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

MARY ANN MARARAC, as an individual and
on behalf of other similarly situated employees,

Plaintiff,

vs.

POPPY BANK, a California corporation, and
DOES 1-50, inclusive,

Defendants.

Case No. SCV-270165

Assigned to the Hon. Oscar A. Pardo

**DECLARATION OF ARMOND M.
JACKSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Hearing Date:

Hearing Time:

Department: Department 19

[FILED CONCURRENTLY WITH NOTICE OF MOTION;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF FILIBERTO RUIZ; AND [PROPOSED]
ORDER]

**DECLARATION OF ARMOND M. JACKSON IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

1 1. I am an attorney licensed to practice law before all courts of the State of California. I am
2 an attorney for Jackson APC, attorney of record for Plaintiff Mary Ann Mararac (referred to
3 herein as “Plaintiff”). I have personal knowledge of everything stated below and could and
4 would competently testify thereto if sworn.

5 2. I submit this Declaration in support of Plaintiff’s motion for preliminary approval of class
6 action settlement. A true and correct copy of the fully executed Stipulation for Class Action
7 Settlement is attached to this declaration as **Exhibit A**.

8 3. During the litigation, I interviewed Mary Ann Mararac (“Ms. Mararac”) and determined
9 she was a suitable plaintiff based upon her experience of being subjected to Defendants’
10 purported Labor Code violations and his concern to hold the Defendants accountable for any
11 alleged liability for such violations. By initiating this lawsuit against a former employer, Ms.
12 Mararac has subjected herself to reputational risk. Throughout the course of this litigation, Ms.
13 Mararac assisted this office in preparing the complaint. Ms. Mararac also made herself available
14 on an “on call” basis to answer any questions regarding the case and approve any settlement.
15 Ms. Mararac also continuously provided my office with updated information concerning the
16 Defendants’ business operations.
17

18 4. On February 8, 2022, Mary Ann Mararac filed claims alleging violations regarding: (1)
19 failure to provide minimum wages; (2) failure to provide overtime wages; (3) failure to pay
20 timely wages; (4) failure to unlawfully receive wages; (5) failure to provide meal breaks; (6)
21 failure to provide rest periods; (7) failure to provide and maintain accurate itemized wage
22 statements and maintain records; (8) failure to pay timely wages upon termination; (9) failure to
23 pay for necessary business expenses; (10) unlawful business practices; and (11) violation of the
24 California Private Attorneys General Act. On May 4, 2022, Mary Ann Mararac filed an
25 Amended Complaint adding claims for violation of the California Private Attorneys General Act
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1 5. During each phase of discovery, Plaintiff's counsel engaged in detailed case analysis
2 based on the information revealed. Calculations were performed, as well as an analysis of the
3 risks and rewards of continued litigation.

4 6. Plaintiff served formal discovery on Defendant. The parties continued to engage in
5 discovery and ultimately agreed to exchange informal discovery in preparation for a mediation.
6 After the parties negotiated the scope of informal discovery, the parties agreed to engage
7 mediator Daniel Turner. Before mediation, it was agreed that Defendants produce a sampling of
8 the payroll records for the class, handbooks, relevant wage and hour policies and pay data for the
9 class. After Defendants produced the requested sampling and documentation, the wage and hour
10 policies and payroll data was reviewed and allowed the party to analyze the purported violations
11 of the Defendants. This information allowed Plaintiffs to evaluate the claims in preparation for
12 mediation. The parties engaged in a full day mediation on January 24, 2024 with Daniel Turner,
13 Esq. that ultimately resulted in a settlement through a mediator's proposal. Thereafter, the
14 parties continued to negotiate the terms of the long form settlement agreement and eventually
15 executed a long form settlement agreement. Plaintiff also took into account the uncertainty and
16 risk of the outcome of further litigation, and the difficulty and delays inherent in such litigation.
17 Plaintiff and Plaintiff's Counsel also considered the burdens of proof necessary to establish
18 liability of the claims asserted in the case, both generally and in response to Defendants'
19 defenses, and the difficulties in establishing penalties, and other relief sought in the case,
20 particularly where, as here, Plaintiff may face difficulty obtaining the cooperation of class
21 members and PAGA Members who are current employees, given their likely reluctance to aid in
22 the prosecution of a lawsuit against their employer. Based on the foregoing, Plaintiff and PAGA
23 Counsels determined that the Settlement set forth in the Agreement is fair, adequate, and
24 reasonable and is in the best interests of the class and PAGA Members.
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26 7. Throughout the litigation, my office performed a thorough investigation into the claims at
27 issue, which included: (1) determining Plaintiff's suitability as a class representative, background
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1 investigations, and analyses of his employment files and related records; (2) evaluating all of
2 Plaintiff's potential representative claims; (3) researching similar class claims and PAGA actions
3 as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing a
4 sample of employees' time and wage records; (5) reviewing Defendant's employment policies
5 and practices; (6) researching settlements in similar cases; (7) evaluating Plaintiff's claims and
6 estimating Defendants' liability for purposes of settlement; (8) drafting the mediation brief; and
7 (9) participating in the mediation.

8 8. By engaging in an investigation and evaluation of Plaintiff's claims, I can opine that the
9 Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair,
10 reasonable, an adequate, and is in the best interests of the LWDA in light of all known facts and
11 circumstances, including the risk of significant delay and uncertainty associated with litigation,
12 and various defenses asserted by Defendants. Based upon review of the payroll documents,
13 below is the analysis of the alleged Labor Code violations segmented by way of factual
14 predicates to support Labor Code violations.

15 9. Based on the information and evidence provided by Defendant in discovery, the analysis
16 of the payroll data, and my own independent investigation, I determined an appropriate range of
17 recovery for settlement purposes by offsetting Defendants' maximum theoretical exposure by:
18 (i) the strength of Defendant's affirmative defenses; (ii) the risk of losing a motion for class
19 certification on some or all of the claims; (iii) the risk of the Court finding that a class and PAGA
20 trial would be unmanageable; (iv) the risk of losing on various dispositive or quasi-dispositive
21 motions that Defendant will bring before trial (*e.g.*, motion to strike class and representative
22 allegations, motion to decertify a class action, and/or motions for summary judgment), which
23 may eliminate all or some of Plaintiff's claims, or bar evidence necessary to prove such claims;
24 (v) the risk of losing some or all of the claims at trial; (vi) the chances a Court may find
25 Defendant did not willfully refuse to pay discharged or terminated employees (*i.e.*, a good faith
26 failure) under Cal. Lab. Code section 203; (vii) the chances a Court may find Defendant did not
27 willfully and intentionally refuse to comply (*i.e.*, a good faith failure) with the wage statement
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1 requirements under Cal. Labor Code section 226(e); (viii) the chances of the Court exercising its
2 discretion to reduce PAGA penalties (*see* Cal. Lab. Code section 2699(e); (ix) the delay in
3 payment to class members due to years of protracted litigation in certifying a class, obtaining a
4 favorable verdict at trial, upholding that verdict on appeal, and administering class notice and
5 payments to the class at that later stage instead of now; (x) the chances of a favorable verdict
6 being reversed on appeal; and (xi) the difficulties attendant to collecting on a judgment
7 (collectively, the “Discount Factors”).

8 10. On January 24, 2024, the Parties participated in a full-day mediation with Daniel Turner, Esq.,
9 who is a premier wage and hour class action mediator. After several rounds of negotiations, the parties
10 were not able to resolve this case into the afternoon. As a result of the impasse, Daniel Turner, Esq.
11 configured a mediator’s proposal that was ultimately accepted by all parties after months of ongoing
12 negotiations. Plaintiff made herself available for the entire duration of the mediation providing necessary
13 information in order to engage in effective negotiations.

14 11. I have been a California licensed attorney since November 2011. I began my career in
15 law while still in law school when I served as a law clerk for the Pedersen Law & Dispute and
16 Resolution Corporation (“PLDRC”) handling employment-related litigation matters. While
17 clerking for PLDRC, I analyzed and organized discovery documents and researched employment
18 litigation issues such as Sexual Harassment, Race Discrimination and Wrongful Termination. I
19 worked as an associate attorney at Pedersen McQueen between March 2013 through January
20 2017, almost exclusively engaging in employment matters representing employees. I have
21 litigated several wage and hour cases to trial and am currently litigating or have litigated cases
22 valued in the six and seven figure dollar range, including representative actions. I had primary
23 responsibility for approximately 20 litigation matters on average throughout my employment at
24 PLDRC and Pedersen McQueen and Pedersen Law. I regularly practiced in state court and
25 sometimes Federal court. As an associate, my responsibilities included carrying primary case
26 responsibility which includes tasks like taking depositions, conducting damages analysis,
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1 analyzing discovery documents, conducting client intake, developing discovery and litigation
2 strategies, participating in mediations and arbitrations, engaging in settlement negotiations, trial
3 preparation and trial work, as well as other responsibilities that commonly coincide with
4 managing cases from start to finish. I have been a member of local bar associations, including
5 the Orange County Bar Association, as well as the State Bar of California and American Bar
6 Association and served in a number of leadership roles at all levels. Most notably, I served as a
7 Committee Member of the Orange County Bar Association Young Lawyers' Education
8 Committee and Social Committee.

9
10 12. In January 2017, I officially started my own practice, Jackson APC. Throughout my
11 career, I have currently litigated approximately 100 Private Attorneys General Act cases and/or
12 class action cases to resolution by way of settlement or trial. Over the course of my career, I
13 have litigated above 150 employment cases, including wage and hour representative actions to
14 resolution by way of settlement, default or trial. Based upon my experience, I believe the benefit
15 conferred by the proposed Settlement is eminently fair and reasonable, and is in the best interests
16 of the Class Members because (1) of the monetary benefits to the Class Members and (2)
17 avoiding the risk, delay, and uncertainty of continued litigation.

18 13. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiff's Private Attorneys
19 General Act notice sent to Defendant on January 13, 2022.

20 14. On November 9, 2024, my office submitted a true and correct copy of the operative fully
21 executed Stipulation for Class Action Settlement for this matter to the California Labor and
22 Workforce Development Agency and the moving papers filed concurrently herewith as stated on
23 the proof of service.

24 15. To date, the California Labor and Workforce Development Agency has not responded.

25 16. Jackson APC advanced 100% of all costs for this matter.

26 17. Below is a list of prior wage and hour representative actions on which I have served as
27 lead or co-counsel.
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1. *Kim v. FNS, InI.*, Los Angeles Superior Court, Case No. BC 578015
2. *Demery v. Pacific Rim Capital Alliance Corporation et al.*, San Diego Superior Court,
Case No. 37-2017-00003415-CU-OE-CTL
3. *Goldbaum v. Dollarsmart et al.*, San Diego Superior Court, 30-2015-000077437-CU-
WT-CLT
4. *Hernandez v. Personnel Staffing Group, LLC et al.*, Orange County Superior Court,
Case No. 30-2017-00899277-CU-OE-CXC
5. *Sanchez, et al v. Pueblo Restaurant, InI. dba Casa Torres*, Los Angeles Superior
Court, Case No. BC697241
6. *Augusto v. HIOG Management Services, LLC, et al.*, San Bernardino Superior Court,
Case No. CIVDS1610431
7. *Mendoza v. McNeal, Duckworth and McNeal, InI.*, Orange County Superior Court,
Case No. 30-2017-00899290-CU-OE-CXC
8. *Ortiz v. Bayside Insurance Associates, InI. et al*, Orange County Superior Court, Case
No. 30-2016-00895669-CU-OE-CXC
9. *Paramo v. Quest Nutrition LLC et al.*, Los Angeles County Superior Court, Case No.
BC609306
10. *Luis v. Second Street Corporation dba Huntley House Hotel*, Los Angeles County
Superior Court, Case No. BC691018
11. *Venegas, at al. v. Bergen Shippers Corp, et al*, Los Angeles County Superior Court,
Case No. BC715217
12. *Bernal v. Bristol Equity Partners LP et al*, Orange County Superior Court, Case No.
30-2016-00854699-CU-OE-CXC
13. *Rowe v. Rasier-CA, LLC*, Orange County Superior Court,
Case No. 30-2018-00989673-CU-OE-CXC

1 14. *Mr. Ruiz v. Habit Restaurants, LLC, The et al*, Orange County Superior Court, Case
2 No. 30-2016-00840385-CU-OE-CJC

3 15. *Radilla v. States Logistics Services, InI.*, Orange County Superior Court,
4 Case No. 30-2018-00978231-CU-WT-CJC

5 16. *Rodriguez v. Lampson Sewing Incorporated et al*, Orange County Superior Court,
6 Case No. 30-2017-00900653-CU-OE-CJC

7 17. *January v. Discovery Management InI. et al*, Los Angeles Superior Court,
8 Case No. BC635918

9 18. *Angel Hernandez v. Merchants Landscape Services, InI. et al.*, Los Angeles Superior
10 Court, Case No. BC674131

11 19. *Quezada v. Garden Fresh Restaurant Corp. et al*, Orange County Superior Court,
12 Case No. 30-2016-00840321-CU-OE-CJC

13 20. *Munoz v. Batten Down, InI. et al*, Los Angeles County Superior Court, Case No.
14 BC617880

15 21. *Salgado v. Resort at Pelican Hill, LLC et al*, Orange County Superior Court, Case
16 No. 30-2016-00840386-CU-OE-CJC

17 22. *Darmawati v. Westview Services InI.*, Orange County Superior Court, Case No. 30-
18 2015-00795449-CU-OE-CJC

19 23. *Escobar v. Westcoast Textiles, InI. et al*, Orange County Superior Court,
20 Case No. 30-2018-00979111-CU-OE-CXC

21 24. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
22 No. 30-2017-00900648-CU-OE-CXC

23 25. *Chacon v. Express Fashion Operations, LLC*, Orange County Superior Court, Case
24 No. 8:19-cv-00564

25 26. *Plascencia v. RM HQ, LLC, dba Real Mex Restaurants*, Orange County Superior
26 Court, Case No. 30-2017-00926015-CU-OE-CXC
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- 1 27. *Casas v. PC Hospitality et al.*, Orange County Superior Court,
2 Case No. 30-2016-00877489-CU-OE-CXC
- 3 28. *Leon v. SWH Mimi's Café, LLC*, Orange County Superior Court,
4 Case No. 30-2018-00978815-CU-OE-CXC
- 5 29. *Quintanilla v. Southwest Wine & Spirits, LLC*, Los Angeles Superior Court, Case No.
6 BC653817
- 7 30. *Fabiola Rodriguez v. Second Floor Food, Drinks and Art, LLC*, Orange County
8 Superior Court, Case No. 30-2018-00981362-CU-WT-CXC
- 9 31. *Santisteban v. Rod Fraser Enterprises, InI. et al*, Orange County Superior Court,
10 Case No. 30-2017-00904202-CU-OE-CXC
- 11 32. *Milano v. Lev Tambor dba Distractions Lounge*, Orange County Superior Court,
12 Case No. 30-2018-00966582-CU-WT-CXC
- 13 33. *Ajin v. Lymi, Inc*, Los Angeles County Superior Court, Case No. BC696168
- 14 34. *Recinos v. Pacific American Fish Co., et al*, Los Angeles Superior Court,
15 Case No. BC710735
- 16 35. *Valle-Valdez v. St. Jude Hospital Yorba Linda, et al*, Orange County Superior Court,
17 Case No. 30-2015-00795457-CU-OE-CJC
- 18 36. *Juarez v. Arakelian Enterprises, InI., et al*, Los Angeles Superior Court,
19 Case No. BC710736
- 20 37. *Solarzano v. T&J Fresh Co. dba Chomp Sushi*, Orange County Superior Court,
21 Case No. 30-2018-00981299-CU-OE-CXC
- 22 38. *Taylor v. G.I. Trucking Company dba Estes West et al*, Los Angeles Superior Court,
23 Case No. BC722778
- 24 39. *Rendon v. L & L Foods Holdings, LLC, et al*, Orange County Superior Court, Case
25 No. 30-2018-00982745-CU-OE-CXC
- 26 40. *Magana v. Zara USA, InI., et al*, Orange County Superior Court,
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Case No. 8:18-cv-02249-AG (ADSx)

41. *Flores v. ABM Industry Groups, LLC et al*, Orange County Superior Court,

Case No. 30-2018-00971152-CU-WT-CJC

42. *Diaz v. Macy's West Stores, InI. dba Macy's*, Central District of California,

Case No. SACV19-00303 ODW (MAAx)

43. *Aguirre v. Shelfmaster el al*, Orange County Superior Court, 30-2015-00787557-CU-

OE-CJC

44. *Goldman v. Encore Energy, InI.*, Los Angeles County Superior Court, BC606773

45. *Munoz v. 8947 Sunset Pizza, LLC et al.*, Los Angeles Superior Court,

Case No. BC646999

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on this 8th day of November 2024 in Irvine, California.

/s/ Armond M. Jackson

Armond M. Jackson, Declarant

EXHIBIT A

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

MARY ANN MARARAC, as an individual and
on behalf of other similarly situated employees,

Plaintiff,

vs.

POPPY BANK, a California corporation, and
DOES 1-50, inclusive,

Defendants.

Case No.: SCV-270165

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT AND RELEASE**

JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT AND RELEASE

This Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff Mary Ann Mararac (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and Defendant Poppy Bank (“Defendant”) (collectively with Plaintiff, the “Parties”).

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. “Action” means *Mararac v. Poppy Bank*, No. SCV-270165 (Sonoma County Superior Court).
2. “Attorneys’ Fees and Costs” means attorneys’ fees agreed upon by the Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not limited to expert/consultant fees, investigation costs, and costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating the Action. Class Counsel will request attorneys’ fees not in excess of one-third (1/3) of the Gross Settlement Amount, or One Hundred Twenty Six Thousand Six Hundred Sixty Seven Dollars (\$126,667). The Attorneys’ Fees and Costs will also mean and include the additional reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, up to Ten Thousand Dollars (\$10,000), subject to the Court’s approval. Defendant has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs as set forth above.
3. “Class Counsel” means Capstone Law APC and Jackson APC.
4. “Class List” means a complete list of all Class Members that Defendant will diligently and in good faith compile from its records and provide to the Settlement Administrator and Class Counsel within twenty (20) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft Office Excel and will include each Class Member’s full name; most recent mailing address and telephone number; Social Security number; dates of employment; the

1 respective number of Workweeks that each Class Member worked during the Class Period and PAGA
2 Period; and any other relevant information needed to calculate settlement payments.

3 5. "Class Member(s)" or "Settlement Class" means all persons who were employed by
4 Defendant in the State of California in non-exempt positions at any time during the Class Period.

5 6. "Class Notice" means the Notice of Class Action Settlement, substantially in the form
6 attached as Exhibit A.

7 7. "Class Period" means the period from February 8, 2018 through the Release End Date.

8 8. "Class Representative Enhancement Payment" means the amount to be paid to Plaintiff
9 in recognition of her effort and work in prosecuting the Action on behalf of Class Members, and for her
10 general release of claims. Subject to the Court granting final approval of this Settlement Agreement and
11 subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of a Class
12 Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000).

13 9. "Court" means the Sonoma County Superior Court.

14 10. "Defendant" means Defendant Poppy Bank.

15 11. "Effective Date" means the later of: (a) if no timely objections are filed, or are
16 withdrawn prior to Final Approval, then the date of Final Approval; or (b) if a Class Member files an
17 objection to the Settlement, the Effective Date shall be the sixty-first (61st) calendar day after the date of
18 Final Approval, provided no appeal is initiated by an objector; or (c) if a timely appeal is initiated by an
19 objector, then the Effective Date will be the date of final resolution of that appeal (including any requests
20 for rehearing and/or petitions for *certiorari*), such that there is final judicial approval of the Settlement.

21 12. "Final Approval" means the date on which the Court enters an order granting final
22 approval of the Settlement Agreement.

23 13. "Funding Date" means a date within ten (10) calendar days of the Effective Date.

24 14. "Gross Settlement Amount" means the Gross Settlement Amount of Three Hundred
25 Eighty Thousand Dollars (\$380,000), to be paid by Defendant in full satisfaction of all Released Class
26 Claims and Released PAGA Claims, which includes all Individual Settlement Payments, Attorneys'
27 Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and
28 Settlement Administration Costs. This Gross Settlement Amount has been agreed to by Plaintiff and

Defendant based on the aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth herein. There will be no reversion of the Gross Settlement Amount to Defendant. Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.

15. "Individual Class Settlement Payment" means that portion of the Individual Settlement Payment paid to a Participating Class Member that is derived for the Participating Class Member's share of the Net Settlement Fund.

16. "Individual PAGA Settlement Payment" means that portion of the Individual Settlement Payment paid to a PAGA Member that is derived from the PAGA Member's share of the PAGA Fund.

17. "Individual Settlement Payment" means each Participating Class Member's and PAGA Member's respective shares of the Net Settlement Fund and PAGA Fund.

18. "LWDA" means the California Labor and Workforce Development Agency.

19. "LWDA Letter" means the letter Plaintiff served on the LWDA and Defendant under Labor Code section 2699.3, to notify the LWDA of alleged violations by Defendant of California Labor Code sections 201, 202, 203, 210, 221, 226(a), 226.2, 226.3, 226.7, 510, 512, 1194, 1198, 2802, 6401, and 6403, as well as Wage Order 4 sections 3, 7, 11, and 12.

20. "LWDA Payment" means the portion of the payment from the Gross Settlement Amount to be paid to the LWDA under the Settlement Agreement.

21. "Net Settlement Fund" means the portion of the Gross Settlement Amount remaining after deducting the Attorneys' Fees and Costs, the Class Representative Enhancement Payment, the PAGA Settlement Amount, and Settlement Administration Costs. The Net Settlement Fund will be distributed to Participating Class Members. There will be no reversion of the Net Settlement Fund to Defendant.

22. "Notice of Objection" means a Class Member's valid and timely written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must include: (a) the objector's full name, signature, address, and telephone number, (b) a written statement of all grounds for the objection accompanied by any legal support for such objection; (c) copies of any papers, briefs, or other

documents upon which the objection is based; and (d) a statement whether the objector intends to appear at the final fairness hearing.

23. “Operative Complaint” means the First Amended Class Action Claims Complaint filed by Plaintiff on May 4, 2022.

24. “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

25. “PAGA Members” means all persons who were employed by Defendant in the State of California in non-exempt positions at any time during the PAGA Period.

26. “PAGA Period” means the period from January 22, 2022 through the Release End Date.

27. “PAGA Settlement Amount” means the amount that the Parties have agreed to pay to the Labor and Workforce Development Agency (“LWDA”) and PAGA Members in connection with Plaintiff’s claim under PAGA. The Parties have agreed that Fifty Thousand Dollars (\$50,000) of the Gross Settlement Amount will be allocated as the PAGA Settlement Amount. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty-Seven Thousand Five Hundred Dollars (\$37,500), of the PAGA Settlement Amount will be paid to the California Labor and Workforce Development Agency (“LWDA Payment”), and Twenty-Five Percent (25%), or Twelve Thousand Five Hundred Dollars (\$12,500) of the PAGA Settlement Amount will be disbursed to PAGA Members (“PAGA Fund”) regardless of whether they request to be excluded from the Settlement Class.

28. “Participating Class Members” means all Class Members who do not submit timely and valid Requests for Exclusion.

29. “Plaintiff” means Mary Ann Mararac.

30. “Preliminary Approval” means the date on which the Court enters an order granting preliminary approval of the Settlement Agreement.

31. “Release End Date” means the earlier of (a) 60 days after the execution of this Settlement Agreement by all Parties or (b) the date of Preliminary Approval.

32. “Released Class Claims” means all claims, causes of action, rights, demands, punitive or statutory damages, penalties, liabilities, attorneys’ fees, expenses, unpaid costs, liquidated damages, interest, litigation costs, restitution, equitable relief, and losses of any kind or nature whatsoever, that

1 were alleged in the Operative Complaint during the Class Period, or could have been alleged based on
2 the same set of operative facts as those set forth in the Operative Complaint during the Class Period,
3 including, but not limited to: (a) all claims for unpaid overtime; (b) all claims for meal and rest period
4 violations; (c) all claims for unpaid minimum wages; (d) all claims for the failure to timely pay wages
5 upon termination; (e) all claims for the failure to timely pay wages during employment; (f) all claims for
6 collection or receipt from an employee of any part of wages theretofore paid by said employer to said
7 employee; (g) all claims for the failure to reimburse for necessary business expenses; (h) all claims for
8 wage statement violations; and (i) all claims asserted through California Business & Professions Code
9 §§ 17200, *et seq.*

10 33. “Released PAGA Claims” means all claims for civil penalties under PAGA that were
11 alleged in Plaintiff’s LWDA Letter for the PAGA Period, or which could have been alleged based on the
12 same set of operative facts as those set forth in Plaintiff’s LWDA Letter for the PAGA Period.

13 34. “Released Parties” means Defendant, its past or present officers, directors, employees,
14 shareholders, agents, principals, representatives, accountants, auditors, consultants, insurers and
15 reinsurers, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents, and
16 attorneys, if any.

17 35. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a
18 request to be excluded from the Settlement Class. The Request for Exclusion must: (a) set forth the
19 name, address, telephone number and last four digits of the Social Security Number of the Class
20 Member requesting exclusion; (b) be signed by the Class Member; (c) be returned to the Settlement
21 Administrator; (d) clearly state that the Class Member does not wish to be included in the Settlement;
22 and (e) be faxed or postmarked on or before the Response Deadline.

23 36. “Response Deadline” means the deadline by which Class Members must postmark or
24 fax to the Settlement Administrator Requests for Exclusion, postmark or fax disputes concerning the
25 calculation of Individual Settlement Payments, or postmark Notices of Objection to the Settlement
26 Administrator. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
27 the Class Notice by the Settlement Administrator, unless the forty-fifth (45th) calendar day falls on a
28 Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which

1 the U.S. Postal Service is open.

2 37. "Settlement Administration Costs" means the costs payable from the Gross Settlement
3 Amount to the Settlement Administrator for administering this Settlement, including, but not limited to,
4 printing, distributing, and tracking documents for this Settlement, tax reporting, distributing the Gross
5 Settlement Amount, and providing necessary reports and declarations, as requested by the Parties. The
6 Settlement Administration Costs will be paid from the Gross Settlement Amount, including, if necessary,
7 any such costs in excess of the amount represented by the Settlement Administrator as being the
8 maximum costs necessary to administer the Settlement. Settlement Administration Costs are currently
9 estimated to be Seven Thousand Two-Hundred and Fifty Dollars (\$7,250).

10 38. "Settlement Administrator" means Phoenix Class Action Administration Solutions, or
11 any other third-party class action settlement administrator agreed to by the Parties and approved by the
12 Court for the purposes of administering this Settlement. The Parties each represent that they do not have
13 any financial interest in the Settlement Administrator or otherwise have a relationship with the
14 Settlement Administrator that could create a conflict of interest.

15 39. "Workweeks" means the number of days of employment for each Class Member during
16 the Class Period, subtracting days on leave of absence (if any), dividing by seven (7), and rounding up to
17 the nearest whole number. All Class Members will be credited with at least one Workweek during the
18 Class Period, and all PAGA Members will be credited with at least one Workweek during the PAGA
19 Period.

20 TERMS OF AGREEMENT

21 The Plaintiff, on behalf of herself and the Settlement Class, and Defendant agree as follows:

22 40. Non-Admission of Liability. The Parties enter into this Settlement to resolve the dispute
23 that has arisen between them and to avoid the burden, expense, and risk of continued litigation. In
24 entering into this Settlement, Defendant does not admit, and specifically denies, that it (a) violated any
25 federal, state, or local law; (b) violated any regulations or guidelines promulgated pursuant to any statute
26 or any other applicable laws, regulations, or legal requirements; (c) breached any contract; (d) violated or
27 breached any duty; (e) engaged in any misrepresentation or deception; or (f) engaged in any other
28 unlawful conduct with respect to its employees. Neither this Settlement Agreement, nor any of its terms

1 or provisions, nor any of the negotiations connected with it, will be construed as an admission or
2 concession by Defendant of any such violations or failures to comply with any applicable law. This
3 Settlement Agreement and its terms and provisions will not be offered or received as evidence in any
4 action or proceeding to establish any liability or admission on the part of Defendant or to establish the
5 existence of any condition constituting a violation of, or a non-compliance with, federal, state, local, or
6 other applicable law. This paragraph and all other provisions of this Settlement Agreement
7 notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise
8 used in any and all proceedings to enforce any or all terms of this Settlement Agreement, or in defense of
9 any claims released or barred by this Settlement Agreement.

10 41. Class Action Certification for Settlement Purposes Only. The Parties agree to stipulate to
11 class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not
12 approved, the stipulation to certification will be void. The Parties further agree that certification for
13 purposes of the Settlement is not an admission that class action certification is proper under the standards
14 applied to contested certification motions and that this Settlement Agreement will not be admissible in
15 this or any other proceeding as evidence that either (a) a class action should be certified or (b) Defendant
16 is liable to Plaintiff or any Class Member, other than according to the Settlement's terms.

17 **SETTLEMENT FUNDING, FEES, COSTS, AND PAYMENTS**

18 42. Funding of the Gross Settlement Amount. Defendant will make a one-time deposit of
19 the Gross Settlement Amount of Three Hundred Eighty Thousand Dollars (\$380,000) into a Qualified
20 Settlement Account to be established by the Settlement Administrator. Defendant will deposit separately
21 the employer's share of payroll taxes into the Qualified Settlement Account. After the Effective Date, the
22 Gross Settlement Amount will be used for: (a) Individual Settlement Payments; (b) the LWDA Payment;
23 (c) the Class Representative Enhancement Payment; (d) Attorneys' Fees and Costs; and (e) Settlement
24 Administration Costs. Defendant will deposit the Gross Settlement Amount and the employer's share of
25 payroll taxes by the Funding Date.

26 43. Escalator. The Gross Settlement Agreement is based on Defendant's representation that
27 the total number of Workweeks worked by Class Members from February 8, 2018 to December 1, 2023
28 is 29,643. In the event the total number of Workweeks worked by Class Members during the Class

Period is greater than Thirty-Two Thousand Six Hundred and Seven (32,607), then Defendant will have the option to either: (a) recalculate the Gross Settlement Amount according to the following formula: Total Number of Workweeks ÷ 32,607 × \$380,000 = Gross Settlement Amount; or (b) advance the Release End Date to correspond to the last date on which the total number of Workweeks during the Class Period was not in excess of Thirty-Two Thousand Six Hundred and Seven (32,607).

44. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for Attorneys' Fees and Costs of not more than One Hundred Twenty Six Thousand Six Hundred Sixty Seven Dollars (\$126,667), plus the reimbursement of all out-of-pocket costs and expenses associated with Class Counsel's litigation and settlement of the Action (including expert/consultant fees, investigations costs, etc.), not to exceed Ten Thousand Dollars (\$10,000), both of which will be paid from the Gross Settlement Amount.

45. Class Representative Enhancement Payment. In exchange for a general release, and in recognition of her effort and work in prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede any application or motion by Plaintiff for a Class Representative Enhancement Payment of up to Ten Thousand Dollars (\$10,000). The Class Representative Enhancement Payment will be paid from the Gross Settlement Amount and will be in addition to Plaintiff's Individual Settlement Payment paid pursuant to the Settlement. Plaintiff will be solely and legally responsible to pay any and all applicable taxes on the Class Representative Enhancement Payment. Plaintiff understands and agrees that this Settlement Agreement shall remain in full force and effect even if the full amount of Class Representative Enhancement Payment sought by Plaintiff is not awarded by the Court.

46. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount, which costs are currently estimated to be Seven Thousand Two-Hundred and Fifty Dollars (\$7,250). These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of IRS Forms 1099 and W-2, the distributing of Class Notices, the calculating and distributing of the Gross Settlement Amount, and the providing of necessary reports and declarations.

1 47. PAGA Settlement Amount. Subject to Court approval, the Parties agree that the amount
2 of Fifty Thousand Dollars (\$50,000) from the Gross Settlement Amount will be designated for
3 satisfaction of Plaintiff's PAGA claim. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty-Seven
4 Thousand Five Hundred Dollars (\$37,500), of this sum will be paid to the LWDA and Twenty-Five
5 Percent (25%), or Twelve Thousand Five Hundred Dollars (\$12,500), will be paid to PAGA Members
6 in proportion to the number of Workweeks worked during the PAGA Period.

7 48. Net Settlement Fund. The entire Net Settlement Fund will be distributed to Participating
8 Class Members. No portion of the Net Settlement Fund will revert to or be retained by Defendant.

9 49. PAGA Fund. The entire PAGA Fund will be distributed to all PAGA Members. No
10 portion of the PAGA Fund will revert to or be retained by Defendant.

11 50. Individual Settlement Payments. Individual Settlement Payments will be calculated and
12 apportioned from the Net Settlement Fund and PAGA Fund based on the number of Workweeks a Class
13 Member worked during the Class Period and PAGA Period, respectively. Specific calculations of
14 Individual Settlement Payments will be made as follows:

15 50(a) Payments from the Net Settlement Fund. Defendant will calculate the total number of
16 Workweeks worked by each Class Member during the Class Period and the aggregate
17 total number of Workweeks worked by all Class Members during the Class Period. To
18 determine each Class Member's estimated Individual Settlement Payment from the Net
19 Settlement Fund (the Class Member's Individual Class Settlement Payment), the
20 Settlement Administrator will use the following methodology: (i) the Net Settlement
21 Fund will be divided by the aggregate total number of Workweeks during the Class
22 Period, resulting in the "Class Workweek Value"; (ii) each Class Member's Individual
23 Class Settlement Payment will be calculated by multiplying each individual Class
24 Member's total number of Workweeks by the Class Workweek Value; (iii) the
25 Individual Class Settlement Payment will be reduced by any required deductions for
26 each Participating Class Member as specifically set forth herein, including employee-
27 side tax withholdings or deductions; (iv) the entire Net Settlement Fund will be
28 disbursed to all Class Members who do not submit timely and valid Requests for

1 Exclusion; and, (v) if there are any valid and timely Requests for Exclusion, the
2 Settlement Administrator shall proportionately increase the Individual Class Settlement
3 Payment for each Participating Class Member according to the number of Workweeks
4 worked, so that the amount actually distributed to the Settlement Class equals 100% of
5 the Net Settlement Fund.

6 50(b) Payments from the PAGA Fund. Defendant will calculate the total number of
7 Workweeks worked by each PAGA Member during the PAGA Period and the
8 aggregate total number of Workweeks worked by all PAGA Members during the
9 PAGA Period. To determine each PAGA Member's estimated Individual PAGA
10 Settlement Payment, the Settlement Administrator will use the following methodology:
11 (i) the PAGA Fund will be divided by the aggregate total number of Workweeks during
12 the PAGA Period, resulting in the "PAGA Workweek Value"; (ii) each PAGA
13 Member's Individual PAGA Settlement Payment will be calculated by multiplying each
14 individual PAGA Member's total number of Workweeks by the PAGA Workweek
15 Value; and (iii) the entire PAGA Fund will be disbursed to all PAGA Members.

16 51. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
17 Participating Class Members under this Settlement, as well as any other payments made pursuant to this
18 Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any
19 Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k)
20 plans, stock purchase plans, vacation plans, sick leave plans, and PTO plans. Rather, it is the Parties'
21 intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which
22 any Class Members may be entitled under any such benefit plans.

23 **PROCEDURES RELATING TO CLASS NOTICE, INCLUDING DISPUTES, REQUESTS**
24 **FOR EXCLUSION, AND OBJECTIONS**

25 52. Administration Process. The Parties agree to cooperate in the administration of the
26 Settlement and to make all reasonable efforts to control and minimize related costs and expenses.

27 53. Delivery of the Class List. Within twenty (20) calendar days of Preliminary Approval,
28 Defendant will provide the Class List to the Settlement Administrator and to Class Counsel.

1 54. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving the Class
2 List, the Settlement Administrator will perform a search based on the National Change of Address
3 Database for information and will use the results of such search to update the mailing addresses
4 identified in the Class List. The Settlement Administrator will then mail a Class Notice to all Class
5 Members via regular First-Class U.S. Mail. Any Class Notices returned to the Settlement Administrator
6 as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S.
7 Mail to the forwarding address affixed thereto (if any) and the Settlement Administrator will indicate the
8 date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement
9 Administrator will promptly attempt to determine the correct address using a skip-trace, or other search
10 using the name, address and/or Social Security Number of the Class Member involved, and will then
11 perform a single re-mailing. Those Class Members who receive a re-mailed Class Notice, whether by
12 skip-trace or by request, will have either (a) an additional fifteen (15) calendar days or (b) until the
13 Response Deadline, whichever is later, to submit a Request for Exclusion or an objection to the
14 Settlement.

15 55. Content of Class Notice. Each Class Notice will provide: (a) information regarding the
16 nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Settlement Class and
17 PAGA Member definitions; (d) the total number of Workweeks each respective Class Member and
18 PAGA Member worked for Defendant during the Class Period and PAGA Period; (e) each Class
19 Member's and PAGA Member's estimated Individual Settlement Payment and the formula for
20 calculating Individual Settlement Payments; (f) the dates which comprise the Class Period and PAGA
21 Period; (g) instructions on how to submit Requests for Exclusion or Notices of Objection; (h) the
22 deadlines by which the Class Member must postmark or fax a Request for Exclusion or a Notice of
23 Objection to the Settlement; and (i) the claims to be released.

24 56. Disputed Information on Class Notices. Class Members will have an opportunity to
25 dispute the information provided in their Class Notices. To the extent Class Members dispute their
26 employment dates or the number of Workweeks on record, Class Members may produce evidence to the
27 Settlement Administrator showing that such information is inaccurate. Defendant's records will be
28 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the

1 Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline
2 and will be resolved by the Parties within ten (10) business days after the Response Deadline. If the
3 Parties cannot resolve the dispute by such time, the Parties will seek appropriate relief from the Court.

4 57. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
5 Settlement Agreement must sign and fax or postmark a written Request for Exclusion to the Settlement
6 Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the
7 Settlement Administrator, the postmark date will be the exclusive means to determine whether a Request
8 for Exclusion has been timely submitted.

9 58. Defective Submissions. If a Request for Exclusion is defective, the Class Member will
10 be given an opportunity to cure the defect(s) by way of the following: (a) the Settlement Administrator
11 will mail the Class Member a cure letter within three (3) business days of receiving the defective
12 submission to advise the Class Member that the Request for Exclusion is defective and that the defect
13 must be cured to render the Request for Exclusion valid; (b) the Class Member will have until (i) the
14 Response Deadline or (ii) fifteen (15) calendar days from the date of the cure letter, whichever date is
15 later, to postmark or fax a revised Request for Exclusion; and (c) if the revised Request for Exclusion is
16 not postmarked or received by fax within that period, it will be deemed untimely.

17 59. Objection Procedures. To object to the Settlement Agreement, a Class Member may
18 either postmark a valid Notice of Objection to the Settlement Administrator on or before the Response
19 Deadline or appear in person at the Final Approval Hearing. Class Members who fail to object either by
20 submitting a valid Notice of Objection or appearing in person at the Final Approval Hearing will be
21 deemed to have waived all objections to the Settlement and will be foreclosed from making any
22 objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of the
23 Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
24 objections to the Settlement Agreement or appeal from the final approval order and judgment. Class
25 Counsel will not represent any Class Members with respect to any such objections to this Settlement. If a
26 Class Member timely submits both a Notice of Objection and a Request for Exclusion, the Request for
27 Exclusion will be given effect and considered valid, the Notice of Objection shall be rejected, and the
28 Class Member shall not participate in or be bound by the Settlement.

60. No Right to Exclusion or Objections to the PAGA Settlement. Because this settlement resolves claims and actions brought pursuant to PAGA by Plaintiff acting as a proxy and as a Private Attorney General of, and for, the State of California and the LWDA, the Parties agree that no PAGA Member has the right to be excluded from the release of the Released PAGA Claims and that all PAGA Members will receive their respective share of the PAGA Fund. The Parties also agree that no PAGA Member has the right to object to the PAGA Settlement Amount.

BINDING SETTLEMENT TERMS AND RELEASES

61. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class Member who does not affirmatively opt-out of the Settlement Agreement by submitting a timely and valid Request for Exclusion will be bound by all of its terms, including those pertaining to the Released Class Claims, as well as any Judgment that may be entered by the Court if it grants final approval to the Settlement.

62. Release by Plaintiff. Upon the Funding Date, in addition to the claims being released by all Participating Class Members, Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which Plaintiff has or may have against the Released Parties as of the date of execution of this Settlement Agreement. To the extent the foregoing release is a release to which Section 1542 of the California Civil Code or similar provisions of other applicable law may apply, Plaintiff expressly waives any and all rights and benefits conferred upon her by the provisions of Section 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

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.

63. Releases by Participating Class Members. Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, each Participating Class Member,

1 together and individually, on their behalf and on behalf of their respective heirs, executors,
2 administrators, agents, and attorneys, shall fully and forever release and discharge all of the Released
3 Parties, or any of them, from each of the Released Class Claims arising during the Class Period.

4 64. Releases by PAGA Members. Upon the Funding Date, and except as to such rights or
5 claims as may be created by this Settlement Agreement, each PAGA Member, together and individually,
6 on their behalf and on behalf of their respective heirs, executors, administrators, agents, and attorneys,
7 shall fully and forever release and discharge all of the Released Parties, or any of them, from each of the
8 Released PAGA Claims during the PAGA Period.

9 **PROCEDURES RELATING TO SETTLEMENT PAYMENTS**

10 65. Certification Reports Regarding Individual Settlement Payment Calculations. The
11 Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly report that
12 certifies the number of Class Members who have submitted valid Requests for Exclusion or objections to
13 the Settlement, and whether any Class Member has submitted a challenge to any information contained
14 in their Class Notice, including those received after the Response Deadline. Additionally, the Settlement
15 Administrator will provide to counsel for both Parties any updated reports regarding the administration
16 of the Settlement Agreement as needed or requested.

17 66. Distribution Timing of Individual Settlement Payments. Within ten (10) calendar days
18 of the Funding Date, the Settlement Administrator will issue payments to: (a) Participating Class
19 Members and PAGA Members; (b) the LWDA; (c) Plaintiff; and (d) Class Counsel. The Settlement
20 Administrator will also issue a payment to itself for Court-approved services performed in connection
21 with the Settlement.

22 67. Un-cashed Settlement Checks. Proceeds represented by Individual Settlement Payment
23 checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for
24 more than one hundred and eighty (180) calendar days after issuance will be tendered pursuant to Code
25 of Civil Procedure section 384 to the Justice Gap Fund maintained by The State Bar of California.

26 68. Certification of Completion. Upon completion of administration of the Settlement, the
27 Settlement Administrator will provide a written declaration under oath to certify such completion to the
28 Court and to counsel for all Parties.

ISSUES RELATING TO TAX TREATMENT, ADMINISTRATION, AND LIABILITY

69. Treatment of Individual Settlement Payments. All Individual Class Settlement Payments will be allocated as follows: (a) Fifteen Percent (15%) of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued; and (b) Eighty-Five Percent (85%) will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. Individual PAGA Settlement Payments issued to PAGA Members from the PAGA Fund will be treated as non-wages for which IRS Forms 1099-MISC will be issued.

70. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Class Members, PAGA Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities.

71. Tax Liability. The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and PAGA Members are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard.

72. Circular 230 Disclaimer.

EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, AN "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED

1 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND
2 TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION
3 WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT
4 BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY
5 ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
6 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY
7 ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY
8 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING
9 PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS
10 IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF
11 ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS
12 OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
13 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
14 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
15 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

16 **PROCEDURE FOR APPROVAL OF SETTLEMENT**

17 73. Motion for an Order Approving the Settlement.

18 73(a) The Parties will cooperate in seeking approval of the Settlement, including Plaintiff
19 filing a Motion for an Order Approving the Settlement Agreement (the "Motion").

20 73(b) Pursuant to PAGA, on the date Plaintiff files the Motion, Plaintiff will submit to the
21 LWDA a copy of this Agreement.

22 73(c) Plaintiff will obtain a hearing before the Court to request the Preliminary Approval of
23 the Settlement Agreement, and the entry of a Preliminary Approval Order for:

24 (a) conditional certification of the Settlement Class for settlement purposes only,

25 (b) preliminary approval of the proposed Settlement Agreement, (c) setting a date for a
26 final fairness hearing. The Preliminary Approval Order will provide for the Class Notice
27 to be sent to all Class Members as specified herein. In conjunction with the Preliminary
28 Approval hearing, Plaintiff will submit this Settlement Agreement, which sets forth the

1 terms of this Settlement, and will include the proposed Notice of Class Action
2 Settlement, attached as Exhibit A. Class Counsel will be responsible for drafting all
3 documents necessary to obtain preliminary approval.

4 73(d) At the hearing on the Motion, the Parties will jointly appear, support the granting of the
5 motion, and submit an order granting the motion in the form evidenced by Exhibit A to
6 this Agreement. Should the Court decline to approve all material aspects of the
7 Settlement, or order material changes to the Settlement to which the Parties do not agree,
8 the Parties will meet and confer to address the Court's concerns and determine whether
9 resolution of the Action can be obtained in a manner consistent with the Court's
10 concerns. If no agreement can be reached, the Settlement will be null and void and the
11 Parties will have no further obligations under it. However, an award by the Court of a
12 lesser amount than sought for the Representative Plaintiff's Payment and/or Counsel
13 Fees and Expenses Payment will not be considered a basis to void the Agreement.

14 74. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
15 deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the
16 Court's permission, a final fairness hearing will be conducted to determine the Final Approval of the
17 Settlement Agreement along with the amounts properly payable for: (a) Attorneys' Fees and Costs; (b)
18 the Class Representative Enhancement Payment; (c) Individual Settlement Payments; (d) the LWDA
19 Payment; (e) all Settlement Administration Costs. Class Counsel will be responsible for drafting all
20 documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the
21 attorneys' fees and costs application to be heard at the final approval hearing.

22 75. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by the
23 Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its
24 approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
25 addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) Settlement
26 administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as
27 set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement
28 Administrator's website.

1 **NULLIFICATION OR VOIDING OF SETTLEMENT AGREEMENT**

2 76. Nullification of Settlement Agreement. In the event that: (a) the Court does not finally
3 approve the Settlement as provided herein; or (b) the Settlement does not become final for any other
4 reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null
5 and void. Any order or judgment entered by the Court in furtherance of this Settlement Agreement will
6 likewise be treated as void.

7 77. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review. If, after
8 a notice of appeal or a petition for certiorari or review, or any other motion, petition, or application, the
9 reviewing court vacates, reverses, or modifies the Judgment such that there is a material change to the
10 Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on
11 review by a higher court, then either Plaintiff or Defendant will have the right to void the Settlement,
12 which the Party must do by giving written notice to the other Parties, the reviewing court, and the Court
13 not later than 30 days after the reviewing court's decision vacating, reversing, or materially modifying
14 the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the
15 Representative Plaintiff's Payment and/or Plaintiff's attorneys' fees and/or costs will not constitute a
16 basis to void this Agreement, although Plaintiff or Plaintiff's Counsel have the right to appeal from any
17 refusal by the Court to award, in whole or in part, the Plaintiff's Counsel attorneys' fees and/or costs
18 sought by them.

19 **MISCELLANEOUS PROVISIONS**

20 78. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the
21 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
22 herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

23 79. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the
24 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements
25 may be deemed binding on the Parties. The Parties expressly recognize California Civil Code Section
26 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is
27 to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and
28 the Parties agree that no such extrinsic oral or written representations or terms will modify, vary, or

1 contradict the terms of this Settlement Agreement.

2 80. Amendment or Modification. No amendment, change, or modification to this Settlement
3 Agreement will be valid unless in writing and signed, either by the Parties or their counsel, and approved
4 by the Court.

5 81. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
6 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
7 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant
8 to this Settlement Agreement to effectuate its terms and to execute any other documents required to
9 effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each
10 other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to
11 reach agreement on the form or content of any document needed to implement the Settlement, or on any
12 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
13 may seek the assistance of the Court or the mediator previously engaged by the Parties in this Action to
14 resolve such disagreement. No attorney for any party is a party to this agreement and will not be liable
15 for any Party's breach of any of the terms of this agreement.

16 82. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant
17 that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
18 transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
19 action, or right herein released and discharged.

20 83. Binding on Successors. This Settlement Agreement will be binding upon, and inure to
21 the benefit of, the successors of the Parties hereto.

22 84. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto
23 will be governed by and interpreted according to the laws of the State of California.

24 85. Execution and Counterparts. The Settlement Agreement may be executed in one or
25 more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign),
26 facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

27 86. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this
28 Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this

1 Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account
2 all relevant factors, present and potential. The Parties further acknowledge that they are each represented
3 by competent counsel and that they have had an opportunity to consult with their counsel regarding the
4 fairness and reasonableness of this Settlement.

5 87. Invalidity of Any Provision. Before declaring any provision of this Settlement
6 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent
7 possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement
8 valid and enforceable.

9 88. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
10 certification for purposes of this Settlement only; except, however, that Plaintiff or Class Counsel may
11 appeal any reduction to the Attorneys' Fees and Costs below the amount they request from the Court,
12 and either party may appeal any court order that materially alters the Settlement Agreement's terms.

13 89. No Public Comment: Prior to Preliminary Approval, the Parties and their counsel agree
14 that they will not issue any press releases, initiate any contact with the press, respond to any press
15 inquiry, or have any communication with the press about the fact, amount, or terms of the Settlement. If,
16 before the filing of the Motion for Settlement Approval, Plaintiff or her attorneys disclose to the press (a)
17 that a settlement has been reached or (b) any of the terms of the Settlement except as required by law or
18 to effect the Settlement, Defendant may rescind the Settlement, rendering it null and void. Plaintiff
19 further agrees that she will instruct her attorneys not to publicize the terms of this Agreement.

20 90. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
21 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or
22 constitute a further waiver by such party of the same or any other condition, covenant, right, or remedy.

23 91. Enforcement Actions. In the event that one or more of the Parties institutes any legal
24 action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement
25 or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
26 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including
27 expert witness fees incurred in connection with any enforcement actions.

28 92. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and

1 conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed
2 more strictly against one party than another merely by virtue of the fact that it may have been prepared
3 by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
4 between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

5 93. Representation By Counsel. The Parties acknowledge that they have been represented
6 by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and
7 that this Settlement Agreement has been executed with the consent and advice of counsel. Further,
8 Plaintiff and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

9 94. All Terms Subject to Final Court Approval. All amounts and procedures described in
10 this Settlement Agreement herein, including payment of the Gross Settlement Amount, will be subject to
11 final Court approval.

12 95. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
13 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this
14 Settlement Agreement.

15 96. Binding Agreement. The Parties warrant that they understand and have full authority to
16 enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully
17 enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in
18 any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that
19 otherwise might apply under federal or state law.

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

23 98. Disclosure of Agreement. Pursuant to Evidence Code § 1123, the Parties agree that this
24 Settlement Agreement is admissible, subject to disclosure, enforceable, and binding.

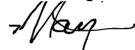
25 99. Electronic Signature. Pursuant to Civil Code § 1633.7(d), the Parties agree that
26 electronic signatures are satisfactory and binding for purposes of this Settlement Agreement.
27
28

READ CAREFULLY BEFORE SIGNING

PLAINTIFF

Dated: 5/9/2024

DocuSigned by:



Mary Ann Mararac

DEFENDANT POPPY BANK

Dated: 5/13/2024

DocuSigned by:



Jessica Soulié

Senior Vice President, Human Resources

APPROVED AS TO FORM

CAPSTONE LAW APC

Dated: 5/13/2024

DocuSigned by:

By: 

Paul Perez

Attorneys for Plaintiff Mary Ann Mararac

JACKSON APC

Dated: 5/13/2024

DocuSigned by:

By: 

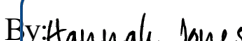
Armond M. Jackson

Attorneys for Plaintiff Mary Ann Mararac

COBLENTZ PATCH DUFFY & BASS LLP

Dated: 5/13/2024

DocuSigned by:

By: 

Hannah Jones

Attorneys for Defendant Poppy Bank

EXHIBIT B



JACKSON APC
jacksonapc.com
2 Venture Plaza, Suite 240
Irvine, CA 92618

ARMOND M. JACKSON
949.226.7027 Direct
949.281.6857 Main
ajackson@jacksonapc.com

January 13, 2022

Sent by Certified Mail to Poppy Bank

Submitted Via Online to Labor and Workforce Development Agency

Poppy Bank
438 First Street
Santa Rosa, CA 95401

Khalid Acheckzai Agent for Service of Process
438 First Street
Santa Rosa, CA 95401

Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

PRIVATE ATTORNEY GENERAL ACT (PAGA) NOTICE

PURSUANT TO LABOR CODE § 2699

Re: Notice Pursuant to California Labor Code Section 2699
Violations of California Labor Code Sections 201, 202, 203, 226(a) 1-2, 4-5, 9, 226.3,
226.7, 510, 512, 558, 1194, 2802,
Violations of California Labor Code Section 1198 (Industrial Welfare Commission Order
Nos. 4-2001 ("Wage Order 4"), Sections 3, 7, 11 and 12

Labor and Workforce Development Agency Right to Investigate and Issue a Citation (Lab. Code § 2699.3)

Mary Ann Mararac v. Poppy Bank, et al.

Dear Poppy Bank, Mr. Khalid Acheckzai, and PAGA Administrator:

This letter is issued pursuant to Labor Code § 2698, et seq. (Specifically Labor Code § 2699(f)), which provides notice to the PAGA Administrator, Poppy Bank, and Khalid Acheckzai by Mary Ann Mararac (“Ms. Mararac” or “Plaintiff”), on behalf of all aggrieved current and former similarly-situated employees of Poppy Bank (collectively referred to herein as “Defendant”) in California for all California nonexempt employees, a private right of action under the Private Attorney General Act (PAGA) of 2004.

As a prerequisite to prosecuting this private action in superior court, Ms. Mararac is required to provide notice by certified mail to the Labor and Workforce Development Agency and the employers regarding each violation, along with facts and theories supporting each violation as mentioned below. (Labor Code § 2699.3) If you have any questions regarding this letter, please contact Armond M. Jackson, Esq. at Jackson APC at 949-281-6857 or via email at ajackson@jacksonapc.com.

Facts and Theories

Defendant Poppy Bank is a financial institution headquartered in Santa Rosa, California. This letter encompasses violations for all of Defendant’s nonexempt California employees entitled to the California Labor code protections.

Ms. Mararac worked as a Senior New Accounts / Client Services Representative at Defendant’s La Jolla branch from June 2020 to on or about March 3, 2021. As a nonexempt employee, Ms. Mararac performed job duties such as opening new accounts, customer service, completing banking reports, maintaining the premises, answering phones, balancing the vault and the cash register and other job duties as assigned by Defendant.

Due to Defendant’s understaffing, heavy workloads, and project deadlines, Ms. Mararac was not able to take an uninterrupted 30-minute meal break each five hours at a reasonably practicable time. At times, Ms. Mararac and similarly situated employees were required to clock out but were on duty during their meal breaks. Meal breaks were occasionally missed, late, or interrupted by text messages and group chat messages from her manager and Ms. Mararac was required to respond.

Likewise, throughout Ms. Mararac’s employment, she worked 4-hour plus shifts and was not authorized or permitted to take an uninterrupted 10-minute rest break each four hours at a reasonably practicable time. At least four (4) times each week, her rest periods were missed or interrupted by her manager to discuss work-related matters.

Defendant did not always compensate Ms. Mararac with her premium wages when she was subjected to late, short, missed, on-call, interrupted, or missed meal breaks and rest breaks in violation of California Labor Code section 226.7, 512, and Wage Order 4, Sections 11 and 12. Other similarly situated employees who worked at Defendant were under the same conditions as Ms. Mararac.

Moreover, Defendant failed to incorporate Ms. Mararac's premium wages and hours' worth of work on her wage statements as required by California Labor Code section 226(a). All other similarly situated employees were subjected to the same working conditions as Ms. Mararac, such as not being provided with their entitled meal breaks and rest breaks as stated above or paid premium wages, nor were the hours' worth of work or premium wages disclosed on their wage statements.

Moreover, Plaintiff and other aggrieved employees were not compensated for the time spent working while off-the-clock. Plaintiff and other aggrieved employees were required to perform work-related tasks off-the-clock, including opening the bank, disarming the alarm, surveying the bank for intruders and authorizing other employees to enter before plaintiff could clock in. Ms. Mararac and similarly situated employees were required to complete mandatory daily recaps, undergo COVID-19 temperature checks and wait 5-6 minutes for the computer system to upload each time she clocked in. Ms. Mararac and other similarly situated employees were also required to respond to text messages from her manager regarding scheduling changes and complete financial compliance training at home because there was not enough time during the shift. At times, Ms. Mararac and other employees were pressured to remain onsite for 2 minutes after clocking out while her manager finished closing the branch. Due to understaffing and a heavy workload on Defendant's part, Ms. Mararac and other similarly situated employees were forced to work off the clock before and after their shifts in order to complete all assigned tasks.

Ms. Mararac and other similarly situated employees were required to wear masks but Defendant did not provide or reimburse employees for the required masks.

Moreover, Defendant failed to incorporate Plaintiff's premium wages and off-the-clock hours' worth of work, and applicable rates for all hours worked on their wage statements as required by California Labor Code Section 226(a) 1-2, 4-5, and 9. All other similarly situated employees were subjected to the same working conditions as Plaintiff, such as not being provided with their entitled meal breaks or for off-the-clock work thereby failing to include net wages earned, gross wages earned, applicable hourly rates for all hours worked and actual hours worked or premium wages earned on their wage statements.

By virtue of requiring Ms. Mararac to work off-the-clock at Defendant, not providing and/or not authorizing or permitting Ms. Mararac and all other similarly situated employees to take uninterrupted meal breaks and rest periods, not reimbursing her for work-related expenses, failing to incorporate the hours worked and wages earned on the itemized wage statements disclosing total hours worked, total gross wages earned, net wages earned, and failing to pay out wages and premium wages at termination, among other violations, Defendant are violating California Labor Code Sections 201, 202, 203, 210, 221, 226(a), 226.2, 226.3, 226.7, 510, 512, 1194, 2802, 6401, and 6403, and Wage Order 4, Sections 3, 7, 11 and 12.

Violation of California Labor Code Section 203

An employer may not willfully fail to pay any wages owed to an employee who is either discharged or quits. If the employer does fail to pay its employees upon separation of employment, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days (See Lab. Code §203). Here, Defendant did not compensate Ms. Mararac and does not compensate other similarly situated employees for the earned wages and premium wages at the time of termination, acquittal or resignation or end of employment.

Violation of California Labor Code § 210

According to Labor Code section 210, an employer may not fail to pay the wages of each employee. Here, Defendant failed to pay for all hours worked due to requiring employees to work off-the-clock, requiring employees to engage in pre- and post-shift off-the-clock work, and failing to provide employees uninterrupted meal and rest breaks.

Violation of California Labor Code § 221

It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee. Again, here, Defendant failed to pay for all hours worked due to requiring employees to work off-the-clock, requiring employees to engage in pre- and post-shift off-the clock work, permitting employees to work off-the-clock prior to the start and at the conclusion of their shift.

Violation of California Labor Code § 226(a)

Labor Code § 226 (a) requires employers to provide “accurate itemized statement in writing” each pay period that includes nine categories of information. These categories include (1) gross wages earned, (2) total hours worked, (4) deductions taken, (5) net wages earned, (8) name and address of the legal entity employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee (See Labor Code §226, subsection (a)). Any employer who has violated California Labor Code Section 226(a) will also be subject to penalties under California Labor Code Section 226.3. These records

must be maintained for a period of at least three years. It is Ms. Mararac's contention that Defendant is in violation of the following California Labor Codes.

Violation of 226 (a)(1)

Section a (1) requires gross wages to be inserted on an employee's paystubs. Ms. Mararac and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Mararac and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendant did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendant disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(2)

Section a (2) requires the total hours worked by the employee to be inserted on an employee's paystubs. Ms. Mararac and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Mararac and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendant did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendant disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(4)

Section a (4) requires all deductions out of an employee's wages to be inserted on an employee's paystubs. Ms. Mararac and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Mararac and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendant did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendant disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(5)

Section a (5) requires net wages to be inserted on an employee's paystubs. Ms. Mararac's and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Mararac's and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods, but Defendant did not compensate them for that extra hours' worth of work while off-the

clock nor did Defendant disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of 226 (a)(9)

Section a (9) requires all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Ms. Mararac's and other similarly situated employees' paystubs did not accurately reflect their gross wages earned by virtue of excluding hours worked and wages earned because Ms. Mararac and other similarly situated employees worked off-the-clock and during their entitled meal periods and rest periods but Defendant did not compensate them for that extra hours' worth of work while off-the-clock nor did Defendant disclose or record the extra hours' worth of gross wages earned on their paystubs for failing to provide the entitled meal breaks and rest breaks.

Violation of California Labor Code Sections 201, 202, 203, 226.7, 510, 512, 1194, 1198, Wage Orders 4, Sections, 3, 7, 11 and 12

An employer must provide meal periods and rest periods pursuant to an applicable order of the Industrial Welfare Commission (See Lab. Code §226.7, 512).

Under Labor Code § 1198 an employer is required to comply with the standard conditions of labor required in the orders set by the Industrial Welfare Commission, Wage Order 4.

Under these circumstances, Ms. Mararac's position at Defendant falls within Wage Order 4 as Defendant employed Ms. Mararac as a nonexempt employee classified as an employee. Thus, all sections and subsections that pertain to California Wage Orders 4 below are applicable to Ms. Mararac and all similarly situated aggrieved employees within the Wage Order were employed or remain employed by Defendant.

California Labor Code sections 226.7, 512, Wage Order 4 Section 11 states no employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an on-duty meal period and counted as time worked. An on-duty meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time. (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

Ms. Mararac and other similarly situated employees did not receive their entitled uninterrupted meal periods during their employment at Defendant while regularly working above 5 and 10 hour shifts. Moreover, Ms. Mararac and other similarly situated employees were not provided with their meal periods in the middle of each work period as required and as reasonably practicable. As stated above, Ms. Mararac and other similarly situated employees were subjected to on-premises, on-call, abbreviated, interrupted, missed or late meal periods. Nor were they compensated for working through their meal periods or for failing to be provided with meal periods in violation of California Labor Code Section 226.7, 512 and Wage Order 4.

California Labor Code sections 226.7, 512, Wage Order 4, Section 12 states every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided that were short, interrupted, on-premises, on-call, late or not taken at all.

Ms. Mararac and other similarly situated employees did not receive their entitled uninterrupted rest periods and meal breaks during their employment at Defendant while regularly working above 5, 6, 8, 10 and 12 hour shifts.

California Labor Code Section 510, and 1194, Wage Order 4, Section 3

Section 3 lays out the requirements for overtime pay applicable to employees working in similar establishments such as Defendant. If an employee works in excess of eight (8) hours in any one day, or over forty (40) hours in one week, those hours must be paid at the rate of one and one-half (1.5) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours and up until twelve (12) hours in any day. Any hour worked in excess of 12 hours in any workday is to be paid at the rate of double the employee's regular rate of pay.

Violation of California Labor Code Section 510

Work in excess of eight hours in one workday and/or 40 hours in one workweek, and the first eight hours on the seventh day of work in any workweek must be compensated at no less than one and one-half times the employee's regular rate of compensation (See Lab. Code §510). "Double time" is required after twelve hours in any workday, after eight hours on the seventh day

of work. Ms. Mararac and other similarly situated employees were not paid overtime for hours worked in excess of 8 hours per day or forty hours per week, because they worked through shifts above 8 hours per day and 40 hours per week and not paid overtime rates and minimum wage rates for off-the-clock and on-the-clock work. The employees were never provided with overtime and minimum wage compensation for this time. Moreover, Defendant provided performance-based bonuses and incentive payments but failed to include the correct overtime rates incorporating the bonuses into their compensation, resulting in underpayment.

Violation of California Labor Code Section 558

Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty in addition to recover unpaid wages (See Lab. Code §558).

Violation of California Labor Code Section 1194

Any employee receiving less than the legal minimum wage or overtime compensation applicable to the employee is entitled to recover, in a civil action, the unpaid balance of the full amount of the minimum wage or overtime compensation including interest, reasonable attorney's fees, and costs of suit (See Lab. Code §1194). Ms. Mararac and other similarly situated employees were not paid all overtime and minimum wages for all hours worked including those hours in excess of 8 hours per day or forty hours per week because they worked overtime hours not paid at these overtime rates due to Defendant failing to pay for off-the-clock work.

Violation of California Labor Code § 2802 – Unreimbursed Business Expenses

California Labor Code section 2802 requires employers to pay for all necessary expenditures and losses incurred by the employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent employers from passing off their cost of doing business and operating expenses on to their employees. *Cochran v. Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable wage order provides that: "[w]hen tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft."

Defendant, on a company-wide basis, required Ms. Mararac and other similarly situated employees to wear a facial mask while working on Defendant's premises, while simultaneously failing to provide employees with masks for the duties that they were required to perform.

During her employment with Defendant, Ms. Mararac was provided with one disposable mask and was required to purchase masks to wear during her work shifts but was not reimbursed for these costs. Defendant could have provided Ms. Mararac and other similarly situated employees with personal protective equipment for use on the job to fulfill work-related tasks, but instead, Defendant passed these operating costs off onto Ms. Mararac and other similarly situated employees.

Thus, Defendant had, and continue to have, a company-wide policy and/or practice of not reimbursing employees for expenses necessarily incurred in violation of California Labor Code section 2802.

Violation of California Labor Code §§ 6401 and 6403 – Failure to Provide Safety Devices and Safeguards

California Labor Code section 6401 provides that employers must furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render the employment and place of employment safe and healthy. California Labor Code Section 6401 further provides that an employer must do everything reasonably necessary to protect the life, safety and health of its employees. California Labor Code section 6403(a) requires that employers provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe.

Defendant, on a company-wide basis, failed to provide Ms. Mararac and other similarly situated employees with personal protective equipment, such as masks to keep them safe in the workplace. Despite the fact that Defendant required employees to wear certain personal protective equipment, such as masks, Defendant failed to provide such reasonably necessary equipment to Ms. Mararac and other similarly situated employees to keep them safe. Additionally, although Defendant's protocols referenced that face masks were to be used at all times, Defendant did not provide COVID-19 personal protective equipment to its employees or while on Defendant's premises to ensure employee safety. The company required masks but did not provide masks to its employees to use at Defendant's workplace or other job sites. Defendant's failure to provide Ms. Mararac and other similarly situated employees with safety devices and safeguards, including personal protective equipment, for the workplace violated Labor Code sections 6401 and 6403.

Wage Order 4 Section -7- Records

Section 7 sets out the requirements for the maintenance of employee records by an employer. Subsection (A) requires employers to "keep accurate information with respect to each employee" regarding identification information, including their "[f]ull name, home address, occupation and social security number," "[t]ime records showing when the employee begins and

ends each work period,” “[m]eal periods,” and [t]otal hours worked in the payroll period and applicable rates of pay.”

Subsection (B) requires an employer to provide accurate, itemized statements showing deductions and the dates of the pay period. Subsection (C) requires such records to be kept for three (3) years and made available on request.

As discussed above, Defendant failed to incorporate the extra hours’ worth of work when Ms. Mararac and other similarly situated employees worked through their entitled meal breaks and rest periods without being paid premium wages. The extra hours’ worth of work at the applicable rate of pay was not disclosed on the itemized wage statements in violation of Wage Order 4, Section 7 Records. Also, Defendant failed to record all meal periods as all meal periods were not provided.

Conclusion

As a consequence of Defendant’s violations of California Labor Code Sections 201, 202, 203, 221, 226(a), 226.3, 226.7, 510, 512, 558, 1194, 2802, 6401, 6403, and Wage Order 4, Sections 3, 7, 11 and 12, Ms. Mararac seeks penalties for each violation as an individual and on behalf of all aggrieved employees against Defendant.

Sincerely,

Jackson Law, APC

/s/ Armond M. Jackson

Armond M. Jackson