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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
05/31/2023 at 08:58:00 AM
Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

11
12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF SAN DIEGO**

14
15 NOE PONCE CEJA, individually and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 VENTURE DYNAMICS ENTERPRISES,
20 INC. and DOES 1 to 100,

21 Defendants.

Case No. 37-2022-00004908-CU-OE-CTL
Hon. Katherine Bacal
Dept. C-69

**DECLARATION OF JANELLE CARNEY
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Date: January 12, 2024
Time: 11:00 a.m.
Dept.: C-69
Reservation No.: 2979210

Action filed: February 7, 2022

1 I, Janelle Carney, declare:

2 1. I am an attorney duly licensed to practice law before all courts in the State of
3 California. I am the managing partner at Janelle Carney – Attorney at Law, APC (JCAL). I am
4 counsel of record herein and I have personal knowledge of the facts herein. If called as a
5 witness, I could and would competently testify herein.

6 2. I have extensive experience in wage and hour class action litigation. This case
7 seeks to conditionally certify the matter for settlement purposes and obtain preliminary approval
8 of a non-reversionary settlement in the gross amount of \$1,000,000.00 on behalf of 947 current
9 and former non-exempt hourly individuals employed by Defendant Venture
10 Dynamics Enterprises, Inc. (“Defendant”) and placed at NASSCO, Colonna’s, and/or Bay City
11 in the State of California between February 7, 2018 and May 31, 2023.

12 3. Janelle Carney – Attorney at Law, APC specializes in the area of wage and hour
13 issues. For the last twenty (20) years, I have almost worked exclusively on class actions. I
14 graduated from Whittier College School of Law School and obtained my Jurisprudence
15 Doctorate in May 1998. I took the California Bar Examination in February 1999 and received
16 my passing results in May 1999. On June 8, 1999, I was admitted to practice law in the State of
17 California and the federal courts. I have remained in good standing as a member of the California
18 Bar since admission through the present time. I have litigated numerous successful wage and
19 hour class actions in California. From the date of my admission to the bar through December 31,
20 2020, I solely worked at the Law Office of Joseph Antonelli. I became a partner at the Law
21 Office of Joseph Antonelli on July 1, 2007. On January 1, 2021, I opened my own firm, Janelle
22 Carney – Attorney at Law, APC. I have solely focused on wage and hour class actions during
23 my tenure with Law Office of Joseph Antonelli and continue to do so at the present time.

24 4. During my employment with the Law Office of Joseph Antonelli, our office in
25 conjunction with the Law Offices of Kevin T. Barnes, completed a court trial in the case of
26 Mutuc v. Huntington Memorial Hospital, Case No. BC288727. Joseph Antonelli and declarant
27 have been successful in obtaining favorable published opinions for employees in the state of
28 California on at least eight (8) major issues in each of the following cases:

- a. Huntington Memorial Hospital v. Superior Court (“Mutuc”) (2005) 131 Cal.App. 4th 893, 906;
- b. Tien v. Sup. Ct. (Tenet Healthcare) (2006) 139 Cal. App. 4th 528;
- c. Jaimez v. Daiohs USA, Inc., (2010) 181 Cal.App.4th 1286;
- d. Hoover v. American Income Life Insurance (2012) 206 Cal. App. 4th 1193;
- e. Cochran v. Schwan’s, (2014) 228 Cal.App.4th 1137;
- f. Falk v. Children's Hospital Los Angeles, (2015) 237 Cal. App. 4th 1454;
- g. Lafitte v. Robert Half International, Inc., et al. (2016), 1 Cal.5th 480;
- h. Vasserman v. Henry Mayo Newhall (2017) 8 Cal. App 5th 236.

These cases were landmark decisions in the manner in which the regular rate must be calculated and what is considered a “subterfuge” to avoid the correct payment of regular rate and overtime rate (Huntington Hospital); the criteria required to certify pay stub claim, waiting time penalty claim, and meal and rest break claim among other matters (Jaimez); protecting the interests of putative class members in a wage and hour case who want their identity protected (Tien); the standard to prove that an employer has waived its right to arbitrate an employment claim against an employee who filed a class action (Hoover); the standard of when an employer is required to reimburse employees for cell phone usage and other business expenses in order to perform the employees’ duties, even if there was no direct costs to the employees (Cochran); the application of the tolling doctrine as applied to subsequent class actions being filed when the previous class action was disposed of without a ruling on certification (Falk); the Laffitte decision laid out the requirements for approval of a class action settlement including an in depth analysis on the attorneys’ fees request on a common fund. In Laffitte, the California Supreme Court affirmed the trial court and appellate court ruling and holds that the attorney fee award made on a common fund basis (percentage of the settlement) is the law in California; and that employees whose employment is governed by a collective bargaining agreement have not waived their right to bring statutory claims in court unless there is a clear and unmistakable waiver of their rights (Vasserman).

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1 **CLASS ACTION EXPERIENCE**

2 I have previously served as class counsel in a number of class action cases, including
3 wage and hour matters. The following is a sample of matters wherein I have been approved as
4 class counsel:

5 **SAN DIEGO COUNTY**

6 **ESPINOZA V. SHARP HEALTHCARE**

7 (1) On or about September 25, 2020, Honorable Kenneth J. Medel entered an Order
8 Granting Final Approval of Settlement, in Espinoza v. Sharp Healthcare, San Diego County
9 Superior Court Case No. 37-2018-00034031-CU-0E-CTL. The Law Office of Joseph Antonelli
10 and Frontier Law Center were approved as class counsel for settlement purposes. Judge Medel
11 approved the settlement in the amount of **\$2,125,000.00**, awarded attorneys' fees in the amount
12 of \$708,333.30 (33.33% of the settlement), and awarded an enhancement to the class
13 representative in the amount of \$15,000.00;

14 **VIBRA HEALTHCARE WAGE AND HOUR CASES**

15 (2) On or about September 7, 2018, Honorable Richard E.L. Strauss entered an Order
16 Granting Final Approval of Settlement, in Vibra Healthcare Wage and Hour Cases, JCCP No.
17 4874. The Law Office of Joseph Antonelli and other counsel were approved as class counsel for
18 settlement purposes. Judge Strauss approved the settlement in the amount of **\$5,500,000.00**,
19 awarded attorneys' fees in the amount of \$1,833,150.00 (33.33% of the settlement), and awarded
20 an enhancement to the three Class Representatives totaling \$35,000.00;

21 **CLASSIC RESIDENCE MANAGEMENT, LP dba VI**

22 (3) On or about May 31, 2016, Honorable Richard E.L. Strauss entered an Order and
23 Judgment Re: Plaintiff's Motion for Attorneys' Fees and Costs and Class Representative
24 Enhancement; and Motion for Conditional Certification and Final Approval of Class Action
25 Settlement, in Victoriano v. Classic Residence Management, LP dba Vi, San Diego Superior
26 Court Lead Case No. 37-2014-00028031-CU-OE-CTL. The Law Office of Joseph Antonelli was
27 approved as class counsel for settlement purposes. Judge Strauss approved the settlement in the
28 amount of **\$3,000,000.00**, awarded attorneys' fees in the amount of \$900,000.00 (30% of the

1 settlement), and awarded an enhancement to the Class Representative in the amount of
2 \$25,000.00;

3 **PARTY CITY**

4 (4) On or about April 6, 2009, the San Diego Superior Court entered an Order
5 Granting Plaintiff's Motion for Class Certification in the matter of Grassi v. Party City
6 Corporation, San Diego Superior Court Case No. GIC874341. The Law Office of Joseph
7 Antonelli and the Law Offices of Kevin T. Barnes were approved as class counsel in this
8 certified matter. The San Diego Superior Court entered a Final Approval order on October 15,
9 2010, approving a class wide settlement in the amount of **\$1,495,000.00**. Furthermore, the Court
10 did award \$ 25,000.00 for the class representative. Judge Steven R. Denton also awarded
11 attorneys' fees in the amount of \$498,283.50

12 **SANTA BARBARA COUNTY**

13 (5) On or about May 9, 2023, the Santa Barbara Superior Court entered an Order
14 Granting Plaintiff's Motion for Final Approval of Class Action and PAGA Settlement and
15 Motion for Attorneys' Fees, Costs, and Class Representative Service Payment, in Massey v.
16 Mann + Hummel Water and Fluid Solutions, Inc., Santa Barbara Superior Court Case No.
17 21CV02965. Janelle Carney – Attorney at Law, APC and Frontier Law Center were approved as
18 class counsel in this matter. The Santa Barbara Superior Court approved the class action and
19 PAGA settlement in the amount of **\$800,000.00**. Furthermore, the Court did award \$ 7,500.00
20 for the class representative. Judge Donna Geck also awarded attorneys' fees in the amount of
21 \$266,666.66.

22 **MERCED COUNTY**

23 (6) On or about May 27, 2022, Hon. Brian McCabe entered an Order Granting Final
24 Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Class
25 Representative Enhancement, in Inacio v. Land O' Lakes, Inc., et al., Merced County Superior
26 Court Case No. 19CV-04520, approving a class action settlement of **\$500,000.00**. Janelle
27 Carney – Attorney at Law, APC, Frontier Law Center, and the Law Office of Joseph Antonelli
28 were approved as class counsel for settlement purposes. Furthermore, the Court did award

1 \$10,000.00 as an enhancement payment to the class representative. Judge McCabe also awarded
2 attorneys' fees in the amount of \$166,666.67.

3 **LOS ANGELES COUNTY**

4 **HUNTINGTON MEMORIAL HOSPITAL**

5 (7) On or about January 21, 2004, the Los Angeles Superior Court Judge Thomas
6 Willhite entered an order granting class certification in Mutuc v. Huntington Memorial Hospital,
7 Los Angeles Superior Court Case No. BC288727. The case involved an alleged illegal pay plan
8 and a pay stub class. The Law Office of Joseph Antonelli and the Law Offices of Kevin T.
9 Barnes were approved as class counsel and served as trial counsel in this matter, with trial
10 testimony and argument concluding on April 6, 2007. The matter was re-opened for closing
11 argument on July 23, 2007. As set forth above the same issue that is present in the case at bar
12 was at issue in the Mutuc matter. The Mutuc matter was tried in approximately 12 days,
13 including partial days and opening and closing statements. Furthermore, there were a total 28 of
14 witnesses who testified. The case resulted in an approximate **\$32.8 million** award for the class
15 and ultimately settled with the related case of Kiely v. Huntington Memorial Hospital for \$60
16 million. The Court approved attorneys' fees in the amount of \$18,000,000.00. Furthermore, the
17 Court did award \$50,000.00 for each of the Mutuc class representatives and \$20,000.00 for the
18 Kiely representative;

19 (7a) On or about January 5, 2009, the Honorable William A. MacLaughlin entered an
20 Order Granting Final Approval of Settlement, Class Representative Enhancements, Attorneys'
21 Fees, and Costs in the matter of Kiely v. Huntington Memorial Hospital, Los Angeles Superior
22 Court Case No. BC364972, which was settled together with related matter Mutuc v. Huntington
23 Memorial Hospital, Los Angeles Superior Court Case No. BC288727. The Law Office of
24 Joseph Antonelli and the Law Office of Kevin T. Barnes were approved as class counsel for
25 settlement purposes;

26 **PAGADUAN V. TENET HEALTHCARE**

27 (8) The Law Office of Joseph Antonelli, the Law Offices of Kevin T. Barnes, and
28 others were approved as class counsel in the matter of Pagaduan v. Tenet Healthcare, JCCP No.
4377. After obtaining class certification, the Los Angeles Superior Court by the Honorable Carl

West, Judge Presiding, later on or about May 7, 2009, granted final approval of a class action settlement. The court approved the settlement in the amount of **\$85,000,000.00**. Furthermore, the Court did award \$75,000 for each of the named class representatives. Additionally, the Court awarded the requested \$7,500.00 to three (3) other representatives. Judge West also awarded attorneys' fees in the amount of \$22,844,022.50;

METHODIST HOSPITAL OF SOUTHERN CALIFORNIA

(9) On or about November 12, 2008, Hon. Victoria Chaney entered an Order Granting Final Approval of a Proposed Class Action Settlement in Davis v. Methodist Hospital of Southern California, Los Angeles Superior Court Case No. BC380177, approving a class action settlement of **\$20.25 million**. The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes were approved as class counsel for settlement purposes. Furthermore, the Court did award \$20,000.00 for two (2) of the class representatives and \$5,000 for one class representatives. Judge Chaney also awarded attorneys' fees in the amount of \$3,989,087.50;

CHILDREN'S HOSPITAL LOS ANGELES

(10) The Law Office of Joseph Antonelli was declared Lead Class Counsel in the matter of Mays v. Children's Hospital Los Angeles, Los Angeles Superior Court Case No. BC477830. On or about May 17, 2016, the Honorable Ann I. Jones granted preliminary approval of class action settlement in the amount of **\$27,000,000.00**, attorneys' fees in the amount of \$9,000,000.00, and class representative enhancements to the five (5) Class Representatives in an amount totaling \$67,500.00. At the final approval on September 19, 2016 the Court entered Final Approval of the Class action settlement and awarded the attorneys' fees request of 33 1/3% in the amount of \$9,000,000 in addition to awarding the class representative enhancements in the amounts requested ranging from \$10,000 to \$25,000 for each of the five (5) representatives;

GOOD SAMARITAN HOSPITAL

(11) The Law Office of Joseph Antonelli was approved as class counsel in the matter of Hoffman v. Good Samaritan Hospital, Los Angeles Superior Court Case No. BC564721. The William F. Highberger entered an Order and Judgment Re: Plaintiff's Motion for Attorneys' Fees and Costs and Class Representative Enhancements and Motion for Conditional Certification

1 and Final Approval of Class Action Settlement on or about February 8, 2016, approving a
2 settlement in the amount of **\$6,175,000.00**, attorneys' fees in the amount of \$1,500,000.00 and
3 Class Representative Enhancements to the two (2) Class Representatives in the amount of
4 \$25,000.00 each;

5 **WHITE MEMORIAL MEDICAL CENTER**

6 (12) The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes
7 were Class Counsel in the matter of Chamber v. White Memorial Medical Center, et al. and
8 Flynn v. Glendale Adventist Medical Center, et al., Los Angeles Superior Court Case No.
9 BC426335, in which the Honorable William F. Highberger was presiding and approved a final
10 settlement in the amount of **\$8,750,000**, attorneys' fee request of \$2,916,966 and class
11 representative enhancement awards of \$40,000 to both class representatives;

12 **KAISER PERMANENTE HOSPITAL**

13 (13) The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes
14 were Class Counsel in the matter of Martin v. Kaiser Foundation Hospitals, et al., Case No.
15 BC395992 in which the Honorable Jane L. Johnson was presiding and approved a final
16 settlement in the amount of **\$21,750,000**, attorneys' fee request of \$5,437,500 and class
17 representative enhancement awards of \$90,000 to both class representatives;

18 **IRON MOUNTAIN**

19 (14) The Law Office of Joseph Antonelli was approved as Class Counsel in the matter
20 of Casanova v. Iron Mountain Information Management Services, Inc., Los Angeles Superior
21 Court Case No. BC543256, in which the Honorable Kenneth Freeman was presiding and
22 approved a final settlement on January 13, 2016, in the amount of **\$2,800,000.00**, attorneys' fee
23 request of \$840,000.00, and class representative enhancement award of \$6,500.00 to each of the
24 three Class Representatives;

25 **ROBERT HALF**

26 (15) On or about September 18, 2006, the Los Angeles Superior Court Judge Edward
27 R. Ferns entered an order granting class certification in Lafitte v. Robert Half International, Inc.,
28 Los Angeles Superior Court Case No.: BC321317. The Law office of Joseph Antonelli and Law
Office of Kevin Barnes were approved as class counsel. This case involved a mis-classification

1 concerning exempt employees. The Honorable Mary H. Strobel entered an order of Final
2 Approval on April 10, 2013 approving the settlement of **\$19,000,000.00**. The Law Offices of
3 Kevin T. Barnes and Law Office of Joseph Antonelli were approved as class counsel in this
4 certified matter. The attorneys' fee award was in the amount of 33 1/3 % of the settlement.
5 Furthermore, the Court did award the cumulative amount of \$80,000.00 for the three (3) class
6 representatives in the individuals amounts of \$15,000.00, \$25,000.00 and \$40,000.00;

7 **FIRST CHOICE**

8 (16) The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes
9 were approved as class counsel in the certified matter of Jaimez v. DAIOHS, U.S.A., Inc. (First
10 Choice), Los Angeles Superior Court Case No. BC372665. This case involved mis-classification
11 of employees, meal period and rest period violations, pay stub, and waiting time penalty classes.
12 On January 4, 2011, Judge Ralph W. Dau entered an order certifying the classes. On October 20,
13 2011, final approval was granted in the total amount of **\$1.7 million**. Furthermore, the Court did
14 award the cumulative amount of \$60,000.00 for the three (3) class representatives in the
15 individual amounts of \$10,000.00, \$20,000.00 and \$30,000.00. Judge Dau also awarded
16 attorneys' fees in the amount of \$600,000;

16 **LOWES**

17 (17) On or about April 16, 2008, the Los Angeles County Superior Court granted final
18 approval of a class action settlement in the matter of Hall v. Lowes HIW, Case No. BC325832.
19 The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes were approved as
20 class counsel. The court approved the settlement in the amount of **\$23,000,000.00**. The two (2)
21 lead class representatives received \$25,000 each as individual awards. The Court also awarded
22 attorneys' fees in the amount of \$5,750,000;

23 **ORANGE COUNTY**

24 **ST. JUDE HOSPITAL**

25 (18) On or about September 10, 2018, the Honorable William Claster entered an Order
26 and Final Judgment Granting Attorney's Fees and Costs and Class Representative Enhancement
27 and Motion for Final Approval of Class Action Settlement in the matter of Davis and Krajec v.
28 St. Jude Hospital and Mission Hospital Regional Medical Center, Orange County Superior Court

Case No. 30-2012-00602596-CU-OE-CXC. The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes were approved as class counsel. Judge Claster awarded attorneys' fees of \$2,141,000, from the gross settlement value of **\$7,500,000** and the Court did award enhancement amounts of \$12,000, for Leah Davis, a current employee and class representative and \$10,000 for Amy Krajec, Marilyn Lentini, and Sandra Murray each of the other three (3) former employees and class representatives;

MILLER V. CHOC

(19) On or about April 25, 2016, the Honorable Gail A. Andler entered a Revised Order and Judgment Granting Final Approval of Class Action Settlement in the matter of Miller v. Children's Hospital of Orange County, Orange County Superior Court Case No. 30-2014-00723026- CU- OE- CXC. The Law Office of Joseph Antonelli and the Law Offices of Dennis Moss were approved as class counsel Judge Andler awarded attorneys' fees of \$1,500,000 or 30% of the gross settlement value of **\$4,500,000.00** and an enhancement award of \$10,000 (the amount requested by Class Counsel) for Class Representative, Erik Mara;

MARACINE v. MESA VERDE CONVALESCENT HOSPITAL

(20) On or about July 7, 2017, the Honorable Robert J. Moss entered an Order Determining Good Faith and Granting Final Approval of Settlement and Entry of Judgment in Maracine v. Mesa Verde Convalescent Hospital, Inc., Orange County Superior Court Case No. 30-2015-00780115-CU-OE-CXC, approving a class action settlement of **\$1,375,000.00**. The Law Office of Joseph Antonelli was approved as Class Counsel for settlement purposes. Furthermore, the Court did award \$20,000.00 for the class representative. Judge Sanders also awarded attorneys' fees in the amount of \$412,500;

PATE v. CHILDREN'S HOSPITAL OF ORANGE COUNTY

(21) The Law Office of Joseph Antonelli, the Law Offices of Kevin T. Barnes, and others were approved as class counsel and other counsel were approved by the Orange County Superior Court by Judge David Velasquez, as Class Counsel in the matter of Pate, et. al. v. Children's Hospital of Orange County (CHOC), Case No. 05CC00303 and a related case of York v. CHOC, Case No.30-2011-00465444CU-OE-CX. On March 8, 2010, the Court granted class certification in Pate, and on March 23, 2012 final approval was granted in both matters, totaling

1 in the amount of **\$17,500,000**. Furthermore, the Court did award amounts ranging from \$25,000,
2 \$15,00 and \$10,000 for each of the four (4) class representatives. The Court also awarded
3 attorneys' fees in the amount of \$4,686,862 in the Pate matter, and \$375,000 in the York matter;

4 **ST. JOSEPH HOSPITAL OF ORANGE (SJHO)**

5 (22) On or about June 24, 2009, the Honorable Nancy Wieben Stock entered an Order
6 Partially Granting and Partially Denying Plaintiffs' Motion for Class Certification in the matter
7 of Oberschlake v. St. Joseph Hospital of Orange, Orange County Superior Court Case No.
8 05CC00301. The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes were
9 approved as class counsel. On or about May 20, 2011, the Honorable Nancy Wieben Stock
10 further entered Orders Granting Preliminary and Final Approval of Class Action Settlement.
11 Judge Stock did award attorneys' fees of \$4,000,000 or 33.33% of the gross settlement value of
12 **\$12,000,000**. Furthermore, the Court did award \$20,000.00 for each of the class representatives;

13 **HOAG**

14 (23) On or about June 14, 2012, Honorable Gail Andler entered an Order Granting
15 Final Approval of Class Action Settlement in Corona v. Hoag Memorial Hospital Presbyterian,
16 Orange County Superior Court Case No 30-2009-00295587. The Law Office of Joseph
17 Antonelli and the Law Offices of Kevin T. Barnes were approved as class counsel. Judge Andler
18 did approve the gross settlement of **\$4,000,000**. Furthermore, the Court did award \$20,000.00
19 for each of the class representatives. Judge Andler also awarded attorneys' fees in the amount of
20 \$1,333,320.00;

21 **STAPLES**

22 (24) On or about November 10, 2005, the Honorable Ronald L. Bauer granted class
23 certification in Staples Overtime Cases, JCCP No. 4235. The Law Office of Joseph Antonelli,
24 the Law Offices of Kevin T. Barnes, and others were approved as class counsel. The case
25 involved misclassification of defendant's salaried exempt "manager" employees. The Court also
26 entered Final Approval Order on or about April 16, 2008, approving a class action settlement in
27 the amount of **\$38,000,000**. Furthermore, the Court did award \$5,000.00 for five (5) of the class
28 representatives. Judge Bauer also awarded attorneys' fees in the amount of \$11,400,000;

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SAN BERNARDINO COUNTY

CHICK-FIL-A

(25) On or about December 9, 2022, Hon. Donald Alvarez granted Final Approval of Class and PAGA Representative Action Settlement in the amount of **\$105,000.00** in the matter of Caro v. EM KMR, LLC dba Chick-Fil-A / Colonies Crossroads (FSU 01544), San Bernardino Superior Court Case No. CIVSB 2126911. Janelle Carney – Attorney at Law, APC was approved as Class Counsel for settlement purposes. Furthermore, the Court did award class representative enhancements in the amount of \$10,000.00 to the class representative, and \$35,000.00 in attorneys’ fees.

KAISER FOUNDATION HOSPITALS

(26) On or about October 21, 2019, Hon. David S. Cohn granted Final Approval of Class Action Settlement in the amount of **\$20,000,000.00** in the matter of Tilton v. Kaiser Foundation Hospitals, San Bernardino Superior Court Case No. CIVDS1517937. The Law Office of Joseph Antonelli, the Law Offices of Kevin T. Barnes, Law Offices of Sahag Majarian II, and United Employees Law Group, PC were approved as Class Counsel for all purposes. Furthermore, the Court did award class representative enhancements in the amount of \$30,000 to one lead Plaintiff and \$20,000 to the second lead Plaintiff.

ST. MARY MEDICAL CENTER

(27) On or about March 21, 2019, Hon. Bryan F. Foster granted Final Approval of Class Action Settlement in Sanchez v. St. Mary Medical Center, San Bernardino Superior Court Case No. CIVDS1304898, approving a class action settlement of **\$5,750,000**. The Law Office of Joseph Antonelli, the Law Offices of Kevin T. Barnes, and Mahoney Law Group were approved as Class Counsel for all purposes. The Sanchez matter was certified on several key subclasses, including overtime theories on behalf of class members that were part of a union and not paid daily overtime premiums and AWS theories. The Sanchez theories certified and set for trial were similar to claims being litigated in the Tilton action. Furthermore, the Court did award \$15,000.00 for the class representative, a former employee at the time she filed the class action complaint. Furthermore, Judge Foster awarded attorneys’ fees in the amount of 1/3 of the common fund in the amount of \$1,916,666.60.

1 **UNIFIRST CORPORATION**

2 (28) On or about February 4, 2016, Hon. Gilbert Ochoa entered an Order Granting
3 Final Approval of a Proposed Class Action Settlement in Alvidrez v. Unifirst Corporation, San
4 Bernardino Superior Court Case No. CIVRS 1308105, approving a class action settlement of
5 **\$1,100,000**. The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes were
6 approved as class counsel for settlement purposes. Furthermore, the Court did award \$25,000.00
7 each for two (2) of the class representatives. Furthermore, Judge Ochoa awarded attorneys' fees
8 of \$330,000;

9 **AMERICAN INCOME LIFE INSURANCE COMPANY**

10 (29) On or about December 12, 2014, Hon. Keith D. Davis entered an Order
11 Granting Final Approval of a Proposed Class Action Settlement in Hoover v. American Income
12 Life Insurance Company, San Bernardino Superior Court Case No. CIVRS 910758, approving a
13 class action settlement of **\$6,250,000.00**. The Law Office of Joseph Antonelli and other counsel
14 were approved as class counsel. Furthermore, the Court did award \$25,000.00 each for two (2)
15 of the class representatives. Judge Davis also awarded attorneys' fees in the amount of
16 \$2,083,333.33;

17 **RIVERSIDE COUNTY**

18 **PARKVIEW COMMUNITY HOSPITAL**

19 (30) On or about September 13, 2016, Hon. Sharon J. Waters entered an Order and
20 Judgment regarding Attorneys' Fees and Costs and Class Representative Enhancement, and
21 Motion for Final Approval in the matter entitled Bart v. Parkview Community Hospital Medical
22 Center, Riverside Superior Court Case No. RIC 1406044, approving a class action settlement of
23 **\$2,550,000.00**. The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes
24 were approved as class counsel. Furthermore, the Court did award \$35,000.00 for the class
25 representative. Judge Waters also awarded attorneys' fees in the amount of \$805,000;

26 **NORTHERN CALIFORNIA COUNTIES**

27 **T-MOBILE USA, INC.**

28 (31) On or about March 10, 2021, Hon. Patricia M. Lucas entered an Order Re: Motion
for Court Approval of PAGA Settlement in the matter entitled Salian v. T-Mobile USA, Inc.,

1 Santa Clara Superior Court Case No. 19CV340413, approving a class action settlement of
2 **\$2,200,000.00**. The Court did award \$10,000.00 each for the two named Plaintiffs. Judge Lucas
3 also awarded attorneys' fees in the amount of \$733,33.33;

4 **DOCTORS HOSPITAL OF MANTECA, INC.**

5 (32) On or about November 23, 2020, Honorable Jayne Lee entered an Order Granting
6 Final Approval of Settlement, in Lyle v. Doctors Hospital of Manteca, Inc., et al., San Joaquin
7 County Superior Court Case No. STK-CV-UOE-2016-6523. The Law Office of Joseph
8 Antonelli and other counsel were approved as class counsel for settlement purposes. Judge
9 Strauss approved the settlement in the amount of **\$3,750,000.00**, awarded attorneys' fees in the
10 amount of \$1,250,000.00 (33.33% of the settlement), and awarded an enhancement to the three
11 Class Representatives totaling \$7,900.00;

12 **JIFFY LUBE**

13 (33) On or about May 2, 2007 the Santa Clara Superior Court by the Honorable Jack
14 Komar entered an Order granting final approval in the matter of Jiffy Lube Overtime Cases,
15 Santa Clara Case No. 03CV817723. The Law Office of Joseph Antonelli and the Law Offices of
16 Kevin T. Barnes were approved as class counsel. The case involved mis-classification of
17 defendant's salaried exempt employees titled "General Managers," meal violations, rest
18 violations, and pay stub violations. The court approved the settlement in the amount of
19 **\$6,000,000.00**. Each of the four class representatives was awarded an individual award of
20 \$20,000. Judge Komar also awarded attorneys' fees in the amount of \$1,800,000;

21 **UNITED STATES DISTRICT COURT**

22 **GARCIA v. WAL-MART STORES**

23 (34) On or about September 28, 2018, Hon. Terry J. Hatter entered an Order Granting
24 Plaintiff's Motion for Class Certification, as to various classes and subclasses in Garcia v. Wal-
25 Mart Stores, Inc., United States District Court Case No. 5:16-CV-01645-TJH-RAO. The Law
26 Office of Joseph Antonelli, Law Offices of Kevin T. Barnes, and Law Office of Raphael A. Katri
27 have been appointed class counsel in said matter. The matter has recently settled and is pending
28 in the United States District Court.

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1 **MOSQUEDA V. UNIFIRST**

2 (35) On or about December 17, 2015, Hon. Andre Birotte entered an Order Granting
3 Final Approval of Class Action Settlement, Attorneys' Fees and Costs, and Class Representative
4 Enhancement in Mosqueda v. Unifirst Corp., United States District Court Case No. CV 14-
5 05324-AB (VBx). The Law Office of Joseph Antonelli and the Law Offices of Kevin T. Barnes
6 were approved as class counsel for settlement purposes. The settlement approved was in the
7 amount of **\$2,600,000.00**. The Court did award \$25,000.00 for the class representative
8 enhancement to the former employee class representative. The court awarded the attorneys' fees
9 in the amount of \$780,000.00 or 30% of the common fund;

10 **KINDRED HEALTHCARE**

11 (36) On or about March 5, 2013, the Honorable Dean D. Pregerson entered an Order
12 Granting in Part and Denying in Part Plaintiffs' Joint Motion for Class Certification of
13 approximately 9,000 class members who worked at approximately 16 Kindred facilities in
14 California, in the matter of Escano v. Kindred Healthcare Operating, Inc., United States District
15 Court Case No. CV 09-04778 DDP (RZx). The Law Office of Joseph Antonelli, the Law Offices
16 of Kevin T. Barnes, and others were approved as class counsel. Thereafter on or about
17 September 29, 2014, the Court entered an order granting preliminary approval of a **\$16.5M**
18 settlement, including an award of 33 1/3% in attorney fees and awarding the class representative
19 enhancements in the amounts requested ranging from \$25,000.00 to \$20,000.00 for each of the
20 five (5) representatives;

21 **PROCARE ONE NURSES, LLC**

22 (37) On or about November 21, 2011, Hon. Christina A. Snyder entered an Order
23 Granting Final Approval of a Proposed Class Action Settlement and Judgment Thereon in
24 Nesbitt v. Procare One Nurses, LLC, United States District Court Case No. 10-CV-09224-CAS-
25 JEM. The Law Office of Joseph Antonelli and one other firm were appointed class counsel. The
26 settlement was approved in the amount of **\$1,800,000.00**. Furthermore, the Court did award
27 \$20,000.00 for the class representative. The court awarded the attorneys' fees in the amount of
28 \$780,000.00 or 30% of the common fund; and

1 **WERNER ENTERPRISES, INC.**

2 (38) On or about March 4, 2013, Hon. Margaret M. Morrow entered an Order and
3 Judgment Granting Final Approval of Class Action Settlement, Attorney's Fees and Costs and
4 Class Representative Enhancement in Simona Montalvo v. Werner Enterprises, Inc., United
5 States District Court Case No. EDCV11-294MMM (OPx). The Law Offices of Kevin T. Barnes
6 and the Law Office of Joseph Antonelli were approved as class counsel. The settlement was
7 approved in the amount of **\$575,000.00**. Furthermore, the Court did award \$7,500.00 for the
8 class representative. The court awarded the attorneys' fees in the amount of \$191,666.66.

9 5. I believe that the settlement achieved is excellent as a result of various factors.
10 This case and is being presented for preliminary approval after over one (1) year of litigation
11 including written discovery, preparing to file Plaintiff's motion for class certification that was
12 due quickly after the mediation.

13 6. The class size is approximately 947 employees based on Defendant's data
14 provided during the informal exchange of data in conjunction with mediation. The class is
15 numerous and ascertainable, as all are current or former employees with Defendant. Further,
16 Plaintiff alleges commonality with common questions of law and facts; the Plaintiff has typical
17 claims as to the entirety of the class members; the Plaintiff has no claims that are antagonistic to
18 the class members; the Plaintiff and Class Counsel are adequate representative and counsel,
19 respectively; and the class action mechanism is a superior mechanism to resolve the claims of the
20 approximately 947 Class Members. Mr. Ponce Ceja's declaration is filed concurrently herewith.

21 7. While the details of the settlement for the Class Members are set forth in the
22 proposed STIPULATION OF SETTLEMENT ("Settlement Agreement"), the settlement for each
23 participating Class Member and PAGA Aggrieved Employee is fair, reasonable, and adequate,
24 given the inherent risk of litigation, the risk relative to class certification, and the costs of
25 litigation. A true and correct copy of the Settlement Agreement attached hereto as **Exhibit 1** has
26 been signed by all parties.

27 8. Pursuant to Kullar v. Footlocker Retail Inc., 168 Cal. App 4th 116, 118 and Dunk
28 v. Ford Motor Co., (1996) 48 Cal.App.4th 1794, the following describes the settlement's

reasonableness. This case has had a concentrated litigation history as the parties had swiftly moved this case quickly to the current stage, while conserving resources. Plaintiff recognizes the expense and length of continued proceedings necessary to continue the litigation against Defendants through trial and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk of denial of motion for class certification and the uncertain outcomes resulting from further litigation, and the difficulties and delays inherent in such litigation. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, Defendant's defenses thereto, and the difficulties in establishing damages for the Plaintiff and Class Members. The case was hotly contested for approximately one (1) year.

On January 31, 2023, Plaintiff and Defendants (the "Parties") participated in an all-day mediation presided over by Steve Rottman, which led to the Class Action and PAGA Settlement Agreement. Based on the foregoing, Plaintiff has determined that the settlement is a fair, adequate and reasonable settlement and is in the best interests of the Class Members.

The reasonable exposure value and settlement value are as follows:

CLAIM	REASONABLE EXPOSURE	SETTLEMENT VALUE	%
regular rate	\$121,000	\$45,000.00	37%
Meal	\$650,000	\$460,000.00	71%
Rest	\$450,000	\$255,500.00	57%
Pay Stub	\$335,000	\$100,000.00	30%
Off the clock	\$287,000	\$75,000.00	26%
LC 2802	\$35,000	\$9,500.00	27%
Waiting Time Penalties	\$250,000	\$55,000.00	22%
TOTALS	\$ 2,128,000.00	\$1,000,000.00	47%
PAGA	\$100,000	\$40,000	40%

The exposure and settlement values are based on the following:

1 A. **Strength of the Plaintiff's Case:** The parties have exchanged both formal and
2 informal written discovery and several hundred pages of documents. Declarant has further
3 investigated the applicable law as applied to the facts discovered regarding the alleged claims,
4 damages, and potential defenses thereto, and need an expert to review and analyze the payroll
5 and timekeeping records.

6 In pertinent part, the investigation has yielded the following: Plaintiff generally alleges
7 that Plaintiff, the putative class, and aggrieved employees have suffered damages; that
8 Defendant did not properly calculate the "regular rate of pay" resulting in underpayments to
9 Plaintiff, the putative class, and aggrieved employees of wages and overtime premiums owed to
10 them. Further, Plaintiff and the class members were not paid for time for mandatory security
11 checks. Plaintiff, the putative class, and aggrieved employees were not paid all premium wages
12 for meal and rest period violations; that Defendant did not provide Plaintiff, the putative class,
13 and aggrieved employees with legally compliant accurate itemized wage statements, or
14 compliant off-premises meal and rest periods. Thus, Plaintiff demanded various amounts for
15 wages, penalties, interest, costs, attorneys' fees, and other damages, on behalf of himself, the
16 putative class, and aggrieved employees. Here, class treatment is warranted for the class, as to
17 Plaintiff's meal and rest period claims, the wage statement claims, and the failure to pay all
18 wages claims.

19 Accordingly, the full exposure at trial excluding the discretionary PAGA penalties based
20 on the reasonable valuation and discounting for risk factors for the class members would have
21 been approximately \$2,128,000.00. Thus, the settlement of \$1,000,000.00 represents
22 approximately 47% of reasonable value of the case which is an excellent result for the class
23 members and aggrieved employees. Plaintiff calculated the reasonable PAGA penalties to be
24 valued at \$100,000.00 based on this being an initial violation against Defendants. Plaintiff
25 believes the few cases that reported a PAGA trial that the discretionary penalties are discounted
26 by approximately 75%-85%. The parties have agreed to allocate \$40,000.00 or approximately
27 40% of the PAGA penalties to this claim.

28 B. The risk, expense, complexity and likely duration of further litigation: Continued
litigation would have been costly with uncertain recovery. While Plaintiff strongly believes in

1 his case, individual issues could have been a factor in determining damages and possible
2 decertification, which would have resulted in the class receiving nothing.

3 C. The risk of maintaining class action status through trial: Plaintiff was confident in
4 his ability to maintain class certification status as to the paystub class. Therefore, uncertainty as
5 to individual issues could have prevented the matter going forward as a class action through to
6 trial.

7 D. With respect to the amount of the settlement, the number of "cents on the dollar"
8 or percentage of total damages the settlement represents, a fair and reasonable settlement
9 amount. Accordingly, the settlement presented to the Court is approximately 47% of the
10 reasonable evaluation of the entire case exposure. Plaintiff discounted the claims for reasonable
11 factors, as set forth above. Overall, under the Dunk and Kullar factors, the amount of the
12 settlement given the risks of potentially being subject to decertification and ultimately liability
13 given the current uncertainty in the law demonstrates that the settlement is fair and reasonable.

14 **A. Regular Rate**

15 The Plaintiff alleges improper calculation of the regular rate. Defendant maintained
16 improper policies by failing to properly calculate the regular rate, including but not limited to
17 failing to include stipend pay into the regular rate of pay. This would be a highly contested legal
18 issue that the parties would each have sought summary adjudication as Defendant denies that
19 stipends were required to be included in the hourly rate, as they were not for hours worked. In
20 reality, the full exposure on the regular rate claim is approximately **\$121,000.00**. Accordingly,
21 the Plaintiff placed reasonable value of the regular rate claim for settlement purposes at a
22 **\$45,000.00** valuation based on the risk and likelihood of pursuing through trial. This valuation
23 takes into consideration Plaintiff's counsels' analysis of the law, evidence produced by the
24 Defendant. There was also a risk that if Defendant proceeded and succeeded with a motion for
25 summary judgment on a basis that it was not the class members' employer, but that the locations
26 where the class members worked the employers, this would further diminish the value of the
claim. Therefore, the valuation is **37%** of the reasonable value of the regular rate claim.

27 /////

28 /////

1 **B. Meal and Rest Period Claims**

2 The Plaintiff's theory on the meal break claim was based on Defendant's failure to
3 provide Plaintiff and the putative class members with compliant meal and rest periods under
4 California law. Defendants requires its employees to remain on premises for meal and rest
5 periods, and/or were subject to security checks to leave, thereby cutting short said meal and/or
6 rest periods. Defendant failed to adopt, implement, and enforce a uniform meal and rest period
7 policy that complied with California law. For example, Defendant had a practice of requiring
8 employees to work through their meals while they remain on site, thereby failing to provide
9 Plaintiff and the putative class members with duty-free meal periods as required by California
10 law. The difficulty in Plaintiff's theory is that this would require survey experts and an analysis
11 to ensure that there was a company-wide practice.

12 Plaintiff's expert calculated the actual and reasonable maximum meal break exposure to
13 be approximately **\$650,000.00**. This calculation was arrived at by reviewing the data and
14 analyzing all shifts in excess of 5 hours. Thereafter, Plaintiff applied a violation rate on average
15 of 5% to arrive at the reasonable exposure figure of **\$650,000.00**. The higher violation rates
16 occurred in the beginning of the class period with a lower violation rate at the end of the class
17 period. Plaintiff further discounted the meal break claim to account for individual issues, risks
18 of certification, and liability to arrive at a reasonable settlement value of this claim at
19 **\$460,000.00** or approximately **71%** of the reasonable maximum exposure.

20 As to the rest period claim, Plaintiff alleges that Defendant failed to adopt, implement,
21 and enforce a uniform rest period practice that complied with California law. Defendant failed to
22 authorize and permit Plaintiff and the putative class members to take duty-free rest periods of 10
23 minutes for every four hours worked or major fraction thereof, by requiring Plaintiff and the
24 putative class members to regularly work through their rest periods to complete their duties
25 and/or remain on the premises for the premises for their breaks. As such, Plaintiff and the
26 putative class members were not authorized and permitted to take their duty-free off premises
27 rest periods. Plaintiff relied on his personal experience to arrive at a reasonable exposure value
28 of **\$450,000.00**. This reasonable exposure is based on a violation rate of approximately of one
(1) rest break violations per pay period. Plaintiff places a reasonable settlement value of

1 **\$255,500.00** or approximately **57%** to account for potential difficulties in certifying a rest period
2 class and for liability purposes. Defendant contends that the class is not amenable to certification
3 as a result of a myriad of individual issues. Accordingly, the settlement value results in an
4 approximate 1 rest violations per pay period.

5 Likewise, as explained above, if Defendant were to successfully prevail on a motion for
6 summary judgment that it was not the class members' employer, that would further lessen the
7 value of the meal and rest break claims.

8 **C. Paystub Claim**

9 As to the paystub penalty, Defendant failed to properly calculate the rates of pay per the
10 bonus. This claim is derivative for above violations. To reiterate these theories are as follows:
11 deficient paystubs due to (1) (derivative) failure to list the correct gross wages earned, net wages
12 earned, and the applicable hourly rates (including the correct overtime rate) as a result of the
13 regular rate miscalculation on overtime rates in those pay periods that the bonuses paid covered.
14 The Plaintiff arrived at a maximum reasonable exposure of this claim of approximately
15 **\$335,00.00**. This figure was arrived at by first calculating the exposure on the unreasonable
16 assumption that 100% of each wage statement that was provided to the class members violated
17 LC §226, this maximum exposure, provided a baseline in determining the reasonable value.
18 Plaintiff believes the reasonable settlement value of this claim is approximately **\$100,000.00** or
19 **30%** of the reasonable exposure, is proper. This is especially true given the case of *Maldonado*
20 *v. Epsilon Plastics. Inc.*, 22 Cal.App.5th 1308 (2018), where the Court of Appeal has stated pure
21 derivative pay stub claims are not viable and there is a question now in light of the recent holding
22 in *Naranjo v. Spectrum Sec. Servs., Inc.* (2023) 88 Cal.App.5th 937 which determined that an
23 employer if the employer has a good faith belief they are complying with the wage statement
24 statute, that could constitute a defense.

24 **D. LC 2802 (Reimbursement)**

25 California Labor Code section 2802(a) provides:

26 An employer shall indemnify his or her employee for all necessary expenditures
27 or losses incurred by the employee in direct consequence of the discharge of his
28 or her duties, or of his or her obedience to the directions of the employer, even
though unlawful, unless the employee, at the time of obeying the directions,
believed them to be unlawful.

1 Plaintiff contends that Defendant failed to comply with California's reimbursement
2 requirements by failing to adequately reimburse Plaintiff and the class members for using their
3 personal cell phones while working for Defendants. See Cochran v. Schwan's Home Serv., Inc.,
4 228 Cal. App. 4th 1137 (2014).

5 In Cochran, the court stated: "The threshold question in this case is this: Does an
6 employer always have to reimburse an employee for the reasonable expense of the mandatory
7 use of a personal cell phone, or is the reimbursement obligation limited to the situation in which
8 the employee incurred an extra expense that he or she would not have otherwise incurred absent
9 the job? The answer is that reimbursement is always required. Otherwise, the employer would
10 receive a windfall because it would be passing its operating expenses on to the employee. Thus,
11 to be in compliance with section 2802, the employer must pay some reasonable percentage of the
12 employee's cell phone bill." Id. at 1144.

13 Moreover, Plaintiff and the putative class members incurred work-related expenses due to
14 being required to pay for hard copies of paychecks in lieu of direct deposit, without
15 reimbursement by Defendant. Defendant contends they reimbursed Plaintiff for all reimbursable
16 expenses, including hard copies of pay checks.

17 Plaintiff contends that this claim is valued at **\$35,000.00**. Given the fact that there are
18 individualized issues in proving reimbursement violations and damages, Plaintiff believes there
19 is a 27% chance of proving all of these damages. Also, there was a possibility that not all class
20 members had this charge assessed. As such, Plaintiff believes the true exposure amount is
21 **\$9,500.00**.

22 **E. Waiting Time Penalty**

23 The waiting time penalty claim is derivative. Accordingly, the reasonable exposure of
24 this claim is approximately **\$250,000.00**. The reasonable exposure is based on the assumption
25 that Plaintiff could prevail on approximately **22%** of the full value of the claim. The Plaintiff
26 discounted the full value of the claim as it is not reasonable to believe that the Court would
27 award 100% of waiting time penalties to each class member that is no longer with the company,
28 on a pure derivative basis. The reasonable exposure is based on risk and the fact that waiting
time penalties are not awarded if a good faith dispute exists as the class would not have been able

1 to prove “willful” withholding of wages. Furthermore, as stated above, this was a derivative
2 claim. Plaintiff considered that under Labor Code §203 there is only a penalty if "an employer
3 willfully fails to pay" all wages due to an employee upon separation. Willfulness does not exist if
4 there is a "good faith dispute," in fact or law that wages were due, even if the employer's
5 reasoning ultimately proves incorrect. Amaral v. Cintas Corp. (2008) 163 10 Cal.App.4th 1 157,
6 1204; Title 8 Cal. Code Regs. § 13520 ("A 'good faith dispute' that any wages are due occurs
7 when an employer presents a defense, based in law or fact which, if successful, would preclude
8 any recover on the part of the employee. The fact that a defense is ultimately unsuccessful will
9 not preclude a finding that a good faith dispute did exist.")

10 Once Plaintiff determined the maximum reasonable value of the claim, Plaintiff reviewed
11 the data provided and determined that Plaintiff and the class had about a 22% chance to recover
12 on the reasonable settlement exposure. Accordingly, Plaintiff arrives at the reasonable
13 settlement value of **\$55,000.00** for the waiting time penalty claim.

14 9. The settlement class is composed of:

15 All current and former non-exempt hourly employees employed by Defendant Venture
16 Dynamics Enterprises, Inc. and placed at NASSCO, Colonna’s, and/or Bay City in the State of
17 California between February 7, 2018 and May 31, 2023 (the “Class Period”).

18 10. The settlement amount is fair and reasonable based on a review of all objective
19 evidence. The parties’ assessment of the matter is based on extensive research before and during
20 the litigation and the informal production of data and policies as part of the agreement to mediate
21 this matter. Additionally, Plaintiff hired an expert to evaluate the time and payroll records that
22 were produced for mediation purposes.

23 11. This settlement, subject to the Court's approval, is the product of tremendous
24 effort, and a great deal of expense by the parties and their counsel. The settlement was reached
25 after factual and legal research, discovery, including informal data exchange, including the
26 Plaintiff’s and class payroll records and sampling of time records, review of hundreds of pages of
27 documents, and one (1) full-day mediation.

28 12. I believe that the class representative individual award of Seven Thousand Five-
Hundred Dollars (\$7,500.00) to Noe Ponce Ceja is fair and reasonable. Furthermore, the

enhancement does include a very broad and comprehensive general release, a Civil Code §1542 General Release. See Declaration of Noe Ponce Ceja filed concurrently herewith. Plaintiff was instrumental in providing information throughout this litigation and was vigilant to ensure class members were fairly treated. Plaintiff did sign a Retainer Agreement and Duties of Class Representative documents indicating that he understood the risks and obligations of acting as a Class Representative.

13. Noe Ponce was instrumental in getting the settlement figure for the benefit of the class. There are few individuals that are willing to act as Class Representative in these types of actions. There is no doubt that without the Noe Ponce's hard work, diligence, and willingness to assume a large financial risk, there would have been no recovery in this case. Furthermore, the class representative does not have any conflicts of interest or claims that were antagonistic to the class claims that would prevent him from fairly and adequately protecting class interests through trial.

14. The parties have agreed to utilize the services of Rust Consulting, Inc. ("Rust") to serve as the Settlement Administrator. Declarant has obtained bids for Settlement Administrator services from two (2) separate companies. A true and correct copy of Rust's estimate dated March 13, 2023, to administer this settlement is attached hereto and marked as **Exhibit 2**. Said costs should not exceed **\$18,000.00**.

15. A true and correct copy of the Notice of Class Action Settlement and Hearing Date for Final Court Approval, which Rust will mail to the class, is attached hereto as **Exhibit 6**.

16. A true and correct copy of Rust's qualifications are attached hereto and marked as **Exhibit 3**.

17. The parties have allocated \$40,000.00 as the PAGA allocation. (**Exh. 1** Settlement Agreement ¶3.2.5.) Furthermore, my office will upload the Settlement Agreement, Notice of Motion, the Memorandum of Points and Authorities, and the declarations in support of the proposed settlement to the LWDA, pursuant to Labor Code § 2699 (l)(2) upon filing. See Proof of Submission of Settlement Agreement (**Exh. 4**, hereto).

18. Janelle Carney – Attorney at Law, APC and Frontier Law Center have always been prepared to zealously pursue this case on behalf of the Class Members through trial on the

merits if necessary. All Class Counsel in this settlement maintained the best interests of the class members in litigating the case and ultimately settling the matter. All counsel has agreed to a fee split and advised Plaintiff of the fee split in writing and obtained consent of the class representative of the fee split which is set forth in this paragraph. The client and class representatives have approved of the fee split in a written agreement as required by California Rules of Professional Conduct 1.5.1. The fee split provides that Janelle Carney – Attorney at Law, APC and Frontier Law Center will each receive **50%** of any fee. The total amount of attorneys’ fees requested in this matter is \$333,333.33. Accordingly, assuming the Court awards the full amount of attorneys’ fees, the fee split would result as follows:

Janelle Carney – Attorney at Law, APC:	\$166,666.66
Frontier Law Center:	\$166,666.66
Total Fee Request	\$333,333.33

19. Janelle Carney – Attorney at Law, APC’s (JCAL) costs are approximately \$9,081.98 as of the date of this declaration. Attached to this declaration as **Exhibit 5** is a true and correct copy of JCAL’s cost bill. Frontier Law Center is submitting its own itemized cost bill attached as exhibits to their respective declarations filed concurrently herewith. Plaintiff’s attorneys request a cost reimbursement of not more than \$25,000.00, exclusive of Settlement Administration Costs. Class counsels’ total costs to date are as follows:

JCAL:	\$9,082.36
Frontier Law Center:	\$10,549.93
Total:	\$19,632.29

Declarant will provide a supplemental detailed cost bill along with the Final Approval Declaration to verify said costs incurred and requested. JCAL further requests a reasonable future cost estimate from the date of Preliminary Approval through final distribution of \$1,500, as the current cost figures do not include final billing of costs that will result during the claims process and Final Approval filings, but of course, declarant will update the Court with costs incurred at the time of filing the Final Approval papers in this action. I have reviewed each cost incurred to date and believe each cost to be reasonable and necessary in order to effectively prosecute the claims of the class.

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

3 Executed at Chino Hills, California on this 30th day of May 2023.

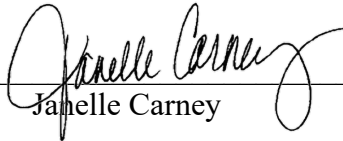
4 
5 Janelle Carney
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Exhibit 1

1 Janelle Carney (201570)
janelle@janellecarneylaw.com
2 **JANELLE CARNEY- ATTORNEY AT LAW, APC**
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3 Chino Hills, CA 91709-6025
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4 Attorneys for Plaintiff, Noe Ponce Ceja
5 *(Additional Plaintiff's Counsel listed on next page)*

6 JULIE O'DELL (BAR NO. 291083)
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10 Attorneys for Defendant
11
12

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF SAN DIEGO**
15

16 NOE PONCE CEJA, individually and on
17 behalf of all others similarly situated,

18 Plaintiff,

19 v.

20 VENTURE DYNAMICS ENTERPRISES,
INC. and DOES 1 to 100,

21 Defendants.
22
23
24
25
26
27

Case No. 37-2022-00004908-CU-OE-CTL

STIPULATION OF SETTLEMENT

1 Manny Star (319778)
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3 Adam Rose (210880)
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5 **FRONTIER LAW CENTER**
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8 Tel.: (818) 914-3433 / Fax (818) 914-3433
9
10 Attorneys for Plaintiff, Noe Ponce Ceja
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1 TO THE COURT AND ALL ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that this Stipulation of Settlement (“Settlement Agreement”) is
3 reached by and between Plaintiff Noe Ponce Ceja (“Plaintiff” or “Class Representative”),
4 individually and on behalf of all members of the Settlement Class (defined below), on one hand, and
5 Defendant Venture Dynamics Enterprises, Inc. (“Defendant”), on the other hand. Plaintiff and
6 Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are
7 represented by Janelle Carney of Janelle Carney – Attorney at Law, APC and Manny Star and Adam
8 Rose of Frontier Law Center (collectively, “Class Counsel”). Defendant is represented by Julie W.
9 O’Dell of Armstrong Teasdale LLP.
10

11 On February 7, 2022, Plaintiff filed a class action complaint against Defendant in Los
12 Angeles County Superior Court entitled NOE PONCE CEJA v. VENTURE DYNAMICS
13 ENTERPRISES, INC. *and Does 1 through 100*, in the Superior Court of California, County of San
14 Diego, Case No. 37-2022-00004908-CU-OE-CTL. On March 23, 2022, Plaintiff filed the operative
15 First Amended Complaint (the “Action”). The Action alleges: (1) Violation of Business &
16 Professions Code §17200, et seq. (2) Violation of Labor Code §§ 204, 510, 1194, and 1198; (3)
17 Inaccurate Wage Statements in Violation of Labor Code §226; (4) Failure to Provide Meal
18 Periods; (5) Failure to Provide Rest Periods; (6) Work Expenditure Reimbursements; (7) Waiting
19 Time Penalties; (8) Penalties Under PAGA Labor Code §2698, et seq. On June 23, 2022, Defendant
20 removed the Action to the United States District Court, Southern District of California, Case No.
21 3:22-cv-00918-L-AHG (“Federal Court”). On March 22, 2023, following the Parties’ Joint Motion
22 to Remand to State Court, the Federal Court issued an order remanding the Action back to the
23 Superior Court of California, County of San Diego.
24

25 Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually
26
27

1 and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

2 **1. Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and
3 Defendant stipulate to the certification of the following Settlement Class:

4 All current and former non-exempt hourly employees employed by Defendant
5 Venture Dynamics Enterprises, Inc. and placed at NASSCO, Colannas, and/or Bay
6 City in the State of California between February 7, 2018 and May 31, 2023 (the
"Class Period").

7 The Parties agree that certification for purposes of settlement is not an admission that class
8 certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this
9 Settlement Agreement is not approved or is terminated, in whole or in part, this conditional
10 agreement to class certification will be inadmissible and will have no effect in this matter or in any
11 claims brought on the same or similar allegations, and the Parties shall revert to the respective
12 positions they held prior to entering into the Settlement Agreement.

13
14 **2. Release by Settlement Class Members and Plaintiff.** Plaintiff and every member of the
15 Settlement Class (except those who opt out pursuant to the procedures detailed below) will release
16 and discharge Defendant and its parents, predecessors, successors, all affiliates, subsidiaries,
17 officers, directors, agents, employees, and stockholders (collectively, the "Released Parties"¹), as
18 follows:
19

20 A. Settlement Class members who do not timely opt-out will release and discharge the
21 Released Parties from any and all wage and hour claims that were pleaded or could
22 have been pleaded under the Labor Code, or federal, state or local wage and hour
23 laws, including the FLSA, based on the facts alleged in the Second Amended
24

25
26
27 ¹ The Parties agree that the Released Parties do not include NASSCO, Colannas, or Bay City.

1 Complaint, including claims for failure to timely pay wages, failure to pay all
2 overtime wages, minimum wage violations, meal period violations, rest period
3 violations, wage statement violations, failure to indemnify all necessary business
4 expenditures, waiting time penalties, statutory penalties, civil penalties under the
5 PAGA, interest, and liquidated damages, and violation of Business & Professions
6 Code section 17200 (“Released Claims”). This release shall run from December 7,
7 2018 until May 31, 2023.

9 It is understood and acknowledged that Settlement Class members who were
10 employed by Defendant at any point between January 17, 2021 and May 31, 2023
11 (the “PAGA Aggrieved Employees”) will be issued a check for their share of the
12 PAGA Amount, as defined below, regardless of whether they submit a timely
13 Request for Exclusion from the Settlement. PAGA Aggrieved Employees shall be
14 deemed to have released all claims for civil penalties under the PAGA with respect
15 to the underlying wage and hour claims pleaded or which could have been pleaded
16 in the Second Amended Complaint. This release shall run from January 17, 2021
17 until May 31, 2023.

19 By signing and cashing their settlement checks, Settlement Class members shall also
20 consent to opt-in to the FLSA collective action, and shall release and waive all claims
21 under the FLSA. The back of each settlement check shall include the following
22 language acknowledging the opt-in and release of FLSA claims: “I understand that
23 by signing and cashing this settlement check, I consent to opt-in to the Fair Labor
24 Standards Act (“FLSA”) collective action in the matter titled, NOE PONCE CEJA
25 v. VENTURE DYNAMICS ENTERPRISES, INC., Superior Court of California,
26
27

County of San Diego, Case No. 37-2022-00004908-CU-OE-CTL, and will release and waive all claims under the FLSA as set forth in the Stipulation of Settlement and Notice of Class Action Settlement.”

The effective date of the Released Claims shall be the date on which Defendant fully funds the Maximum Settlement Amount.

B. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has agreed to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers’ compensation claims nor any other claims which cannot be released as a matter of law, but includes supplemental benefits under California Labor Code sections 132(a) and 4553. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

The Settlement will become final and effective only upon the occurrence of all of the following events: (a) the Court enters an order granting preliminary approval of the Settlement; (b) the Court enters an order granting final approval of the Settlement; (c) any challenge to the Settlement, whether by objection or appeal, is resolved in favor of enforcement of the Settlement, (d) the time for appealing the order of final

1 approval has expired without the filing of an appeal or all appeals have been
2 exhausted and resolved in favor of affirming final approval, and (e) if no objection
3 or motion for intervention is filed prior to Final Approval, then the date the court
4 enters judgment. Should this Settlement Agreement not be finally approved (or if
5 approval is reversed or materially modified on appellate review), this Settlement shall
6 be null and void.
7

8 3. **Maximum Settlement Amount.** As consideration, Defendant agrees to pay a “Maximum
9 Settlement Amount” of One Million Dollars and Zero Cents (\$1,000,000.00) in full and
10 complete settlement of the Action, as follows:

11 A. The Parties have agreed to engage Rust as the “Settlement Administrator” to
12 administer this Settlement.
13

14 B. The Maximum Settlement Amount shall be deposited with the Settlement
15 Administrator as follows:

16 (1) Defendant will pay \$500,000.00 within 15 business days after the Effective
17 Date. The “Effective Date” is the later of (1) the date on which all time
18 limitations for filing an appeal from the Court’s Judgment and Final Order
19 Granting Approval of Class Action Settlement have expired without a
20 notice of appeal having been timely filed (that is, 31 calendar days from
21 entry of final judgment) or (2) if a timely appeal is filed, the date of the final
22 resolution of that appeal and any subsequent appeals resulting in final
23 judicial approval of this class action settlement (“First Lump Sum
24 Payment”); and
25
26
27
28

(2) Defendant will pay \$500,000.00 within six (6) months after the date of the First Lump Sum Payment.

C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:

- (1) All payments (including interest) to the Settlement Class;
- (2) All costs of the Settlement Administrator which are anticipated to be no greater than \$18,000.00, which includes all costs related to the Class Notice mailing;
- (3) Up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for Plaintiff's Class Representative Enhancement Payment in recognition for Plaintiff's contributions to the Action and Plaintiff's service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Payment, Plaintiff shall not have the right to revoke the Settlement Agreement for that reason, and the Settlement will remain binding and the amounts not approved will be distributed to the class members on a pro rata basis;
- (4) Up to 33.33 (%) of the Maximum Settlement Amount in Class Counsel's attorneys' fees (currently estimated at \$333,333.33), plus actual costs and expenses incurred by Class Counsel related to the Action as supported by declaration, which are currently estimated to be no greater than Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke the Settlement Agreement based on that reason, and the Settlement will remain binding,

but Plaintiff's counsel retains the right to appeal any decision on fees and costs;

(5) Forty Thousand Dollars and Zero Cents (\$40,000.00) of the Maximum Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or Thirty Thousand Dollars and Zero Cents (\$30,000.00), will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or Ten Thousand Dollars and Zero Cents (\$10,000.00), will be payable to the Settlement Class members as the "PAGA Amount," as described below; and

(6) Employer payroll taxes

D. Defendant will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert according to the process described below to the Settlement Class members who do not opt-out.

E. **Plaintiff's Waives the Right to Rescind.** Defendant represents that the Settlement Class includes 947 individuals and no more than 51,364 workweeks as of April 1, 2023. Because the Parties have agreed to define the close of the class period to be May 31, 2023, Plaintiff waives the right to rescind the Settlement Agreement. If it is determined that the actual number of workweeks through April 1, 2023 exceed 51,364 workweeks by more than ten percent (10%) (i.e., exceeds 5,136.40 or a total of 56,500.40), then the closing of the release period shall be on the date the Settlement Class members reach the ten percent (10%) threshold.

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement.

Individual Settlement Payments will be determined and paid as follows:

A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, the Class Representative Enhancement Payment, the Settlement Administrator's fees and expenses for administration, and the amount of PAGA civil penalties designated as payable to the LWDA. The remaining amount shall be known as the "Net Settlement Amount."

B. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

i. PAGA Amount: The \$10,000.00 payable to the Settlement Class members as PAGA civil penalties shall be designated as the "PAGA Amount." Each PAGA Aggrieved Employee who was employed by Defendant at any time between January 17, 2021 to May 31, 2023, regardless of whether they timely submit a Request for Exclusion, shall receive a portion of the PAGA Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period compared to the aggregate number of workweeks worked by all PAGA Aggrieved Employees between January 17, 2021 to May 31, 2023.

ii. Wage Statement Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Defendant at any time between February 7, 2021 to May 31, 2023, shall receive a portion of the

1 Wage Statement Amount proportionate to the number of workweeks that he
2 or she worked during the aforementioned time period compared to the
3 aggregate number of workweeks worked by all participating Settlement Class
4 members during the aforementioned time period.

5
6 iii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount
7 shall be designated as the "Waiting Time Amount." The Waiting Time
8 Amount shall be distributed in equal, pro-rata shares to each participating
9 Settlement Class member who separated their employment from Defendant
10 at any time between February 7, 2019 and May 31, 2023.

11 iv. The remainder of the Net Settlement Amount will be distributed to each
12 participating Settlement Class member based on their proportionate number
13 of workweeks worked during the Class Period, by multiplying the
14 remaining Net Settlement Amount by a fraction, the numerator of which is
15 the Settlement Class member's total workweeks worked during the Class
16 Period, and the denominator of which is the total number of workweeks
17 worked by all participating Settlement Class members during the Class
18 Period.
19

20
21 C. The amounts received by the participating Settlement Class members for their
22 Individual Settlement Payments will not be used for purposes of calculating
23 employee benefits, if applicable.

24 D. Within 10 business days following the full funding of the Maximum Settlement
25 Amount with the Settlement Administrator, the Settlement Administrator will
26 calculate each Settlement Class member's Settlement Payment, and will prepare
27

1 and mail the Individual Settlement Payments to the participating Settlement Class
2 members.

3 E. Each Individual Settlement Payment shall be allocated as 20% wages (subject to
4 applicable withholdings), and 40% interest and 40% penalties (not subject to
5 withholdings). The Settlement Administrator will be responsible for issuing to
6 participating Settlement Class members an IRS Form W-2 (for amounts paid as
7 wages) and an IRS Form 1099 (for amounts paid as penalties and interest).

8
9 F. Each member of the Settlement Class who receives an Individual Settlement
10 Payment must cash that check within 180 days from the date the Settlement
11 Administrator mails it. Any funds payable to Settlement Class members whose
12 checks are not cashed within 180 days after mailing shall be distributed to the
13 Controller of the State of California to be held pursuant to the Unclaimed Property
14 Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class
15 member to whom the check was issued, until such time that they claim their
16 property.
17

18 G. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks,
19 forged signatures on checks, or unauthorized negotiation of checks. Unless
20 responsible by its own acts of omission or commission, the same is true for the
21 Settlement Administrator.
22

23 5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total
24 award of attorneys' fees of up to 33.33% of the Maximum Settlement Amount, which is currently
25 estimated to be \$333,333.33. Additionally, Class Counsel will request an award of actual costs and
26 expenses as supported by declaration, in an amount not to exceed \$25,000.00 from the Maximum
27

1 Settlement Amount. These amounts will cover any and all work performed and any and all costs
2 incurred in connection with this litigation, including without limitation: all work performed and all
3 costs incurred to date; and all work to be performed and costs to be incurred in connection with
4 obtaining the Court's approval of this Settlement Agreement, including any objections raised and
5 any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by
6 the Settlement Administrator when the Settlement Administrator pays the fee award approved by
7 the Court.
8

9 **6. Class Representative Enhancement Payment.** Defendant will not object to a request for
10 Class Representative Enhancement Payment of \$7,500.00 for Plaintiff's time and risk in
11 prosecuting this case and Plaintiff's service to the Settlement Class, as well as his general release
12 of all claims. This award will be in addition to Plaintiff's Individual Settlement Payment as a
13 Settlement Class member, and shall be reported on an IRS Form 1099 issued by the Settlement
14 Administrator.
15

16 **7. Settlement Administrator.** Defendant will not object the appointment of Rust as
17 Settlement Administrator. Defendant will not object to Plaintiff seeking approval to pay up to
18 \$18,000.00 for the administration services from the Maximum Settlement Amount. The Settlement
19 Administrator shall be responsible for depositing into an account and holding the various payments
20 from Defendant comprising the Maximum Settlement Amount, sending Notice Packets to the
21 Settlement Class members, calculating Individual Settlement Payments and preparing all checks
22 and mailings, and other duties as described in this Settlement Agreement. The Settlement
23 Administrator shall be authorized to pay itself from the Maximum Settlement Amount only after
24 Individual Settlement Payments have been mailed to all participating Settlement Class members.
25 In no event will Defendant pay any additional amount for claims administration expenses, beyond
26
27

1 the Maximum Settlement Amount.

2 8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement
3 Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- 4 A. Conditionally certifying the Settlement Class for settlement purposes only;
- 5 B. Appointing Janelle Carney of Janelle Carney – Attorney at Law, APC and Manny
- 6 Star and Adam Rose of Frontier Law Center as Class Counsel;
- 7 C. Appointing Plaintiff Noe Ponce Ceja as Class Representative for the Settlement
- 8 Class;
- 9 D. Approving Rust, as Settlement Administrator;
- 10 E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable,
- 11 and adequate;
- 12 F. Approving the form and content of the Notice Packet (which is comprised of the
- 13 Class Notice and Notice of Settlement Award), and directing the mailing of same;
- 14 and
- 15 G. Scheduling a Final Approval hearing.

16 Defendant's counsel shall have a reasonable opportunity to review Plaintiff's Motion for

17 Preliminary Approval of Class Action Settlement prior to it being filed with the Court.

18 9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be

19 notified as follows:

- 20 A. Within 14 calendar days after the Court signs an order preliminarily approving this
- 21 Agreement, Defendant will provide the Settlement Administrator with the names,
- 22 last known addresses, phone numbers, social security numbers, and workweek
- 23 information for each Settlement Class member during the Class Period.

1 B. Within 10 business days from receipt of this information, the Settlement
2 Administrator shall (i) run the names of all Settlement Class members through the
3 National Change of Address (“NCOA”) database to determine any updated
4 addresses for Settlement Class members; (ii) update the address of any Settlement
5 Class member for whom an updated address was found through the NCOA search;
6 (iii) calculate each estimated Individual Settlement Payment; and (iv) mail a Notice
7 Packet to each Settlement Class member at his or her last known address or at the
8 updated address found through the NCOA search, and retain proof of mailing.
9

10 C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or
11 before the Response Deadline shall be re-mailed to the forwarding address affixed
12 thereto. If no forwarding address is provided, the Settlement Administrator shall
13 make reasonable efforts, including utilizing a “skip trace,” to obtain an updated
14 mailing address within 5 business days of receiving the returned Notice Packet. If
15 an updated mailing address is identified, the Settlement Administrator shall resend
16 the Notice Packet to the Settlement Class member immediately, and in any event
17 within 5 business days of obtaining the updated address. The address identified by
18 the Settlement Administrator as the current mailing address shall be presumed to be
19 the best mailing address for each Settlement Class member. Settlement Class
20 members to whom Notice Packets are re-mailed after having been returned as
21 undeliverable to the Settlement Administrator shall have an additional 14 calendar
22 days after the Response Deadline to opt-out, object, or dispute their Individual
23 Settlement Payment. Notice Packets that are re-mailed shall inform the recipient of
24 this adjusted deadline.
25
26
27

1 D. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of
2 the Settlement must complete and mail a Request for Exclusion (defined below) to
3 the Settlement Administrator within 60 calendar days of the date of the initial
4 mailing of the Notice Packets (the "Response Deadline").

- 5
6 i. The Notice Packet shall state that Settlement Class members who wish to
7 exclude themselves from the Settlement must submit a Request for Exclusion
8 by the Response Deadline. The Request for Exclusion must: (1) contain the
9 name, address, telephone number and the last four digits of the Social
10 Security number of the Settlement Class member; (2) contain a statement that
11 the Settlement Class member wishes to be excluded from the Settlement; (3)
12 be signed by the Settlement Class member; and (4) be postmarked by the
13 Response Deadline and mailed to the Settlement Administrator at the address
14 specified in the Class Notice. If the Request for Exclusion does not contain
15 the information listed in (1)-(3), it will not be deemed valid for exclusion
16 from the Settlement, except a Request for Exclusion not containing a
17 Settlement Class member's telephone number and/or last four digits of the
18 Social Security number will be deemed valid. The date of the postmark on
19 the Request for Exclusion shall be the exclusive means used to determine
20 whether a Request for Exclusion has been timely submitted. Any Settlement
21 Class member who requests to be excluded from the Settlement Class will
22 not be entitled to any recovery under this Settlement Agreement and will not
23 be bound by the terms of the Settlement or have any right to object, appeal or
24 comment thereon.
25
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iii. Defendant's Right to Rescind. Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement if more than 10% of the putative Settlement Class members validly opt-out of the Settlement. Defendant shall communicate its decision to nullify the Settlement Agreement in writing to the Settlement Administrator and Class Counsel within 14 calendar days of the expiration of the Response Deadline. Should Defendant exercise this right, Defendant shall be solely responsible for all costs incurred by the Settlement Administrator through the date that Defendant communicates its decision to nullify the Settlement Agreement to the Settlement Administrator and Class Counsel.

-17-

1 person or through their own counsel and raise an objection at the Final Approval
2 Hearing.

3 F. Notice of Individual Settlement Payment / Disputes. Each Notice Packet mailed to
4 a Settlement Class member shall disclose the amount of the Settlement Class
5 member's estimated Individual Settlement Payment as well as all of the information
6 that was used to calculate the Individual Settlement Payment. Settlement Class
7 members will have the opportunity, should they disagree with Defendant's records
8 regarding the information stated in the Notice of Settlement Award, to provide
9 documentation and/or an explanation to show contrary information. Any such
10 dispute, including any supporting documentation, must be mailed to the Settlement
11 Administrator and postmarked by the Response Deadline. If there is a dispute, the
12 Settlement Administrator will consult with the Parties to determine whether an
13 adjustment is warranted. The Settlement Administrator shall determine the
14 eligibility for, and the amounts of, any Individual Settlement Payment under the
15 terms of this Settlement Agreement. However, if the Settlement Administrator and
16 the Parties cannot agree on a resolution, the Parties will submit the dispute to the
17 Court for a final determination.

18 G. Defendant understands its legal obligation not to retaliate against the Settlement
19 Class members for their participation and/or election to participate in the benefits
20 to be afforded any of them by the Settlement and/or the Action except as
21 hereinbefore stated.

22
23
24
25 10. **Final Approval.** Following preliminary approval and the close of the period for filing
26 requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall
27

1 apply to the Court for entry of an Order:

- 2 A. Granting final approval to the Settlement Agreement and adjudging its terms to be
3 fair, reasonable, and adequate;
4 B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs,
5 Class Representative Enhancement Payment, settlement administration costs, and
6 payment to the LWDA for its share of civil penalties under PAGA; and
7 C. Entering judgment pursuant to California Rule of Court 3.769.

9 Defendant's counsel shall have a reasonable opportunity to review Plaintiff's Motion for
10 Final Approval and [Proposed] Final Judgment prior to them being filed with the Court.

11 The Parties agree to mutually waive their rights to appeal the Court's final judgment
12 effective upon entry of the Court's Final Judgment.
13

14 11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be
15 construed as an admission of any liability or damages, or that class certification is appropriate in
16 any context other than this Settlement. Each of the Parties has entered into this Settlement
17 Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence
18 Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a
19 proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not
20 occur, the Parties agree that this Settlement Agreement is void, but remains protected by California
21 Evidence Code Section 1152.
22

23 12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of
24 this Settlement Agreement except by a written agreement signed by all of the Parties, and subject
25 to any necessary Court approval. A waiver or amendment of any provision of this Settlement
26 Agreement will not constitute a waiver of any other provision.
27

13. **Court Modification.** Except as otherwise provided herein, if the Court modifies a material term of this Settlement Agreement, the adversely affected party shall, in its sole discretion, have the right to void this Settlement Agreement in its entirety. The Party who wishes to void this Settlement Agreement shall communicate its decision to nullify the Settlement Agreement in writing provided to the Settlement Administrator and the opposing Party's counsel within 14 calendar days of the entry of the Court's order that materially modifies the Settlement Agreement.

14. **Confidentiality.** The Parties and their counsel will keep the Settlement, the Settlement-related documents, and their Settlement negotiations confidential, and will not disclose that information to any third party until after the date of filing of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Plaintiff shall return or destroy all confidential documents provided to Class Counsel by Defendant, within 30 calendar days after entry of final judgment. Thereafter, Defendant may disclose information only as required under its contractual and legal obligations. Plaintiff and Plaintiff's counsel shall make no public statement or release regarding the Settlement Agreement, including posting information related thereto to their, or third-party's, websites. Plaintiff's Counsel is not prevented from referring to this settlement in any future motions to demonstrate Plaintiff's counsel adequacy.

15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff: Janelle Carney
Janelle Carney – Attorney at Law, APC
14758 Pipeline Ave., Suite E
Chino Hills, CA 91709-6025
janelle@janellecarneylaw.com

1 and

2 Manny Star and Adam Rose
3 Frontier Law Center F
4 23901 Calabasas Rd., #2074
5 Calabasas, CA 91302
manny@frontierlawcenter.com
adam@frontierlawcenter.com

6 if to Defendant: Julie W. O'Dell
7 Armstrong Teasdale LLP
8 19800 MacArthur Boulevard, Suite 300
Irvine, CA 92612
jodell@atllp.com

9 **16. Entire Agreement.** This Settlement Agreement contains the entire agreement between
10 the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations,
11 presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof
12 relating to the subject matters hereof.
13

14 **17. Counterparts.** This Settlement Agreement may be executed by one or more of the Parties
15 on any number of separate counterparts and delivered electronically, and all of said counterparts
16 taken together shall be deemed to constitute one and the same instrument.

17 **18. Continued Jurisdiction.** The Parties will jointly request that after entry of judgment
18 pursuant to the Settlement, the Court retain jurisdiction pursuant to Rule 3.769 of the California
19 Rules of Court and California Code of Civil Procedure § 664.6, for purposes of addressing: (a)
20 the interpretation and enforcement of the terms of this Settlement; (b) settlement administration
21 matters; and (c) such post-judgment matters as may be appropriate under court rules or as set
22 forth in the Settlement Agreement.
23

24 **19. Construction.** The Parties hereto agree that the terms and conditions of the Settlement are
25 the result of lengthy, intensive arms-length negotiations between the Parties, and the Settlement
26 Agreement shall not be construed in favor of or against any party by reason of the extent to
27 which any Party or their counsel participated in the drafting of the Settlement Agreement.
28

1 **20. Captions and Interpretations.** The captions and paragraph numbers or titles contained
2 herein are inserted as a matter of convenience and for reference, and in no way define, limit,
3 extend or describe the scope of the Settlement Agreement or any provision of it. Each term of
4 the Settlement Agreement is contractual and not merely a recital

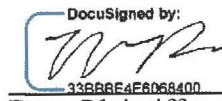
5
6 DATED: 05/10/23

VENTURE DYNAMICS ENTERPRISES, INC.

7
8 By: 

9
10 DATED: 05/01/23 | 4:03 PDT

NOE PONCE CEJA

11 
12 33B86E4F6068400
13 By: Plaintiff and Settlement Class
14 Representative

1 **20. Captions and Interpretations.** The captions and paragraph numbers or titles contained
2 herein are inserted as a matter of convenience and for reference, and in no way define, limit,
3 extend or describe the scope of the Settlement Agreement or any provision of it. Each term of
4 the Settlement Agreement is contractual and not merely a recital

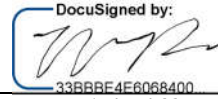
5
6 DATED:

VENTURE DYNAMICS ENTERPRISES, INC.

7
8 By: _____

9
10 DATED: 05/01/23 | 4:03 PDT

NOE PONCE CEJA

11
12  DocuSigned by:
33BBBF4E6068400

13 By: Plaintiff and Settlement Class
14 Representative

1 **APPROVED AS TO FORM:**

2

3 DATED: 5/1/2023

JANELLE CARNEY – ATTORNEY AT LAW,
APC
FRONTIER LAW CENTER

4

5

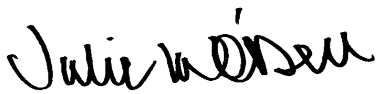
6 By: 
7 An attorney for Plaintiff

8

9 DATED:

ARMSTRONG TEASDALE, LLP

10

11 By: 
12 Julie W. O'Dell
13 Attorney for Defendant

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Exhibit 2



**Settlement Administration Estimate
Ponce v Venture Dynamics Enterprises
March 13, 2023**

**Prepared by:
Eric Bishop
SVP, Client Services
612-359-2988
ebishop@rustconsulting.com**

EXPERIENCE

With experience on approximately 3,000 labor and employment cases, we are the nation's largest labor and employment settlement administrator. We have managed employment settlements with class sizes ranging from dozens to multi-million class members. In fact, we've been trusted to administer many of the nation's largest settlements, including the nation's top wage-and-hour cases in recent years.

DATA SECURITY

Our internal data security practices meet or exceed today's exacting industry standards. Our enterprise-class data security measures are founded on standard business processes including a vigorous employee screening program, ongoing employee security training and a hardened production data center hosted at a Tier 1 network carrier, all designed for ensuring data integrity and security.

DEDICATED SPECIALISTS

Our labor and employment case team is strictly dedicated to managing settlement administration for cases involving matters such as wage-and-hour, FLSA, discrimination and ERISA. They're specialists, not generalists, with an industry reputation for responsiveness and expertise in relevant areas such as the applicable banking and tax regulations. We are confident that Rust is the best choice for the administration of your settlement.

Project Summary

Estimated Class Size 1,100

Project Cost

Mailed Notice	\$	2,483
Telephone Support	\$	2,043
Processing and Administration	\$	165
Fund Distribution & Tax Reporting	\$	4,262
Project Management	\$	8,160
Other Out-of-pocket Expenses	\$	225
Total Project Cost	\$	<u>17,338</u>

Key Assumptions

Spanish Translation Not Included

No Claims Process

Telephone Support Included

No Website

2 Fundings to QSF 6 Mo Apart

1 Distribution to Class

Uncashed Pmts to Controller's Office

Thank you for considering Rust Consulting, Inc. as your administrator -- we appreciate the opportunity to submit this estimate.



**Settlement Administration Estimate
Ponce v Venture Dynamics Enterprises
March 13, 2023**

**Prepared by:
Eric Bishop
SVP, Client Services
612-359-2988
ebishop@rustconsulting.com**

Key Assumptions Used to Prepare this Estimate

Class Size	1,100	
Initial Mailed Notice:		
Mailed Notice	1,100	100.0%
Forwarded Notices	28	2.5%
Undeliverable Notices	165	15.0%
Re-Mailed Notices after Trace	132	80.0%
Telephone Support:		
Number of Telephone Contacts	132	12.0%
Connect Minutes per Call - CSRs	4.0	
Claimant Communications:		
Exclusions Received	6	0.5%
Payments	1,095	100.0%

Standard Hourly Rates*

SVP	\$175-\$275
Program Manager	\$160-\$180
Project Manager	\$100-\$140
Technical Consultant	\$110-\$180
Call Center Manager	\$125
CSR	\$ 43-\$ 50
Processor	\$ 43-\$ 50
Other	\$ 43-\$125

**Subject to change*

Additional Administration Assumptions Used to Prepare this Estimate:

Database Development: Receive and Process Database assumes that the data provided is complete with respect to the data components needed to mail and calculate settlement payments. Data that includes multiple records for individuals or work history that needs to be accumulated and totaled by individual generally requires additional efforts to bring to a point where it is final settlement data. These additional efforts can take a significant amount of time and should be considered when setting key settlement dates, especially the mailed notice deadline. Data must be provided in a complete, consistent, standardized electronic format. Rust's standard format is ASCII fixed width complete with field layout. Other formats may be accepted at Rust's discretion. Resources used to enhance or further develop non-standardized data will be billed on a time and materials basis according to Rust's Current Standard Hourly Rates.

CASS/NCOA/LACS: CASS - Coding Accuracy Support System; NCOA - National Change of Address; LACS - Locatable Address Conversion System.

Notice Package: Print and Mail per unit price is estimated. Actual prices will be provided after form is finalized prior to mailing. Notice package includes notice and exclusion form.

Telephone Support included.

Processing & Administration: Receipt and Process Forms includes open, date stamp, label and data capture a 1-page form with up to five fields.

Project Management: Project Management fees are estimated and will be billed on actual time expended based on the rates found in the Current Standard Hourly Rates section above. The rates included in the estimate are a blended estimate of the rates listed above.

Out of Pocket Expenses: Includes post office box rental, overnight shipments, postage, labels, travel, long distance and other miscellaneous charges and expenses.

Pricing good for 90 days.



**Settlement Administration Estimate
Ponce v Venture Dynamics Enterprises
March 13, 2023**

Prepared by:
Eric Bishop
SVP, Client Services
612-359-2988
ebishop@rustconsulting.com

Administrative Task	Estimated Quantity		Per Unit	Task Amount	Total
Database Development					
Receive and Process Database	1.5	Hours @	\$ 180	\$ 270	\$ 270
Additional Efforts to Finalize Settlement Data				<i>As Incurred</i>	
Initial Mailed Notice					
CASS / NCOA / LACS Processing				\$ 200	
Spanish Translation				NA	
Print and Mail Notice Package	1,100	Notices @	\$ 0.65	\$ 715	
Postage - 1 Ounce First Class	1,100	Notices @	\$ 0.63	\$ 693	\$ 1,608
Follow-up to Initial Notice					
Receive Undeliverable Notices and Update Database	165	Notices @	\$ 0.35	\$ 58	
Address Trace	165	Traces @	\$ 1.50	\$ 248	
Remail Notice Package	160	Notices @	\$ 1.25	\$ 199	
Remail Postage - 1 Ounce First Class	160	Notices @	\$ 0.63	\$ 100	\$ 605
Telephone Support					
Telephone Support	12	Months @	\$ 165	\$ 1,980	
800# Charges	528	Minutes @	\$ 0.12	\$ 63	\$ 2,043
Processing and Administration					
Receipt, Process, and Validate Forms	3	Hours @	\$ 55.00	\$ 165	\$ 165
Additional Administrative Services Requested by Client					<i>As Incurred</i>
Fund Distribution					
Print and Mail Payments	1,095	Payments @	\$ 0.65	\$ 711	
Postage - 1 Ounce First Class	1,095	Payments @	\$ 0.63	\$ 690	
Check Processing	1,095	Payments @	\$ 0.22	\$ 241	
FDIC Charges				\$ 220	
Monthly Bank Account Fee	12	Months @	\$ 75	\$ 900	\$ 2,762
Tax Reporting					
Annual Fee -Qualified Settlement Fund	2	Year @	\$ 500	\$ 1,000	
Individual Income Tax Reporting (W2 & 1099)	1	Year @	\$ 500	\$ 500	\$ 1,500
Project Management					
Senior Vice President	2	Hours @	\$ 225	<i>waived</i>	
Project Management	35	Hours @	\$ 175	\$ 6,125	
Technical Consulting	11	Hours @	\$ 185	\$ 2,035	\$ 8,160
Other Charges and Out-of-pocket Costs					
					\$ 225
Total Settlement Administration Estimate					\$ 17,338



Settlement Administration Estimate Ponce v Venture Dynamics Enterprises March 13, 2023

Prepared by:
Eric Bishop
SVP, Client Services
612-359-2988
ebishop@rustconsulting.com

Terms and Conditions

All claims administration services to be provided by Rust Consulting to Customer shall be subject to the following terms and conditions:

1. **Services.** Subject to the terms hereof, Rust Consulting agrees to provide the Customer with claims administration services (hereinafter, "Claims Services") as specified in the Proposal provided to Customer to which these Terms and Conditions are attached.
2. **Term.** The terms of this agreement will remain in effect until completion of the Claims Services, unless earlier terminated in accordance with Section 10 hereof.
3. **Charges for Services.** Charges to the Customer for Claims Services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Customer to Rust Consulting. Actual fees charged by Rust Consulting to Customer may be greater or less than such estimate, and Customer shall be responsible for the payment of all such charges and expenses in accordance with Section 4 hereof. Furthermore, Customer will be responsible for payment of all state and local sales and use taxes, if any, levied upon the charges payable by the Customer hereunder. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Customer to the extent that funds are received from the taxing authorities offset these charges. Rust Consulting may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.
4. **Payment of Charges.** Payment by Customer of Rust Consulting's monthly invoices shall be due upon receipt thereof. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Customer's liability to Rust Consulting for payment of Claims Services. Claims Services are not provided on a contingency fee basis.
5. **Confidentiality.** Rust Consulting agrees to implement and maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Customer data provided to Rust Consulting by Customer in connection herewith. Should Rust Consulting ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Customer, Rust Consulting will promptly notify the Customer, unless prohibited by applicable law. The Customer shall have the option to (1) provide legal representation at the Customer's expense to avoid such access or (2) promptly reimburse Rust Consulting for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If Rust Consulting is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, Rust Consulting will not be liable for breach of said obligation.
6. **Standard Banking Procedures.** In accordance with Rust Consulting's standard banking procedures, Rust Consulting will establish a demand deposit checking account (i.e. non-interest bearing) for funds received related to a distribution, unless directed otherwise in writing by the parties or unless the settlement agreement stipulates otherwise. When directed to invest funds in an interest bearing or investment accounts, Rust Consulting intends to invest all funds in U.S. government backed securities, unless directed by the parties in writing or the settlement agreement or distribution plan to invest in other types of securities; however, even in cases where funds are temporarily placed in interest bearing or investment accounts, funds will eventually be migrated to a demand deposit checking account prior to a fund distribution.
7. **Rights in Data.** Rust Consulting does not convey nor does the Customer obtain any right in the programs, system data, or materials utilized or provided by Rust Consulting in the ordinary course of business in the performance of this Agreement.
8. **Document Retention.** Unless directed otherwise in writing by Customer, Rust Consulting will destroy undeliverable notice mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Rust Consulting will retain all bank and tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
9. **Limitation of Liability: Disclaimer of Warranty.** Rust Consulting warrants that our services will be performed with reasonable care in a diligent and competent matter. Our sole obligation will be to correct any non-conformance with this warranty. Rust Consulting shall not be liable, whether under theories of contract, negligence or other tort, statutory duty or other theories of liability in an amount exceeding the total charges to the Customer for the specific work affected by the error or omission. Rust Consulting will not be liable for any incidental, special, indirect, consequential or exemplary damages of any kind; or for any lost profits, lost opportunities, business interruption or for any liability incurred by the Customer or others to any third party. THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR USE FOR PARTICULAR PURPOSE.
10. **Termination.** The Claims Services to be provided under this Agreement may be terminated, at will by the Customer upon at least 30 calendar days' prior written notice to Rust Consulting. The Customer's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. Rust Consulting may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Customer is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Customer.
11. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of Rust Consulting or the Customer, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.
12. **Force Majeure.** To the extent performance by Rust Consulting of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond Rust Consulting's reasonable control, then such performance shall be excused and this Agreement, at Rust Consulting's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
13. **Nonwaiver of Rights.** No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.
14. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in the Court.
15. **Survival.** All accrued payment obligations hereunder, any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 7 (Rights in Data); Section 5 (Confidentiality); Section 9 (Limitation of Liability; Disclaimer of Warranty); and Section 14 (Jurisdiction).
16. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

Exhibit 3

Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

FIRM OVERVIEW

Rust Consulting, Inc., a SourceHOV company, is a consulting and administration firm that ranks among the industry leaders in the class action field. Rust provides public and private sector clients a full complement of services required to administer legal settlements and other complex or time-sensitive programs. These services include consulting; project management; data management; notification; contact centers and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the Rust Consulting Group, which was founded in 1976 by Ron Rust as a litigation support firm that pioneered the use of computer technology in litigation support. In 1988, the Group administered its first class action settlement; in 1995, Rust Consulting, Inc. was established as a separate operating entity to focus on legal settlement administration. Since then, Rust has administered more than 4,500 settlements and projects.

Headquartered in Minneapolis, Rust also has offices in Faribault, Minn., Palm Beach Gardens, Fla., Los Angeles, and San Francisco. Our subsidiary Kinsella Media maintains a Washington, D.C., location.

PRACTICE AREA ORGANIZATION

Rust administers programs spanning diverse subject matter. The firm is organized into practice areas relevant to our clients, with our leadership and certain operations and client services personnel focused on specific practice areas, deepening their subject matter expertise and directly relevant experience. Rust's current practice areas are:

- Class actions
 - Antitrust
 - Consumer
 - Finance

- Insurance & Healthcare
- Labor & Employment
- Property
- Securities
- Data breach responses
- Mass tort settlements
- Recalls
- Government services

PERSONNEL

Our permanent staff of approximately 550 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our executive leadership team averages more than 15 years of Rust experience, while our senior vice presidents average nearly 13 years of Rust experience. Our project management staff of approximately 150 has more than 800 years of combined Rust experience.

SERVICES

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

Preliminary Consulting

Rust consults with clients prior to settlement to help anticipate otherwise identified issues that may arise in the management of complex data sets, providing notice, processing claims, and distributing funds, leading to delays and additional costs.

Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements,



internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.
- Extracting data for mailing or other outreach.
- Calculating awards.

Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with two qualified, court-recognized notice experts, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).



Contact Centers

Rust supports the programs we administer through an assortment of contact center services including call centers, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call centers. These call centers are located in our two Minnesota locations, typically contain approximately 800 workstations, and are readily expandable to meet the needs of specific programs. In 2013, our call centers supported several large programs by simultaneously staffing well over 1,000 customer service representatives (CSRs).

To provide high levels of service on complex matters to class members and our clients' customers, Rust maintains a staff of approximately 100 permanent call center employees as a core group of managerial, supervisory, and customer service resources. As required, we engage additional call center staff. All CSRs—permanent or temporary—undergo background checks and training on Rust's policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems. These systems provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for requesting forms or filing claims. Rust's IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.

Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:



- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting / affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs.

- Quality assurance - Positive pay
- Various fraud detection / prevention measures

Tax reporting

- Simultaneously manages more than 500 distribution and interest-bearing accounts containing billions of dollars.
- Tax identification numbers (federal and state).
- Qualified Settlement Fund (QSF) determination.
- Claimant award taxability and reporting.
- W-9 review.
- Quarterly 1120-SF tax deposits.
- Annual 1120-SF tax returns (600+ annually).
- IRS & State 1099 & 1042-S reporting and transmission.
- Backup withholding deposits and 945 annual reporting.
- Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



REPRESENTATIVE CASE EXPERIENCE

Having administered more than 4,500 projects, a complete listing of our experience is voluminous. However, the below table demonstrates the scope of our experience and capacity.

Note: All numbers are rounded

Notices	Case
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).
13 million	<i>In re Checking Account Overdraft Litigation</i> , No. 1:09-MD-02036 (S.D. Fla.) (Bank of America settlement).
12.5 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Ala. Cir. Ct. Mobile County).
\$515 million	<i>In re Countrywide Financial Corp. Securities Litigation</i> , No. CV-07-05295 (C.D. Cal.).
\$432 million	<i>In re Merrill Lynch & Co. Inc. Securities, Derivative and ERISA Litigation</i> , No. 07-cv-9633 (S.D.N.Y.).

Claims	Case
3.4 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
1.2 million	<i>LiPuma v. American Express Co.</i> , No. 04-cv-20314 (S.D. Fla.).
1.1 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.1 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-MD-01999 (E.D. Wisc.).

Calls	Case
2.5 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar Corp.</i> , No. DKC93-1503 (D. Md.).
1.3 million	National Mortgage Settlement
1 million	<i>In re Metropolitan Life Insurance Co. Sales Practice Litigation</i> , MDL 1091 (W.D. Penn.).
1 million	<i>Naef v. Masonite Corp.</i> , No. CV 94-4033 (Ala. Cir. Ct. Mobile County).



DATA AND SYSTEM SECURITY

The secure handling of data, systems, and applications is of utmost importance to Rust and its clients. As such, Rust actively mitigates potential threats by adhering to a complex set of best practices, including documented and audited processes and a business continuity plan to ensure uninterrupted, secure service. As part of this “unified compliance posture,” Rust:

- Has received a system Certification & Accreditation under the Federal Information Security Management Act (“FISMA”). The framework for FISMA compliance is driven by the National Institute of Standards and Technology (“NIST”), which provides a unified security framework spanning three major security control classes (technical, operational, and management) and 18 control areas with more than 250 security controls.
- Complies with and adheres to Safe Harbor Principles, which cover notice and choice, disclosures and transfers, data security, data integrity, access to and removal of personal information, and enforcement and dispute resolution.
- Undergoes an annual SSAE16 SOC 1 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act of 1999, which controls how financial institutions deal with individuals’ private information.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.



Exhibit 4

Jerin Wilkinson

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Tuesday, May 30, 2023 2:14 PM
To: Jerin Wilkinson
Subject: Thank you for your Proposed Settlement Submission

05/30/2023 12:13:22 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Exhibit 5

Janelle Carney - Attorney at Law, APC

Transaction Report

All Dates

DATE	TRANSACTION TYPE	NUM	NAME	MEMO/DESCRIPTION	ACCOUNT	SPLIT	AMOUNT	BALANCE
Court Costs								
Ponce								
03/25/2022	Expense		janney & janney	JANNEY & JANNEY ATTORN 213-6286338 CA	Court Costs	citibank	13.00	13.00
07/14/2022	Expense		janney & janney	filing costs	Court Costs	citibank	13.00	26.00
07/18/2022	Expense		janney & janney	JANNEY & JANNEY ATTORN 213-6286338 CA	Court Costs	citibank	140.00	166.00
07/25/2022	Expense		janney & janney	JANNEY & JANNEY ATTORN 213-6286338 CA	Court Costs	citibank	33.70	199.70
Total for Ponce							\$199.70	
Total for Court Costs							\$199.70	
expert witness								
Ponce								
03/01/2023	Check	1214	econ one	CHECK 1214	expert witness	Checking (9585)	2,631.98	2,631.98
Total for Ponce							\$2,631.98	
Total for expert witness							\$2,631.98	
Legal & Professional Services								
Ponce								
08/05/2022	Expense		Steve Rottman	ACH Electronic Debit 80522STEVEN J. ROTTMASALE	Legal & Professional Services	Savings	6,250.00	6,250.00
Total for Ponce							\$6,250.00	
Total for Legal & Professional Services							\$6,250.00	
Reimbursable Expenses								
Ponce								
08/25/2022	Expense		infinite conferencing	conference call costs	Reimbursable Expenses	Checking (9585)	0.68	0.68
Total for Ponce							\$0.68	
Total for Reimbursable Expenses							\$0.68	
TOTAL							\$9,082.36	

Exhibit 6

1 Janelle Carney (201570)
2 janelle@janellecarneylaw.com
3 **JANELLE CARNEY- ATTORNEY AT LAW, APC**
4 14758 Pipeline Ave., Suite E
5 Chino Hills, CA 91709-6025
6 Tel.: (909) 393-0223 / Fax: (909) 393-0471

7 Attorneys for Plaintiff, Noe Ponce Ceja
8 *(Additional Plaintiff's Counsel listed on next page)*

9 JULIE O'DELL (BAR NO. 291083)
10 ARMSTRONG TEASDALE LLP
11 19800 MacArthur Boulevard, Suite 300
12 Irvine, CA 92612
13 Telephone: 314.621.5070
14 Facsimile: 314.621.5065
15 jodell@atllp.com

16 Attorneys for Defendant

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

NOE PONCE CEJA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

VENTURE DYNAMICS ENTERPRISES,
INC. and DOES 1 to 100,

Defendants.

Case No. 37-2022-00004908-CU-OE-CTL

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

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

1 Manny Star (319778)
2 manny@frontierlawcenter.com
3 Adam Rose (210880)
4 adam@frontierlawcenter.com
5 **FRONTIER LAW CENTER**
6 23901 Calabasas Rd., #2074
7 Calabasas, CA 91302
8 Tel.: (818) 914-3433 / Fax (818) 914-3433
9
10 Attorneys for Plaintiff, Noe Ponce Ceja
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**NOTICE OF CLASS ACTION SETTLEMENT AND
HEARING DATE FOR FINAL COURT APPROVAL**

1
2 **NOTICE OF CLASS ACTION SETTLEMENT AND**
3 **HEARING DATE FOR FINAL COURT APPROVAL**

4 *Ponce v. Venture Dynamics Enterprises, Inc.*

5 San Diego Superior Court Case No. 37-2022-00004908-CU-OE-CTL

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

9 **You may be eligible to receive money** from an employee class action lawsuit ("Action")
10 against Defendant, Venture Dynamics Enterprises, Inc. (hereinafter referred to as "Defendant")
11 for alleged wage and hour violations. The Action was filed by Noe Ceja Ponce, a former
12 employee of Defendant.

13 Plaintiff seeks payment for violations of California's Labor Code for a class of all current
14 and former non-exempt hourly employees employed by Defendant Venture Dynamics
15 Enterprises, Inc. and placed at NASSCO, Colannas, and/or Bay City in the State of California
16 between February 7, 2018 and May 31, 2023 (the "Class Period").

17 The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant
18 to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund
19 Individual PAGA Payments and pay penalties to the California Labor and Workforce
20 Development Agency ("LWDA").

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

27 The above estimates are based on Defendant's records showing that **you worked _____**
28 **workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA

Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment.

As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released
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	Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is _____ (45 days)	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by _____ (45 days)	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members.
You can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of

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	this Notice.
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2 **1. WHAT IS THE ACTION ABOUT?**

3 Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating
4 California labor laws by failing to pay all wages, specifically failing to pay proper premium
5 overtime, failing to calculate the regular rate when paying non-discretionary bonuses, and
6 failing to pay work performed off-the-clock; failing to provide meal periods and rest breaks;
7 failing to provide accurate itemized wage statements; failing to pay all wages due at the time of
8 separation; and failing to reimburse business expenses. Based on the same claims, Plaintiff has
9 also asserted a claim for civil penalties under the California Private Attorneys General Act
10 (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action:
11 Janelle Carney of Janelle Carney – Attorney at Law, APC and Manny Starr and Adam Rose of
12 Frontier Law Center (“Class Counsel.”)

13 Defendant strongly denies violating any laws or failing to pay any wages and contend
14 they complied with all applicable laws.

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

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

25 Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because
26 they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount
27 considering the strength of the claims and the risks and uncertainties of continued litigation; and
28 (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court

preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

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

1. Defendant Will Pay 1,000,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA").

Assuming the Court grants Final Approval, Defendant will pay \$500,000.00 within 15 business days after the Effective Date. The "Effective Date" is the later of (1) the date on which all time limitations for filing an appeal from the Court's Judgment and Final Order Granting Approval of Class Action Settlement have expired without a notice of appeal having been timely filed (that is, 31 calendar days from entry of final judgment) or (2) if a timely appeal is filed, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial approval of this class action settlement ("First Lump Sum Payment"); and

Defendant will pay the final lump sum of \$500,000.00 within six (6) months after the date of the First Lump Sum Payment.

The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Settlement Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$ 333,333.33 (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on

the Action without payment.

B. Up to \$7,500.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to \$18,000.00 to the Administrator for services administering the Settlement.

D. Up to \$40,000.00 for PAGA Penalties, allocated 75% (\$30,000.00) to the LWDA PAGA Payment and 25% (\$10,000.00) in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") minus any applicable taxes, as set forth in Paragraph 4., below, by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion"), 40% interest, and 40% penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms.

Any employer payroll taxes Defendant owes on the Wage Portion shall be paid from the gross settlement fund. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms. It will be your responsibility to pay any tax owing on these amounts.

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

6 5. Need to Promptly Cash Payment Checks. The front of every check issued for
7 Individual Class Payments and Individual PAGA Payments will show the date when the check
8 expires (the void date). If you don't cash it by the void date, your check will be automatically
9 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
10 Fund in your name. If the monies represented by your check is sent to the Controller's
11 Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve
12 your money.

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

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

27 7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
28 possible the Court will decline to grant Final Approval of the Settlement or decline to enter a

Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, Rust Consulting, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and remail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement less employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Venture Dynamics Enterprises, Inc., for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

A. Settlement Class members who do not timely opt-out will release and discharge the Released Parties from any and all wage and hour claims that were pleaded or could have been pleaded under the Labor Code, or federal, state or local wage and hour laws, including the FLSA, based on the facts alleged in the Third Amended Complaint, including claims for failure to timely pay wages, failure to pay all wages, failure to pay all overtime wages, minimum wage violations, meal period violations, rest period violations, wage statement violations, failure to indemnify all necessary business expenditures, waiting time penalties, statutory penalties, civil penalties under the PAGA, interest, and liquidated damages, and violation of Business & Professions Code section 17200 (“Released Claims”). This release shall run from December 7, 2018 until May 31, 2023.

1 It is understood and acknowledged that Settlement Class members who were employed by
2 Defendant at any point between January 17, 2021 and May 31, 2023 (the “PAGA Aggrieved
3 Employees”) will be issued a check for their share of the PAGA Amount, as defined below,
4 regardless of whether they submit a timely Request for Exclusion from the Settlement. PAGA
5 Aggrieved Employees shall be deemed to have released all claims for civil penalties under the
6 PAGA with respect to the underlying wage and hour claims pleaded or which could have been
7 pleaded in the Second Amended Complaint. This release shall run from January 17, 2021 until
8 May 31, 2023.

9 By signing and cashing their settlement checks, Settlement Class members shall also
10 consent to opt-in to the FLSA collective action, and shall release and waive all claims under the
11 FLSA. The back of each settlement check shall include the following language acknowledging
12 the opt-in and release of FLSA claims: “I understand that by signing and cashing this settlement
13 check, I consent to opt-in to the Fair Labor Standards Act (“FLSA”) collective action in the
14 matter titled, NOE PONCE CEJA v. VENTURE DYNAMICS ENTERPRISES, INC., Superior
15 Court of California, County of San Diego, Case No. 37-2022-00004908-CU-OE-CTL, and will
16 release and waive all claims under the FLSA as set forth in the Stipulation of Settlement and
17 Notice of Class Action Settlement.”

18 The effective date of the Released Claims shall be the date on which Defendant fully
19 funds the Maximum Settlement Amount.

20 B. In light of Plaintiff’s Class Representative Enhancement Payment, Plaintiff has
21 agreed to release, as an individual and in addition to the Released Claims described above, all
22 claims, whether known or unknown, under federal law or state law against the Released Parties.
23 The Parties understand and agree that Plaintiff is not, by way of this release, releasing any
24 workers’ compensation claims nor any other claims which cannot be released as a matter of law,
25 but includes supplemental benefits under California Labor Code sections 132(a) and 4553.
26 Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims
27 and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the
28 California Civil Code, which provides:

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

5 The Settlement will become final and effective only upon the occurrence of all of the
6 following events: (a) the Court enters an order granting preliminary approval of the Settlement;
7 (b) the Court enters an order granting final approval of the Settlement; (c) any challenge to the
8 Settlement, whether by objection or appeal, is resolved in favor of enforcement of the
9 Settlement, (d) the time for appealing the order of final approval has expired without the filing of
10 an appeal or all appeals have been exhausted and resolved in favor of affirming final approval,
11 and (e) if no objection or motion for intervention is filed prior to Final Approval, then the date
12 the court enters judgment. Should this Settlement Agreement not be finally approved (or if
13 approval is reversed or materially modified on appellate review), this Settlement shall be null
14 and void.

15 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

16 A. From the Net Settlement Amount, the Settlement Administrator will calculate
17 each Settlement Class member's Individual Settlement Payment based on the following formula:

18 i. PAGA Amount: The \$10,000.00 payable to the Settlement Class members
19 as PAGA civil penalties shall be designated as the "PAGA Amount." Each PAGA Aggrieved
20 Employee who was employed by Defendant at any time between January 17, 2021 to May 31,
21 2023, regardless of whether they timely submit a Request for Exclusion, shall receive a portion
22 of the PAGA Amount proportionate to the number of workweeks that he or she worked during
23 the aforementioned time period compared to the aggregate number of workweeks worked by all
24 PAGA Aggrieved Employees between January 17, 2021 to May 31, 2023.

25 ii. Wage Statement Amount: Ten percent (10%) of the Net Settlement
26 Amount shall be designated as the "Wage Statement Amount." Each participating Settlement
27 Class member who was employed by Defendant at any time between February 7, 2021 to May
28 31, 2023, shall receive a portion of the Wage Statement Amount proportionate to the number of

workweeks that he or she worked during the aforementioned time period compared to the aggregate number of workweeks worked by all participating Settlement Class members during the aforementioned time period.

iii. Waiting Time Amount: Ten percent (10%) of the Net Settlement Amount shall be designated as the “Waiting Time Amount.” The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time between February 7, 2019 and May 31, 2023.

iv. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

B. **Workweek/Pay Period Challenges.** The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant’s records, are stated in the first page of this Notice. You have until _____ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail. (See Section 9 of this Notice for the Administrator’s contact information.)

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

Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

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5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment. Please make sure the administrator has your correct address.

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member). Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

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

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

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the

1 Court to approve. At least sixteen (16) court days before the [REDACTED] Final Approval
2 Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that
3 includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion
4 for Fees, Litigation Expenses and Class Representative Enhancement stating (i) the amount Class
5 Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is
6 requesting as a Class Representative Enhancement. Upon reasonable request, Class
7 Counsel (whose contact information is in Section 9 of this Notice) will send you copies of
8 these documents at no cost to you. You can also view them on the Court's website at:
9 <http://sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>.

10 A Participating Class Member who disagrees with any aspect of the Agreement, may
11 wish to object. **The deadline for sending written objections to the Administrator is**
12 _____. Be sure to tell the Administrator what you object to, why you object, and any
13 facts that support your objection. Make sure you identify the Action *Ponce v. Venture Dynamics*
14 *Enterprises, Inc.*, and include your name, current address, telephone number, and approximate
15 dates of employment for Defendant and sign the objection. Section 9 of this Notice has the
16 Administrator's contact information.

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

22 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

23 You can, but don't have to, attend the Final Approval Hearing on _____ at
24 _____ in Department C-69 of the San Diego Superior Court, located at 330 W. Broadway,
25 San Diego, CA 92101. At the Hearing, the judge will decide whether to grant Final Approval of
26 the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff,
27 and the Administrator. The Court will invite comment from objectors, Class Counsel and
28 Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either

personally, or virtually. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Court's website <http://sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to request such from the settlement Administrator. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords> and entering the Case Number for the Action, Case No. 37-2022-00004908-CU-OE-CTL. You can also make an appointment to personally review court documents in the Clerk's Office at the San Diego Superior Court – Hall of Justice courthouse by calling **(619) 450-7275**.

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

Class Counsel:

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Email: Manny@frontierlawcenter.com;
Adam@frontierlawcenter.com;

Settlement Administrator:

Rust Consulting, Inc.
Email Address:
Mailing Address:
Telephone:
Fax Number:

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3 **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

4 If you lose or misplace your settlement check before cashing it, the Administrator will
5 replace it as long as you request a replacement before the void date on the face of the original
6 check. If your check is already void, you should consult the Unclaimed Property Fund
7 https://www.sco.ca.gov/upd_inss.html, for instructions on how to retrieve the funds

8 **11. WHAT IF I CHANGE MY ADDRESS?**

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