	\$438	\$392
Nashville TN	7 or More Years	12	\$219	\$245	\$345	\$282	\$266	\$262
New Orleans LA	3 to Fewer Than 7 Years	12	\$232	\$243	\$265	\$261	\$242	\$245
	7 or More Years	18	\$243	\$312	\$343	\$306	\$318	\$294
New York NY	Fewer Than 3 Years	142	\$443	\$622	\$775	\$629	\$600	\$652

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Partner

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	Fewer Than 21 Years	46	\$400	\$450	\$537	\$473	\$411	\$397
	21 or More Years	68	\$440	\$553	\$658	\$539	\$497	\$491
Las Vegas NV	Fewer Than 21 Years	12	\$284	\$381	\$495	\$389	\$349	\$343
	21 or More Years	13	\$350	\$425	\$515	\$468	\$456	\$472
Los Angeles CA	Fewer Than 21 Years	183	\$533	\$801	\$1,075	\$804	\$797	\$682
	21 or More Years	333	\$550	\$765	\$1,133	\$863	\$842	\$808
Memphis TN	Fewer Than 21 Years	14	\$288	\$331	\$380	\$345	\$317	\$328
	21 or More Years	15	\$355	\$415	\$425	\$394	\$382	\$375
Miami FL	Fewer Than 21 Years	57	\$370	\$450	\$598	\$490	\$498	\$443
	21 or More Years	104	\$388	\$581	\$749	\$584	\$580	\$536
Milwaukee WI	21 or More Years	16	\$302	\$454	\$613	\$589	\$515	\$530
Minneapolis MN	Fewer Than 21 Years	36	\$470	\$530	\$607	\$532	\$486	\$499
	21 or More Years	84	\$507	\$675	\$796	\$656	\$620	\$589
Nashville TN	Fewer Than 21 Years	28	\$375	\$405	\$535	\$449	\$405	\$397

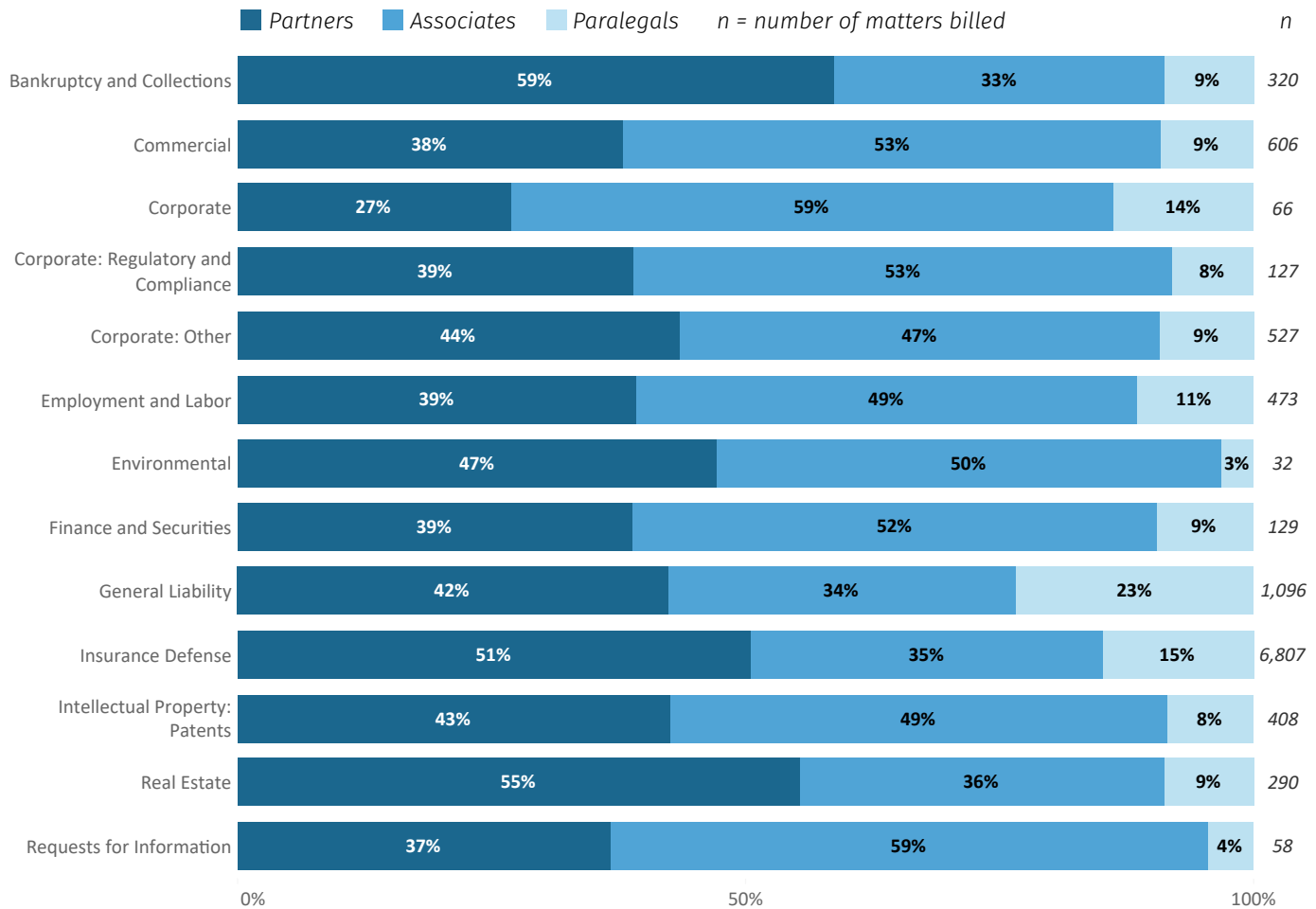
Section VI: Matter Staffing Analysis

All data and analysis based on
data collected thru Q2 2022

Section VI: Matter Staffing Analysis

Long Litigation Matters, More Than 100 Total Hours Billed

2019 to 2022 -- Percentage of Hours Billed per Matter



Section VII: Data Methodology

All data and analysis based on
data collected thru Q2 2022

Appendix: Data Methodology

Invoice Information

Data in Wolters Kluwer ELM Solutions' reference database and the 2022 Real Rate Report were taken from invoice line-item entries contained in invoices received and approved by participating companies.

Invoice data were received in the Legal Electronic Data Exchange Standard (LEDES) format (LEDES.org). The following information was extracted from those invoices and their line items:

- Law firm (which exists as a random number in the ELM Solutions reference database)
- Timekeeper ID (which exists as a random number in the ELM Solutions reference database)
- Matter ID (which exists as a random number in the ELM Solutions reference database)
- Timekeeper's position (role) within the law firm (partner, associate, paralegal, etc.)
- Uniform Task-Based Management System Code Set, Task Codes, and Activity Codes (UTBMS.com)
- Date of service
- Hours billed
- Hourly rate billed
- Fees billed

Non-Invoice Information

To capture practice area details, the matter ID within each invoice was associated with matter profiles containing areas of work in the systems of each company. The areas of work were then systematically categorized into legal practice areas. Normalization of practice areas was done based on company mappings to system-level practice areas available in the ELM Solutions system and by naming convention.

The majority of analyses included in this report have been mapped to one of 11 practice areas, further divided into sub-areas and litigation/non-litigation (for more information on practice areas and sub-areas, please refer to pages 232-234).

To capture location and jurisdiction details, law firms and timekeepers were systematically mapped to the existing profiles within ELM Solutions systems, as well as with publicly available data sources for further validation and normalization. Where city location information is provided, it includes any address within that city's defined Core-Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB). The CBSAs are urban centers with populations of 10,000 or more and include all adjacent counties that are economically integrated with that urban center.

Where the analyses focus on partners, associates, and paralegals, the underlying data occasionally included some sub-roles, such as "senior partner" or "junior associate." In such instances, those timekeeper sub-roles were placed within the broader partner, associate, and paralegal segments.

Demographics regarding law firm size, location, and lawyer years of experience were augmented by incorporating publicly available information.

Appendix: Data Methodology

A Note on US Cities

Principal City	CBSA Name
Hartford, CT	Hartford-East Hartford-Middletown, CT
Honolulu, HI	Urban Honolulu HI
Houston, TX	Houston-The Woodlands-Sugar Land, TX
Indianapolis, IN	Indianapolis-Carmel-Anderson, IN
Jackson, MS	Jackson, MS
Jacksonville, FL	Jacksonville, FL
Kansas City, MO	Kansas City, MO-KS
Lafayette, LA	Lafayette, LA
Las Vegas, NV	Las Vegas-Henderson-Paradise, NV
Lexington, KY	Lexington-Fayette, KY
Little Rock, AR	Little Rock-North Little Rock-Conway, AR
Los Angeles, CA	Los Angeles-Long Beach-Anaheim, CA
Louisville, KY	Louisville/Jefferson County, KY-IN
Madison, WI	Madison, WI
Memphis, TN	Memphis-Forrest City, TN-MS-AR
Miami, FL	Miami-Fort Lauderdale-Pompano Beach, FL
Milwaukee, WI	Milwaukee-Waukesha, WI
Minneapolis, MN	Minneapolis-St. Paul-Bloomington, MN-WI
Nashville, TN	Nashville-Davidson-Murfreesboro-Franklin, TN
New Haven, CT	New Haven-Milford, CT
New Orleans, LA	New Orleans-Metairie, LA
New York, NY	New York-Newark-Jersey City, NY-NJ-PA
Oklahoma City, OK	Oklahoma City, OK
Omaha, NE	Omaha-Council Bluffs, NE-IA
Orlando, FL	Orlando-Kissimmee-Sanford, FL
Philadelphia, PA	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD
Phoenix, AZ	Phoenix-Mesa-Chandler, AZ
Pittsburgh, PA	Pittsburgh, PA
Portland, ME	Portland-South Portland, ME
Portland, OR	Portland-Vancouver-Hillsboro, OR-WA
Providence, RI	Providence-Warwick, RI-MA
Raleigh, NC	Raleigh-Cary, NC
Reno, NV	Reno-Carson City-Fernley, NV

Appendix: Data Methodology

Bankruptcy and Collections

Chapter 11
Collections

General/Other
Workouts and Restructuring

Commercial (Commercial Transactions and Agreements)

Contract Breach or Dispute
General, Drafting, and Review
General/Other

Corporate¹

Antitrust and Competition
Corporate Development
General/Other
Governance
Information and Technology
Mergers, Acquisitions, and Divestitures

Partnerships and Joint Ventures
Regulatory and Compliance
Tax
Treasury
White Collar/Fraud/Abuse

Employment and Labor

ADA
Agreements
Compensation and Benefits
Discrimination, Retaliation, and Harassment/EEO
Employee Dishonesty/Misconduct
ERISA

General/Other
Immigration
Union Relations and Negotiations/NLRB
Wages, Tips, and Overtime
Wrongful Termination

Environmental

General/Other
Health and Safety

Superfund
Waste/Remediation

Finance and Securities

Commercial Loans and Financing
Debt/Equity Offerings
Fiduciary Services
General/Other

Investments and Other Financial Instruments
Loans and Financing
SEC Filings and Financial Reporting
Securities and Banking Regulations

General Liability

Asbestos/Mesothelioma
Auto and Transportation
Consumer Related Claims
Crime, Dishonesty and Fraud
General/Other

Personal Injury/Wrongful Death
Premises
Product and Product Liability
Property Damage
Toxic Tort

¹ All references to “Corporate: General/Other” in the Real Rate Report are the aggregation of all Corporate sub-areas excluding the Mergers, Acquisitions, and Divestitures sub-area and the Regulatory and Compliance sub-area.

Exhibit 6

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Business & Practice

Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder’

By Roy Strom

Column

June 9, 2022, 2:30 AM

Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at a new threshold for lawyers' billing rates and why it's so difficult to put a price on high-powered attorneys. Sign up to receive this column in your inbox on Thursday mornings. Programming note: Big Law Business will be off next week.

Some of the nation's top law firms are charging more than \$2,000 an hour, setting a new pinnacle after a two-year burst in demand.

Partners at Hogan Lovells and Latham & Watkins have crossed the threshold, according to court documents in bankruptcy cases filed within the past year.

Other firms came close to the mark, billing more than \$1,900, according to the documents. They include Kirkland & Ellis, Simpson Thacher & Bartlett, Boies Schiller Flexner, and Sidley Austin.

Simpson Thacher & Bartlett litigator Bryce Friedman, who helps big-name clients out of jams, especially when they're accused of fraud, charges \$1,965 every 60 minutes, according to a court document.

In need of a former acting US Solicitor General? Hogan Lovells partner Neal Katyal bills time at \$2,465 an hour. Want to hire famous litigator David Boies? That'll cost \$1,950 an hour (at least). Reuters was first to report their fees.

Eye-watering rates are nothing new for Big Law firms, which typically ask clients to pay higher prices at least once a year, regardless of broader market conditions.

"Value is in the eye of the beholder," said John O'Connor, a San Francisco-based expert on legal fees. "The perceived value of a good lawyer can reach into the multi-billions of dollars."

Kirkland & Ellis declined to comment on its billing rates. None of the other firms responded to requests to comment.

Charge It Up

Big Law firms are crossing the \$2,000-an-hour threshold after two years of surging rates driven by an increase in demand for lawyers.

Firm	Highest Billing Rate
Hogan Lovells	\$2,465
Latham & Watkins	\$2,075
Kirkland & Ellis	\$1,995
Simpson Thacher & Bartlett	\$1,965
Boies Schiller Flexner	\$1,950
Sidley Austin	\$1,900

Source: Court documents

Bloomberg Law

Law firms have been more successful raising rates than most other businesses over the past 15 years.

Law firm rates rose by roughly 40 percent from 2007 to 2020, or just short of 3 percent per year, Thomson Reuters Peer Monitor data show. US inflation rose by about 28% during that time.

The 100 largest law firms in the past two years achieved their largest rate increases in more than a decade, Peer Monitor says. The rates surged more than 6% in 2020 and grew another 5.6% through November of last year. Neither level had been breached since 2008.

The price hikes occurred during a once-in-a-decade surge in demand for law services, which propelled profits at firms to new levels. Fourteen law firms reported average profits per equity partner in 2021 over \$5 million, according to data from The American Lawyer. That was up from six the previous year.

The highest-performing firms, where lawyers charge the highest prices, have outperformed their smaller peers. Firms with leading practices in markets such as mergers and acquisitions, capital markets, and real estate were forced to turn away work at some points during the pandemic-fueled surge.

Firms receive relatively tepid pushback from their giant corporate clients, especially when advising on bet-the-company litigation or billion-dollar deals.

The portion of bills law firms collected—a sign of how willingly clients pay full-freight—rose during the previous two years after drifting lower following the Great Financial Crisis. Collection rates last year breached 90% for the first time since 2009, Peer Monitor data show.

Professional rules prohibit lawyers from charging “unconscionable” or “unreasonable” rates. But that doesn’t preclude clients from paying any price they perceive as valuable, said Jacqueline Vinaccia, a San Diego-based lawyer who testifies on lawyer fee disputes.

Lawyers’ fees are usually only contested when they will be paid by a third party.

That happened recently with Hogan Lovells’ Katyal, whose nearly \$2,500 an hour fee was contested in May by a US trustee overseeing a bankruptcy case involving a Johnson & Johnson unit facing claims its talc-based powders caused cancer.

The trustee, who protects the financial interests of bankruptcy estates, argued Katyal’s fee was more than \$1,000 an hour higher than rates charged by lawyers in the same case at Jones Day and Skadden Arps Slate Meagher & Flom.

A hearing on the trustee’s objection is scheduled for next week. Hogan Lovells did not respond to a request for comment on the objection.

Vinaccia said the firm’s options will be to reduce its fee, withdraw from the case, or argue the levy is reasonable, most likely based on Katyal’s extensive experience arguing appeals.

Still, the hourly rate shows just how valuable the most prestigious lawyers’ time can be—even compared to their highly compensated competitors.

“If the argument is that Jones Day and Skadden Arps are less expensive, then you’re already talking about the cream of the crop, the top-of-the-barrel law firms,” Vinaccia said. “I can’t imagine a case in which I might argue those two firms are more reasonable than the rates I’m dealing with.”

Worth Your Time

On Cravath: Cravath Swaine & Moore is heading to Washington, opening its first new office since 1973 by hiring former heads of the U.S. Securities and Exchange Commission and Federal Deposit Insurance Corporation. Meghan Tribe reports the move comes as Big Law firms are looking to add federal government expertise as clients face more regulatory scrutiny.

On Big Law Promotions: It’s rare that associates get promotions to partner in June, but Camille Vasquez is now a Brown Rudnick partner after she shot to fame representing Johnny Depp in his defamation trial against ex-wife Amber Heard.

On Working From Home: I spoke this week with Quinn Emanuel’s John Quinn about why he thinks law firm life is never going back to the office-first culture that was upset by the pandemic. Listen to the podcast [here](#).



That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.

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Documents

[Trustee's Objection](#)

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STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

I, Rebecca Padilla, am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 3055 Wilshire Blvd., 12th Fl., Los Angeles, California 90010. My electronic service address is rpadilla@wilshirelawfirm.com.

On August 9, 2024, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

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(X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **August 9, 2024**, at Los Angeles, California.


Rebecca Padilla