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Attorneys for Plaintiff, Attorneys for Plaintiffs,
LAURA BREWER and TRAVIS PONS
on behalf of themselves and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

LAURA BREWER and TRAVIS PONS individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

EL ENCANTO, INC and DOES 1 to 50, inclusive,

Defendants.

Case No.: 22CV00660

ASSIGNED FOR ALL PURPOSES TO:
Judge: Hon. Colleen K. Stern
Dept.: 5

DECLARATION OF ANTHONY L. DRAPER IN SUPPORT OF MOTION FOR APPROVAL OF PAGA SETTLEMENT

DECLARATION OF ANTHONY L. DRAPER

I, Anthony L. Draper, declare as follows:

1. I am an individual over the age of 18. I am an associate at the law firm of James Hawkins APLC. I am one of the attorneys of record for plaintiffs Laura Brewer and Travis Pons (hereinafter referred to as "Plaintiffs"). I submit this declaration in support of Plaintiffs' Motion for Approval of PAGA Settlement which Plaintiffs filed concurrently herewith, along with the supporting memorandum of points and authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. On February 17, 2022, Plaintiffs commenced this Action against Defendant by filing a class action Complaint alleging causes of action based on purported Labor Code violations. Plaintiffs' Complaint claims that Defendant: failed to pay all minimum and overtime wages; failed to provide compliant meal and rest periods; failed to reimburse business expenses; failed to issue accurate itemized wage statements; failed to timely pay wages; and engaged in unfair competition.

3. On February 14, 2022, Plaintiffs provided timely written notice to the LWDA and to Defendant of Plaintiffs' intent to pursue a Labor Code section 2698 Private Attorney General Act ("PAGA") claim. (Plaintiff's Notice to the LWDA is attached as **Exhibit 1**.) On April 21, 2022, Plaintiffs filed a First Amended Complaint ("FAC"), which added to the Complaint a claim for civil penalties pursuant to PAGA based on the same allegations asserted in the Complaint

4. Plaintiffs (like the other Aggrieved Employees) signed arbitration agreements with a class action waiver and a representative action waiver and are in the process of filing a request for dismissal of the class action claims.

5. Counsel for Plaintiffs engaged in informal discovery of Defendant's alleged Labor Code violations, which specifically targeted evaluating the strength and value of the PAGA and class claims in preparation for a resolution of this Action.

6. Plaintiffs' counsel obtained and reviewed multiple documents, including (i) Plaintiffs' employee files, time and pay records, and wage statements, (ii) relevant policy documents relating to the employment of Plaintiffs and other aggrieved employees, (iii) time-keeping and payroll data for a randomly-selected sample of the Aggrieved Employees; and (iv) relevant statistics sufficient to

allow Plaintiffs to assess exposure (i.e., estimated number of total employees, terminated employees, and pay periods from February 15, 2021 through the mediation date).

7. Based on the information and documents produced by Defendant, Plaintiffs' counsel was able to (i) determine the total number of distinct individuals falling within the definition of "Aggrieved Employees" for the relevant statutory period, and (ii) construct a damage model that calculated the maximum realistic amount of PAGA penalties that could be levied against Defendant within the PAGA Period. Defendants, however, disputed (and continue to dispute) Plaintiffs' claims and disputed both the existence of and extent of liability as alleged by Plaintiffs.

8. Based on Plaintiffs' counsel's experience in litigating many similar "representative" wage and hour claims, the degree of investigation that was conducted and the amount of data that was obtained was sufficient to determine the potential value of the PAGA claims and to evaluate their strength for purposes of settlement

9. On January 10, 2024, the Parties participated in an all-day mediation before experienced wage and hour mediator Michael Loeb. At the conclusion of the mediation, the Parties reached an Agreement to settle the PAGA representative claims asserted in the Action.

10. After further negotiations and multiple exchanges of the proposed settlement agreement, the Parties agreed to the final terms of the agreement as set forth in the PAGA Settlement Agreement that is now before the Court for approval. (A true and correct copy of the PAGA Settlement Agreement ("Settlement Agreement") is attached hereto as **Exhibit 2**.)

11. On December 27, 2024, Plaintiffs submitted the Settlement Agreement, concurrently with the filing of this motion, to the LWDA.

12. The PAGA claims are premised on allegations that due to the demands of the work shift, Plaintiffs and Aggrieved Employees were frequently required to perform work "off the clock" during their meal periods and prior to the start of their shift and after clocking out at the end of their shifts. Plaintiffs also claimed during mediation that Plaintiffs and Aggrieved Employees worked "off-the-clock" because they spent traveling to work in a shuttle from an off-site parking lot. The PAGA claims for failure to provide compliant rest and meal breaks are likewise also based on allegations that, due to the demands of the shift, Plaintiffs and Aggrieved Employees were unable to

take lawful meal and/or rest breaks. The PAGA claims based on Defendant's alleged failure to pay timely wages and provide accurate itemized wage statement are derivative of the failure to pay wage and premium wages claims. The PAGA claims based on failure to reimburse business expenses are based on Defendant's alleged failure to reimburse Plaintiffs and Aggrieved Employees for necessary business expenses, including cell phones.

13. Defendant disputes Plaintiffs' claims and contends that it complied with California law, including by prohibiting "off the clock" work, paying for all time worked, providing compliant meal periods, authorizing and permitting compliant rest breaks, providing accurate itemized wage statements, timely paying all wages, and reimbursing all necessary business expenses. Defendant maintains that non-exempt employees were not entitled to compensation for the time spent traveling in a shuttle to work from an off-site parking lot, and that they had no reason to use their personal cell phones for work. Defendant further denies that any Aggrieved Employee, including Plaintiffs, was "aggrieved" under PAGA.

14. Defendant additionally maintained that Plaintiffs and the Aggrieved Employees entered into arbitration agreements that required, pursuant to *Viking River Cruises, Inc. v. Moriana*, 142 S. Ct. 1906 (2022), that (1) Plaintiffs and the aggrieved Employees individually arbitrate their individual PAGA claims, and (2) the Court dismiss Plaintiffs' non-individual PAGA claims. Defendant specifically disclaims any liability to Plaintiffs or any of the allegedly Aggrieved Employees or the LWDA for any alleged violation of rights, or for any alleged violation of the California Labor Code or Industrial Welfare Commission Wage Orders.

15. Moreover, Defendant maintains that even if the Court did award penalties, the Court could *significantly* reduce the penalties awarded based on the discretionary factors contained in Labor Code §2699(e)(2) ("In action by an aggrieved employee . . . , a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.")

16. Based on these factors and defenses, which had the potential to completely eliminate or significantly reduce Plaintiffs' recovery, the range of realistic "litigation outcomes" on Plaintiffs'

PAGA claims was defined by a “maximum possible liability” of approximately $1,300,000 (assuming Plaintiffs could prove the alleged violations occurred, which Defendant denies). This figure attributes the maximum $100 penalty to each of the estimated 13,000 pay periods in scope during the PAGA period. The figure also assumes that there is a 100% violation rate during the PAGA period, such that every single pay period in question involved at least one Labor Code violation, despite disputes regarding Defendant’s liability. From there, Plaintiffs apply the full amount of the default initial penalty provided under PAGA, despite the Court’s discretion to reduce the penalty structure and award lower than the default amounts. Defendant does not concede that the default penalty, in whole or in part, is applicable to all of Plaintiffs’ alleged claims.

17. The estimated valuations attributed to the claims for purposes of settlement, including the range of violation and resulting potential PAGA penalties are as follows, which, again, were not added together in calculating the maximum potential liability due to the unavailability of stacking:

a. <u>Failure to Pay Wages Due</u>

This claim is premised on allegations: (a) that due to the demands of the work shift and understaffing, Plaintiffs and Aggrieved Employees were frequently required to perform work “off the clock” principally either post work shift and/or during their scheduled meal breaks and (b) that Plaintiffs and Aggrieved Employees were entitled to compensation for time spent traveling to work in a shuttle from an off-site parking lot. Plaintiffs allege that they were frequently required to clock out during meal breaks and continue working and and/or respond to work related calls after they clocked out at the end of their shifts. Plaintiffs allege that Defendant did not compensate Plaintiffs and Aggrieved Employees for the aforementioned “off-the-clock” work. Taking into consideration the nature of the allegations and Defendants’ defenses thereto including the inability to establish the violation with respect to all of the Aggrieved Employees and that time spent traveling to work in the shuttles is non-compensable, this claim was valued in the 20% to 10% violation rate and thus between $260,000 and $130,000 in estimated maximum PAGA penalties.

b. <u>Meal Period Claim</u>

The meal period claim is based on allegations that Plaintiffs and Aggrieved Employees were not always provided compliant meal breaks during their work shifts. Plaintiffs allege that due to frequent understaffing, the workload requirements and time constraints imposed by Defendant, they and Aggrieved Employees worked through their meal breaks and/ or had their meal breaks interrupted. Additionally, Plaintiffs and Aggrieved Employees were not provided a second meal period when working in excess of ten hours. Defendant disputes Plaintiffs' allegations and contends that Defendant's meal break policy and practice is compliant. Defendant asserts that neither Plaintiffs nor Aggrieved Employees were prohibited from taking compliant meal periods, and a review of the sample employee data produced revealed a remarkably low meal period violation rate. Defendant further contends that meal break premiums were paid during the PAGA Period for non-compliant meal breaks. Taking into consideration the nature of the claim, Defendant's defenses and issues faced due to *Brinker Rest. Corp. v. Super. Ct.*, (2012) 53 Cal. 4th 1004 ("*Brinker*"), this claim was valued in the 15% to 5% violation rate and thus between $195,000 and $65,000 in estimated maximum PAGA penalties.

c. <u>Rest Period Claim</u>

As with the meal period claim, the rest period violation claim is primarily based on allegations that due to the work pressures and time constraints, Plaintiffs and Aggrieved Employees worked without being able to take a compliant ten (10) minute rest break, or any rest break at all, during their work shifts. Defendant disputes Plaintiffs' allegations and contend that Plaintiff and Aggrieved Employees were allowed to take compliant rest breaks during their work shifts. Defendant also asserts that Plaintiffs lacked any evidence that any individual was not authorized or permitted to take compliant rest periods and noted the unmanageability of such a claim, due to the fact that rest periods are not recorded. Taking into consideration the nature of the claim, Defendant's defenses and issues faced due to *Brinker*, this claim was valued in the range of 10% to 5% violation rate and thus between $130,000 and $65,000 in estimated maximum PAGA penalties.

d. <u>Failure to Timely Pay Wages</u>

This claim is derivative of the underlying claims. Defendant once again asserts that no unpaid wages are owed as Defendant did not fail to pay the correct wages owed, including overtime or minimum wages, nor did they fail to pay premium wages for meal and rest breaks. For purposes of settlement negotiations, said claim was valued at a 10% to 0% violation rate and thus between an estimated maximum $130,000 and $0 in PAGA penalties.

e. Failure to Provide Accurate Itemized Wage Statements

This claim is derivative of the underlying claims based on allegations that Defendants failed to state the correct hours worked, the correct applicable hourly rate and correct total wages earned. Defendant denies that it provided inaccurate wage statements. For purposes of settlement negotiations, said claim was valued at a 5% to 0% violation rate and thus between an estimated maximum $65,000 and $0 in PAGA penalties

f. Failure to Reimburse Expenses

The claim for business expense reimbursement under Lab. Code §2802 is premised on Plaintiffs' allegation that Defendant failed to reimburse them and similarly situated Aggrieved Employees for the use of their personal mobile phones in the performance of their job duties. Defendant disputes this claim and contends that Plaintiffs and Aggrieved Employees were not required to use their personal mobile phones in the performance of their job duties. Upon further review and evaluation of the facts and circumstances surrounding this claim and taking into consideration that it would require individualized inquiries into whether and to what extent Aggrieved Employees used their personal phones, this claim was valued between a nominal amount and $0.

18. The above factors and analysis, including the potential for the PAGA claims to be completely eliminated or significantly reduced, weigh heavily in favor of resolution by way of the compromise set forth in the Settlement. In the view of Plaintiffs' counsel, the benefit conferred by the proposed Settlement is fair, reasonable, and adequate under the circumstances, as it reflects a reasoned compromise which takes into consideration the risks inherent in this case which had the potential to completely eliminate recovery

19. Plaintiffs recognize the expense and length of continued proceedings necessary to litigate the matter through trial and any possible appeals and have also considered the uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation based upon the burdens of proof. Plaintiffs are also aware of the burdens of proof necessary to establish liability, both generally and in response to Defendant's defenses thereto, and the difficulties

in establishing Defendant's liability for, and the right to recover, penalties on behalf of Plaintiffs, the State of California, and the other purported Aggrieved Employees

20. Additionally, there is a real possibility that Plaintiffs would recover nothing, either for themselves or on behalf of the State of California or other Aggrieved Employees, after years of costly and labor-intensive litigation. Avoiding these risks and the likelihood of future contentious litigation, which would involve significant costs, favors settlement.

21. This firm has a great deal of experience in wage and hour class action and representative PAGA litigation. James R. Hawkins has obtained certification of several classes, has been approved as class counsel in many other wage/hour class actions, and is currently litigating numerous others. Although not an all-inclusive list, over the years James R. Hawkins has prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for misclassification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiffs' counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by defendant in the State of California. Plaintiff's counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Ruiz, et al. v. Unisourse Worldwide, Inc.*, et al., USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by defendant in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final Approval.

o. *Defries v. Domain Restaurants, et al.,* Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Denton v. BLB Enterprises, Inc.*, et al., Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co., Inc,* et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Burns v. Gymboree Operations, Inc., et al.,* San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc., et al.*, Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

v. *Davila, et al. v. Beckman Coulter, Inc., et al.*, Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by defendant in the State of California. Plaintiff's counsel appointed lead counsel. Cased settled; final approval granted; no objections and funds fully distributed.

w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

22. James Hawkins APLC is a boutique law firm that specializes in wage and hour class and PAGA representative actions, and is comprised of several seasoned attorneys and staff. The hourly rates for the attorneys who worked on this case, James Hawkins, Isandra Fernandez, Kacey Cook and myself, are respectfully submitted as reasonable rates in line with comparable hourly rates charged by other firms that handle complex litigation in California. Numerous California firms provided their hourly billing rates in connection with a survey conducted by the National Law Journal. Of these California law firms, ten regularly charge hourly rates of $660, $795, $850, and even $980 per hour. (A true and correct copy of this National Law Journal 2011 survey is attached hereto as **Exhibit 3**.)

23. Ms. Fernandez, my co-counsel on this matter, has been a member of the Florida Bar since January 1996 and member of the California Bar since August 2002. Ms. Fernandez has

specialized in employment-related litigation including complex wage and hour civil litigation since 2003. Ms. Fernandez has been, and currently is, co-counsel in over 50 wage and hour class action litigations for our firm and has produced excellent results for this firm's clients in wage and hour class and PAGA actions.

24. I have been a member of the California Bar since July 2022, and was provisionally licensed prior to that time. I have specialized in complex wage and hour litigation since October 2021. I have been, and currently am, co-counsel in over 40 complex wage and hour cases and have successfully litigated wage and hour class and PAGA actions for our firm.

25. Kacey Cook, was formerly employed as an attorney by James Hawkins APLC from on or about June 2021 through July 2024. Ms. Cook became a member of the California Bar on June 1, 2021 and worked on wage and hour class action and PAGA cases during her employment.

26. Since on or about February 2022, prior to the inception of the filing of this PAGA action through the present, James Hawkins APLC has had to, among other things, expend time on the following: engage in numerous discussions with Plaintiffs, conduct comprehensive investigations including but not limited to researching Defendant's structure, business relationship, positions, locations; conduct analysis regarding potential class members within the scope of the putative class and potential claims; draft Complaint and PAGA letter; discussions with Defendant's counsel regarding this matter; draft First Amended Complaint ("FAC") adding PAGA; review arbitration documents produced by Defendant pertaining to Plaintiffs; discussion and analysis regarding the same; research issues presented; prepare joint status conference reports; attend the same; discussions re *Viking River Cruises* case and impact on matter; stay of representative PAGA claims pending US Supereme Court ruling; review ruling; discussions regarding the same; research regarding the same; discussions and research re *Adolph v Uber Technologies* case and impact on matter; discussions with Defendant and plaintiffs regarding mediation and documents and information to be exchanged prior to; review hundreds of pages of records, manuals and data; engage in discussions with Plaintiffs in advance of mediation; prepare for mediations; draft mediation brief; participate in a full day mediation; receive and review mediator's proposal; accept the same; engage in numerous discussions with Defendant regarding the specific terms of the

Settlement and exchange multiple drafts of the settlement agreement; discussions with Plaintiffs regarding settlement agreement; prepare motion for approval and supporting documents. A great amount of time and effort has been expended to properly and comprehensively perform the job required of this case and prepare for all contingencies that may arise, regardless of whether the case settles.

27. The attorneys who have worked on this matter are Mr. Hawkins, Ms. Fernandez, Ms. Cook and myself. My hourly rate is $485, Ms. Fernandez's hourly rate is $975, Mr. Hawkins' hourly rate is $1,000 and Ms. Cook's hourly rate was $450. Since the inception of this matter, prior to filing the Complaint, the total amount of attorney time estimated to have been expended and also estimated to be expended in finalizing this matter is 126 (James Hawkins 17 hours, Ms. Fernandez 54 hours, Ms. Cook 30 hours and Mr. Draper 38 hours) which equates to $99,155 in total fees.

28. Plaintiff's counsel's entitlement to an award of attorneys' fees and costs is warranted on multiple independent grounds. Further, the amount of fees requested falls well within the range of reasonableness under applicable standards. The amount requested constitutes a "percentage of the fund" deemed reasonable in similar wage and hour settlements of this size and approved by California courts. This is not only warranted based on the contingency risk Plaintiff's counsel agreed to incur for the benefit of the State of California and Aggrieved Employees, but also based on the significant results achieved.

29. In the course of this litigation, Plaintiff's counsel incurred costs of $15,814.23 through the conclusion of this matter. (A true and correct copy of Plaintiffs counsel's Cost Invoice is attached hereto as **Exhibit 4**).

30. A true and correct copy of the Notice of Settlement of Private Attorneys General Act Lawsuit ("Notice") is attached hereto as **Exhibit 5**. This Notice will be mailed to the Aggrieved Employees along with their Individual PAGA Payment.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on December 23, 2025, at Costa Mesa, CA.

____
Anthony Draper, Esq.

EXHIBIT 1

JAMES JH HAWKINS
A PROFESSIONAL LAW CORPORATION

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

February 14, 2022

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

Via Certified Mail:
EL ENCANTO, INC.
800 Alvarado Place
Santa Barbara, CA 93103
Certified Mail:

Agent for Service of Process:
EL ENCANTO, INC.
CSC-LAWYERS INCORPORATING
SERVICE
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833
Certified Mail:

Re: NOTICE PURSUANT TO LABOR CODE SECTIONS 2699 et seq.

To Whom It May Concern:

PLEASE TAKE NOTICE that plaintiffs Laura Brewer and Travis Pons, on behalf of themselves and all others similarly situated gives NOTICE to file and/or amend a civil action pursuant to Labor Code Sections 2699, *et seq*. Plaintiffs hereby give written notice by certified mail to the Labor and Workforce Development Agency ("LWDA"), El Encanto, Inc. Plaintiffs hereby attach the Complaint as though fully set forth herewith, setting out the specific provisions of the Labor Code plaintiff alleges have been violated including the facts and theories. <u>All labor provision violations alleged in the Complaint PERTAIN TO ALL ENTITIES AND INDIVIDUALS NAMED IN THE COMPLAINT even if not specifically specified.</u>

Please advise by certified mail within sixty (60) days of the post mark on this letter if the LWDA intends to investigate these claims. Thank you.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Kacey E. Cook, Esq.

Enclosures: Complaint

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Attorneys for Plaintiffs, LAURA BREWER and TRAVIS PONS on behalf of themselves and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

LAURA BREWER and TRAVIS PONS on behalf of themselves and all others similarly situated Plaintiff, vs. EL ENCANTO, INC. a Delaware corporation and DOES 1 through 50, inclusive, Defendants.	Case No. ASSIGNED FOR ALL PURPOSES TO: JUDGE: DEPT: **CLASS ACTION COMPLAINT** **1) Failure to pay Lawful Wages** **2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof** **3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof** **4) Failure to Reimburse Employee Expenses** **5) Failure to Timely Pay Wages During Employment** **6) Failure to Timely Pay Wages At Termination** **7) Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions** **8) Violations of the Unfair Competition Law** **JURY TRIAL DEMANDED**

Named Plaintiffs allege as follows

I.

INTRODUCTION

1. Plaintiffs LAURA BREWER and TRAVIS PONS ("Plaintiffs") assert the following Class Action claims, pursuant to Code of Civil Procedure section 382, against Defendants EL ENCANTO, INC., a California corporation (hereinafter "EL ENCANTO"), and Does 1 through 50 inclusive, (collectively "Defendants"")

2. Plaintiffs bring this class action on behalf of themselves and all similarly situated employees not classified as "Exempt" or primarily employed in executive, professional, hospitality, or administrative capacities, employed by, or formerly employed by Defendants in California. (hereinafter referred to as "Non-Exempt Employees" and/or "Class Members").

3. During the liability period, defined as the applicable statute of limitations for each and every cause of action contained herein, Defendants enforced shift schedules, employment policies and practices and/or workload requirements wherein Plaintiffs and Non-Exempt Employees were, amongst other statutory violations not paid all lawful wages owed; not provided compliant rest and meal periods; not provided accurate itemized wage statements; not reimbursed employee expenses, and not paid timely wages during their employment and/or at termination.

4. Plaintiffs on behalf of themselves and Non-Exempt Employees, brings this action pursuant to Labor Code sections 201, 202, 203, 204, 226, 210, 226.7, 510, 512, 558, 1194, 1198, 1199, 2802 Title 8, Section 11050, any other applicable Industrial Welfare Commission ("IWC") Wage Orders seeking unpaid lawful wages, unpaid rest and meal period compensation, expense reimbursements, penalties and other equitable relief, and reasonable attorneys' fees and costs.

II.

VENUE

5. Venue as to each Defendant is proper in this judicial district pursuant to Code of Civil Procedure section 395. Defendant conduct substantial and continuous commercial activities in Santa Barbara County and each Defendant is within the jurisdiction of this Court for service of process purposes. Defendant employ numerous Class Members in Santa Barbara County, California.

6. Plaintiffs are, and at all times mentioned in this complaint were, residents of California.

III.

PARTIES

7. On information and belief, EL ENCANTO provides hotel in Santa Barbara, California.

8. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendant by such fictitious names under Code of Civil Procedure section 474. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

IV.

FACTUAL BACKGROUND

9. Plaintiff Brewer was employed by Defendants on or about October 2018. During her employment she worked as an accounts payable representative. Plaintiff occupied said non-exempt, hourly position until her termination on or about February 16, 2021.

10. Plaintiff Pons was employed by Defendants on or about winter of 2017. During their employment they occupied a position as a bartender. Plaintiff occupied said non-exempt, hourly position until his termination on or about December 2019.

11. As an accounts payable representative, Plaintiff's duties included, but were not limited to, processing invoices, writing checks, and depositing monies in the bank.

12. As a bartender, Plaintiff's duties included, but were not limited to, stocking supplies, crafting cocktails, and providing customer service.

13. During the relevant time period, Plaintiffs and Non Exempt Employees typically worked approximately five (5) days a week, for eight (8) hour shifts which on most days lasted

longer.

14. During the relevant time period, Defendants implemented policies and practices which resulted in Plaintiff(s) and Non Exempt Employees working "off the clock" and without compensation. For instance, both plaintiffs frequently worked through their rest and meal breaks due to the demands of their work duties. They were required to clock out and continue working, or work through their rest and meal break altogether, and their clock in times were adjusted later by management. Plaintiffs, and on information and belief, Non-Exempt Employees were not compensated for the work performed "off the clock."

15. During the relevant time period, due to the demands of the work shifts, Plaintiffs and Non Exempt Employees were required to work without being permitted or authorized a minimum ten (10) minute rest period for every four hours or major fraction thereof worked. Also, Plaintiffs and Non-Exempt Employees were not provided a third 10 minute rest period when they worked in excess of ten hours in a shift. Plaintiffs and, on information and belief, Non-Exempt Employees were not paid one (1) hour of pay at their regular rate of compensation for each workday that a compliant was rest period was not provided, in violation of California labor laws, regulations and IWC Wage Orders.

16. During the relevant time period, due to the demands of their work duties, Plaintiffs and Non-Exempt Employees either worked through their meal breaks, or their meal breaks interrupted to attend to or engage in work related tasks. As a result, Plaintiffs and Non-Exempt Employees were not provided with an uninterrupted 30 minute meal period within the first five (5) hours of their shift, and/or in excess of ten (10) hours without a second 30 minute meal period by the end of the tenth hour of their shift. Plaintiff, and on information and belief, Non Exempt Employees were not paid one (1) hour of pay at their regular rate of compensation for each workday that a compliant meal period was not provided, in violation of California labor laws, regulations and IWC Wage Orders.

17. Defendants have also failed indemnify Plaintiffs and Class Members for expenses incurred in direct consequence of the discharge of their duty. For example, Plaintiffs and Non-Exempt Employees were contacted by supervising staff during work hours and off the clock,

regarding work duties on their personal cell phones. Neither Plaintiff was indemnified for this expense.

18. On information and belief, Defendants willfully failed to pay all earned wages in a timely manner to Non Exempt Employees during their employment and at the termination of their employment all compensation due, including but not limited to all wages owed and compensation for having failed to properly provide rest periods and meal periods.

19. Defendant have also failed to maintain accurate itemized records reflecting total hours worked and have failed to provide Non Exempt Employees with accurate, itemized wage statements reflecting total hours worked and appropriate rates of pay for those hours worked.

20. Plaintiffs are informed and believe, and based thereon alleges, that Defendant currently employ and during the relevant period have employed over one hundred (100) Non Exempt Employees in California.

21. Non-Exempt Employees employed by Defendants, at all times pertinent hereto, have been non-exempt employees within the meaning of the California Labor Code and the implementing rules and regulations of the IWC California Wage Orders.

V.

CLASS ALLEGATIONS

22. Plaintiffs seek to represent a Class comprised of and defined as: All persons who are or were employed by Defendants in the state of California as hourly non-exempt employees within four (4) years prior to the date this lawsuit is filed ("liability period") until resolution of this lawsuit (collectively referred to as the "Class" and/or Class Members").

23. Plaintiffs also seek to represent Subclasses which are composed of persons satisfying the following definitions

a. All Class Members in the state of California who were not accurately and fully paid all lawful wages owed to them including proper minimum wage and/or overtime compensation for all their hours worked;

b. All Class Members in the state of California who have not been provided compliant 30 minute meal period when they worked over five hours in a work shift by the end of the fifth hour and were not provided compensation in lieu thereof;

c. All Class Member in the state of California who, within the liability period, have not been provided a complaint second 30 minute meal period when they worked over ten hours in a work shift by the end of the tenth hour and were not provided lawful compensation in lieu thereof;

d. All Class Members in the state of California who, within the liability period, have not been authorized and permitted to take a minimum ten (10) minute rest period for every four (4) hours or major fraction thereof worked per day and were not provided compensation in lieu thereof;

e. All Class Members in state of California who, within the liability period, were not indemnified for expenses incurred in direct consequence of the discharge of their duty;

f. All Class Members in the state of California who, within the liability period, were not timely paid all wages due and owed to them during their employment with Defendant;

g. All Class Members in the state of California who, within the liability period, were not timely paid all wages due and owed to them upon the termination of their employment with Defendant; and

h. All Class Members in the state of California who, within the liability period, were not provided with accurate and complete itemized wage statements.

24. Plaintiffs also seek to represent a Subclass consisting of all Employees employed by Defendants in California who within the statutory liability period were not indemnified for expenses incurred in direct consequence of the discharge of their duty.

25. Plaintiffs reserve the right under Rule 3.765, California Rules of Court, to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues.

26. This action has been brought and may properly be maintained as a class action under the provisions of section 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

A. Numerosity

27. The potential members of the Class as defined are so numerous that joinder of all the members of the Class is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiffs are informed and believe that Defendants currently employ, and/or during the relevant time period employed, approximately over 100 Non-Exempt Employees in California who are or have been affected by Defendants' unlawful practices as alleged herein.

B. Commonality

28. There are questions of law and fact common to the Class predominating over any questions affecting only individual Class Members. These common questions of law and fact include, without limitation:

i. Whether Defendant violated Labor Code sections 510, 1194 and applicable IWC Wage Orders by failing to pay all earned wages including correct overtime compensation to Non-Exempt Employees who worked in excess of eight (8) hours in a work day and/or more than forty (40) hours in a workweek;

ii. Whether Defendants also violated Labor Code sections 200, 1194, and 1197 for failing to pay minimum wages to Non Exempt Employees for time spent under the Defendants' control and working "off the clock" without pay;

iii. Whether Defendant violated Labor Code sections 226.7, 512 and applicable IWC Wage Order by failing to provide statutorily compliant 30 minute meal periods to Non-Exempt Employees on days in which they worked in excess of 5 hours and/or 10 hours and failing to compensate said employees one hour wages in lieu of meal periods;

iv. Whether Defendant violated Labor Code section 226.7 and applicable IWC Wage Orders by failing to authorize and permit minimum 10 minute rest periods to Non-Exempt Employees for every four hours or major fraction thereof worked and failing to compensate said employees one hours wages in lieu of rest periods;

v. Whether Defendant violated Labor Code section 2802 and applicable IWC Wage Orders for failing to indemnify employees for the expenditures incurred as a direct consequence and/or in the performance of their job duties;

vi. Whether Defendant violated section 204 of the Labor Code by failing to pay timely wages during employment.

vii. Whether Defendant violated sections 226 of the Labor Code and applicable IWC Wage Orders by failing to, among other violations, maintain accurate records of Non-Exempt Employees' earned wages, work periods, meal periods and deductions;

viii. Whether Defendant violated section 17200 *et seq*. of the Business and Professions Code through their violation of the above-referenced Labor Code and Civil Code sections and applicable IWC Wage Orders which violation constitutes a violation of fundamental public policy.

C. Typicality

29. The claims of the named Plaintiffs are typical of the claims of the Class. Plaintiffs and all members of the Class sustained injuries and damages arising out of and caused by Defendant's common course of conduct in violation of California laws, regulations, and statutes as alleged herein.

D. Adequacy of Representation

30. Plaintiffs will fairly and adequately represent and protect the interests of the members of the Class. Counsel who represents Plaintiffs is competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

31. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual members of the Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendant's unlawful policy and/or practice herein complained of.

32. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiffs are unaware of any difficulties that are likely to be encountered in the management of

this action that would preclude its maintenance as a class action.

VI.
CAUSES OF ACTION

First Cause of Action
Failure to Pay Lawful Wages Including Minimum and/or Overtime Wages
(Lab. Code §§ 510, 1194 1199)
(Against All Defendants)

33. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

34. As alleged herein, during the statutory liability period, Defendants' policies, practices and work shift requirements resulted in Plaintiffs and Non-Exempt Employees working "off the clock" and not receiving compensation for all earned wages including overtime in violation of California state wage and hour laws.

35. As alleged herein, during the statutory liability period, Defendants' policies and/or practices resulted in Plaintiffs and Non Exempt Employees working in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without receiving the proper compensation at the rate of time and one-half (1 1/2) of such employee's correct regular rate of pay.

36. As alleged herein, during the statutory liability period, Defendants' policies and/or practices resulted in Plaintiffs and Non Exempt Employees not receiving minimum wages for time spent under Defendants' control and working off the clock without pay. Labor Code §1197 provides that employees are to be paid minimum wage for each hour worked, and cannot be averaged the minimum and the payment of a lesser wage than the established is unlawful.

37. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Second Cause of Action
Failure to Provide Lawful Meal Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, 512, IWC Wage Orders)
(Against All Defendants)

38. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

39. As alleged herein, by their failure to provide Plaintiffs and Non-Exempt Employees a thirty (30) minute uninterrupted meal periods by the end of the fifth hour for days on which Non-Exempt employees work(ed) work periods in excess of 5 hours and/or a second uninterrupted thirty (30) minute meal period by the end of the tenth hour on days in which they worked in excess of 10 hours and not providing compensation for such statutorily non-compliant meal periods, Defendants violated the provisions of Labor Code §512 and applicable IWC Wage Orders.

40. By failing to record and maintain adequate and accurate time records according to sections 226 and 1174 (d) of the Labor Code, Defendants have injured Plaintiffs and Class Members and made it difficult to calculate the unpaid meal period compensation due Plaintiffs and Class Members.

41. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

42. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Third Cause of Action
Failure to Provide Rest Periods
Or Compensation in Lieu Thereof
(Lab. Code §§226.7, IWC Wage Orders)
(Against All Defendants)

43. Plaintiff repeats and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

44. As alleged herein, by their failure to provide a minimum ten (10) minute rest period for every four hours or major fraction thereof worked per day by Non Exempt Employees, and failing to provide compensation for such non-provided rest periods, as alleged above, Defendants willfully violated the provisions of Labor Code section 226.7 and IWC applicable Wage Orders.

45. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek

to represent have been deprived of premium wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties thereon under Labor Code §226.7.

46. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Fourth Cause of Action
Failure to Reimburse Employee Expenses
(Lab. Code § 2802)
(Against All Defendants)

47. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

48. As alleged herein, by their policy and/or practice of not providing adequate reimbursement for expenses incurred by Plaintiffs and Non Exempt Employees as a direct consequence of their job duties, Defendants willfully violated the provisions of Lab. Code § 2802.

49. As a result of the unlawful acts of Defendants, Plaintiffs and the Class they seek to represent are entitled to recovery of full amount of expenses incurred plus interest, attorneys' fees, and costs, under Labor Code§ 2802.

50. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Fifth Cause of Action
Failure to Timely Pay Wages During Employment
(Lab. Code § 204)
(Against All Defendants)

51. Labor Code section 204 requires that all wages are due and payable twice in each calendar month. The wages required by Labor Code §§ 226.7, 510, 1194, 1197 and other sections became due and payable to Plaintiffs and Class Members in each month that he or she was not paid all lawful wages owed or provided with lawful meal period or rest period to which he or she was entitled. Defendants violated Lab. Code §204 by failing to pay said wages when they were due and payable.

52. Labor Code section 210 (a) provides that “In addition

to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follows:

(1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee.

(2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

53. As a result of the unlawful acts of Defendants alleged herein, Plaintiffs and the Class they seek to represent have been deprived of wages in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest and penalties.

54. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Sixth Cause of Action
Failure to Timely Pay Wages Due At Termination
(Lab. Code §§ 201-203)
(Against All Defendants)

55. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

56. Sections 201 and 202 of the California Labor Code require Defendant to pay its employees all wages due within 72 hours of termination of employment. Section 203 of the Labor Code provides that if an employer willfully fails to timely pay such wages the employer must, as a penalty, continue to pay the subject employees' wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

57. As alleged herein, affected class members are entitled to compensation for all forms of wages earned, including, overtime compensation, minimum wage, wages and compensation for non-provided rest and meal periods but to date have not received such compensation therefore entitling them Labor Code section 203 penalties.

58. More than 30 days have passed since Plaintiffs and affected Class Members have left Defendants' employ, and on information and belief, have not received payment pursuant to Labor Code §203. As a consequence of Defendant's willful conduct in not paying all earned wages, certain Class Members are entitled to 30 days’ wages as a penalty under Labor Code section 203 for failure to pay legal wages.

59. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Seventh Cause of Action

Knowing and Intentional Failure to Comply With Itemized Employee Wage Statement Provisions
(Lab. Code § 226(b))
(Against All Defendants)

60. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

61. Section 226(a) of the California Labor Code requires Defendant to itemize in wage statements all deductions from payment of wages and to accurately report total hours worked by Plaintiffs and the members of the proposed class. IWC Wage Orders require Defendant to maintain time records showing, among others, when the employee begins and ends each work period, meal periods, split shift intervals and total daily hours worked in an itemized wage statement, and must show all deductions and reimbursements from payment of wages, and accurately report total hours worked by Plaintiffs and the members of the proposed class. On information and belief, Defendant has failed to record all or some of the items delineated in Industrial Wage Orders and Labor Code §226.

62. As alleged herein, Plaintiffs and Class Members have been injured by Defendant’s actions by rendering them unaware of the full compensation to which they were entitled under applicable provisions of the California Labor Code and applicable IWC Wage Orders.

63. Pursuant Labor Code §226, Plaintiffs and Class Members are entitled up to a maximum of $4,000.00 each for record-keeping violations.

64. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

Eighth Cause of Action
Violation of Unfair Competition Law
(Bus. & Prof. Code, §§ 17200-17208)
(Against All Defendants)

65. Plaintiffs repeat and incorporate herein by reference each and every allegation set forth above, as though fully set forth herein.

66. Business & Professions Code Section 17200 provides:

> As used in this chapter, unfair competition shall mean and include any ***unlawful***, ***unfair*** or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.) (Emphasis added.)

67. Defendants' violations of the Labor Code and Wage Order provisions set forth above constitute unlawful and/or unfair business acts or practices.

68. The actions of Defendants, as alleged within this Complaint, constitute false, fraudulent, unlawful, unfair, fraudulent and deceptive business practices, within the meaning of Business and Professions Code section 17200, *et seq*.

69. Plaintiffs and Class Members have been personally aggrieved by Defendants' unlawful and unfair business acts and practices alleged herein.

70. As a direct and proximate result of the unfair business practices of Defendants, and each of them, Plaintiffs, individually and on behalf of all employees similarly situated, are entitled to restitution of all wages which have been unlawfully withheld from Plaintiffs and members of the Plaintiffs Class as a result of the business acts and practices described herein.

71. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described herein and below.

VII.

PRAYER

WHEREFORE, Plaintiffs pray for judgment as follows:

1. That the Court determine that this action may be maintained as a class action;
2. For compensatory damages in an amount according to proof with interest thereon;
3. For economic and/or special damages in an amount according to proof with interest

thereon;

4. For premium wages pursuant to Labor Code §§ 226.7 and 512;
5. For premium pay and penalties pursuant to Labor Code §§203, 204;
6. For attorneys' fees, interests and costs of suit under Labor Code §§ 218.5, 225, 1194, 2802;
7. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

Dated: February 14, 2022 **JAMES HAWKINS, APLC**

James R. Hawkins, Esq.
Isandra Y. Fernandez, Esq.
Kacey E. Cook, Esq.
Attorneys for Plaintiffs
LAURA BREWER and TRAVIS PONS

EXHIBIT 2

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiffs Laura Brewer ("Brewer") and Travis Pons ("Pons" and collectively "Plaintiffs") and Defendant El Encanto, Inc. ("Defendant"). The Agreement refers to Plaintiffs and Defendant collectively as "Parties," or individually as a "Party."

1. DEFINITIONS.

1.1. "Action" means Plaintiffs' lawsuit alleging wage and hour violations against Defendant captioned *Brewer et al. v. El Encanto, Inc.* initiated on February 17, 2022, and pending in the Superior Court of the State of California, County of Santa Barbara (Case No. 22CV00660).

1.2. "Administrator" means Xpand Legal, the neutral entity the Parties have agreed will appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's $5,000 flat fee bid submitted to the Court in connection with approval of this Settlement.

1.4. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.

1.6. "Aggrieved Employee" means all non-exempt employees who worked for Defendant in the State of California during the PAGA Period.

1.7. "Complaint" means the complaint filed on February 17, 2022, in this Action.

1.8. "Court" means the Superior Court of California, County of Santa Barbara.

1.9. "Defense Counsel" means Emilie C. Woodhead and Zarouhi Papazyan of Winston & Strawn LLP.

1.10. "Effective Date" means the date by which both of the following have occurred: (a) the Court enters Judgment on the Settlement Approval Order and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if there is an appeal of the Court's Judgement, the date the order and judgement approving the settlement are affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari; (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the order and judgment approving the settlement are affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the order approving the settlement and/or entry of judgment.

1.11. "First Amended Complaint" means the First Amended Complaint filed in this action on April 21, 2022.

1.12. "Gross Settlement Amount" means $280,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.13. "Individual PAGA Payment" means each Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.14. "Judgment" means the judgment entered by the Court based upon the Settlement Approval Order.

1.15. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.16. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.17. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

1.18. "Operative Complaint" means Plaintiffs' First Amended Complaint.

1.19. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.20. "PAGA Counsel" or "Plaintiffs' Counsel" means Isandra Fernandez and Anthony L. Draper of James Hawkins APLC.

1.21. "PAGA Notice" means Plaintiffs' February 14, 2022 written noticed submitted by PAGA Counsel on behalf of Plaintiffs and the Aggrieved Employees to the LWDA, with a copy sent to Defendant via U.S. Certified Mail, pursuant to California Labor Code section 2699.3, in which Plaintiffs provided notice of the specific provisions of the California Labor Code alleged to have been violated by Defendant, including the facts and theories to support the alleged violations.

1.22. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee recorded time worked for Defendant on at least one day during the PAGA Period.

1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employee and 75% to LWDA in settlement of PAGA claims.

1.24. "PAGA Period" means the period from February 15, 2021 through the date the Court grants approval of this Settlement.

1.25. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).

1.26. "Released PAGA Claims" means the claims being released by the Plaintiffs and PAGA Counsel and as described in Paragraph 5 below.

1.27. "Released Parties" means: El Encanto, Inc. and all of its former, present or future parents, subsidiaries, affiliates/affiliated companies, related companies/corporations, partnerships, divisions, assigns, and/or predecessors; and each of the foregoing's present, former, or future owners, officers, directors, shareholders, partners, employees, insurers, successors, predecessors, contractors, assigns, and managing agents; any and all agents, legal representatives, and/or attorneys of all of the foregoing entities or individuals; and any potential or alleged joint employers, dual employers, common law employers, and/or co-employers.

1.28. "Settlement Approval Order" means the order from the Court granting approval of the Settlement.

1.29. "Settlement" or "Settlement Agreement" means the agreement to settle the claims as set forth and embodied in this Agreement.

2. <u>RECITALS.</u>

2.1. On February 17, 2022, Plaintiffs commenced this Action against Defendant by filing a class action Complaint alleging causes of action based on purported Labor Code violations. Plaintiffs' Complaint claims that Defendant: failed to pay all minimum and overtime wages; failed to provide compliant meal and rest periods; failed to reimburse business expenses; failed to issue accurate itemized wage statements; failed to timely pay wages; and engaged in unfair competition.

2.2. On April 21, 2022, Plaintiffs filed a First Amended Complaint, which added to the Complaint a claim for civil penalties pursuant to PAGA based on the same allegations asserted in the Complaint.

2.3. Plaintiffs (like other El Encanto employees) signed arbitration agreements with a class action waiver and a representative action waiver. Therefore, Plaintiffs agree that they cannot pursue their class claims and absent settlement, they would need to pursue their individual claims via arbitration. Given the foregoing, Plaintiffs' counsel represented to the Court that they will dismiss Plaintiffs' class claims.

2.4. Plaintiffs will dismiss the pending class claims, including any class-based allegations and any request for relief on a class-wide basis, from the First Amended Complaint,

2.5. Plaintiffs' First Amended Complaint and PAGA Notice cover all factual allegations and claims asserted during mediation, including that the time spent traveling to and from Defendant's off-site parking lot constitutes compensable work time.

2.6. Defendant denies the allegations asserted in any complaint filed in the Action, denies any failure to comply with the laws identified in any complaint filed in the Action, and denies any and all liability for the causes of action alleged therein.

2.7. On January 10, 2024, the Parties participated in an all-day mediation presided over by Michael Loeb, which led to this Agreement to settle the representative claims asserted in the Action.

2.8. The Parties have also agreed to settle all claims Plaintiffs have against El Encanto (known and unknown), including claims for direct Labor Code violations. The terms of said settlement are memorialized in agreements separate and apart from this Agreement ("Individual Agreement"). Plaintiffs are entitled to receive Individual PAGA Payments as Aggrieved Employees separate from and in addition to the amounts set forth in the Individual Agreement.

2.9. Prior to mediation, Plaintiffs obtained, through informal discovery, (a) Defendant's workplace policies and procedures relevant to the claims asserted in the Action and (b) data regarding the Aggrieved Employes to conduct an exposure analysis (including an estimate of the number of Aggrieved Employees; an estimate of the number of pay periods through the date of mediation; and a random sample of available time data and corresponding pay records for 25% of the Aggrieved Employees).

2.10. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

2.11. There has been no determination of the merits of the Action or Defendant's defenses thereto. However, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to resolve the released claims (as set forth in Paragraph 5) as of the date of the execution of this Settlement Agreement.

3. TERMS.

3.1. Gross Settlement Amount. Defendant promises to pay $280,000 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 35% of the Gross Settlement Amount ($98,000) and PAGA Counsel Litigation Expenses Payment of not more than $20,000. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiffs and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds the Released Parties harmless, and indemnifies the Released Parties, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed $5,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $5,000, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $157,000 to be paid from the Gross Settlement Amount, with 75% ($117,750) allocated to the LWDA PAGA Payment and 25% ($39,250) allocated to the Individual PAGA Payments.

3.2.3.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($39,250) by the total number of PAGA Pay Periods and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Data. Within 30 days of the Settlement Approval Order and Judgment, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

4.2. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 15 calendar days after the Effective Date.

4.3. Payments from the Gross Settlement Amount. Within 7 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Expenses Payment. Subject to Court approval, a cover letter explaining the Settlement shall accompany the Individual PAGA Payments. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.3.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.3.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.3.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS.

Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Aggrieved Employees and PAGA Counsel will release claims against all Released Parties as follows:

5.1. Release by Aggrieved Employees:

All Aggrieved Employees shall be deemed to release the Released Parties from any and all claims, known or unknown, for civil penalties under California Labor Code section 2698 *et seq.* (PAGA) that: were asserted in any complaint filed in the Action and/or Plaintiffs' letter(s) to the LWDA (including any subsequently amended complaints or letters); and/or that could have been asserted in any complaint filed in the Action and/or any of Plaintiffs' letter(s) to the LWDA (including any subsequently amended complaints or letters) based on or related to the facts and/or allegations in any complaint filed in the Action and/or Plaintiffs' letter(s) to the LWDA (including any subsequently amended complaints or letters). This release includes, but is not limited to, claims for PAGA civil penalties premised on: California Labor Code sections 201, 201.3, 202, 203, 204, 204.1, 204.11, 205, 205.5, 210, 212, 218.5, 223, 225, 226, 226.7, 246, 510, 512, 551, 552, 558, 1174, 1194, 1194.2, 1197, 1197.1,1197.5, 1198, 1199, 2800 and 2802, and all applicable IWC Wage Orders; minimum wages; overtime, including all claims related to the calculation thereof; pay for all hours worked/compensation due for services; off-the-clock work; calculation of the regular rate of pay; meal periods; rest periods; meal and/or rest period premiums, including all claims related to the calculation thereof; wage statements; timeliness of wages; payment of wages at termination; maintaining accurate and complete records; and business expenses. The release shall run through the date the Superior Court of the State of California, County of Santa Barbara, grants approval of the Settlement.

5.2. Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.

The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Settlement Approval Order and entry of Judgment; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiffs, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiffs and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. PAGA Counsel shall provide Defense Counsel a draft motion for approval for review and comment no later than five business days before filing.

6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 60 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Settlement Approval Order and Judgment to the Administrator.

6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. **SETTLEMENT ADMINISTRATION.**

7.1. Selection of Administrator. The Parties will jointly select a qualified third-party settlement administrator to serve as the Administrator and will verify that, as a condition of appointment, the administrator agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they will have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

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

8. **AGGRIEVED EMPLOYEE SIZE ESTIMES.**

8.1. Defendant represents that, based on an analysis of records, the total number of pay periods worked by Aggrieved Employees from the beginning of the PAGA Period through January 10, 2024 is approximately 12,600. Should the qualifying pay periods worked by the Aggrieved Employees during the PAGA Period ultimately increase by more than 10% (i.e., if the pay periods exceed 13,860), Defendant, at its option, can either choose to: (1) cut off the end date for the PAGA Period as of the date on which the number of pay periods reaches 13,860 or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in the number of pay periods worked by the Aggrieved Employees above the 10% (i.e., if there was a 11% increase in the number of eligible pay periods during the PAGA Period, Defendant would agree to increase the Gross Settlement Amount by 1%). However, if the total pay periods during the PAGA Period exceeds 12,600 by 25% or more, Defendant, in its sole discretion, may elect to terminate the Settlement. If Defendant chooses to terminate the Settlement pursuant to this paragraph, Defendant shall pay the Settlement Administration Costs incurred by the Settlement Administrator up to the date of Defendant's notice to terminate.

9. **CONTINUING JURISDICTION OF THE COURT.**

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or

Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of Michael Loeb for resolution.

10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6. No Tax Advice. Neither Plaintiffs, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11. Confidentiality. To the maximum extent permitted by law, the Parties shall keep the financial terms of the Settlement confidential through the date of approval, except as necessary to obtain Court approval and effectuate the terms of the Settlement. Plaintiffs' counsel agrees not to file a press release regarding the Settlement, respond to press/media inquiries regarding the Settlement (except to refer the person inquiring to the court file), or otherwise publicize the terms of this Settlement. This provision does not apply to court filings or for the limited purposed of allowing Plaintiffs' Counsel to prove adequacy as counsel in other unrelated actions by referring to any information in the public record regarding this Settlement. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

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

10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Isandra Fernandez
Anthony L. Draper
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

To Defendant:

Emilie C. Woodhead
Zarouhi Papazyan
WINSTON & STRAWN LLP
333 S. Grand Avenue, 38th Floor
Los Angeles, CA 90071

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

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

HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT, TO FULFILL THE PROMISES AND TO RECEIVE THE CONSIDERATION SET FORTH ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.

IN WITNESS THEREOF, the Parties hereto knowingly and voluntarily executed this Settlement Agreement as of the date(s) set forth below:

Dated: 12/4/2024

By: DocuSigned by: 2BE8BC98A3B44E8...
Laura Brewer
Individually and on behalf of the State of California and Aggrieved Employees

Dated: 12/7/2024

By: Signed by: 22566FEADAAC449...
Travis Pons
Individually and on behalf of the State of California and Aggrieved Employees

Dated: 18 December 2024

By: Abigail Hunt
Name: Abigail Hunt
Title: Director

APPROVED AS TO FORM:

Dated: December 4, 2024 By: ______________________
Anthony L. Draper, Esq.
JAMES HAWKINS APLC
Attorneys for Plaintiffs and the Aggrieved Employees

Dated: December 18, 2024 By: Emilie C. Woodhead
Emilie C. Woodhead, Esq.
WINSTON & STRAWN LLP
Attorneys for Defendant El Encanto, Inc.

EXHIBIT 3

ALM
An Integrated Media Company

2011 NLJ Billing Survey

Firm Name	Principal Location	Average FTE Attorneys	Firmwide Billing Rate Average	Firmwide Billing Rate Med	Partner Billing Rate High	Partner Billing Rate Low	Partner Billing Rate Average	Partner Billing Rate Med	Assoc. Billing Rate High	Assoc. Billing Rate Low	Assoc. Billing Rate Average	Assoc. Billing Rate Med
Andrews Kurth	Houston	355										
Baker, Donelson, Bearman, Caldwell & Berkowitz	Memphis	527	$311	$310	$595	$250	$357	$345	$315	$160	$228	$225
Best Best & Krieger	Riverside, CA	195	$358	$360	$575	$275	$417	$420	$375	$205	$265	$240
Bingham McCutchen	Boston	901										
Briggs and Morgan	Minneapolis	185			$625	$325			$305	$230		
Broad and Cassel	Orlando	160	$377	$350	$575	$295	$435	$395	$350	$180	$265	$265
Bryan Cave	St. Louis	908	$475	$460	$795	$375	$565	$553	$540	$200	$356	$360
Butzel Long	Detroit	176			$700	$325	$440		$425	$225	$274	
Cadwalader, Wickersham & Taft	New York	481										
Carlton Fields	Tampa	270	$397	$400	$815	$320	$470	$470	$380	$195	$262	$265
Cozen O'Connor	Philadelphia	504	$439	$410	$900	$305	$510	$490	$550	$225	$330	$330
Day Pitney	Parsippany	324	$447	$450	$960	$380	$537	$525	$470	$235	$317	$315
Dickinson Wright	Detroit	229			$600	$325			$320	$200		
Dickstein Shapiro	Washington	335	$560	$550	$1,000	$540	$680	$670	$545	$225	$435	$465
Dinsmore &	Cincinnati		$308	$295	$630	$150	$373	$370	$310	$130	$217	$220

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Shohl		407										
DLA Piper	New York	3,348	$585	$615	$1,120	$530	$747	$730	$730	$320	$508	$510
Dorsey & Whitney	Minneapolis	567	$426	$405	$810	$295	$526	$525	$465	$190	$294	$275
Duane Morris	Philadelphia	629	$503	$500	$875	$375	$575	$570	$530	$225	$365	$365
Dykema Gossett	Detroit	333	$406	$400	$665	$310	$482	$485	$395	$260	$309	$305
Epstein Becker & Green	New York	300	$428	$425	$850	$350	$519	$500	$550	$195	$341	$325
Fitzpatrick, Cella, Harper & Scinto	New York	168			$730	$460		$525	$440	$275		$325
Ford & Harrison	Atlanta	173										
Fox Rothschild	Philadelphia	450	$413	$420	$725	$325	$486	$483	$455	$190	$297	$295
Frost Brown Todd	Cincinnati	401	$296	$295	$515	$205	$340	$340	$265	$150	$200	$200
Gardere Wynne Sewell	Dallas	265	$435	$450	$815	$380	$550	$550	$500	$225	$325	$320
Gibbons	Newark	199	$505	$450	$725	$400	$563	$505	$475	$285	$380	$320
Harris Beach	Rochester	176			$390	$275			$260	$160		
Hiscock & Barclay	Syracuse	174	$269	$240	$750	$195	$304	$265	$350	$150	$207	$195
Hodgson Russ	Buffalo	199			$685	$240	$378	$360	$420	$180	$234	$225
Holland & Knight	Washington	910	$445	$455	$895	$300	$530	$520	$495	$175	$295	$290

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Hughes Hubbard & Reed	New York	300	$633	$615	$990	$625	$828	$800	$695	$270	$533	$540
Hunton & Williams	Richmond	855										
Husch Blackwell	St. Louis	551	$341	$340	$850	$225	$395	$390	$425	$175	$226	$210
Jackson Kelly	Charleston, WV	170	$275	$275	$505	$255	$319	$325	$260	$155	$208	$205
Jackson Lewis	White Plains	614										
Kaye Scholer	New York	425	$661	$665	$1,080	$685	$831	$835	$705	$310	$519	$525
Kelley Drye & Warren	New York	321	$474	$400	$925	$480	$634	$645	$595	$275	$425	$420
Knobbe Martens Olson & Bear	Irvine	268	$439	$415	$735	$415	$525	$500	$495	$295	$346	$345
Lane Powell	Seattle	180	$405	$425	$645	$340	$460	$450	$360	$225	$295	$285
Latham & Watkins	New York	1,931										
Lathrop & Gage	Kansas City, MO	281	$337	$340	$735	$275	$390	$390	$410	$205	$246	$245
Lewis, Rice & Fingersh	St. Louis	162	$275		$470	$270			$320	$150		
Lowenstein Sandler	Roseland, NJ	249	$478	$480	$895	$435	$613	$595	$660	$250	$400	$390
Manatt, Phelps & Phillips	Los Angeles	322	$602	$620	$850	$540	$676	$670	$550	$215	$464	$500
McElroy, Deutsch,	Morristown, NJ	272	$245	$275	$575	$295	$350	$375	$325	$185	$250	$235

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Mulvaney & Carpenter												
McKenna Long & Aldridge	Atlanta	425	$472	$455	$800	$405	$562	$540	$510	$215	$374	$375
Michael Best & Friedrich	Milwaukee	208	$321	$310	$650	$245	$413		$310	$205	$241	
Miller & Martin	Chattanooga	184	$313	$325	$610	$240	$369	$375	$275	$185	$215	$215
Nelson Mullins Riley & Scarborough	Columbia, SC	399	$318	$310	$850	$220	$412	$400	$350	$170	$255	$250
Nexsen Pruet	Columbia, SC	178			$550	$235			$265	$170		
Orrick, Herrington & Sutcliffe	San Francisco	1,022										
Patton Boggs	Washington	512	$546	$540	$990	$410	$659	$645	$570	$240	$410	$415
Pepper Hamilton	Philadelphia	459			$825	$380	$557		$460	$235	$344	
Perkins Coie	Seattle	693	$462		$875	$285	$550	$545	$590	$215	$368	
Phelps Dunbar	New Orleans	280	$236	$225	$465	$190	$281	$275	$245	$150	$189	$190
Polsinelli Shughart	Kansas City, MO	466			$630	$275			$335	$205		
Reed Smith	Pittsburgh	1,449										
Saul Ewing	Philadelphia	220	$431	$450	$750	$350	$502	$490	$495	$245	$326	$300
Schulte Roth	New York		$615	$630	$935	$770	$846	$840	$675	$285	$608	$580

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& Zabel		406										
Sedgwick, Detert, Moran & Arnold	San Francisco	345										
Seyfarth Shaw	Chicago	702	$437	$425	$790	$355	$528	$525	$505	$225	$341	$340
Sheppard, Mullin, Richter & Hampton	Los Angeles	465			$860	$505			$635	$275		
Shumaker, Loop & Kendrick	Toledo	208	$345	$365	$555	$265	$364	$375	$320	$195	$252	$250
Steptoe & Johnson LLP	Washington	408										
Stoel Rives	Portland, OR	373	$385	$395	$625	$320	$451	$450	$500	$195	$292	$275
Strasburger & Price	Dallas	181	$363	$362	$630	$211	$395	$397	$332	$199	$250	$238
Thompson & Knight	Dallas	319	$520	$520	$875	$440	$594	$585	$460	$250	$358	$350
Thompson Coburn	St. Louis	325			$750	$315			$445	$195		
Ulmer & Berne	Cleveland	179	$316		$585	$280	$405		$390	$200	$260	
Vedder Price	Chicago	246	$445	$445	$735	$295	$500	$490	$520	$265	$345	$335
White and Williams	Philadelphia	216										
Wiley Rein	Washington	270										
Wilmer Cutler Pickering Hale and Dorr	Washington	890										

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Winstead	Dallas	265	$406		$680	$365	$477		$410	$215	$301	
Winston & Strawn	Chicago	868	$557	$550	$1,130	$580	$713	$700	$600	$350	$434	$413
Wyatt, Tarrant & Combs	Louisville	181	$312	$350	$500	$240	$325	$375	$275	$180	$220	$235

EXHIBIT 4

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: **01/01/1900 to 12/11/2025**
Client: **ELENCANT - Laura Brewer**
Matter: **ELEMCAMTP - El Encanto Inc.- Laura Brewer v. El Encanto Inc.**

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
	Balance Forward:		$0.00						
02/16/2022	FST	First Legal Network - E-Filing, class action complaint; civil case cover IN#30188503	$1,617.25		Unbilled				
03/03/2022	FIL	Filing Fee- LWDA filing Fee	$75.00		Unbilled				
03/03/2022	POS	Postage- LWDA Letter and Complaint (2)	$15.86		Unbilled				
03/18/2022	FST	First Legal Network - Process branch same day, complaint, initial docs, ntc , E-Filing, proof of service summons IN#30192286	$235.09		Unbilled				
04/21/2022	FST	First Legal Network - E-Filing - Amended Complaint, Proof of Service, Process Serve - First Ameneded Complaint IN#30195930	$268.28		Unbilled				
02/17/2023	FST	First Legal Network - E-Filing - Stipulation and Order IN# 30227367	$63.00		Unbilled				
09/05/2023	FST	First Legal Network - Filing - CM Statement IN# 30252348	$40.90		Unbilled				
11/06/2023	MED	Mediation Services- IN#6911290 CK#11273	$6,500.00		Unbilled				
01/22/2024	EXA	Expert Analysis IN#10441 CK#11466	$2,745.00		Unbilled				
02/27/2024	MED	Mediation Services IN#7048648 CK#11565	$3,000.00		Unbilled				
04/22/2024	FST	First Legal Network - E-Filing - Joint Status Report and Stipulation IN# 30279435	$111.75		Unbilled				
10/10/2024	LDS	Legal Document Server - E-Filing - Stip and Order IN# 10552964	$35.20		Unbilled				
10/15/2024	LDS	Legal Document Server - E-Filing - Notice of CMC IN# 10587656	$9.95		Unbilled				
10/15/2024	LDS	Legal Document Server - E-Filing - Notice of CMC Filed IN# 10588742	$15.20		Unbilled				
11/06/2024	LRE	Legal Research-	$498.19		Unbilled				
11/06/2024	FIL	Filing Fee-Wrap Up Costs	$150.00		Unbilled				
12/30/2024	LDS	Legal Document Server - E-Filing - Notice of Motion, Declaration, Proposed Order, proof of electronic Service IN# 11024352	$120.25		Unbilled				
06/20/2025	LDS	Legal Document Server - EFiling - Request IN# 12242651	$57.44		Unbilled				
08/21/2025	LDS	Legal Document Server - EFiling - Report IN# 12722994	$37.44		Unbilled				

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
08/22/2025	LDS	Legal Document Server - EFIling - Stip and Order IN# 12721837	$30.00		Unbilled				
08/28/2025	LDS	Legal Document Server - EFIling - Motion - Declaration, Proposed Order Proof of Service IN# 12768130	$127.44		Unbilled				
11/26/2025	LDS	Legal Document Server - EFiling - Stip and Order IN# 13447381	$60.99		Unbilled				
		Total:	$15,814.23	$0.00					
		Balance:	$15,814.23						

Total Fees Billed- - - - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Unbilled : - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Received : - - - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Billed : - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Unbilled : - - - - - - - - - - - -	**$0.00**
Total Soft Cost Received : - - - - - - - - - - - -	**$0.00**
Total Hard Cost Billed : - - - - - - - - - - - - - -	**$0.00**
Total Hard Cost Unbilled : - - - - - - - - - - - -	**$15,814.23**
Total Hard Cost Received : - - - - - - - - - - - -	**$0.00**
Total Taxes Billed : - - - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Unbilled : - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Late Charges Billed : - - - - - - - - - -	**$0.00**
Total Late Charges Unbilled: - - - - - - - - -	**$0.00**
Total Late Charges Received : - - - - - - - - -	**$0.00**
Trust Balance: -	**$0.00**

EXHIBIT 5

Department of Industrial Relations
STATE OF CALIFORNIA

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-868244-22
Plaintiff for PAGA Case: Laura Brewer, Travis Pons
Filer/Attorney for PAGA Case: Kacey Cook
Law Firm for PAGA Plaintiff: JAMES HAWKINS APLC
Employer: El Encanto, Inc.
Date Case Received:
Employer Filer Firm:
Court Type:
Court Name: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF SANTA BARBARA
PAGA Court Case Number:
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
Additional Document Submitted with PAGA Notice on 02/14/2022 07:44:38 PM	02.14.22 Complaint.pdf	02/14/2022 07:44 PM	PAGA Notice
Additional Document Submitted with Proposed Settlement on 12/27/2024 04:38:26 PM by Anthony Draper	12.27.24 Ntc & MPA re PAGA App.pdf	12/27/2024 04:38 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/27/2024 04:38:26 PM by Anthony Draper	12.27.24 Decl of Draper re PAGA Approval .pdf	12/27/2024 04:38 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/27/2024 04:38:26 PM by Anthony Draper	12.27.24 Proof of Service .pdf	12/27/2024 04:39 PM	Proposed Settlement
Additional Document Submitted with Proposed Settlement on 12/27/2024 04:38:26 PM by Anthony Draper	12.27.24 Prop Order re PAGA App .pdf	12/27/2024 04:39 PM	Proposed Settlement
PAGA Notice Submitted on 02/14/2022 07:44:38 PM by Kacey Cook	02.14.22 LWDA Letter.pdf	02/14/2022 07:44 PM	PAGA Notice
Proposed Settlement Submitted on 12/27/2024 04:38:26 PM by Anthony Draper	Revised Settlement Agreement Fully Executed.pdf	12/27/2024 04:38 PM	Proposed Settlement