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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

SALVADOR VILLANUEVA and MARCO
PEREZ, individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

LA ROSA TORTILLA FACTORY, INC., a
California corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 22CV00226

**CLASS AND REPRESENTATIVE
ACTION**

*[Assigned for all purposes to: Hon. Syda
Kosofsky Cogliati, Dept. 5]*

**DECLARATION OF JUSTIN F. MARQUEZ
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

*[Filed concurrently with: Plaintiffs' Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; Declaration of Kane
Moon; and [Proposed] Order Granting
Motion]*

PRELIMINARY APPROVAL HEARING

Date: July 25, 2024
Time: 8:30 a.m.
Dept: 5

Complaint filed: January 28, 2022
FAC filed: May 18, 2022
SAC filed: May 16, 2024
Trial date: Not set

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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 Salvador Villanueva (“Plaintiff Villanueva”). 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 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiffs and putative class members worked in California as hourly-paid or non-exempt employees for Defendant La Rosa Tortilla Factory, Inc. (“Defendant”) during the class period. Defendant is based in Madera, California and specializes in manufacturing tortillas, chips, tostadas, and Mexican pastries.

4. On January 28, 2022, Plaintiff Villanueva 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 and 512); (5) failure to timely pay final wages at termination (Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (Labor Code § 226); (7) failure to indemnify employees for expenditures (Labor Code § 2802); and (8) unfair

1 business practices (Business and Professions Code 17200 et seq.). On January 28, 2022, Plaintiff
2 Villanueva sent a notice to Defendant and the California Labor & Workforce Development Agency
3 (“LWDA”) alleging wage and hour violations pursuant to the Private Attorneys General Act
4 “PAGA” (Labor Code §§ 2698, *et seq.*). On April 12, 2022, Plaintiff Villanueva filed a separate
5 action seeking civil penalties under PAGA. On May 16, 2022, Plaintiff Villanueva filed a joint
6 stipulation for leave to file a First Amended Complaint (“FAC”) incorporating the PAGA into the
7 Class Action. On May 18, 2022, Plaintiff Villanueva’s FAC was deemed filed, per the order of the
8 Court.

9 5. On December 6, 2022, Plaintiff Perez filed a putative wage and hour Class Action
10 Complaint against Defendant for (1) failure to pay minimum wages; (2) failure to pay overtime
11 compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods;
12 (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at
13 termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business
14 practices. On January 10, 2023, the Parties filed a Joint Stipulation to Consolidate Related Actions,
15 thereby consolidating the Perez Class Action with the Villanueva Class Action, with the Villanueva
16 Class Action being the lead case. On February 16, 2024, Plaintiffs filed a Second Amended
17 Complaint to add Plaintiff Perez to the operative Villanueva Class Action as a named plaintiff and
18 adding causes of action against Defendant for Unlawful Deductions (Labor Code § 221) and Paid
19 Sick Leave and Paid COVID Supplemental Sick Leave Violations (Labor Code §§ 246, 248.2, and
20 248.6).

21 DISCOVERY AND INVESTIGATION

22 6. Following the filing of the Complaint, the Parties exchanged documents and
23 information before mediating this action. Defendant produced a sample of time and pay records for
24 class members. Defendant also provided documents of its wage and hour policies and practices
25 during the class period, and information regarding the total number of current and former employees
26 in its informal discovery responses.

27 7. After reviewing documents regarding Defendant’s wage and hour policies and
28 practices, and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to

1 evaluate the probability of class certification, success on the merits, and Defendant's maximum
2 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding the
3 claims and defenses asserted in the Litigation. Class Counsel reviewed these records and utilized an
4 expert to prepare a damages analysis prior to mediation.

5 SETTLEMENT NEGOTIATIONS

6 8. On December 7, 2022, the Parties participated in private mediation with experienced
7 class action mediator, Jeffrey Krivis, Esq. The mediation was conducted via Zoom. The settlement
8 negotiations were at arm's length and, although conducted in a professional manner, were
9 adversarial. The Parties went into the mediation willing to explore the potential for a settlement of
10 the dispute, but each side was also prepared to litigate their position through trial and appeal if a
11 settlement had not been reached.

12 9. After extensive negotiations and discussions regarding the strengths and weaknesses
13 of Plaintiffs' claims and Defendant's defenses, the Parties were able to reach a resolution, the
14 material terms of which are encompassed within the Settlement Agreement. Attached as **Exhibit 1**
15 is a true and correct copy of the Joint Stipulation Of Class Action And PAGA Settlement
16 ("Settlement Agreement").

17 10. Class Counsel submitted the proposed Settlement to the LWDA before filing the
18 Motion for Preliminary Approval.

19 11. I requested several bids from experienced class action settlement administrators to
20 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties
21 accepted the bid of CPT Group, Inc. ("CPT"). CPT has multiple years of experience in the field of
22 Class Action Administration, particularly in the wage-and-hour arena. In its bid, CPT agreed to cap
23 its costs at \$11,250.00 if there are 493 class members. CPT's bid also accounts for Notice in English
24 and Spanish. A true and correct copy of the bid is attached hereto as **Exhibit 2**.

25 12. Plaintiffs do not have any interest, financial or otherwise, in the proposed third-party
26 administrator, CPT.

27 13. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone employed
28 at the law firm) has any interest, financial or otherwise, in the proposed third-party administrator,

1 CPT.

2 14. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in this
3 case.

4 15. Class Counsel is not aware of any other pending matter or action asserting claims that
5 will be extinguished or affected by the Settlement.

6 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

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

13 17. Based on an analysis of the facts and legal contentions in this case, documents and
14 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
15 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
16 certified. After using the data Defendant provided, including class member timekeeping and payroll
17 records, as well as class member demographics (i.e., the number of class members, workweeks, and
18 average total compensation of the class), with the assistance of a statistics expert, I created a damages
19 model to evaluate the realistic range of potential recovery for the class. The damages model is based
20 on the following benchmarks:

21 Total Class Members: 482

22 Terminated Class Members during 3-year statute: 187

23 Total Workweeks: 37,489

24 Total Shifts Worked by the Class: 196,604

25 PAGA Pay Periods: 14,328

26 PAGA Eligible Employees: 208

27 Avg. Hourly Rate: \$13.69

28 18. Based on Plaintiffs' discovery and investigation, Class Counsel reached the

1 conclusion that Defendant failed to pay class members for all hours worked, including overtime
2 wages, Defendant had a policy and practice of not providing its employees with California compliant
3 meal and rest periods which it did not pay appropriate premiums for, and Defendant required its
4 employees to work “off-the-clock” prior to clocking in for the workday, during meal periods, and
5 after clocking out for the workday, time which it did not pay for, and Defendant failed to reimburse
6 its employees for business-related expenses. Defendant denies these claims.

7 19. Plaintiffs further allege that Defendant failed to pay for all hours worked, including
8 minimum wages, straight time wages, and overtime wages, by requiring class members to work off-
9 the-clock, unpaid. For purposes of calculating Defendant’s liability based on a best case scenario
10 for Plaintiffs and the Class, I estimate that Defendant’s maximum potential exposure by assuming
11 that all unpaid work time should have been paid at the overtime rate and I assumed that Defendant
12 is liable for 1 hour of unpaid worktime per week. This results in an estimate of \$769,836.62 (37,489
13 weeks * \$13.69 hourly overtime rate * 1.5 overtime rate * 1 hour of unpaid work per week), but I
14 discounted this figure by 80% to account for the difficulty of prevailing on a motion for class
15 certification and a trial on the merits because liability depends on whether Defendant knew or should
16 have known that class members were working off-the-clock, yielding a realistic damage estimate of
17 \$153,967.32.¹

18 20. With respect to the meal period claim, Plaintiffs allege that Defendant required them
19 and similarly situated class members to either work in lieu of taking meal periods, or their meal
20 periods were untimely or interrupted. My expert analyzed Defendant’s timekeeping records and
21 opined that approximately 62.2% of all meal breaks (122,288 shifts) had violations of short, missed,
22 or no meal periods. Potential liability for the meal period claim is \$1,674,122.72 (122,288 * \$13.69).
23 However, the data showed that Defendant paid approximately \$429,430.00 in meal period premium
24 payments since 2018, so I reduced Defendant’s liability by this amount, yielding \$1,244,692.72. I
25

26 ¹ An 80% discount for risk at certification and trial is reasonable because the Judicial
27 Council of California found that only 21.4% of all class actions were certified either as part of a
28 settlement *or* as part of a contested certification motion. *See* Findings of the Study of California
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-
action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

1 further discounted this figure by 80% to account for the difficulty of certifying and proving meal
2 period claims, as well as Defendant's contention that the claim lacks merit, particularly in light of its
3 numerous meal period premium payments, yielding a realistic damage estimate of \$248,938.54.

4 21. With respect to the rest period claim, Plaintiffs allege that Defendant required them
5 and similarly situated class members to work in lieu of taking rest periods, or their rest periods were
6 untimely or interrupted. Assuming a 50% violation rate for the class period based on Plaintiffs' and
7 other class members' experience working for Defendant, Defendant's potential liability for the rest
8 period claim is \$1,357,473.02 (198,316 shifts * 0.5 * \$13.69); however, I discounted this figure by
9 90% to account for the difficulty of certifying and proving rest period claims, particularly because
10 rest periods do not have to be recorded, and to account for the possibility of class members
11 voluntarily choosing to forego a rest period, yielding a realistic damage estimate of \$135,747.30.

12 22. Plaintiffs allege that Defendant failed to reimburse necessary business expenses.
13 Defendant's employees (including Plaintiffs) were frequently required to use their personal cell
14 phones to communicate with their supervisors and managers about work-related duties. This
15 included communication regarding their schedules and/or the following day's or week's tasks.
16 Additionally, Plaintiffs were required to purchase multiple uniform and other items to complete their
17 work, including work shirts, work shoes, aprons, pants, and boxcutters. For purposes of calculating
18 Defendant's liability based on a best case scenario for Plaintiffs and the Class, I estimated that
19 Defendant was liable to each class member for approximately \$15 per workweek in unreimbursed
20 expenses, for a total amount of \$562,335.00 (\$15 * 37,489); however, I discounted this figure by
21 80% to account for the difficulty of certifying and proving expense reimbursement claims,
22 particularly in light of written policies and practices providing a mechanism for class member's to
23 seek reimbursement, yielding a realistic damage estimate of \$112,467.00.

24 23. In sum, I estimated that Plaintiffs' maximum recovery for the off-the-clock claim,
25 meal period violations, rest period violations, and failure to reimburse expenses is \$3,934,337.36 but,
26 after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that
27 Plaintiff's realistic estimated recovery for the non-penalty claims is \$651,120.16.

28 24. With respect to Plaintiffs' derivative claims for statutory and civil penalties, Plaintiffs

1 estimated that Defendant's realistic potential liability is \$297,905.84. While Defendant's maximum
2 potential liability for waiting time penalties is \$614,407.20 based on approximately 187 terminated
3 class members during the 3-year statute ($187 * \$13.69 * 8 \text{ hours} * 30 \text{ days}$), \$832,000.00 for
4 inaccurate wage statements based on approximately 208 class members who worked 14,328 pay
5 periods within the 1-year statute ($208 * \$4,000.00$), and \$1,432,800.00 for PAGA violations based
6 on the Court assessing a \$100 penalty for initial violations for all 14,328 pay periods within the 1-
7 year statute, I believe that it would be unrealistic to expect the Court to award the full \$2,879,207.20,
8 in penalties given Defendant's defenses, the contested nature of Plaintiff's claims, and the
9 discretionary nature of penalties. Considering that the underlying claims are realistically estimated
10 to be \$651,120.16, such a disproportionate award would also raise due process concerns. Weighing
11 these factors and applying a discount of 90% to account for the risk and uncertainty of prevailing at
12 trial, I arrived at \$287,920.72 for statutory and civil penalties.

13 25. Using these estimated figures, Plaintiffs predicted that the realistic maximum
14 recovery for all claims, including penalties, would be \$967,957.01. This means that the \$500,000.00
15 settlement figure represents 53% of the realistic maximum recovery ($\$500,000.00 / \$939,040.88 =$
16 53.2%). Considering the risk and uncertainty of prevailing at class certification and at trial, this is
17 an excellent result for the Class.² Indeed, because of the proposed Settlement, class members will
18 receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

19 26. While Plaintiffs are confident in the merits of their claims, a legitimate controversy
20 exists as to each cause of action. Plaintiffs also recognize that proving the amount of wages due to
21 each Class Member would be an expensive, time-consuming, and uncertain proposition.

22 27. This Settlement avoids the risks and the accompanying expense of further litigation.
23 Although the Parties had engaged in a significant amount of investigation, informal discovery and
24

25 ² See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019)
26 2019 WL 3943859 at *8 (granting preliminary approval where the proposed allocation to settle
27 class claims was between 9.53 percent of Plaintiffs' maximum recovery); *Bravo v. Gale*
28 *Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at * 10 (finding that "a settlement for
fourteen percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re Omnivision*
Techs., Inc. (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is
just over 9% of the maximum potential recovery asserted by either party.").

1 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiffs
2 intended to depose corporate officers and managers of Defendant. Moreover, preparation for class
3 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a
4 disputed class certification ruling for Plaintiffs and/or adverse summary judgment ruling. Had the
5 Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties
6 would incur considerably more attorneys' fees and costs through trial.

7 28. The Net Settlement Amount available for Class Member settlement payments is
8 estimated to be \$273,333.33, for a class of 482 persons.³ As a result, each Settlement Class Member
9 is eligible to receive an average net benefit of approximately \$567.08.

10 29. The proposed Settlement of \$500,000.00, therefore, represents a substantial recovery
11 when compared to Plaintiff's reasonably forecasted recovery. When considering the risks of
12 litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary
13 to establish liability, the probability of appeal of a favorable judgment, it is clear that the settlement
14 amount of \$500,000.00 is within the "ballpark" of reasonableness, and preliminary settlement
15 approval is appropriate.

16 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

17 30. Class Counsel represent that Plaintiffs devoted a great deal of time and work assisting
18 counsel in the case, communicated with counsel very frequently for litigation and to prepare for
19 mediation, and was frequently in contact with Class Counsel during the mediation. Plaintiff's
20 requested enhancement award is reasonable particularly in light of the substantial benefits Plaintiff
21 generated for all class members.

22 31. Throughout this Litigation, Plaintiff Villanueva, who is a former employee of
23 Defendant, has cooperated immensely with my office and has taken many actions to protect the
24 interests of the class. Plaintiff Villanueva provided valuable information regarding the off-the-clock,
25 meal period, and rest period claims. Plaintiff Villanueva also informed my office of developments

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27 ³ The Net Settlement Amount is: \$500,000.00 minus \$166,666.67 for Class Counsel's
28 attorneys' fees, minus \$15,000.00 for Class Counsel's litigation expenses, minus \$15,000.00 in
administration costs, minus \$20,000.00 for the PAGA payment, and minus \$10,000.00 for the
class representative service awards to Plaintiffs.

1 and information relevant to this action, participated in decisions concerning this action, made herself
2 available to answer questions during the mediation, and provided my office with the names and
3 contact information of potential witnesses in this action. Before we filed this case, Plaintiff
4 Villanueva provided my office with documents regarding the claims alleged in this action. The
5 information and documentation provided by Plaintiff Villanueva was instrumental in establishing the
6 wage and hour violations alleged in this action, and the recovery provided for in the Settlement
7 Agreement would have been impossible to obtain without Plaintiff Villanueva's participation.

8 32. At the same time, Plaintiffs faced many risks in adding themselves as the class
9 representative in this matter. Plaintiffs faced actual risks with their future employment, as putting
10 themselves on public record in an employment lawsuit could also very well affect their likelihood
11 for future employment. Furthermore, as part of this Settlement, Plaintiffs are executing a general
12 release of all claims against Defendant.

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

19 34. In the final analysis, this class action would not have been possible without the aid of
20 Plaintiffs, who put their own time and effort into this Litigation, sacrificed the value of their own
21 individual claims, and placed themselves at risk for the sake of the class members. The requested
22 enhancement award for Plaintiffs for their service as the class representative and for their general
23 release of all individual claims is a relatively small amount of money when the time and effort put
24 into the Litigation are considered and in comparison to enhancements granted in other class actions.
25 The requested incentive award is therefore reasonable to compensate Plaintiffs for their active
26 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*, No.
27 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were
28 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a

1 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00
2 class representative incentive award for each named Plaintiffs.

3 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

4 35. The Settlement provides for attorney's fees payable to Class Counsel in an amount
5 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$166,666.67, plus
6 actual costs and expenses not to exceed \$15,000.00. The proposed award of attorneys' fees to Class
7 Counsel in this case can be justified under either method – lodestar or percentage recovery. Class
8 Counsel, however, intend to base the proposed award of fees, costs and expenses on the percentage
9 method as many of the entries in the time records will have to be redacted to preserve attorney-client
10 and attorney work product privileges.

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

15 37. It is further estimated that my office will need to expend at least another 50 to 100
16 hours to monitor the process leading up to the final approval and payments made to the class. My
17 office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

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

25 39. Because most individuals cannot afford to pay for representation in litigation on an
26 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
27 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless we
28 prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is taking

1 the risk that we will not be reimbursed for our time unless our client settles or wins his or her case,
2 we cannot afford to represent an individual employee on a contingency basis if, at the end of our
3 representation, all we are to receive is our regular hourly rate for services. It is essential that we
4 recover more than our regular hourly rate when we win if we are to remain in practice so as to be
5 able to continue representing other individuals in civil rights employment disputes.

6 MY EXPERIENCE AND QUALIFICATIONS

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

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

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

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

24 44. I have received numerous awards for my legal work. From 2017 to 2020, Super
25 Lawyers selected me as a "Southern California Rising Star," and from 2022 to 2024, I was selected
26 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
27 in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under
28 40" attorney. I am also rated 10.0 ("Superb") by Avvo.com.

1 45. I am on the California Employment Lawyers Association (“CELA”)’s Wage and
2 Hour Committee and Mentor Committee, and I was selected to speak at CELA’s 2019 Advanced
3 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
4 mentored young attorneys through CELA’s mentorship program.

5 46. I am also a past member of the Consumer Attorneys of California (“CAOC”). In
6 2020, I was selected for a position on CAOC’s Board of Directors. I am also a past member of
7 CAOC’s Diversity Committee, and I helped assist the CAOC in defeating bills that harm employees.
8 Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC, in defeating
9 AB 443, which proposed legislation that sought to limit the enforceability of California Labor Code
10 § 226.

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

- 16 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
17 million in gross recovery to class members for each year since 2020, including over
18 \$37.5 million in 2022 and over \$75 million in 2023.
- 19 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
20 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
21 data breach class action holding that consumer plaintiffs adequately alleged injury in
22 fact under the benefit of the bargain theory and monitoring-costs theory.
- 23 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case
24 in the Top 20 Labor & Employment Settlements (including number 19 for the \$4.1
25 million settlement in The FPI Management Wage and Hour Cases) and four additional
26 cases in the Top 50 Labor & Employment Settlements (numbers 36, 39, 41, and 49).
- 27 d. In 2021, Top Verdict recognized Wilshire Law Firm and myself for having one case
28 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).

- e. 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.
- f. 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).
- g. 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 Cir. Feb. 27, 2020), 2019 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2, 2018).). The decision certifying the class in *Frausto* is also discussed in Class Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.
- h. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer’s “auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court of Appeal also held that

⁴ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE*

expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.

- i. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims under California’s Private Attorney Generals Act (“PAGA”) cannot be used to calculate the amount in controversy under the Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.⁵ 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.
- j. 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.)
- k. *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

Connectivity Networks, Inc. (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

ordered defendant to pay for the cost of *Belaire-West* notice.

- l. 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.
- m. 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:
 - i. 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 defendant's affirmative defenses based on *Twombly/Iqbal*).
 - ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
 - iii. 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").
 - iv. 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").
- n. 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

1 California Supreme Court.

2 48. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual
3 billing rate for paid legal industry consulting services, my practice area, lead appellate experience in
4 the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly
5 rates:

6 a. I have been paid for legal industry consulting services at \$1,500 per hour by Gerson
7 Lehrman Group (GLG), a company that provides financial information and advises
8 investors and consultants with business clients seeking expert advice. GLG is one of
9 the largest companies that provides expert consulting services. GLG's clients include
10 corporations, hedge funds, private equity firms, and consulting firms. I have worked
11 with GLG on numerous occasions at a rate of \$1,500 per hour, including on three
12 recent occasions in October and November of 2023.

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

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

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

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

28 3. On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento

County Superior Court approved my \$1,500 hourly rate when she granted final approval of the class action settlement in *Sunshine Retirement Wage and Hour Cases*, Case No. JCCP 5247.

4. On January 26, 2024, the Hon. Loren G. Freestone of the San Diego Superior Court approved my \$1,500 hourly rate when he granted final approval of the class action settlement in *Lupercio v. Western 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.

d. 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.

e. 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).

f. 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.

g. 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 in *Carlos*

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

5 h. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
6 Court approved my \$750 hourly rate when he granted final approval of the class action
7 settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.
8 19STCV32396.

9 49. The reasonableness of my firm’s hourly rates is also supported by several surveys of
10 legal rates, including the following:

11 a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents the
12 real market rates of Los Angeles area attorneys who practice litigation. For that
13 category, the third quartile 2022 rate was \$1,045 per hour for partners and \$855 for
14 associates. Likewise, page 32 of the Report describes the rates charged by 183 Los
15 Angeles partners with “21 or more years of experience” and “Fewer than 21 years.”
16 For those categories, the third quartile Los Angeles partner rate in 2022 were \$1,133
17 per hour for 21 or more years and \$1,075 for attorneys with fewer than 21 years. A
18 true and correct copy of portions of the 2022 Real Rate Report is attached hereto as
19 **Exhibit 3.**

20 b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of
21 Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9, 2022,
22 the author describes how Big Law firms have crossed the \$2,000-per hour rate. The
23 article also notes that law firm rates have been increasing by just under 3% per year.
24 A true and correct copy of this article is attached hereto as **Exhibit 4.**

25 50. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire Law Firm. He
26 graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political
27 Science, and received his Juris Doctor from the University of California, Hastings College of the
28 Law in 2016. During law school, he was a member of the executive board for the Hastings Law

1 Journal and student mediator at the San Francisco Superior Court, Small Claims Division. He was
2 admitted to practice law in the State of California in 2017. Since graduating from law school, he has
3 focused his legal work primarily on wage-and-hour litigation and has helped obtain dozens of
4 settlements on behalf of tens of thousands of workers in California. He was also selected as a
5 “Southern California Rising Star” in 2024.

6 51. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated
7 from the University of California, Irvine with a Bachelor of Arts in History and received his Juris
8 Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the State
9 of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm specializing in
10 insurance defense litigation. His focus now is on wage and hour class action litigation.

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

13 Executed on July 2, 2024, at Los Angeles, California.

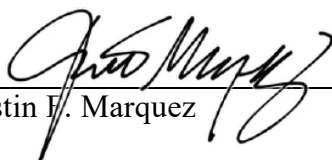
14
15 
16 Justin F. Marquez
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Exhibit 1

Ian B. Wieland, State Bar No. 285721
Michael J. Conway, State Bar No. 322030
SAGASER, WATKINS & WIELAND, PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000
Facsimile: (559) 473-1483

Attorneys Defendant, LA ROSA TORTILLA FACTORY, INC., a
California corporation

STATE OF CALIFORNIA

SUPERIOR COURT FOR THE COUNTY OF SANTA CRUZ

SALVADOR VILLANUEVA, individually,
and on behalf of all others similarly situated,

Plaintiff(s),

v.

LA ROSA TORTILLA FACTORY, INC., a
California corporation; and Does 1 through
10, Inclusive,

Defendant(s).

Case No.: 22CV00226

**JOINT STIPULATION RE CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: January 28, 2022
Trial Date: None Set

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

It is stipulated and agreed by and between Plaintiffs Salvador Villanueva (“Plaintiff Villanueva”) and Marco Perez (“Plaintiff Perez,” collectively with Plaintiff Villanueva, the “Plaintiffs”) and Defendant La Rosa Tortilla Factory, Inc. (“Defendant”, collectively with Plaintiffs, the “Parties”) subject to and conditioned on the approval of the Court pursuant to the California Rules of Court, that the settlement of this action, together with the actions entitled *Salvador Villanueva v. La Rosa Tortilla Factory, Inc.*, Santa Cruz County Superior Court Case No. 22CV00748, and *Marco Perez v. La Rosa Tortilla Factory, Inc.*, Santa Cruz County Superior Court Case No. 22CV02684 (collectively, the “Action”), shall be effectuated upon and subject to the following terms and conditions.

Capitalized terms used herein shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of Class Action and PAGA Settlement (the “Settlement”).

1 This Settlement is made by and between the Parties following a full day mediation session
2 on December 7, 2022, with Jeffrey Krivis, Esq.

3 The Parties agree that the Action shall be, and is, ended, settled, resolved, and concluded by
4 agreement of Defendant to pay the settlement amount of Five Hundred Thousand Dollars
5 (\$500,000.00), as provided in Section III(D)(7)(a) below (“Gross Settlement Amount”) pursuant to
6 the terms and conditions of this Settlement and for the consideration set forth herein, including but
7 not limited to, a general release of claims by Plaintiffs, and releases as detailed herein by the
8 participating Class Members, and Aggrieved Employees as set forth herein.

9 **I. DEFINITIONS**

10 Unless otherwise defined herein, the following terms used in this Settlement shall have the
11 meanings ascribed to them as set forth below:

12 A. “Action” means the actions filed by Plaintiff Villanueva entitled *Salvador*
13 *Villanueva v. La Rosa Tortilla Factory, Inc.*, Santa Cruz County Superior Court Case Nos.
14 22CV00226 and 22CV00748, and the action filed by Plaintiff Perez entitled *Marco Perez v. La*
15 *Rosa Tortilla Factory, Inc.*, Santa Cruz County Superior Court Case No. 22CV02684.

16 B. “Aggrieved Employees” means all persons currently or formerly employed as non-
17 exempt employees in California by Defendant at any time during the PAGA Period (defined below).

18 C. “Class” means all persons currently or formerly employed as non-exempt employees
19 in California by Defendant at any time during the Class Period (defined below) who do not timely
20 and validly exclude themselves from the Class in compliance with the exclusion procedures set forth
21 in this Settlement.

22 D. “Class Counsel” means the attorneys for the Class and the Class Members, as
23 follows:

24 Justin F. Marquez
25 Erik A. Dos Santos
26 Zachary D. Greenberg
27 WILSHIRE LAW FIRM, PLC
28 3055 Wilshire Blvd., 12th Floor
Los Angeles, CA 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Kane Moon
Allen Feghali
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128320-0519

E. “Class Member(s)” means all members of the Class.

F. “Class Notice” means the Notice of Proposed Class Action Settlement in a form substantially similar to the notice attached hereto as **Exhibit A**, subject to Court approval.

G. “Class Period” means January 28, 2018, through the Preliminary Approval Date of the Settlement or an earlier date at Defendant’s discretion per Section III(D)(5).

H. “Court” means the Santa Cruz Superior Court, where the Action is pending.

I. “Defendant” means La Rosa Tortilla Factory, Inc.

J. “Defense Counsel” means counsel for Defendant, who are:

Ian B. Wieland
Michael J. Conway II
SAGASER, WATKINS & WIELAND, PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000
Facsimile: (559) 473-1483

K. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

L. “Effective Date” means the later of the following: (1) the date the Final Approval Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Approval Order, sixty (60) days after the Final Approval Order is signed; or (3) if an appeal is taken from the Court’s overruling of objections to the Settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the final approval decision becomes final.

M. “Enhancement Award(s)” means an amount of up to Five Thousand Dollars (\$5,000) for Plaintiff Villanueva, and Five Thousand Dollars (\$5,000) for Plaintiff Perez, subject to Court

1 approval.

2 N. "Final Approval Order" means the final formal court order signed by the Court and
3 entering a judgment approving this Settlement on substantially the terms provided herein or as the
4 same may be modified by subsequent written agreement of the Parties as approved by the Court
5 following the hearing on Plaintiff's motion for final approval of the Settlement in accordance with
6 the terms herein.

7 O. "Second Amended Complaint" refers to Plaintiffs' Second Amended Complaint,
8 which shall be filed with the Court prior to the date on which the Court holds a hearing on Plaintiffs'
9 motion for final approval of the Settlement.

10 P. "Gross Settlement Amount" means Five Hundred Thousand dollars (\$500,000.00),
11 unless increased on a pro rata basis pursuant to Section III(D)(5) to be paid by Defendant pursuant
12 to the terms of this Settlement to settle the Action. All claims of the Class, including all wages,
13 damages, interest, penalties, and all administration costs, attorney's fees and costs, Enhancement
14 Awards, Individual Settlement Payments, Individual PAGA Payments, and LWDA Payment
15 pursuant to Section III(D)(7) below, and all applicable employee-side payroll taxes shall be paid
16 out of the Gross Settlement Amount. The employer's share of payroll taxes arising from the
17 payments made under this settlement shall be paid by Defendant separate from and in addition to
18 the Gross Settlement Amount. No part of the Gross Settlement amount shall revert to Defendant.

19 Q. "Individual Settlement Payments" means the amount of money from the Net
20 Settlement Amount that shall be paid to Participating Class Members less the employee's portion
21 of required federal and state withholdings. Individual Settlement Payments will be each
22 Participating Class Member's proportional share of the Net Settlement Amount (which shall be
23 determined by the calculations provided in this Settlement).

24 R. "Individual PAGA Payments" means the amount of money from the \$20,000.00
25 allocated to resolving Aggrieved Employees' claims under PAGA that shall be paid to Aggrieved
26 Employees. Individual PAGA Payments will be each Aggrieved Employees' proportional share of
27 the \$5,000.00 distributed to Aggrieved Employees proportionally according to their Qualifying Pay
28

1 Periods during the PAGA Period.

2 S. "Judgment" refers to the judgment entered by the Court in conjunction with the Final
3 Approval Order.

4 T. "LWDA Payment" means 75% of the \$20,000 allocated to settlement of PAGA
5 claims, which will be paid to the Labor and Workforce Development Agency ("LWDA") pursuant
6 to Section III(D)(7)(e) of this Settlement, subject to Court approval.

7 U. "Net Settlement Amount" means the Gross Settlement Amount less the Court-
8 approved settlement administration costs, attorney's fees and costs, Enhancement Awards,
9 Individual PAGA Payments, and LWDA Payment, pursuant to Section III(D)(7) below.

10 V. "Non-Participating Class Member(s)" means those Class Members who submit to
11 the Settlement Administrator a valid and timely Exclusion Form to be excluded from the Class
12 pursuant to Section III(D)(2) below.

13 W. "Objection" means a signed written objection to the Settlement by a Class Member,
14 that is timely mailed to the Settlement Administrator, setting forth the grounds for the objection,
15 along with any supporting documents, the Class Member's address, telephone number, reference to
16 the Action, and whether they intend to appear at the Final Approval Hearing.

17 X. "PAGA Period" means January 28, 2021, through the Preliminary Approval.

18 Y. "Participating Class Member(s)" is defined as a Class Member who does not timely
19 exclude himself or herself from the Settlement and will therefore receive his or her share of the
20 Settlement proceeds automatically without the need to return a claim form. Each Participating Class
21 Member will be paid his/her Individual Settlement Payment.

22 Z. "Plaintiffs" mean Salvador Villanueva and Marcos Perez.

23 AA. "Preliminary Approval Date" means the date the Court's signed order preliminarily
24 approving the settlement is served on the parties by the Court, or on Defendant by Plaintiff.

25 BB. "Qualifying Pay Periods" means any pay period during which an Aggrieved
26 Employee was employed by Defendant during the PAGA Period.

27 CC. "Qualifying Workweeks" means any week during which a Class Member was
28

1 employed by Defendant during the Class Period.

2 DD. "Released Claims" mean all claims alleged by Plaintiffs in the operative
3 complaint(s), or which could have been alleged by Plaintiffs in the operative complaint(s) by reason
4 of or in connection with any matter or fact set forth or referred to in operative complaint(s),
5 including any and all claims, debts, liabilities, demands, actions, or causes of action arising from or
6 relating to the Released Claims during the Class Period and/or PAGA Period, as defined herein.

7 Without limiting the foregoing, the Released Claims shall include claims for unpaid wages,
8 including but not limited to failure to pay minimum wages, straight time compensation, overtime
9 compensation, and interest; failure to timely pay regular and final wages; failure to provide
10 compliant meal, rest, and/or recovery periods; failure to pay premiums at all or at the correct rate
11 for any violation of meal, rest, and recovery period obligations; compensation due by reason of a
12 split shift; reporting time pay; claims arising from invalid meal period waivers and on-duty meal
13 period waivers; payment for all hours worked; wage statements and paystubs, including wage
14 statements and paystubs furnished or available in physical, electronic, or other forms; failure to keep
15 accurate records; making unlawful deductions; failing to reimburse business expenses; unfair
16 business practices; any and all related penalties, including recordkeeping penalties, wage statement
17 penalties, minimum wage penalties, and waiting time penalties; and statutory penalties and/or civil
18 penalties associated with any of the foregoing. Such released claims shall include, but are not limited
19 to those claims arising under California Labor Code sections 201-204, 204b, 206, 210, 218, 218.5,
20 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 233, 234, 246, 246.5, 247, 247.5,
21 248, 248.1, 248.2, 248.3, 248.5, 248.6, 248.7, 400-410, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12,
22 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2698 et seq., and 2699 et seq., and/or those
23 arising under the applicable Industrial Welfare Commission Wage Order(s) (including but not
24 limited to subsections 3, 4, 5, 7, 8, 9, 11, 12, 13, 18, and 20 of the applicable Wage Order(s)
25 [including the provisions of the California Code of Regulations codifying the applicable Wage
26 Order(s)], which may include but are not limited to Wage Orders 1-2001, 7-2001, and/or 9-2001);
27 8 C.C.R. §3395; California Business and Professions Code section 17200 et seq. (including, without
28

1 limitation, California Business and Professions Code §§17200 through 17208); the California Civil
2 Code sections 3287, 3289, and 3294; California Code of Civil Procedure section 1021.5; and any
3 related claims under the claims under the Fair Labor Standards Act (“FLSA”) (29 U.S.C. §§ 201, et
4 seq.). The release excludes the release of claims not permitted by law.

5 EE. “Released Parties” means Defendant, together with its present and former parents,
6 subsidiaries, affiliates and related entities, present and former owners, boards, officers, directors,
7 trustees, shareholders, members, partners, employees, agents, insurers, attorneys, representatives,
8 heirs, executors, administrators, successors, assigns, joint-employers, alter-egos, or other entities or
9 persons against whom vicarious liability for the Released Claims could be asserted under any theory
10 of law, including but not limited Labor Code §558.1.

11 FF. “Request for Exclusion” means the Exclusion Form that will be enclosed with the
12 Class Notice that Class Members can use to opt out or exclude themselves from the Settlement. In
13 order for a Request for Exclusion to be valid, the Exclusion Form must be signed and postmarked
14 by the deadline provided for in Sections III(C) and III(D)(2) below and mailed to the Settlement
15 Administrator at the address specified in the Class Notice.

16 GG. “Settlement” means this Joint Stipulation of Class Action Settlement, including the
17 attached Exhibit.

18 HH. “Settlement Administration Costs” means an amount of up to Fifteen Thousand
19 Dollars (\$15,000), subject to Court approval, for all costs incurred by the Settlement Administrator
20 in administration of the Settlement, including, but not limited to, mailing of notice to the class,
21 calculation of Individual Settlement Payments, generation of Individual Settlement Payment checks
22 and related tax reporting forms, administration of unclaimed and/or uncashed checks to the Pajaro
23 Valley Loaves and Fishes, and distribution of checks to Class Counsel for attorneys’ fees and costs,
24 to Plaintiff for their Enhancement Awards, and to the LWDA. The Settlement Administration Costs
25 shall be paid from the Gross Settlement Amount.

26 II. “Settlement Administrator” means CPT Group Class Action Administrators, which
27 the Parties have agreed will be responsible for the administration of the Individual Settlement
28

1 Payments to be made by Defendant from the Gross Settlement Amount and related matters under
2 this Settlement.

3 **II. CONTINGENT NATURE OF THE AGREEMENT**

4 Because the Parties have stipulated to the certification of the Class with respect to all causes
5 of action alleged in the Action for settlement purposes only, this Settlement requires preliminary
6 and final approval by the Court. Accordingly, the Parties enter into this Settlement on a conditional
7 basis. This Settlement is conditioned upon the occurrence of the Effective Date. If the Effective
8 Date does not occur, the fact that the Parties were willing to stipulate for the purposes of this
9 Settlement to the certification of the Class shall have no bearing on, nor be admissible in connection
10 with, the issue of certification of a class or subclass with respect to any causes of action alleged in
11 the Action, and this Settlement shall not be referred to or used for any purpose whatsoever.

12 Defendant does not consent to certification of the Class for any purpose other than to
13 effectuate settlement of the Action. If the Effective Date does not occur, or if Disposition of this
14 Action is not effectuated, any certification of the Class as to Defendant will be vacated and Plaintiffs,
15 Defendant, and the Class will be returned to their respective positions in the Action as if the
16 Settlement had not been executed. Further, if the Effective Date does not occur, this Settlement
17 shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to
18 or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the
19 propriety of class certification in the Action for any purpose if the Effective Date does not occur.

20 The Parties and their respective counsel shall take all steps that may be requested by the
21 Court relating to the approval and implementation of this Settlement and shall otherwise use their
22 respective best efforts to obtain Court approval and implement this Settlement. If the Court does
23 not grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties
24 agree to meet and confer in good faith to address the Court's concerns. If the Parties are unable to
25 agree upon a resolution, the Parties agree to seek guidance from the Court to resolve the dispute.
26 However, no party shall be required to consent to any material change of this Settlement, including
27 but not limited issues impacting the Gross Settlement Amount, PAGA Period, Class Period, and/or
28

1 the Release, even if such a material change to the Settlement is necessary to achieve Court approval
2 of the same.

3 **III. PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

4 The procedure for obtaining Court approval of and implementing this Settlement shall be as
5 follows:

6 **A. Motion for Conditional Class Certification and Preliminary Approval**

7 Plaintiffs will bring a motion before the Court for an order conditionally certifying the Class
8 to include all claims pled in the Action and to preliminarily approve of the Parties' Settlement.
9 Pursuant to California Labor Code § 2699(l)(1), Plaintiffs shall submit to the LWDA a copy of this
10 Agreement and all supporting approval documents required by the LWDA at the same time that
11 Plaintiffs submit them to the Court for approval.

12 **B. The Settlement Administrator**

13 The Parties have chosen CPT Group Class action Administrators to administer this
14 Settlement and to act as the Settlement Administrator, including but not limited to distributing and
15 responding to inquiries about the Class Notice, determining the validity of exclusions/opt-outs,
16 calculating the Net Settlement Amount and the Individual Settlement Payments (including any
17 payroll taxes due thereon), issuing the Individual Settlement Payment checks and distributing them
18 to Participating Class Members, administering and making payment of unclaimed and/or uncashed
19 checks to Pajaro Valley Loaves and Fishes, issuing the payment to Class Counsel for attorneys' fees
20 and costs, the Enhancement Award check to Plaintiffs, the LWDA Payment, and remitting the
21 employer payroll taxes to the appropriate taxing authorities. The Settlement Administrator shall be
22 bound by the terms and conditions of this Settlement.

23 All Settlement Administration Costs, including but not limited to all costs and fees
24 associated with preparing, issuing and mailing any and all notices to Class Members and/or
25 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
26 and mailing the Individual Settlement Payments, all costs and fees administering and making
27 payment of unclaimed and/or uncashed checks to Pajaro Valley Loaves and Fishes, all costs and
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1 fees associated with preparing any tax returns and any other filings required by any governmental
2 taxing authority or agency, all costs and fees associated with preparing any other checks, notices,
3 reports, or filings to be prepared in the course of administering disbursements from the Net
4 Settlement Amount, and any other costs and fees incurred and/or charged by the Settlement
5 Administrator in connection with the execution of its duties under this Settlement shall be paid to
6 the Settlement Administrator from the Gross Settlement Amount.

7 **C. Notice to Class Members**

8 No later than ten (10) business days after the Preliminary Approval Date, Defendant will
9 provide the Settlement Administrator with a "Class List" based on its business records, identifying
10 the names of the Class Members, their last known home addresses, Social Security numbers or, as
11 applicable, other taxpayer identification number, the number of Qualifying Workweeks worked by
12 the employee, and the number of Qualifying Pay Periods worked by the employee. This information
13 shall be treated as confidential and shall not be disclosed to Plaintiffs, Class Counsel, or any other
14 person without prior approval from Defendant's Counsel.

15 Within ten (10) business days of receiving the Class List from Defendant, the Settlement
16 Administrator will send Class Members, by first-class mail, at their last known address, the Court
17 approved Class Notice, including notice of this settlement and of the opportunity to opt out of the
18 Class or object to the Settlement. The Class Notice will include a calculation of the estimated
19 amount of the Class Member's minimum share of the Net Settlement Amount. Class Members will
20 have 45 days from the date of mailing in which to postmark Requests for Exclusion or Objections.
21 Class Members shall not be required to submit claim forms in order to receive their Individual
22 Settlement Payments.

23 Prior to the initial mailing, the Settlement Administrator will check all Class Member
24 addresses against the National Change of Address database and shall update any addresses before
25 mailing. If the Class Notice is returned with a forwarding address, the Settlement Administrator
26 shall re-mail the Class Notice to the forwarding address. With respect to those Class Members whose
27 Class Notice is returned to the Settlement Administrator as undeliverable, the Settlement
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1 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
2 or mass search on LexisNexis databases based on set criteria and, if another address is identified,
3 shall mail the Class Notice to the newly identified address. If the Class Notice is re-mailed, the
4 Settlement Administrator will note for its own records and notify Class Counsel and Defense
5 Counsel of the date of each such re-mailing as part of a weekly status report provided to the Parties.
6 The re-mailing shall occur within five days of receiving notice that a notice was undeliverable. If a
7 Class Member's notice is re-mailed, the Class Member shall have 15-days from the re-mailing, or
8 45 days from the date of the initial mailing, whichever is later, in which to postmark a Request for
9 Exclusion or Objection.

10 In the event a Class Member's Class Notice remains undeliverable 60 days after the Class
11 Notice was initially mailed, the Settlement Administrator will not mail the Class Member's
12 Individual Settlement Payment. The Settlement Administrator will hold the Class Member's
13 Individual Settlement Payment during the check cashing period on behalf of the Class Member. If
14 at the conclusion of the check cashing period the Class Member's Class Notice and Individual
15 Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
16 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
17 procedures set forth in Section III(D)(7)(f) below.

18 No later than twenty (20) business days prior to the Final Approval Hearing, the Settlement
19 Administrator shall provide Defense Counsel and Class Counsel with a declaration attesting to
20 completion of the notice process, including any attempts to obtain valid mailing addresses for and
21 re-sending of any returned Class Notices, as well as the number of valid Requests for Exclusion and
22 Objections that the Settlement Administrator received.

23 Compliance with the procedures described in this section shall constitute due and sufficient
24 notice to Class Members of this proposed Settlement and the Final Approval Hearing and shall
25 satisfy the requirements of due process. Nothing else shall be required of the Parties, Class Counsel,
26 Defense Counsel, or the Settlement Administrator to provide notice of the proposed Settlement and
27 the Final Approval Hearing. However, if any Class Member objects to the Settlement and the Final
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Approval Hearing is continued as a result, the Settlement Administrator shall provide notice to the objecting party of the continuance.

D. Responses to Notice

1. Class Member Disputes

If any Class Member disagrees with Defendant's records as to his or her Qualifying Workweeks during the Class Period or Qualifying Pay Periods during the PAGA Period as reflected in the Class Notice, the Class Member shall set forth the Qualifying Workweeks and/or Qualifying Pay Periods he or she claims to have worked during the Class Period and/or PAGA Period and submit to the Settlement Administrator along with any supporting documentation. The Notice will also provide a method for the Class Member to challenge the employment data on which his or her Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the final arbiter of the Qualifying Workweeks and Qualifying Pay Periods for each Class Member during the Class Period and/or PAGA Period based on the information provided to it. Any dispute not otherwise resolved by the Administrator and the Parties shall be resolved by the Court.

2. Requests for Exclusion from the Class

Plaintiffs may not request exclusion from the Class. In order for any Class Member to validly exclude himself or herself from the Class and this Settlement (*i.e.*, to validly opt out), the Exclusion Form must be completed and signed by the Class Member, and must be mailed to the Settlement Administrator, postmarked by no later than 45 days after the date the Settlement Administrator initially mails the Class Notice to the Class Members (or 15 days after the Settlement Administrator re-mails the Class Notice to the Class Member, whichever is later). The Class Notice shall contain instructions that the Exclusion Form must be mailed, the date by which it must be mailed, and state the name and address of the Settlement Administrator. The date of the initial mailing of the Class Notice, and the date the signed Exclusion Form was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. Any Class Member who timely and

1 validly requests exclusion from the Class and this Settlement will not be entitled to any Individual
2 Settlement Payment arising from the Class claims, will not be bound by the terms and conditions of
3 this Settlement as to the Class claims, and will not have any right to object, appeal, or comment
4 thereon.

5 The proposed settlement includes the settlement of claims for civil penalties under PAGA.
6 An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court
7 approves the Settlement, then even if a Class Member requests exclusion from the Settlement, the
8 Class Member will still receive an Individual PAGA Payment pursuant to the terms in Section
9 III(D)(7)(e) and will be deemed to have released the PAGA claims. A Request for Exclusion will
10 preserve the Class Member's right to individually pursue only the remaining Class claims.

11 Any Class Member who fails to timely submit a Request for Exclusion shall automatically
12 be deemed a Class Member whose rights and claims with respect to the issues raised in the Action
13 are determined by the Court's Final Approval Order, and by the other rulings in the Action.

14 3. Objections to Settlement

15 Plaintiffs may not object to the Settlement. For any Class Member to object to this
16 Settlement, or any term of it, the person making the objection must not submit a Request for
17 Exclusion (*i.e.*, must not opt out), and should complete, sign and send the Objection using the
18 instructions provided in the Class Notice to the Settlement Administrator, postmarked no later than
19 45 days after the Class Notice was initially mailed to the Class Members (or 15 days after the
20 Settlement Administrator re-mails the Notice to the Class Member, whichever is later), along with
21 all supporting papers. The date of the initial mailing of the Class Notice, and the date the signed
22 Objection was postmarked, shall be conclusively determined according to the records of the
23 Settlement Administrator. The Settlement Administrator shall send any Objections it receives to
24 Defense Counsel and Class Counsel within three (3) business days of receipt. The Court retains
25 final authority with respect to the consideration and admissibility of any Class Member objections.

26 4. Encouragement of Class Members

27 The Parties to this Settlement and the counsel representing such Parties shall not, directly or
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indirectly, through any person, encourage or solicit any Class Member to exclude himself or herself from this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from Class Members. Defendant and/or Defendant's Counsel shall be entitled to voluntarily inform Class Members regarding the Settlement and the procedures related thereto.

5. Right to Adjust Gross Settlement Amount and/or Class Period

When the Parties agreed to settle this matter, Defendant estimated the number Class Members was 482. If the number of Class Members increases from 482 by more than 15% (i.e., more than 555 total Class Members) as of the end of the Class Period, Defendant shall have the exclusive right to elect to either have a pro rata adjustment to the Gross Settlement Amount equal \$900.90 per additional Class Member above 555; or, (b) to adjust the end date of the Class Period such that the number of Class Members does not exceed 555.

The Parties agreement to resolve PAGA claims during the PAGA Period is not subject to any pro rata increase regardless of the final number of Aggrieved Employees during the PAGA Period.

If such adjustment is necessary, the Parties agree to file an Amended Joint Stipulation of Class Action Settlement adjusting the last date of the Class Period accordingly, or, alternatively file an amended [Proposed] Order re Class Action Settlement adjusting the last date of the Class Period and/or PAGA Period accordingly.

6. Final Approval Hearing

On the date set forth in the Order for Preliminary Approval and Class Notice, a Final Approval Hearing shall be held before the Court in order to (1) review this Settlement and determine whether the Court should give it final approval, and (2) consider any objections made and all responses by the Parties to such objections. At the Final Approval Hearing, the Parties shall ask the Court to give final approval to this Settlement and shall submit to the Court a Proposed Final Approval Order.

a. Waiver of Right to Appeal

Provided that the Final Approval Order is consistent with the terms and conditions of this

Settlement, all Class Members who do not submit timely written objections to the Settlement or orally object at the Final Approval Hearing hereby waive any and all rights to appeal from the Final Approval Order and Judgment, including all rights to any post-Final Approval Order proceeding and appellate proceeding, such as a motion to vacate or set-aside the Final Approval Order and Judgment, a motion for new trial, and any extraordinary writ, and the Final Approval Order and Judgment therefore shall become final and non-appealable at the time it is entered. This waiver does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-Final Order proceedings. A modification by the Court of the requested amount of the Enhancement or Class Counsel's fees or costs shall not constitute a basis for appeal of the Final Approval Order within the meaning of this paragraph.

b. Vacation, Reversal, or Material Modification of Final Order and Judgment on Appeal or Review

If, after a notice of appeal or a petition for a writ of *certiorari* or any other motion, petition, or application, the reviewing court vacates, reverses, or modifies the Final Approval Order such that there is a material modification to the Settlement and that court's decision is not completely reversed, and the Final Approval Order is not fully affirmed on review by a higher court, then Plaintiffs and Defendant shall each have the right, but not the obligation, to void the Settlement, which the Party must do by giving written notice to the other Party, the final reviewing court, and the Court no later than thirty (30) days after the final reviewing court's decision vacating, reversing, or materially modifying the Final Order becomes final and non-appealable. A vacation, reversal, or modification of the Court's award of the Enhancement or Class Counsel's fees or costs shall not constitute a vacation, reversal, or material modification of the Final Order and Judgment within the meaning of this paragraph.

7. Settlement Payment Procedures

a. Gross Settlement Amount

In exchange for the releases set forth in this Agreement, Defendant agree to pay the Gross Settlement Amount in the amount of Five Hundred Thousand Dollars (\$500,000.00) subject to a

1 voluntary pro rata increase under the condition set forth in Section III(D)(5) at the discretion of
2 Defendant. The Gross Settlement Amount includes all claims of the Settlement Class and all
3 Settlement Administration costs, Class Counsel's attorney's fees and costs, LWDA Payment, and
4 Enhancement Awards.

5 No later than 30 calendar days after service of the Court's Final Approval Order, Defendant
6 shall transfer 40-percent of the Gross Settlement Amount (currently, a total of Two Hundred
7 Thousand [\$200,000.00]) into an account established by the Settlement Administrator either directly
8 or by sending the funds to the Settlement Administrator to be deposited and distributed. No later
9 than one-year after service of the Court's Final Approval Order, Defendant shall transfer 40-percent
10 of the Gross Settlement Amount (currently, a total of Two Hundred Thousand [\$200,000.00]) into
11 an account established by the Settlement Administrator either directly or by sending the funds to the
12 Settlement Administrator to be deposited and distributed. No later than one-year and six-months
13 after service of the Court's Final Approval Order, Defendant shall transfer 20-percent of the Gross
14 Settlement Amount (currently, a total of One Hundred Thousand [\$100,000.00]) into an account
15 established by the Settlement Administrator either directly or by sending the funds to the Settlement
16 Administrator to be deposited and distributed.

17 All of Defendant's obligations under this Settlement are deemed to be satisfied upon
18 Defendant's timely deposit of the entire Gross Settlement Amount and acknowledgement of receipt
19 of said funds by the Settlement Administrator and Defendant shall have no further obligations to the
20 Class including, without limitation, any further obligations to make any other payments of any kind
21 to, or on behalf of, the Class (except for the employer's share of payroll taxes on the wage allocation
22 of the Net Settlement Amount).

23 The Settlement Administrator will use these funds to fund payment of the Individual
24 Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs,
25 Individual PAGA Payments, LWDA Payment, the Enhancement Awards, and employer and
26 employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Ten (10)
27 calendar days after Defendant funds the entire Gross Settlement Amount, the Settlement
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1 Administrator will pay the Class Members' Individual Settlement Payments, Court-approved
2 attorney's fees and costs, settlement administration costs, Enhancement Awards, and LWDA
3 Payment from the Gross Settlement Amount payment by Defendant.

4 b. Payment of Attorneys' Fees and Costs

5 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
6 of the Gross Settlement Amount (which may increase pursuant to Section III(D)(5) [i.e., pro rata
7 increase provision]). Class Counsel shall submit an application for an award of costs not to exceed
8 Fifteen Thousand Dollars (\$15,000.00). Such application for attorneys' fees and costs shall be heard
9 by the Court at the Final Approval Hearing. Defendant shall not object to or oppose any such
10 application equal to or less than these amounts.

11 Any fees and costs awarded by the Court shall be paid from the Gross Settlement Amount
12 and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class
13 Counsel approved by the Court shall encompass all work performed, costs, and expenses related to
14 the investigation, prosecution, and settlement of the Action incurred through the Effective Date. To
15 the extent that the Court approves less than the amount of attorney's fees and/or costs that Class
16 Counsel requests, the difference between the requested and awarded amounts will be reallocated to
17 the Net Settlement Amount.

18 Any award of attorneys' fees and costs shall include and satisfy all past and future attorneys'
19 fees and costs incurred to prosecute, settle, and participate in administering the Settlement, including
20 obtaining the Final Approval Order. Defendant shall have no obligation to Class Counsel for any
21 attorneys' fees and costs incurred in prosecuting this Action other than as stated herein, provided
22 that Defendant fully complies with the terms of this Settlement, including but not limited to timely
23 payment of the Gross Settlement Amount.

24 c. Payment of Settlement Administration Costs

25 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
26 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
27 Fifteen Thousand Dollars (\$15,000.00).

d. Payment of Enhancement Awards to Named Plaintiff and Others

Subject to Court approval, Plaintiff Villanueva shall receive an Enhancement Award of up to Five Thousand Dollars (\$5,000.00), and Plaintiff Perez shall receive an Enhancement Award of up to Five Thousand Dollars (\$5,000.00), the request for which Defendant will not object to or oppose to the extent the request does not exceed the amounts stated. The Enhancement Awards shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s). To the extent that the Court approves less than the amount of Enhancement Award that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Enhancement Awards represent payments to Plaintiff Villanueva and Plaintiff Perez for their service to the Class Members, and not wages, the Settlement Administrator will not withhold any taxes from the Enhancement Awards. The Enhancement Awards will be reported on a Form 1099, which the Settlement Administrator will provide to Plaintiff Villanueva and Plaintiff Perez, and to the pertinent taxing authorities as required by law.

Although it is the contemplation of the Parties that the Enhancement Awards do not represent wages, the Internal Revenue Service, the California Franchise Tax Board, or some other taxing authority may take the position that some or all of the Enhancement Awards constitute wages for income tax and withholding purposes. Plaintiff Villanueva and Plaintiff Perez agree to assume the responsibility of remitting to the Internal Revenue Service, the California Franchise Tax Board, and any other relevant taxing authority the amounts required by law, if any, to be withheld from the Enhancement Awards paid under this Settlement. In addition, Plaintiff Villanueva and Plaintiff Perez shall hold Defendant, Released Parties and Defense Counsel harmless and indemnify Defendant, Released Parties and Defense Counsel for all taxes, interest, penalties, other payments and costs, incurred by Defendant by reason of any valid claims by taxing authorities relating to the non-withholding of taxes from the Enhancement Awards.

e. Payment to the Labor and Workforce Development Agency and the

1 Class for Settlement of PAGA Claims

2 In consideration of claims made under the California Private Attorneys General Act
3 (“PAGA”), Cal. Labor Code §§ 2698 et seq., Class Counsel will request that the Court approve
4 allocation of Twenty Thousand Dollars (\$20,000.00) of the Gross Settlement Amount to these
5 claims. Seventy-Five percent (75%) of this payment will be paid to the California Labor and
6 Workforce Development Agency (“LWDA Payment”) and Twenty-Five percent (25%) will be paid
7 as Individual PAGA Payments on a pro rata basis to all Aggrieved Employees based on the
8 Qualifying Pay Periods worked during the PAGA Period by each Aggrieved Employee, regardless
9 of whether or not they opt out of this Settlement. Defendant will not oppose this request. The
10 LWDA Payment and Individual PAGA Payments will be paid out of the Gross Settlement Amount.
11 The Court’s adjustment, if any, of the amount allocated to Plaintiff’s PAGA claim will not invalidate
12 this Settlement so long as the Court’s adjustment does not change the Gross Settlement Amount, or
13 effect Defendant’s obligation with respect to the Gross Settlement Amount.

14 f. Payment of Individual Settlement Payments and Individual PAGA
15 Payments to Participating Class Members and Aggrieved Employees

16 The Parties agree that the Gross Settlement Amount shall be used to fund Individual PAGA
17 Payments. To calculate the amount each Aggrieved Employee will receive based on their individual
18 Qualifying Pay Periods, the \$5,000.00 distributable to Aggrieved Employees under the amount in
19 the Settlement allocated to resolution of the Released Claims arising under PAGA will be divided
20 by the total number of Qualifying Pay Periods by all Aggrieved Employees during the PAGA Period
21 and then allocated on a pro rata basis (i.e., according to the Qualifying Pay Periods worked by each
22 of the individual Aggrieved Employees during the PAGA Period). An estimate of each Class
23 Member’s individual amount will be included in his or her Class Notice. The Parties agree that the
24 Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree
25 that the Net Settlement Amount shall be divided among all Participating Class Members in
26 proportion to the number of Qualifying Workweeks for each Class Member. To calculate the amount
27 each Class Member will receive based on their Qualifying Workweeks, the Net Settlement Amount
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1 will be divided by the total number of Qualifying Workweeks by all Class Members during the Class
2 Period and then allocated on a pro rata basis (i.e., according to the Qualifying Workweeks worked
3 by each of the individual Class Members during the Class Period).

4 After final approval by the Court at the time specified in this Agreement, the Settlement
5 Administrator shall make Individual Settlement Payments and Individual PAGA Payments
6 according to the formulate set forth above.

7 Each Individual Settlement Payment will represent wages and penalties allocated using the
8 following formula: 10% allocated to wages, 80% allocated to penalties and interest, and 10%
9 reimbursements. The amounts paid as wages shall be subject to all tax withholdings customarily
10 made from an employee's wages and all other authorized and required withholdings and shall be
11 reported by W-2 forms. The employer-side taxes (including employer's portion of FICA, FUTA,
12 SUTA, and all other applicable payroll taxes) will be paid by Defendant separate from and in
13 addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject
14 to all authorized and required withholdings other than the tax withholdings customarily made from
15 employees' wages and shall be reported by IRS 1099 forms.

16 Individual PAGA Payments are 100% penalties and shall be reported by IRS 1099 forms.
17 Defendant shall not make as part of this Settlement, nor be required to make, any deductions, nor
18 pay any monthly contributions for any insurance, retirement, 401(k) or profit-sharing plans, or any
19 benefit plans related to monies paid as a result of this Settlement, nor shall payments made to
20 Participating Class Members or Aggrieved Employees be considered a benefit includable in the
21 regular rate of pay calculation.

22 No later than 10 business days after the Preliminary Approval Date, Defendant will provide
23 the Settlement Administrator with the class list (as described in Section III(c)). Based on that
24 information, the Settlement Administrator shall calculate: (a) Individual PAGA Payments, (b) the
25 Net Settlement Amount, (c) the Individual Settlement Payment for each Participating Class Member
26 based on the formula specified above, (d) the amount of the Individual Settlement Payments to be
27 allocated to wages, interest and penalties, and reimbursements based on the formula specified above,
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(e) the employer share of the payroll taxes applicable to the Net Settlement Amount allocated to wages, and (f) the employee tax withholding amount based on the allocation of each Individual Settlement Payment to wages.

No later than 30 days after receiving the entire Gross Settlement Amount from Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members and Individual PAGA Payments to Aggrieved Employees. Defendant shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments, as well as the Individual PAGA Payments. Participating Class Members shall have 180 days from the date their Individual Settlement Payment and Individual PAGA Payment checks are dated to cash their settlement checks. Any amounts from checks that remain unclaimed and/or uncashed after 180 days of issuance will be disbursed to Pajaro Valley Loaves and Fishes.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis databases based on set criteria and, if another address is identified, shall mail the check to the newly identified address. If the Settlement Administrator is unable to obtain a valid mailing address through this process, the Settlement Administrator will also transfer the amount represented by the check to the Pajaro Valley Loaves and Fishes.

g. No Credit Toward Benefit Plans

The Individual Settlement Payments made to Participating Class Members under this Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase

1 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
2 Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which
3 any Class Members may be entitled under any benefit plans.

4 h. No Effect on Regular Rate or Overtime Compensation

5 Participating Class Members will receive payment under the Settlement as determined by
6 the Settlement Administrator in accordance with this Agreement. The Parties agree that this
7 payment is not viewed as additional compensation for purposes of calculating a "regular rate" of
8 pay under California or federal law for the period during which it is received, and no additional
9 overtime compensation is required as a result of such payment.

10 i. Tax Liability

11 The Parties and counsel for the Parties make no representation as to the tax treatment or legal
12 effect of the payments called for hereunder. Plaintiffs and Participating Class Members are not
13 relying on any statement, representation, or calculation by the Parties, counsel for the Parties, or the
14 Settlement Administrator in this regard. Plaintiffs, Participating Class Members, and Class Counsel
15 understand and agree that they will be solely responsible for the payment of their own portion of
16 any taxes and penalties assessed on the payments that they receive.

17 j. No Additional Contribution by Defendant

18 Other than as set forth above, Defendant shall not be called upon or required to contribute
19 additional monies above the Settlement under any circumstances whatsoever except as specifically
20 set forth herein. In the event that this Settlement is canceled, rescinded, terminated, voided, or
21 nullified, however that may occur, or the Settlement of the Action is barred by operation of law, or
22 invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall
23 cease to have any obligation to pay any portion of the Settlement to anyone under the terms of this
24 Settlement, except for costs already incurred by the Settlement Administrator, and this action shall
25 resume as though no Settlement had occurred with the Action proceeding in the Santa Cruz County
26 Superior Court.

IV. LIMITATIONS ON USE OF THIS SETTLEMENT**A. No Admission**

Defendant denies that it has engaged in any unlawful activity, that it has failed to comply with the law in any respect, that they have any liability to anyone under the claims asserted in the Action. Defendant maintains that but for this Settlement a class should not be certified in this Action. This Settlement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendant.

B. Non-Evidentiary Use

Whether or not the Effective Date occurs, neither this Settlement nor any of its terms will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Action (or any other action), except for the purposes of effectuating the Settlement pursuant to the terms herein or for Defendant to establish that a Class Member has resolved any of his/her claims released through this Settlement.

C. Defendant's Right to Terminate Settlement

Defendant shall have the right at their sole discretion to terminate the Settlement if 10% or more of the Class Members timely elect to opt out of the Settlement. If Defendant elects to exercise its right under this paragraph, Defendant shall be liable solely for administrative costs of the Settlement Administrator not exceeding \$15,000.00. The Parties agree that they will not in any manner take any actions to encourage Class Members to opt-out.

D. Nullification

The Parties have agreed to the certification of the Class encompassing all claims released as part of this Settlement for the sole purpose of effectuating this Settlement. If (a) the Court should

for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Approval Order, or (d) the Final Approval Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the action in its entirety, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to stipulate to class certification of all causes of action pled in the Action as part of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether the Class should be certified by the Court in a non-settlement context in this Action or any other action, and in any of those events, Defendant expressly reserves the right to oppose certification of the Class.

Invalidation of any material portion of this Settlement shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

V. RELEASES

A. Releases by Class Members

a. *Effective Date and Invalidation of Release*

Upon the Effective Date, Participating Class Members release the Released Parties of all Released Claims during the Class Period and PAGA Period, as applicable.

Such release shall be subsequently invalidated if, after the Effective Date, Defendant fails to fund the Gross Settlement Amount per the schedule set forth herein. Nonetheless, Defendant shall have the right to enforce the release set forth herein as to Participating Class Members and Aggrieved Employees, as applicable, without regard to their actual receipt of an Individual Settlement Payment or Individual PAGA Payment, and prior to fully funding the Settlement, so long as Defendant has complied with the procedures set forth herein as of the time it seeks to enforce a release against any Participating Class Member.

1 Any claims released under this Settlement by a Class Member as of the Effective Date shall
2 be deemed tolled for statute of limitations purposes between the Effective Date and Defendant's
3 deadline to fully fund the Settlement, such that if a Class Members' release is subsequently
4 invalidated after the Effective Date due to Defendant's failure to fully fund the Agreement, the Class
5 Members' time to bring an action shall be extended between the Effective Date and the date the
6 Settlement is rescinded (i.e., the date of Defendant's failure, if any, to fund the Settlement as
7 scheduled herein).

8 b. *Scope of Release*

9 Participating Class Members and Aggrieved Employees release the Released Parties from
10 all Released Claims during the Class Period and PAGA Period, as applicable. The Parties intend
11 that this release be construed as broadly as possible to encompass all claims listed above in addition
12 to claims alleged by Plaintiffs, or those which could have been alleged by Plaintiffs based on the
13 factual allegations in the operative complaint(s). The Released Claims exclude the release of claims
14 not permitted by law. This Settlement is the compromise of all possible disputed claims related to
15 wages and fully and finally settles all possible claims between the Parties regarding Participating
16 Class Members' wages during the Class Period and PAGA Period, respectively. The Parties warrant
17 and represent that this release resolves, pursuant to Labor Code sections 206 and 206.5, and
18 applicable case law (including but not limited to *Chindarah v. Pick Up Stix, Inc.* (2009) 171
19 Cal.App.4th 796) a good faith dispute regarding any and all wages, if any, owed to Class Members
20 through their last day of employment with Released Parties within the Class Period and PAGA
21 Period, respectively.

22 Any Class Member who validly excludes himself or herself from the Settlement will not
23 release Class claims during the Class Period. However, any Class Member who validly excludes
24 himself or herself from the Settlement will still receive a PAGA Settlement Payment, and will be
25 deemed to have released claims against the Released Parties for Released Claims that arise under
26 the PAGA ("PAGA Released Claims"). Plaintiff, the State of California, and Aggrieved Employees
27 will release these PAGA Released Claims from January 28, 2021, through the Preliminary Approval
28

1 Date of the Settlement, which period shall not be subject to change.

2 This release shall apply without regard to Class Members' actual receipt of the Class Notice,
3 and without regard to Participating Class Members and Aggrieved Employees' actual receipt of
4 their Individual Settlement Payment or Individual PAGA Payment

5 **B. Plaintiffs' General Releases**

6 Plaintiff Villanueva and Plaintiff Perez do hereby, for themselves, and for their heirs,
7 successors, predecessors, attorneys, agents, representatives and assigns, forever release the Released
8 Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements,
9 controversies, damages, actions, causes of action, injuries, suits, rights, demands, costs, losses,
10 debts, judgments, accounts, attorneys' fees, interest, expenses (including back wages, penalties,
11 liquidated damages, and attorneys' fees and costs actually incurred), and other legal responsibilities
12 arising in law, equity or otherwise, of any kind, nature, and character whatsoever, from the
13 beginning of time through the date of his signature on this Settlement, known or unknown, suspected
14 or unsuspected, unforeseen, or unanticipated including but not limited to all claims arising out of,
15 based upon, or relating to his employment with Defendant, the termination or resignation of their
16 employment with Defendant, or the remuneration for such employment. Without limiting the
17 generality of the foregoing, Plaintiffs expressly release all claims which were or could have been
18 raised in the Action and all claims or rights arising out of alleged violations of any contracts, express
19 or implied (including but not limited to any contract of employment); any contract or covenant of
20 good faith or fair dealing (express or implied); any tort, including negligence, fraud,
21 misrepresentation under California Labor Code § 970, negligent infliction of emotional distress,
22 intentional infliction of emotional distress, and defamation; any other common law claim; any
23 "retaliation" claims; any claims relating to any breach of public policy; any claim for costs, fees,
24 interest, or other expenses including attorneys' fees; any legal restrictions on Defendant's right to
25 discharge employees or refuse to hire applicants; and any federal, state, or other governmental
26 statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act
27 of 1964, as amended (race, color, religion, sex, and national origin discrimination or harassment,
28

including retaliation for reporting discrimination or harassment); (2) The Civil Rights Act of 1991, as amended; (3) Sections 1981 through 1988 of Title 42 of the United States Code, as amended; (4) The Age Discrimination in Employment Act of 1967, as amended; (5) The Employee Retirement Income Security Act of 1974, as amended; (6) The Immigration Reform and Control Act, as amended; (7) The Americans with Disability Act, as amended; (8) Sections 503 and 504 of the Rehabilitation Act of 1973 (disability discrimination); (9) The Workers Adjustment and Retraining Notification Act, as amended; (10) The Occupational Safety and Health Act, as amended; (11) California Equal Pay Law, as amended; (12) Equal Pay Act, 29 U.S.C. § 209(4)(1) (equal pay); (13) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability discrimination); (14) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical leave); (15) California Fair Employment and Housing Act [*Gov. Code*, §§ 12900, *et seq.*] (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, sex (including pregnancy), sexual orientation, genetic, or age, including retaliation for reporting discrimination or harassment); (16) California Family Rights Act, [*Gov. Code*, §§ 12945.1, *et seq.*] (family/medical leave); (17) California Labor Code or any Industrial Welfare Commission Wage Order; (18) FLSA; (19) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (20) Executive Order 11141 (age discrimination); (21) California health and safety laws and regulations; and (22) any other federal, state, or local law, regulation or ordinance, including those regulating compensation, and those prohibiting discrimination, harassment, or retaliation of any kind. This release excludes the release of claims not permitted by law.

C. Plaintiffs' Releases of Unknown Claims

Plaintiff Villanueva and Plaintiff Perez, in their individual capacity, also expressly waive, as to the Released Claims and the general releases they provide to Released Parties, any and all provisions, rights and benefits conferred by any law or principle of common law or equity, that is similar, comparable, or equivalent, in whole or in part, to California Civil Code § 1542. For the

1 purpose of implementing a full and complete release, Plaintiffs expressly acknowledge that the
2 release they give in this Settlement is intended to include in its effect, without limitation, claims that
3 each did not know or suspect to exist in his favor at the time of the effective date of this Settlement,
4 regardless of whether the knowledge of such claims, or the facts upon which they might be based,
5 would materially have affected the settlement of this matter, and that the consideration given under
6 the Settlement was also for the release of those claims and contemplates the extinguishment of any
7 such unknown claims. Plaintiff Villanueva and Plaintiff Perez expressly waive the provisions of
8 section 1542 of the Civil Code of California, which provides:

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

14 Thus, subject to and in accordance with this Settlement, even if Plaintiff Villanueva and
15 Plaintiff Perez may hereafter discover facts in addition to or different from those they now know or
16 believe to be true, they, upon the Effective Date, shall be deemed to have fully, finally, and forever
17 settled and released any and all claims against the Released Parties that were alleged or could have
18 been alleged in the Action, as well as any other claims, whether known or unknown, suspected or
19 unsuspected, contingent or non-contingent, that now exist, upon any theory of law or equity,
20 including without limitation, conduct which is negligent, intentional, with or without malice, or a
21 breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such
22 different or additional facts.

23 **D. No Additional Attorneys' Fees or Costs**

24 Except for the attorneys' fees and costs set forth in this Settlement, the Parties agree to bear
25 their own attorneys' fees and costs related to this Action.

26 **VI. MISCELLANEOUS PROVISIONS**

27 **A. Amendments or Modification**

28 The terms and provisions of this Settlement may be amended or modified only by an express
written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel
and approval by the Court.

B. Assignment

None of the rights, commitments, or obligations recognized under this Settlement may be assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Settlement are for the sole benefit of the Parties under this Settlement, and shall not be construed to confer any right or to avail any remedy to any other person.

C. Governing Law

This Settlement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

D. Entire Agreement

This Settlement, including the Exhibit referred to herein, which forms an integral part hereof, contains the entire understanding of the Parties hereto with respect of the subject matter contained herein. In case of any conflict between text contained in Articles I through VI of this Settlement and text contained in the Exhibit to this Settlement, the former (*i.e.*, Articles I through VI) shall be controlling, unless the Exhibit is changed by or in response to a Court order. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Settlement other than those expressly set forth or referred to herein. This Settlement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of prior agreements or proposals.

E. Waiver of Compliance

Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to

insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

F. Counterparts and Fax/PDF Signatures

This Settlement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one instrument. A fax or PDF signature on this Settlement shall be as valid as an original signature.

G. Meet and Confer Regarding Disputes

Should any dispute arise among the Parties or their respective counsel regarding the implementation or interpretation of this Settlement, a representative of Class Counsel and a representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court. However, no party shall be required to consent to any material change of this Settlement, including but not limited issues impacting the Gross Settlement Amount, PAGA Period, Class Period, and/or the Release, even if such a material change to the Settlement is necessary to achieve Court approval of the same.

H. Agreement Binding on Successors

This Agreement will be binding upon, and inure to the benefit of, the successors in interest of each of the Parties.

I. Cooperation in Drafting

The Parties have cooperated in the negotiation and preparation of this Settlement. This Settlement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Settlement.

J. Fair Settlement

Plaintiffs, Defendant, Class Counsel, and Defense Counsel believe that this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Settlement through arm's-length negotiations, taking into account all relevant factors, current and potential, and

is consistent with public policy, and fully complies with applicable provisions of law.

K. Headings

The descriptive heading of any section or paragraph of this Settlement is inserted for convenience of reference only and does not constitute a part of this Settlement and shall not be considered in interpreting this Settlement.

L. Notice

All notices, demands, or other communications given under this Settlement must be in writing and addressed as follows:

To Plaintiffs and the Class:

Justin F. Marquez
Erik A. Dos Santos
Zachary D. Greenberg
WILSHIRE LAW FIRM, PLC
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

And

Kane Moon
Allen Feghali
MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128320-01519

To Defendant:

Ian B. Wieland
Michael J. Conway II
SAGASER, WATKINS & WIELAND, PC
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000
Facsimile: (559) 473-1483

M. Enforcement of Settlement and Continuing Court Jurisdiction

To the extent consistent with class action procedure, this Settlement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court 3.769(h). The disposition entered by the Court will not adjudicate the merits of the Action or the

liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement.

N. Mutual Full Cooperation

The Parties agree fully to cooperate with each other to accomplish the terms of this Settlement, including but not limited to execution of such documents, and to take such other action as may reasonably be necessary to implement the terms of this Agreement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement, to effectuate this Settlement and the terms set forth herein. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court. However, no party shall be required to consent to any material change of this Settlement, including but not limited issues impacting the Gross Settlement Amount, PAGA Period, Class Period, and/or the Release, even if such a material change to the Settlement is necessary to achieve Court approval of the same.

O. Authorization to Act

Class Counsel warrants and represents that they are authorized by Plaintiffs, and Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action required to effectuate the terms of this Settlement, except for signing the documents (including but not limited to this Settlement) that are required to be signed by the Parties and funding the Settlement.

P. No Reliance on Representations

The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Settlement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Settlement, or with respect to

any other matters. No representations, warranties, or inducements have been made to any party concerning this Settlement.

Q. No Collateral Attack

This Settlement shall not be subject to collateral attack by any Class Member or any recipient of the Class Notice after the Effective Date. Such prohibited collateral attacks shall include but not be limited to claims that the Class Member failed for any reason to receive timely notice of the procedure for disputing the calculation of his or her Individual Settlement Payment.

R. Invalidity of Any Provision

Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provisions or application and, to this end, the provisions of this Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Agreement, except upon waiver in writing by the applicable party.

S. Confidentiality/Non-Publicity

Plaintiffs and Class Counsel will keep this Agreement confidential through preliminary approval. Thereafter, Plaintiff and Class Counsel will further agree to keep this Agreement confidential, including without limitation no disclosures to current or former employees of the Defendant, to the media, or on any websites, blogs, social media, and/or online platforms. Exceptions to the obligation of confidentiality in this section are: (i) disclosures necessary to comply with the law, judicial process, or for financial planning or tax preparation purposes; (ii) to obtain and seek approval of this settlement in court and as is necessary to provide settlement information to Class Members, and (iii) if any party seeks to enforce any term or condition of this Agreement against any other party.

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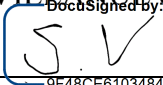
SAGASER, WATKINS & WIELAND PC
ATTORNEYS AT LAW
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000

EXECUTION BY PARTIES

The Parties hereby execute this Settlement.

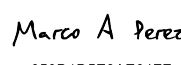
Dated: 7/1/2024

SALVADOR VILLANUEVA

By: 
(Signature)

Dated: 3/19/2024

MARCO PEREZ

By: 
(Signature)

Dated: _____

LA ROSA TORTILLA FACTORY, INC.

By: _____
(Signature)

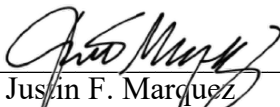
(Printed Name)

(Title)

Approved as to form:

Dated: July 1, 2024

WILSHIRE LAW FIRM

By: 
Justin F. Marquez
Erik A. Dos Santos
Zachary D. Greenberg
Attorneys for Plaintiffs

Dated: March 19, 2024

MOON LAW GROUP, PC

SAGASER, WATKINS & WIELAND PC

ATTORNEYS AT LAW
5260 North Palm Avenue, Suite 400
Fresno, California 93704
Telephone: (559) 421-7000

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By: _____


Kane Moon
Allen Feghali
Attorneys for Plaintiffs

Dated: _____

SAGASER, WATKINS & WIELAND, PC

By: _____

Ian B. Wieland
Michael J. Conway II
Attorneys for Defendant

EXECUTION BY PARTIES

The Parties hereby execute this Settlement.

Dated: _____ SALVADOR VILLANUEVA

By: _____
(Signature)

Dated: _____ MARCO PEREZ

By: _____
(Signature)

Dated: 3-28-2024 LA ROSA TORTILLA FACTORY, INC.

By: Alfonso Solorio
(Signature)

ALFONSO SOLORIO
(Printed Name)

PRESIDENT
(Title)

Approved as to form:

Dated: _____ WILSHIRE LAW FIRM

By: _____
Justin F. Marquez
Erik A. Dos Santos
Zachary D. Greenberg
Attorneys for Plaintiffs

Dated: _____ MOON & YANG, APCLAW GROUP, PC

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By: _____
Kane Moon
Allen Feghali
Attorneys for Plaintiffs

Dated: 4/4/2024

SAGASER, WATKINS & WIELAND, PC

By:  _____
Ian B. Wieland
Michael J. Conway II
Attorneys for Defendant

Exhibit 2

CASE NAME: VILLANUEVA V. LA ROSA TORTILLA FACTORY

Date: February 9, 2023

Requesting Attorney: Justin F. Marquez

Plaintiff or Defense: Plaintiff

Firm Name: Wilshire Law Firm, PLC

Telephone: (213) 381-9988

Email: justin@wilshirelawfirm.com

All-In Settlement

Class Size: 500

Opt-Out Rate: 1.5%

No. of Checks Issued: 493

Postage Total: \$779.60

Grand Total: \$16,510.05

DISCOUNTED FLAT FEE: \$11,250.00

The services and numbers reflected herein are an estimate provided by counsel. If the actual services and number are different, our cost estimate will change accordingly.

The attached Terms and Conditions are included as part of our cost proposal. By accepting our costs proposal for this matter, you are thereby agreeing to the Terms and Conditions.

CASE SETUP

Upon Intake of the Data, CPT will Scrub all Records to a Useable Format to Reduce Duplicates, Anomalies and Increase the Success Rate of Deliverability of the Class Notice. Class Members will be Assigned a Unique Mailing ID which will be Used Throughout Administration. The Notice Packet will be Translated into Spanish. All Pertinent Documents will be Posted on a Case Specific Website.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Case Intake & Review	\$95.00	5	\$475.00
Programming: Data Base Setup	\$150.00	5	\$750.00
Spanish Translation	\$1,200.00	1	\$1,200.00
Static Website	\$500.00	1	\$500.00
TOTAL			\$2,925.00

DIRECT MAIL NOTICE

To Ensure Mailing to the Most Current Address Possible, CPT will Perform an Address Update via NCOA. CPT will Mail a Full-Length Notice & 1-Page Exclusion Form in Both English & Spanish.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Manager: Format Documents	\$95.00	2	\$190.00
National Change of Address Search (NCOA)	\$135.00	1	\$135.00
Print & Mail Notice Packets	\$1.50	500	\$750.00
First-Class Postage (up to 2 oz.)*	\$0.81	500	\$405.00
TOTAL			\$1,480.00

*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

PROCESS RETURNED UNDELIVERABLE MAIL

Based On CPT's Historical Data, 6% of the Notices will be Returned Undeliverable. Upon Receipt, CPT will Perform a Skip Trace in an Attempt to Obtain a Current Address; Thus, 91% of the Notice Packets are Remailled.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Clerical Staff	\$60.00	1	\$60.00
Update Undeliverable Mail Database	\$0.50	30	\$15.00
Skip Trace for Best Address	\$1.00	26	\$26.00
Print & Remail Notice Packets	\$1.50	24	\$36.00
First-Class Postage (up to 2 oz.)	\$0.81	24	\$19.44
TOTAL			\$156.44

OPT-OUT PROCESSING

CPT will Process and Validate all Opt-Outs and Other Responses from Class Members. Deficient Opt-Outs will Receive a Deficiency Notice

by Mail and Provide an Opportunity to Cure. CPT will Scrub the Filed Opt-Outs to Eliminate Duplicates, Fraudulent, and Otherwise Invalid.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: De-duplication/Scrubbing	\$150.00	1	\$150.00
Project Manager: Validate Opt-Out Requests	\$95.00	1	\$95.00
Clerical Staff	\$60.00	1	\$60.00
Opt-Out & Change of Address Processing	\$2.00	8	\$15.00
Print & Mail Deficiency/Dispute Notices	\$1.50	1	\$1.50
First-Class Postage (up to 1 oz.)	\$0.60	1	\$0.60
Review & Process Deficiency Responses	\$10.00	1	\$10.00
		TOTAL	\$332.10

TELEPHONE SUPPORT

CPT will Maintain a Toll-Free Phone Number with IVR Capabilities and Live Class Member Support Representatives During Normal Business Hours, Monday-Friday, 9:00 AM - 5:30 PM, PT. The Dedicated Case Phone Number will Remain Active Up to 120 Days After Disbursement.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Toll-Free Number Establish/Setup	\$150.00	2	\$300.00
Live Call Center Support Reps.	\$3.00	100	\$300.00
		TOTAL	\$600.00

SSN VERIFICATION

Verify SSN for Validity with IRS / IRS Backup Withholdings

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: SSN Selection	\$150.00	1	\$150.00
Department Manager: Analysis & Reporting	\$95.00	3	\$285.00
IRS SSN Verification	\$0.10	493	\$49.25
		TOTAL	\$484.25

DISTRIBUTION SERVICES

CPT will Establish and Manage the Qualified Settlement Fund (QSF) for up to One Year After Disbursement. Upon Approval, CPT will Perform all Necessary Calculations and Disburse Funds. CPT will Mail an 8.5"x11" MICR Check to Valid Class Members. CPT Uses a Payee Positive Pay System to Reconcile Checks Cash and Conducts Monthly Account Reconciliations for the QSF.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Programming: Calculation Totals	\$150.00	3	\$450.00
Project Supervisor: Review of Distribution	\$150.00	3	\$450.00
Project Manager: Correspondence w/Parties	\$95.00	2	\$190.00
Programming: Setup & Printing of Checks	\$150.00	3	\$450.00
Obtain EIN, Setup QSF/Bank Account	\$150.00	3	\$450.00
Print & Mail Notice, Checks & W2/1099	\$2.50	493	\$1,231.25
First-Class Postage (up to 1 oz.)*	\$0.60	493	\$295.50
		TOTAL	\$3,516.75

*Postage costs are subject to change at anytime. The final rate will be determined at the time of mailing.

POST-DISTRIBUTION & TAX REPORTING

Any Check Returned Undeliverable is Skip Traced to Locate a Current Address and Remailed Accordingly. CPT will Process Requests for Check Reissues Continuously. CPT Prepares Annual Tax Reporting on Behalf of the QSF and Federal and State Taxes in Accordance with Current State and Federal Regulations. Upon the Conclusion of the Settlement, a Final Report and Declaration will be Provided to all Parties.

ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
Project Supervisor: Account Reconciliation	\$150.00	10	\$1,500.00
Update Undeliverable Checks Database	\$0.50	39	\$19.50
Skip Trace for Best Address	\$1.00	39	\$39.00
Remail Undeliverable Checks	\$2.50	35	\$87.50
First-Class Postage (up to 1 oz.)	\$0.60	35	\$21.00
Re-Issue Checks as Required	\$5.00	25	\$125.00
First-Class Postage (up to 1 oz.)	\$0.60	25	\$15.00
Project Supervisor: Reconcile Uncashed Chk	\$150.00	1	\$150.00
Programming: Weekly & Final Reports	\$150.00	2	\$300.00
Project Supervisor: Final Declaration	\$150.00	2	\$300.00
Project Manager: Account Files Sent to Atty	\$95.00	2	\$190.00
CA Tax Preparation*	\$600.00	1	\$600.00
Annual Tax Reporting to IRS*	\$1,000.00	1	\$1,000.00
QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$4,847.00

*CPT will file Federal and California taxes in accordance to current state and federal regulations. Additional charges will apply if the Settlement/Order/parties require(s) multiple state tax filings.

SCO ESCHEATMENT PROCESSING

Escheatment Processing to the State Controller Unclaimed Property Division / Uncashed Check Rate 21%			
ADMINISTRATIVE TASKS	UNIT PRICE	PIECES/HOURS	COST ESTIMATE
UPEnterprise Reporting Services	\$0.15	103	\$15.45
Project Manager: SCO Fall Reporting	\$95.00	2	\$190.00
Project Supervisor: Review of SCO Reports	\$150.00	1	\$150.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Check Reissues for Winter/Spring QTR	\$5.00	10	\$50.00
First-Class Postage (up to 1 oz.)	\$0.60	10	\$6.00
Project Supervisor: June Remittance	\$150.00	1	\$150.00
Project Manager: June Remittance	\$95.00	2	\$190.00
Certified Mail Report to SCO	\$8.53	1	\$8.53
Add'l Account Recons	\$150.00	6	\$900.00
Add'l QSF Annual Tax Reporting	\$500.00	1	\$500.00
TOTAL			\$2,168.51

GRAND TOTAL \$16,510.05

TERMS AND CONDITIONS

These Terms and Conditions are made a part of, and incorporated by reference into, any cost proposal or Bid presented by CPT Group, Inc. to Client

1. Definitions.

- a) **"Affiliate"** means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with another party.
 - b) **"Approved Bank"** means a financial institution insured by the Federal Deposit Insurance Corporation with capital exceeding \$1 billion.
 - c) **"Case"** means the particular judicial matter identified by the name of plaintiff(s) and defendant(s) on the applicable Order.
 - d) **"Claims Administrator"** means CPT Group, Inc., a reputable third-party Claims Administrator selected by all the Parties (Plaintiff and Defense Counsel) to administer the Settlement or Notification Mailing.
 - e) **"Client"** means collectively Plaintiff Counsel and Defense Counsel.
 - f) **"Client Content"** means all Class Member written document communications relating to the Case, including claim forms, opt-out forms, and objections, which contain Client Data.
 - g) **"Client Data"** means proprietary or personal data regarding Client or any of its Class Members under this Agreement, as provided by Client.
 - h) **"Class Member"** means an individual who is eligible under the Settlement Agreement to receive a designated amount of the Settlement, including the named Plaintiff(s) in the Case and all other putative persons so designated or addressed therein.
 - i) **"Confidential Information"** means any non-public information of CPT or Client disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which a reasonable person would consider confidential and/or which is marked "confidential" or "proprietary" or some similar designation by the disclosing party. Confidential Information shall also include the terms of this Agreement, except where this Agreement specifically provides for disclosure of certain items. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient's prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
 - j) **"Court Order"** means a legal command or direction issued by a court, judicial office, or applicable administrative body requiring one or more parties to the Case to carry out a legal obligation pursuant to the Case.
 - k) **"Defendant"** means the named party and/or parties in the Case against whom action is brought.
 - l) **"Defense Counsel"** means the attorney of record for the defendant(s) in the Case.
 - m) **"Intellectual Property Right"** means any patent, copyright, trade or service mark, trade dress, trade name, database right, goodwill, logo, trade secret right, or any other intellectual property right or proprietary information right, in each case whether registered or unregistered, and whether arising in any jurisdiction, including without limitation all rights of registrations, applications, and renewals thereof and causes of action for infringement or misappropriation related to any of the foregoing.
 - n) **"Order"** means a Product purchase in a schedule, statement of work, addendum, exhibit, or amendment signed by Client and CPT.
 - o) **"Parties"** shall mean collectively Defendants, Defense and Plaintiff as defined in the Settlement Agreement or Court Order.
 - p) **"Plaintiff"** means the named party and/or parties in the Case who are bringing the action.
 - q) **"Plaintiff Counsel"** means the attorney of record for plaintiff Class Members in the Case.
 - r) **"Products"** means any and all CPT Services, and work products resulting from Services.
 - s) **"Qualified Settlement Fund"** means the entity as defined by Treasury Regulation section 4686-1 under which a bank account is established to receive settlement funds from the Defendant in the Case, which such funds are then disbursed by CPT according to the Settlement Agreement and pursuant to Court Order.
 - t) **"Service"** means any service rendered by CPT specifically to Client, including, but not limited to: (i) notifications to Class Members; (ii) setting up a Qualified Settlement Fund with a financial institution; (iii) management of disbursement of funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement; (iv) provision of customer support relating to the Case; (v) management of Case claim forms and correspondence; and/or (vi) any administrative or consulting service.
 - u) **"Software"** means any and all of CPT's proprietary applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto.
 - v) **"Settlement"** means the total dollar amount agreed to between parties to the Case, as negotiated by Plaintiff Counsel and Defense Counsel, to resolve the Case to mutual satisfaction.
 - w) **"Settlement Agreement"** means the contract between parties to the Case to resolve the same, which specifies amounts to be disbursed from the Qualified Settlement Fund to attorneys, CPT, and individual Class Members.
 - x) **"Term"** means the term of the Agreement, as set forth in the Order.
 - y) **"Transmission Methods"** means the secure authorized manner to send Client Data and/or Wire Information as specified on a schedule or Order hereto.
 - z) **"Wire Information"** means instructions for (i) Defense Counsel to transfer funds from Defendant to the Qualified Settlement Fund or (ii) CPT to transfer funds from the Qualified Settlement Fund to applicable parties pursuant to the Settlement Agreement.
2. Client Obligations. Client will ensure that it has obtained all necessary consents and approvals for CPT to access Client Data for the purposes permitted under this Agreement and shall only transmit Client Data and/or Wire Instructions to CPT via the Transmission Methods. Client shall use and maintain appropriate administrative, technical, and physical safeguards designed to protect Client Data provided under this Agreement. Client shall not send, or attempt to send, Client Data and/or Wire Instructions via email, facsimile, unprotected spreadsheet, USB flash drive or other external or removable storage device, cloud storage provider, or any other method not specified in the Transmission Methods. Notwithstanding the foregoing, Client acknowledges and understands that the electronic transmission of information cannot be guaranteed to be secure or error free, and such information could be intercepted, corrupted, lost, and/or destroyed. Client further warrants that any Client Data and/or Wire Instructions it transmits shall be free of viruses, worms, Trojan horses, or other harmful or disabling codes which could adversely affect the Client Data and/or CPT. If Client is in breach of this section, CPT may suspend Services, in addition to any other rights and remedies CPT may have at law or in equity.
3. Security. The Parties and CPT shall each use reasonable administrative, technical, and physical safeguards that are reasonably designed to: (a) protect the security and confidentiality of any personally identifiable information provided by Class Members and/or Client under this Agreement; (b) protect against any anticipated threats or hazards to the security or integrity of such personally identifiable information; (c) protect against unauthorized access to or use of such personally identifiable information that could result in substantial harm or inconvenience to any individual; and (d) protect against unauthorized access to or use of such personally identifiable information in connection with its disposal. Each Party will respond promptly to remedy any known security breach involving the personally identifiable information provided by you and/or Client under this Agreement and shall promptly inform the other Parties of such breaches.
4. CPT Obligations. Provided that Client complies with all provisions of Section "Client Obligations", CPT will (i) maintain appropriate safeguards for the protection of Client Data, including regular back-ups, security and incident response protocols, and (ii) not access or disclose Client Data except (A) as compelled by law, (B) to prevent or address service or technical issues, (C) in accordance with this Agreement or the provisions of the Settlement Agreement, or (D) if otherwise permitted by Client.
5. Mutual Obligations.
- a) Resources. Each party agrees to: (i) provide the resources reasonably necessary to enable the performance of the Services; (ii) manage its project staffing, milestones, and attendance at status meetings; and (iii) ensure completion of its project deliverables and active participation during all phases of a Service project. The parties acknowledge that failure to cooperate during a Service project may delay delivery of the Service.

If there is a delay, the party experiencing the delay will notify the other party as soon as reasonably practicable, and representatives of each party will meet to discuss the reason for the delay and applicable consequences. Changes beyond the scope of an Order and/or a party's delay in performing its obligations may require an amended Order.

- b) **Incident Notification.** Each party will promptly inform the other parties in the event of a breach of Client Data in their possession and shall utilize best efforts to assist the other parties to mitigate the effects of such incident.
6. **Qualified Settlement Fund Account.** At Client's request, CPT shall be authorized to establish one or more bank accounts at an Approved Bank. The amounts held at the Approved Bank under this Agreement are at the sole risk of Client. Without limiting the generality of the foregoing, CPT shall have no responsibility or liability for any diminution of the funds that may result from the deposit thereof at the Approved Bank, including deposit losses, credit losses, or other claims made against the Approved Bank. It is acknowledged and agreed that CPT has acted reasonably and prudently in depositing funds at an Approved Bank, and CPT is not required to conduct diligence or make any further inquiries regarding such Approved Bank.
7. **Fees and Payment.** Pricing stated within the proposal is good for 90 Days. All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the Client data and /or notice documents. Client will be invoiced for any remaining fees according to the applicable Order. Pricing stated within any proposal from CPT to Client is for illustrative purposes only and is only binding upon an Order executed by CPT and Client. Payment of fees will be due within 30 days after the date of the invoice, except where this Agreement expressly prescribes other payment dates. All fees set forth in an Order are in U.S. dollars, must be paid in U.S. dollars, and are exclusive of taxes and applicable transaction processing fees. Late payments hereunder will incur a late charge of 1.5% (or the highest rate allowable by law, whichever is lower) per month on the outstanding balance from the date due until the date of actual payment. In addition, Services are subject to suspension for failure to timely remit payment therefor. If travel is required to effect Services, Client shall reimburse CPT for pre-approved, reasonable expenses arising from and/or relating to such travel, including, but not limited to, airfare, lodging, meals, and ground transportation.
8. **Term and Termination.**
- a) **Term.** The Term is set forth in the Order. The Agreement may be renewed by mutual written agreement of the parties.
- b) **Termination for Cause.** Either party may immediately terminate this Agreement if the other party materially breaches its obligations hereunder, and, where capable of remedy, such breach has not been materially cured within forty-five (45) days of the breaching party's receipt of written notice describing the breach in reasonable detail.
- c) **Bankruptcy Events.** A party may immediately terminate this Agreement if the other party: (i) has a receiver appointed over it or over any part of its undertakings or assets; (ii) passes a resolution for winding up (other than for a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect and such order is not discharged or stayed within ninety (90) days; or (iii) makes a general assignment for the benefit of its creditors.
- d) **Effect of Termination.** Immediately following termination of this Agreement, upon Client's written request, Client may retrieve Client Data via Client's secure FTP site in the same format in which the Client Data was originally inputted into the Software, at no additional charge. Alternatively, Client Data can be returned in a mutually agreed format at a scope and price to be agreed. CPT will maintain a copy of Client Data and Client Content for no more than four (4) years following the date of the final check cashing deadline for Class Members under the Settlement Agreement, after which time any Client Data and Client Content not retrieved will be destroyed.
- e) **Final Payment.** If Client terminates this Agreement due to Section "Termination", Client shall pay CPT all fees owed through the termination date. If CPT terminates the Agreement in accordance with Section "Termination," Client shall pay CPT all fees invoiced through the termination date, plus all fees remaining to be invoiced during the Term, less any costs CPT would have incurred had the Agreement not been terminated.
- Confidentiality.** Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those subcontractors of CPT providing Products hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. These obligations shall survive termination of this Agreement.
- a) **Compelled Disclosure.** If receiving party is compelled to disclose any Confidential Information by judicial or administrative process or by other requirements of law, such party shall (i) promptly notify the other party, (ii) reasonably cooperate with the other party in such party's efforts to prevent or limit such compelled disclosure and/or obtain confidential treatment of the items requested to be disclosed, and (iii) shall disclose only that portion of such information which each party is advised by its counsel in writing is legally required to be disclosed.
- b) **Remedies.** If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages.
10. **Intellectual Property.** As between the parties, CPT will and does retain all right, title and interest (including, without limitation, all Intellectual Property Rights) in and to the Products. Client retains all ownership rights to Client Data.
11. **Indemnification.** Client agrees to indemnify, defend, and hold harmless CPT, its Affiliates, and the respective officer, directors, consultants, employees, and agents of each (collectively, Covered CPT Parties") from and against any and all third party claims and causes of action, as well as related losses, liabilities, judgments, awards, settlements, damages, expenses and costs (including reasonable attorney's fees and related court costs and expenses) (collectively, "Damages") incurred or suffered by CPT which directly relate to or directly arise out of (i) Client's breach of this Agreement; (ii) CPT's performance of Services hereunder; (iii) the processing and/or handling of any payment by CPT; (iv) any content, instructions, information or Client Data provided by Client to CPT in connection with the Services provided by CPT hereunder. The foregoing provisions of this section shall not apply to the extent the Damages relate to or arise out of CPT's willful misconduct. To obtain indemnification, indemnitee shall: (i) give written notice of any claim promptly to indemnitor; (ii) give indemnitor, at indemnitor's option, sole control of the defense and settlement of such claim, provided that indemnitor may not, without the prior consent of indemnitee (not to be unreasonably withheld), settle any claim unless it unconditionally releases indemnitee of all liability; (iii) provide to indemnitor all available information and assistance; and (iv) not take any action that might compromise or settle such claim.
12. **Warranties.** Each party represents and warrants to the other party that, as of the date hereof: (i) it has full power and authority to execute and deliver the Agreement; (ii) the Agreement has been duly authorized and executed by an appropriate employee of such party; (iii) the Agreement is a legally valid and binding obligation of such party; and (iv) its execution, delivery and/or performance of the Agreement does not conflict with any agreement, understanding or document to which it is a party. CPT WARRANTS THAT ANY AND ALL SERVICES PROVIDED BY IT HEREUNDER SHALL BE PERFORMED IN A PROFESSIONAL MANNER CONSISTENT WITH PREVAILING INDUSTRY STANDARDS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CPT DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
13. **Liability.**
- a) **Liability Cap.** EXCEPT FOR A PARTY'S WILLFUL MISCONDUCT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL CLAIMS ADMINISTRATOR FEES PAID OR PAYABLE BY CLIENT TO CPT HEREUNDER. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN CLIENT AND CPT ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
- b) **Exclusion of Consequential Damages.** NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. **Communications.** CPT may list Client's name and logo alongside CPT's other clients on the CPT website and in marketing materials, unless and until Client revokes such permission. CPT may also list the Case name and/or number, and certain Qualified Settlement Fund information, on the CPT website and in marketing materials, unless stated otherwise in the Settlement Agreement.

15. Miscellaneous Provisions.

- a) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America, without regard to conflict of law principles. CPT and Client agree that any suit, action or proceeding arising out of, or with respect to, this Agreement or any judgment entered by any court in respect thereof shall be brought exclusively in the state or federal courts of the State of California located in the County of Orange, and each of CPT and Client hereby irrevocably accepts the exclusive personal jurisdiction and venue of those courts for the purpose of any suit, action or proceeding.
- b) Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, acts or omissions of vendors or suppliers, equipment failures, sabotage, labor shortage or dispute, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
- c) Counterparts. This Agreement may be executed in any number of counterparts and electronically, each of which shall be an original but all of which together shall constitute one and the same instrument.
- d) Entire Agreement. This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings (oral or written) between the parties with respect to such subject matter. The schedules and exhibits hereto constitute a part hereof as though set forth in full herein.
- e) Modifications. Any modification, amendment, or addendum to this Agreement must be in writing and signed by both parties.
- f) Assignment. Neither party may assign this Agreement or any of its rights, obligations, or benefits hereunder, by operation of law or otherwise, without the other party's prior written consent; provided, however, either party, without the consent of the other party, may assign this Agreement to an Affiliate or to a successor (whether direct or indirect, by operation of law, and/or by way of purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of such party, where the responsibilities or obligations of the other party are not increased by such assignment and the rights and remedies available to the other party are not adversely affected by such assignment. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and permitted assigns.
- g) No Third-Party Beneficiaries. The representations, warranties, and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns and shall not be construed as conferring any rights on any other persons.
- h) Statistical Data. Without limiting the confidentiality rights and Intellectual Property Rights protections set forth in this

Agreement, CPT has the perpetual right to use aggregated, anonymized, and statistical data ("Statistical Data") derived from the operation of the Software, and nothing herein shall be construed as prohibiting CPT from utilizing the Statistical Data for business and/or operating purposes, provided that CPT does not share with any third-party Statistical Data which reveals the identity of Client, Client's Class Members, or Client's Confidential Information.

- i) Export Controls. Client understands that the use of CPT's Products is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such applicable laws and regulations, including the Export Administration Regulations maintained by the U.S. Department of Commerce and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- j) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- k) Notices. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by electronic delivery, or mailed by registered or certified mail, return receipt requested and postage prepaid to the address for the other party first written above or at such other address as may hereafter be furnished in writing by either party hereto to the other party. Such notice will be deemed to have been given as of the date it is delivered, if by personal delivery; the next business day, if deposited with an overnight courier; upon receipt of confirmation of electronic delivery (if followed up by such registered or certified mail); and five days after being so mailed.
- l) Independent Contractors. Client and CPT are independent contractors, and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative or employment relationship between Client and CPT. Each party understands that it does not have authority to make or accept any offers or make any representations on behalf of the other. Neither party may make any statement that would contradict anything in this section.
- m) Subcontractors. CPT shall notify Client of its use of any subcontractors to perform Client-specific Services. CPT shall be responsible for its subcontractors' performance of Services under this Agreement.
- n) Headings. The headings of the sections of this Agreement are for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret, or construe its meaning, scope or intent.
- o) Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power, or remedy.
- p) Survival. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.

Exhibit 3



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).

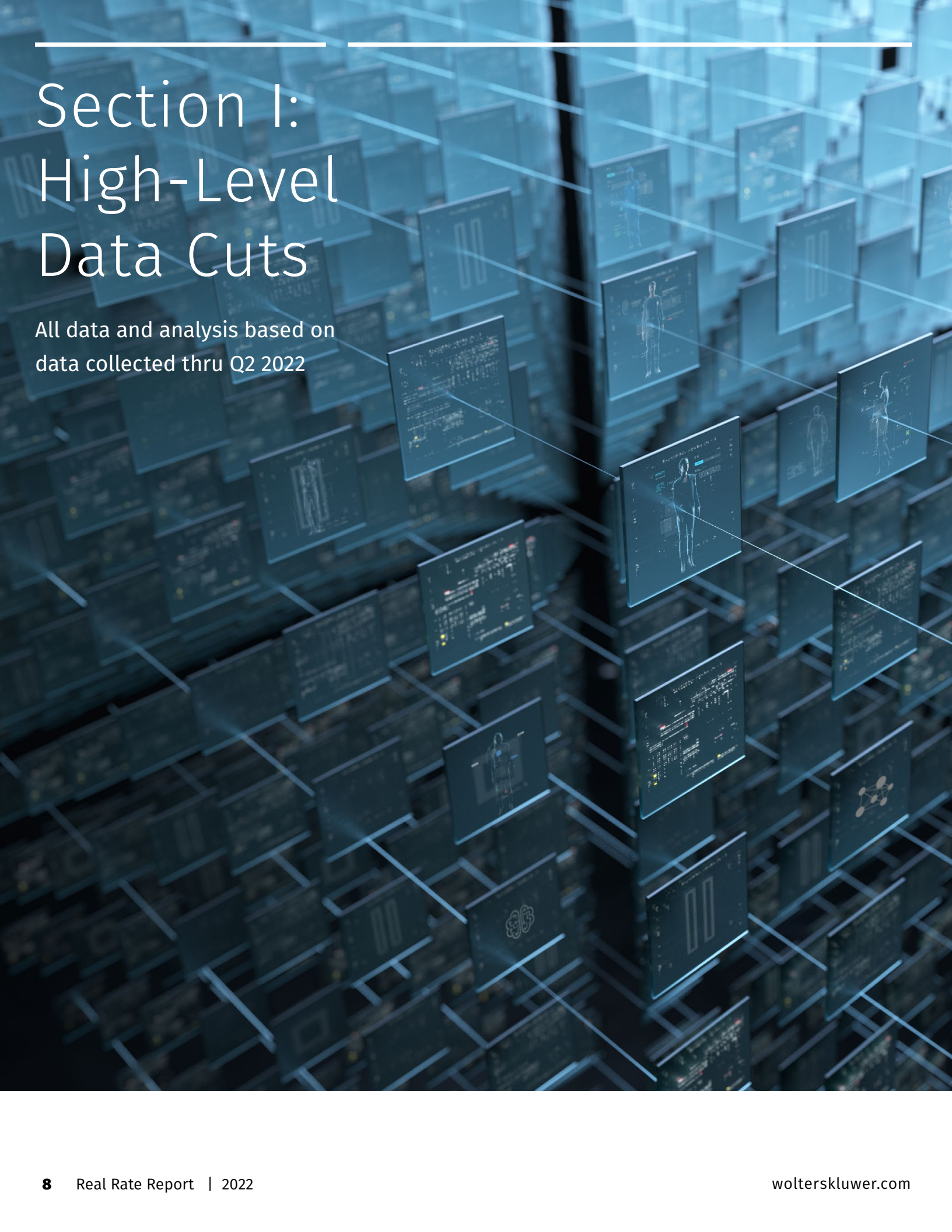
Years of experience and reputation - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural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

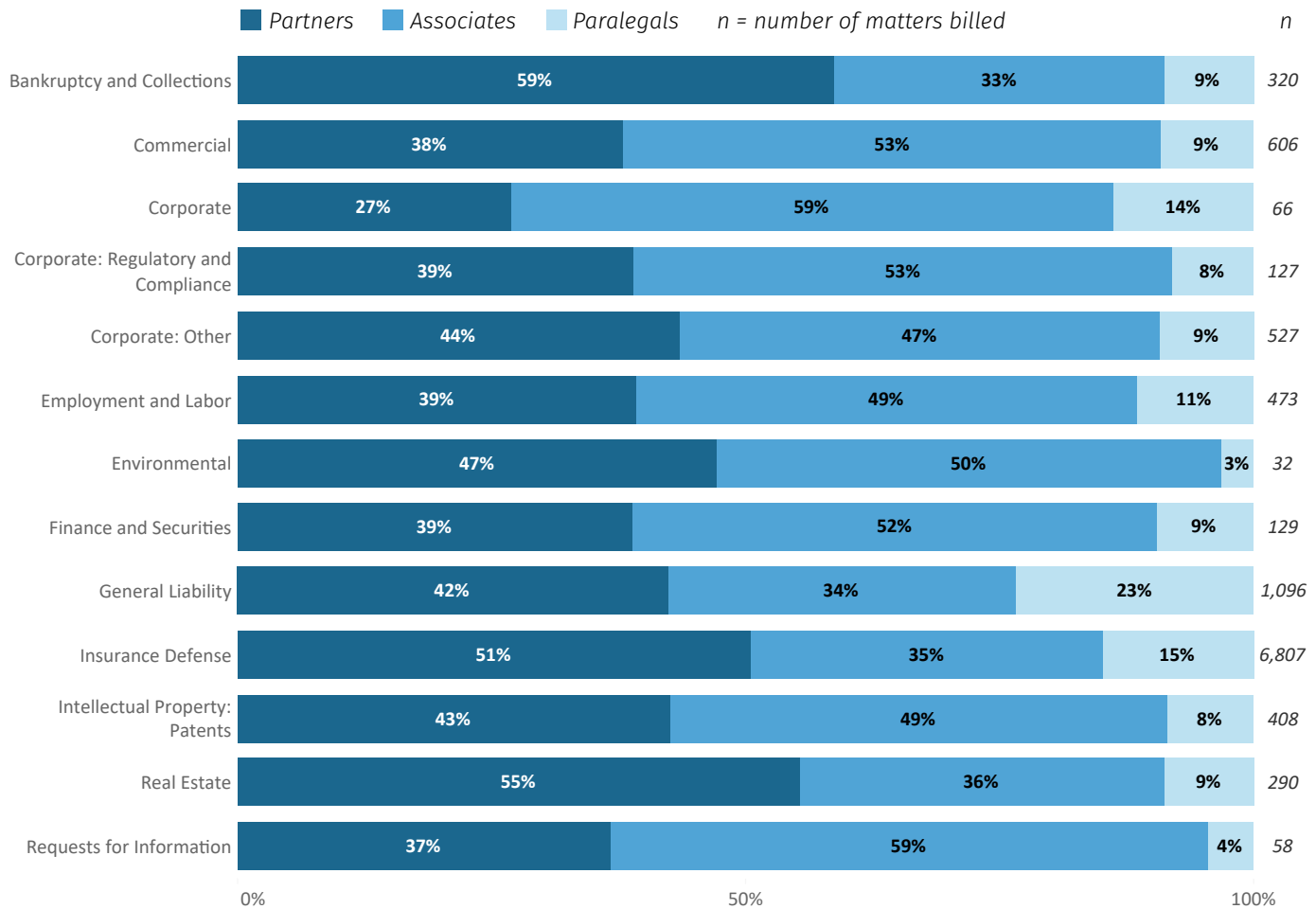
Section VI: Matter Staffing Analysis

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 4

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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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[Overworked Big Law Can't Find Enough Lawyers With Demand Surging](#) Dec. 9, 2021, 3:00 AM

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22CV00226

I, Rebecca Padilla, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is rpadilla@wilshirelawfirm.com.

On July 2, 2024, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY 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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Attorneys for Plaintiff Marco Perez

Attorneys for Defendant La Rosa Tortilla

(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 the penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on July 2, 2024, at Los Angeles, California.

Rebecca Padilla