

DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
EVAN S. GAINES, ESQ. SBN 287668
evan@gaineslawfirm.com
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, CA 91362
Telephone: (818) 703-8985
Facsimile: (818) 703-8984

Attorneys for Plaintiff Margarita Garcia, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

MARGARITA GARCIA, on behalf of
herself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*,

Plaintiff,

v.

GREENS OPERATIONS, INC., a
California corporation, GMPM
HOSPITALITY, LLC, a California limited
liability company, and DOES 1 through 10,
inclusive,

Defendants.

CLASS ACTION

CASE NO: CVBL2200087

Assigned to the Hon. Kira Klatchko, Dept. PS1

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

1 **SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS**

2 This Settlement Agreement and Release of Claims ("Settlement Agreement") is made and
3 entered into by and between Plaintiff Margarita Garcia ("Garcia," "Plaintiff," or "Class
4 Representative"), individually and on behalf of all others similarly situated, and Defendant Greens
5 Operations, Inc. ("Defendant"), subject to the terms and conditions herein and the Court's approval.

6 **A. Definitions.**

7 1. Plaintiff, the Settlement Class (as defined below), Aggrieved Employees and
8 Defendant are collectively referred to herein as "the Parties."

9 2. Daniel F. Gaines and Alex P. Katofsky of Gaines & Gaines, APLC are counsel of
10 record for Plaintiff Margarita Garcia. For purposes of this Settlement Agreement only, Gaines &
11 Gaines, APLC shall be designated as "Class Counsel."

12 3. The "Action" means *Margarita Garcia, et al. v. Greens Operations, Inc., et al.*,
13 Riverside County Superior Court Case. No. CVBL2200087 (the "Action").

14 4. The "Settlement Class" shall be defined as "all non-exempt employees of Defendant
15 Greens Operations, Inc. in California at any time between July 24, 2019 and July 24, 2023 who
16 have not entered into an arbitration agreement with Defendant" (the "Class Period").

17 5. The "Aggrieved Employees" shall be defined as "all non-exempt employees of
18 Defendant Greens Operations, Inc. in California at any time between March 28, 2021 and July 24,
19 2023" (the "PAGA Period").

20 6. Defendant represents that this Class contains no more than approximately 307 Class
21 Members who were employed no more than 9,122 workweeks during the Class Period and 727
22 Aggrieved Employees who were employed no more than 12,070 pay periods during the PAGA
23 Period.

24 7. Members of the Settlement Class shall collectively be referred to as a "Class
25 Member" or "Class Members." Any Class Member who files a timely request for exclusion, as
26 detailed below, will be excluded from the final Settlement Class.

27 8. The "Effective Date" is defined as the date the Court signs an order granting final
28 approval of the settlement and entering judgment thereon (the "Effective Date") If objections to

1 the settlement are filed, the Effective Date of the settlement is the sixty-fifth (65th) day after notice
2 of the final approval order is mailed, unless an appeal is filed, in which case the Effective Date is
3 the day after (1) the settlement is upheld by the Court of Appeals, or (2) all appeals are dismissed.

4 **B. General.**

5 1. On March 28, 2022, Plaintiff Garcia exhausted the pre-filing requirements of the
6 Labor Code Private Attorneys General Act of 2004 ("PAGA").

7 On June 14, 2022, Plaintiff Garcia initiated her Action in the Riverside County Superior
8 Court by filing a complaint, pursuant to PAGA, on behalf of herself and all other aggrieved
9 employees.

10 2. Thereafter, Plaintiff dismissed Defendant GMPM Hospitality, LLC from the
11 Action following an individual resolution of her claims.

12 3. As set forth in the proposed First Amended Complaint (attached hereto as **Exhibit**
13 **3**), which the Parties will seek to file in the Action as part of the motion for preliminary approval
14 of this Settlement Agreement, the Action assert claims against Defendant for (1) failure to pay all
15 minimum and overtime wages due (Labor Code §§ 510, 1194, and 1194.2 and IWC Wage Order
16 5-2001); (2) failure to provide rest periods or compensation in lieu thereof (Labor Code § 226.7
17 and IWC Wage Order 5-2001); (3) failure to provide meal periods or compensation in lieu thereof
18 (Labor Code §§ 226.7, 512, 1174, 1174.5, and 1198 and IWC Wage Order 5-2001); (4) knowing
19 and intentional failure to comply with itemized employee wage statement provisions (Labor Code
20 §§ 226(a) and (e)); (5) failure to maintain and produce payroll records (Labor Code §§ 1174 and
21 1174.5); (6) failure to timely pay wages due at the separation of employment (Labor Code §§ 201-
22 203); (7) violation of Business and Professions Code § 17200 for underlying violations of the Labor
23 Code as set forth in the Action; and (8) civil penalties pursuant to PAGA for underlying violations
24 of the Labor Code as set forth in the Action, including Labor Code § 432.5.

25 4. Defendant denies any liability or wrongdoing of any kind associated with the claims
26 alleged in the Action, and further denies that the Action are appropriate for class treatment for any
27 purpose other than this settlement. Defendant contends that it has complied at all times with the
28 California Labor Code. It is Defendant's position that, if this case were to be litigated, class

1 certification would be inappropriate because Plaintiff is not an adequate Class Representative,
2 Plaintiff's claims are not typical of putative class members, and individual issues predominate over
3 class issues, among other defenses. The Action, the negotiation and execution of this Settlement
4 Agreement, and all acts performed or documents executed pursuant to or in furtherance of this
5 Settlement Agreement (i) shall not be used as an admission, or as evidence of wrongdoing by the
6 Defendant, or for any other purpose whatsoever; (ii) shall not be an admission or evidence of fault
7 on behalf of Defendant in any action before a civil court, criminal court, administrative agency of
8 any type, or other tribunal; and (iii) shall not be deemed to be, and may not be used as, an admission
9 or evidence of the appropriateness of these or similar claims for class certification in the Action or
10 with respect to any other proceeding whatsoever.

11 5. The Class Representative contends that Defendant violated the California Labor
12 Code and Industrial Welfare Commission Wage Order(s), and that this case is appropriate for class
13 certification.

14 6. Class Counsel represent that they have conducted a thorough investigation into the
15 facts and law during the prosecution of this class action case, including the exchange of extensive
16 formal and informal discovery and the review and verification of statistical data and other facts and
17 information provided by Defendant. Counsel for the Parties also represent that they have
18 investigated the applicable law as applied to the facts discovered regarding the alleged claims of
19 Plaintiff and potential defenses thereto, and the damages and other losses claimed by Plaintiff.

20 7. On July 24, 2023, following their exchange of information and documents regarding
21 the Settlement Class and the claims and defenses asserted by the Parties, the Parties engaged in
22 arm's-length negotiations with the assistance of an experienced wage and hour mediator, Steve
23 Pearl, Esq., where the Parties were able to reach the resolution of the Action set forth herein.

24 8. Based on their own independent investigation and evaluation, Class Counsel are of
25 the opinion (and will so represent to the Court) that settlement for the consideration and on the
26 terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best
27 interest of the Settlement Class in light of all known facts and circumstances, including the risk of
28 significant delay, the risk the Settlement Class will not be certified by the Court, and the defenses

1 asserted by Defendant. Defendant and its counsel also agree (and will so represent to the Court)
2 that this settlement is fair and in the best interest of the Settlement Class.

3 9. The Parties agree that the Settlement Class described herein may be certified for
4 settlement purposes only and that any motion for approval seeking, *inter alia*, certification of the
5 Settlement Class is for purposes of the settlement only. If for any reason the settlement is not
6 approved, the certification will have no force or effect and will immediately be revoked. The
7 Parties further agree that certification for purposes of the settlement is in no way an admission that
8 class certification is proper under the more stringent standard applied for litigation and that
9 evidence of this limited Settlement Agreement for settlement purposes only will not be admissible
10 for any purpose in this or any other proceeding.

11 **C. Terms of Settlement.**

12 1. The financial terms of the Settlement Agreement are as follows:

13 (a) **Gross Settlement Amount:** The Parties agree to settle the Action for a Gross
14 Settlement Amount of **One Million U.S. Dollars** (\$1,000,000) (“the Gross Settlement Amount”),
15 subject to any increase based on the escalator provision in paragraph H(16) herein. The Gross
16 Settlement Amount includes the attorneys’ fees of Class Counsel; litigation costs and expenses
17 (which includes, without limitation, all such fees and costs incurred to date, as well as such fees
18 and costs to be incurred in documenting the settlement, providing any notices required as part of
19 the settlement, securing Court approval of the settlement, and obtaining judgment in the Action);
20 the Service Payment to the Class Representative, as approved by the Court; the payment to the
21 California Labor and Workforce Development Agency (“LWDA”); and all costs of administration,
22 including, without limitation, settlement administration fees and expenses. All employer payroll
23 tax obligations due on wage payments made from the Net Settlement Proceeds shall be paid by
24 Defendant separately and apart from, and in addition to, the Gross Settlement Amount.

25 (b) **Net Settlement Proceeds:** “Net Settlement Proceeds” is defined as the
26 Gross Settlement Amount less the amounts approved and awarded by the Court for: attorneys’ fees
27 and documented litigation costs and expenses incurred or advanced by Class Counsel; the Service
28

1 Payment to the Class Representative; the payment to the LWDA pursuant to PAGA; and the costs
2 of administering the settlement.

3 (c) **Calculation of the Individual Payment Amounts:** "Individual Payment
4 Amount" means the portion of the Net Settlement Proceeds distributable to each Class Member
5 who participates in the Class Settlement (i.e., who does not submit a valid request for exclusion
6 form) and each Aggrieved Employee, whether they participate in the Class Settlement or not. As
7 to participating Class Members, the class portion of the Individual Payment Amount will be
8 determined by dividing the Net Settlement Proceeds, less the \$25,000 PAGA allocation, by the
9 total number of weeks worked by the entire Settlement Class during the Class Period, net of opt
10 outs, resulting in the class workweek value; and then multiplying the class workweek value by the
11 number of weeks worked by each participating Class Member during the Class Period. As to the
12 Aggrieved Employees, the PAGA portion of the Individual Payment Amount will be determined
13 by dividing the PAGA settlement amount (\$25,000) by the total number of weeks worked by all
14 Aggrieved Employees during the PAGA Period, resulting in the PAGA workweek value; and then
15 multiplying the PAGA workweek value by the number of weeks worked by each Aggrieved
16 Employee during the PAGA Period.

17 (d) For tax purposes, the class portion of each Individual Payment Amount will
18 be apportioned (a) 20% as wages (reported on an IRS Form W-2 and subject to applicable
19 withholdings); and (b) 80% equally as penalties and interest (reported on an IRS Form 1099, if
20 required). The PAGA portion of each Individual Payment Amount will be apportioned 100% as
21 penalties (reported on an IRS Form 1099, if required). All Individual Payment Amounts paid to
22 Class Members and Aggrieved Employees will be subject to any applicable wage garnishments,
23 liens, or other legally mandated treatment as required by law.

24 (e) **PAGA Payments:** The Parties agree that One Hundred Thousand Dollars
25 (\$100,000) shall be allocated to settle Plaintiff's claims brought pursuant to PAGA. Of this amount,
26 Seventy-Five percent (75%), or Seventy-Five Thousand Dollars (\$75,000), shall be paid to the
27 LWDA, and the remaining Twenty-Five percent (25%), or Twenty-Five Thousand Dollars
28 (\$25,000), shall be paid to Aggrieved Employees as part of the Net Settlement Proceeds.

1 (f) **Service Payment and General Release Payment to Class Representative:**

2 The amount awarded to the Class Representative as a "Service Payment" and in exchange for a
3 general release, as set forth in Paragraph D(2), below, will be set by the Court in its discretion, not
4 to exceed Fifteen Thousand Dollars (\$15,000). This amount will be deducted from the Gross
5 Settlement Amount. An IRS Form 1099 will be issued to the Class Representative for her Service
6 Payment. Defendant agrees not to dispute or otherwise object to the Service Payment if Plaintiff
7 requests \$15,000 or less.

8 (g) **Attorneys' Fees:** An award to Class Counsel of attorneys' fees will be
9 deducted from the Gross Settlement Amount in an amount to be set by the Court taking into account
10 the settlement award that has been made available for the Settlement Class by the efforts of Class
11 Counsel. The amount awarded shall not exceed 35% of the Gross Settlement Amount (i.e., Three
12 Hundred Fifty Thousand Dollars (\$350,000)). An IRS Form 1099 will be issued to Class Counsel
13 with respect to its award of attorneys' fees. Defendant agrees not to dispute or otherwise object to
14 the attorneys' fee award requested by Class Counsel so long as the request does not exceed 35% of
15 the Gross Settlement Amount.

16 (h) **Attorneys' Costs and Expenses:** Class Counsel will be reimbursed from
17 the Gross Settlement Amount in an amount to be set by the Court for documented out-of-pocket
18 litigation costs and expenses, not to exceed Twenty Thousand Dollars (\$20,000). An IRS Form
19 1099 will be issued to Class Counsel with respect to its award of costs and expenses. Defendant
20 agrees not to dispute or otherwise object to the attorneys' cost award requested by Class Counsel
21 so long as the request does not exceed \$20,000.

22 (i) **Settlement Administration Costs:** The fees and other charges of the
23 Settlement Administrator to administer the Settlement are expected to total no more than Twenty
24 Thousand Dollars (\$20,000.00) and will be paid from the Gross Settlement Amount. These fees
25 shall include any costs associated with the required tax reporting on any Individual Payment
26 Amounts, and the issuing of any and all W-2 and 1099 forms. Subject to approval of the Court, the
27 Parties have agreed that Phoenix Settlement Administrator will serve as a neutral third-party
28 claims' administrator ("Settlement Administrator") to perform all acts related to providing notice

1 to the Settlement Class. Settlement Administrator shall be responsible for (a) printing and
2 distributing the Court-approved Notice of Class Action Settlement (“Class Notice”) to all Class
3 Members; (b) administering the settlement; (c) processing exclusions, objections, and field
4 inquiries from Class Members; (d) resolving disputes; (e) calculating the Individual Payment
5 Amount each Participating Class Members is eligible to receive; (f) distributing the Gross
6 Settlement Amount as directed by the Court and set forth herein; (g) tax reporting; (h) providing
7 necessary weekly status reports; and (i) other duties and responsibilities set forth herein.

8 (j) **No Warranty by Defendant:** Plaintiff understands and agrees that
9 Defendant is not providing Plaintiff or Class Members with tax or legal advice and that Defendant
10 makes no representations regarding tax obligations or consequences, if any, related to this
11 Settlement Agreement.

12 **D. Release of Claims.**

13 1. Upon the Effective Date, and subject to Defendant’s full payment of the Gross
14 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Settlement
15 Class Members who do not timely opt-out of the Settlement will be deemed to have fully released
16 and discharged Defendant Greens Operations, Inc., and its present and former officers, directors,
17 members, owners, managers, shareholders, agents, operators, partners, joint ventures, subsidiaries,
18 parent companies, related entities, consultants, attorneys, successors or assignees (“Released
19 Parties”) from any and all Released Class Claims which arose during their employment in a non-
20 exempt position in California during the Class Period.

21 2. Upon the Effective Date, and subject to Defendant’s full payment of the Gross
22 Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Aggrieved
23 Employees will be deemed to have fully released and discharged the Released Parties from any and
24 all Released PAGA Claims which arose during their employment in a non-exempt position in
25 California during the PAGA Period.

26 3. “Released Class Claims” means any and all claims and/or causes of action which
27 accrued during the Class Period during employment in a non-exempt position in California, that
28 are alleged, or that could have been alleged in the Action based on the facts set forth in the First

1 Amended Complaint to-be-filed in the Action as part of the preliminary approval process (which
2 includes direct class action claims under Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1174,
3 1174.5, 1194, 1194.2, and 1198 and under Business & Professions Code section 17200 *et seq.*
4 predicated on the underlying Labor Code claims alleged). No PAGA claims are encompassed in
5 the Released Class Claims.

6 4. “Released PAGA Claims” means any and all PAGA claims and/or causes of action
7 which accrued during the PAGA Period during employment in a non-exempt position in
8 California, that are alleged in the to-be-filed First Amended Complaint on file in the Action, or
9 that could have been alleged in the Action based on the facts set forth in the First Amended
10 Complaint, including Labor Code §§ 201-202, 226(a), 226.7, 432.5, 510, 512, 1174, 1174.5, 1194,
11 and 1198. No Aggrieved Employee may opt out of the PAGA portion of the Settlement.

12 5. Upon the Effective Date, and subject to Defendant’s full payment of the Gross
13 Settlement Amount and all associated employer payroll tax obligations, Plaintiff Garcia shall be
14 deemed to have fully, finally, and forever released the Released Parties from any and all claims,
15 obligations, demands, Action, rights, causes of action, and liabilities against the Released Parties,
16 of whatever kind and nature, character, and description, whether in law or equity, whether
17 sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common
18 law, or other source of law, whether known or unknown, and whether anticipated or unanticipated,
19 including unknown claims covered by Civil Code Section 1542, arising through the date of her
20 signature hereon, for any type of relief, including, without limitation, claims for wages, damages,
21 unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation
22 costs, restitution, or equitable relief. These claims include, but are not limited to, the Released
23 Class Claims and Released PAGA Claims, as well as any other claims under any provision of the
24 California Labor Code or any applicable California Industrial Welfare Commission Wage Orders,
25 and claims under local, state, or federal discrimination statutes, including, without limitation, the
26 California Fair Employment and Housing Act, California Government Code §§ 12940 *et seq.*; the
27 Unruh Civil Rights Act, California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII
28 of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act,

42 U.S.C. §§ 12101 et seq.; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.; and all of their implementing regulations and interpretive guidelines. With respect to these Released Claims as described in this Section, Plaintiff Garcia shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits she may otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as follows:

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

Notwithstanding Section 1542, Plaintiff understands and agrees that this Agreement shall act as a release of all future claims that may arise from Plaintiff Garcia's employment or separation from employment with Defendant, or any other matters that existed between Plaintiff Garcia and the Released Parties up to the date of this Agreement, whether such claims are currently known or unknown, and that Plaintiff intentionally waives any rights she may have under the provisions of Section 1542, as well as under any other statutes or common law principles of similar effect in the State of California or in any other state.

E. Notice and Exclusion Process.

1. Within ten (10) calendar days after entry of the order granting preliminary approval of this Settlement, Defendant shall provide to the Settlement Administrator a list of all Class Members and Aggrieved Employees, including their last known addresses, telephone numbers, social security numbers, and their dates of employment in a non-exempt position in California during the Class Period (for Class Members) and the PAGA Period (for Aggrieved Employees) ("Settlement Class Information"). The names, addresses, telephone numbers, and Social Security numbers will only be disclosed to the Settlement Administrator and not to Plaintiff's Counsel. All information provided to the Settlement Administrator will be marked CONFIDENTIAL. This information shall be kept confidential and shall not be disclosed, either in writing or orally, by the Settlement Administrator. The Settlement Administrator shall use due care with respect to the

1 storage, custody, use, and/or dissemination of the confidential information. Such information must
2 be stored in a secure fashion and all persons who access the data must agree to keep it confidential.

3 2. A notice of pendency of class action, proposed settlement, and hearing date for
4 Court approval ("Class Notice") in the form attached hereto as **Exhibit 1**, and as approved by the
5 Court, shall be sent by the Settlement Administrator to the Class Members and Aggrieved
6 Employees, by first class mail, within twenty (20) calendar days after entry of the order granting
7 preliminary approval. Attached to the Class Notice will be a request for exclusion form ("Request
8 for Exclusion Form") in the form attached hereto as **Exhibit 2**.

9 3. The Settlement Administrator will make reasonable efforts to ensure that the Class
10 Notice and Request for Exclusion Form are sent to all Class Members and Aggrieved Employees.
11 It will conclusively be presumed that if an envelope has not been returned within thirty (30) days
12 of the mailing that the Class Member or Aggrieved Employee received the Class Notice. In the
13 event of returned or non-deliverable notices, the Settlement Administrator will make reasonable
14 efforts to locate Class Members and Aggrieved Employees and re-send the notices.

15 4. Each Class Member will be fully advised of the settlement, the ability to object to
16 the settlement, and the ability to submit a Request for Exclusion Form. The Class Notice will
17 inform the Class Members of the Court-established deadlines for filing objections and a Request
18 for Exclusion Form. Aggrieved Employees may neither object to, nor exclude themselves from,
19 the PAGA portion of the settlement.

20 5. Each Class Notice will contain personalized information setting forth the number of
21 weeks each Class Member and Aggrieved Employee worked for Defendant in California in a non-
22 exempt position during the Class Period and their estimated Individual Payment Amount. To the
23 extent a Class Member or Aggrieved Employee disputes any of the information listed on his or her
24 Class Notice, he or she may produce evidence to the Settlement Administrator showing such
25 information the individual contends should be reflected in the Class Notice. Defendant's records
26 will be presumed determinative, however, and the Settlement Administrator's decision on these
27 matters will be final. The Class Notice will also set forth IRS W-9 information if required.

1 6. All Class Members who do not submit a Request for Exclusion Form will be eligible
2 to receive an Individual Payment Amount and all Aggrieved Employees will be eligible to receive
3 a share of the PAGA allocation from the Net Settlement Proceeds, which shall be mailed to them
4 if and when the Effective Date occurs.

5 7. In order to elect not to participate in the Settlement, a Class Member must submit a
6 Request for Exclusion Form, and mail it to the Settlement Administrator no later than forty-five
7 (45) calendar days after the initial mailing of the Class Notice and Request for Exclusion Form to
8 Class Members, unless the Court requires a longer period, in which case the Court ordered
9 exclusion period will apply. The date of the postmark shall be deemed the date of submission. The
10 timeliness of submitted Request for Exclusion Forms will be determined by valid postmark. If the
11 45th day falls on a Sunday or federal holiday, the time to request exclusion will be extended to the
12 next day on which the U.S. Postal Service is open.

13 8. The deadline for submission of Exclusion Forms shall be extended once by 30 days
14 for those Class Members whose Class Notice and Exclusion Form are returned as “undeliverable.”
15 If the 30th day falls on a Sunday or federal holiday, this deadline will be extended to the next day
16 on which the U.S. Postal Service is open.

17 9. The Settlement Administrator will search for additional addresses on returned mail
18 and will re-mail the Class Notice and Exclusion Form to an updated address (if any) within 15 days
19 of receipt of the returned mail. The 30-day extended time limit will run from the date of the second
20 mailing for those Class Members. To the extent a Class Notice from the initial mailing is not
21 returned within 30 days, it shall be deemed to have been sent to a valid address even if it is thereafter
22 returned. It is the intent of the Parties that reasonable, but not extraordinary, efforts be used to
23 locate Class Members. If the initial Class Notice and Request for Exclusion Form is returned, the
24 Settlement Administrator will search using the social security number for a more current address.
25 If no address is found within 10 days, no further action is required.

26 10. The Settlement Administrator will notify the Parties of the total number of valid
27 Request for Exclusion Forms within ten (10) calendar days after the deadline for receipt of the
28

1 Request for Exclusion Forms (fifty-five (55) days following the initial mailing of the Class Notice
2 and Request for Exclusion Forms to Class Members and Aggrieved Employees).

3 11. In order to object to the settlement, a Class Member must mail his or her objection
4 to the Settlement Administrator no later than forty-five (45) calendar days after the mailing of the
5 Class Notice and Request for Exclusion Form to Class Members, unless the Court requires a longer
6 period, in which case the Court ordered objection period will apply. If the 45th day falls on a
7 Sunday or federal holiday, the time to object to the settlement will be extended to the next day on
8 which the U.S. Postal Service is open. Under no circumstances shall the objection deadline be
9 extended for any reason.

10 12. The Settlement Administrator shall provide to the Parties, at least twelve (12)
11 calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a declaration
12 of due diligence and proof of mailing with regard to the mailing of the Class Notice and Request
13 for Exclusion Forms. The Settlement Administrator will also provide to the Parties, at least twelve
14 (12) calendar days prior to the final approval hearing, or as otherwise ordered by the Court, a report
15 listing the amount of all payments to be made to each Class Member without names or personal
16 identifying information.

17 13. Defendant shall deposit the Gross Settlement Amount and all employer payroll tax
18 obligations with the Settlement Administrator no later than sixty (60) calendar days after the Court
19 enters an order granting final approval of the Settlement. No funds shall be disbursed from the
20 Qualified Settlement Fund prior to the occurrence of the Effective Date.

21 14. The Settlement Administrator shall disburse the Gross Settlement Amount within
22 fifteen (15) calendar days after its receipt thereof, subject to the prior occurrence of the Effective
23 Date. Class Members and Aggrieved Employees must cash each of their Individual Payment
24 Amount checks within one hundred eighty (180) calendar days after they are mailed by the
25 Settlement Administrator. The value of any checks uncashed more than one hundred eighty (180)
26 days after mailing shall be paid to the State of California Controller's Office – Unclaimed Property
27 Fund, to be held in the name of the respective Class Member or Aggrieved Employee.

F. Duties of the Parties Prior to Court Approval.

1. Promptly after execution of this Settlement Agreement, Plaintiff shall move the Court for preliminary approval of this settlement and entry of an order accomplishing the following:

(a) scheduling a fairness hearing on the question of whether the proposed settlement should be finally approved as fair, reasonable and adequate as to the Class Members and Aggrieved Employees;

(b) approving as to form and content the proposed Class Notice;

(c) approving as to form and content the proposed Request for Exclusion Form;

(d) preliminarily certifying the Settlement Class for purposes of approving the Settlement Agreement;

(e) preliminarily approving the PAGA payment of \$75,000 to the LWDA;

(f) preliminarily setting attorneys' fees and costs payable to Class Counsel;

(g) preliminarily setting the Service Payment to the Class Representative;

(h) preliminarily approving Phoenix Settlement Administration as the Settlement Administrator and its estimated fees and costs of \$20,000; and

(i) permitting Plaintiff to file the First Amended Complaint.

2. The Parties shall submit this Settlement Agreement to the Court and the LWDA in support of Plaintiff's unopposed motion for preliminary approval of the settlement.

G. Duties of the Parties in Connection with and Following Final Court Approval.

1. In connection with the hearing on final approval of the settlement, the Parties will submit a proposed final order no later than ten (10) calendar days prior to the scheduled date of the hearing on final approval (unless otherwise ordered by the Court):

(a) approving the settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;

(b) approving Class Counsel's application for an award of attorneys' fees and reimbursement of documented litigation costs and expenses, the Service Payment to the Class

Representative, the PAGA Payment to the LWDA, and the costs of administering the settlement;
and

(c) Entering judgment in the Action in accordance with this Settlement Agreement, pursuant to Cal. Rules of Court, Rule 3.769(h).

2. Class Counsel shall file an application for attorneys' fees and reimbursement of costs and expenses no later than ten (10) calendar days prior to the scheduled date of the hearing on final approval (unless otherwise ordered by the Court).

H. Miscellaneous Provisions:

1. Voiding the Agreement.

A failure of the Court to approve any material condition of this Settlement Agreement which effects "a fundamental change of the Parties' settlement," or if the settlement is reversed or materially modified on appellate review, shall render the entire Settlement Agreement voidable and unenforceable as to all Parties herein at the option of any Party.

2. Parties' Authority.

The signatories hereto represent that they are fully authorized to enter into this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

3. Mutual Full Cooperation.

The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, execution of such documents and such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the Court's preliminary and final approval of the settlement.

1 **4. No Prior Assignments.**

2 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly,
3 assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or
4 entity any portion of any liability, claim, demand, action, cause of action or rights released and
5 discharged by this Settlement Agreement.

6 **5. No Admission.**

7 Nothing contained herein, nor the consummation of this Settlement Agreement, is to be
8 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
9 of Defendant or any of the other Released Parties. Each of the Parties hereto has entered into this
10 Settlement Agreement with the intention of avoiding further disputes and litigation with the
11 attendant inconvenience and expenses. This Settlement Agreement is a settlement document and
12 shall, pursuant to California Evidence Code section 1152 and/or Federal Rule of Evidence 408
13 and/or any other similar law, be inadmissible in evidence in any proceeding, except an action or
14 proceeding to approve the settlement, and/or interpret or enforce this Settlement Agreement.

15 **6. Construction.**

16 The Parties hereto agree that the terms and conditions of this Settlement Agreement are the
17 result of lengthy, intensive arms' length negotiations between the Parties and that this Settlement
18 Agreement shall not be construed in favor of or against any Party by reason of the extent to which
19 any Party or her or its counsel participated in the drafting of this Settlement Agreement.

20 **7. Captions and Interpretations.**

21 Paragraph titles or captions contained herein are inserted as a matter of convenience and for
22 reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement
23 or any provision hereof. Each term of this Settlement Agreement is contractual and not merely a
24 recital.

25 **8. Modification.**

26 This Settlement Agreement may not be changed, altered, or modified, except in writing and
27 signed by the Parties hereto, and approved by the Court. This Settlement Agreement may not be
28 discharged except by performance in accordance with its terms or by a writing signed by each of

1 the Parties hereto on their attorneys.

2 **9. Integration Clause.**

3 This Settlement Agreement contains the entire agreement between the Parties relating to
4 the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
5 understandings, representations, and statements, whether oral or written and whether by a Party or
6 such Party's legal counsel, are merged herein. No rights hereunder may be waived except in
7 writing.

8 **10. Binding on Assigns.**

9 This Settlement Agreement shall be binding upon and inure to the benefit of the Parties
10 hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

11 **11. Governing Law.**

12 All terms of this Settlement Agreement and its exhibits shall be governed by and interpreted
13 according to the laws of the State of California, without giving effect to any conflict of law
14 principles or choice of law principles.

15 **12. Signatures of All Class Members Unnecessary to be Binding.**

16 It is agreed that, because the members of the Settlement Class are numerous, it is impossible
17 or impractical to have each Class Member execute this Settlement Agreement. The Class Notice,
18 attached hereto as Exhibit 1, will advise all Class Members of the binding nature of the release
19 provided herein and such shall have the same force and effect as if this Settlement Agreement was
20 executed by each Class Member.

21 **13. Counterparts.**

22 This Settlement Agreement may be executed in counterparts, and when each Party has
23 signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
24 and when taken together with other signed counterparts, shall constitute one fully-signed Settlement
25 Agreement, which shall be binding upon and effective as to all Parties.

26 **14. Confidentiality**

27 Until Plaintiff files her motion for preliminary approval of the class action settlement of the
28 Action, the Parties and their Counsel agree to maintain confidentiality as to the Settlement,

1 including the amount and terms of the Settlement, except as to spouses, children, parents, tax or
2 financial advisors, attorneys, taxing agencies, or as otherwise required by law.

3 **15. No Publicity**

4 Plaintiff and her Counsel will not contact the media about the Settlement Agreement or
5 respond to any inquiries by the media regarding the Settlement, other than to state that the matter
6 was amicably settled, and the Court did not find Defendant liable. Plaintiff and her Counsel also
7 will not post any information about the Settlement Agreement on social media or their firms'
8 websites.

9 **16. Representation Regarding Class Size; Escalator Provision**

10 Defendant has represented that Class Members worked no more than 7,700 workweeks
11 during the Class Period. Should this number increase, the Gross Settlement Amount will increase
12 proportionately. For example, if there are 8,470 workweeks, the Gross Settlement Amount shall
13 increase by 10%.

14 **17. Continuing Jurisdiction.**

15 The Parties agree that upon the occurrence of the entry of judgment in this case pursuant to
16 the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code
17 of Civil Procedure Section 664.6 and all other applicable law, and the Court shall retain exclusive
18 and continuing equity jurisdiction of this Action over all Parties and Class Members to interpret
19 and enforce the terms, conditions and obligation of the Agreement.

20 **18. Default; Notice; Cure; Acceleration; Time is of the Essence.**

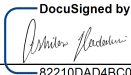
21 Time is of the essence with respect to all provisions of this Agreement. If Defendant fails
22 to timely make the payment due hereunder, it shall be in default of its obligations. Plaintiff shall
23 thereafter give notice of default to counsel of record for Defendant and Defendant must cure said
24 default within ten (10) calendar days thereof. In the event of an uncured default, all unpaid amounts
25 shall be due and payable with interest at the legal rate from the date of default. Time is of the
26 essence with respect to all terms of this Settlement.

1
2 Dated: 09 / 05 / 2023
3

By: 
MARGARITA GARCIA
Plaintiff and Class Representative

4
5 Dated: 9/7/2023
6

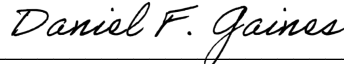
GREENS OPERATIONS, INC.

By: 
Its: 82210DAD4BC048B...
Managing Principal

8
9 **APPROVED AS TO FORM AND CONTENT:**

10 Dated: 09/05/2023

GAINES & GAINES, APLC

11 By: 
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Counsel for Plaintiff and Class
Representative Margarita Garcia

12
13
14
15 Dated: September 6, 2023

SOLTMAN, LEVITT, FLAHERTY &
WATTLES LLP

16
17 By: 
Kevin Wattles, Esq.
Rachel Marko, Esq.
Counsel for Defendant Green Operations,
Inc.

EXHIBIT 1

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

MARGARITA GARCIA, on behalf of herself
and all “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

GREENS OPERATIONS, INC., a California
corporation, GMPM HOSPITALITY, LLC, a
California limited liability company, and DOES
1 through 10, inclusive,

Defendants.

CASE NO: CVBL2200087

Assigned to the Hon. Kira Klatchko, Dept. PSI

**NOTICE OF PENDENCY OF PROPOSED
CLASS ACTION SETTLEMENT AND
FINAL HEARING**

**YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.**

A California court authorized this notice. This is not a solicitation from a lawyer.

- A settlement will provide \$1,000,000 to pay claims to all individuals who worked for Greens Operations, Inc. (“Defendant”) as a non-exempt employee in California at any time between July 24, 2019 and July 24, 2023 who have not entered into an arbitration agreement with Defendant (“Class Members”), and all non-exempt employees of Defendant in California at any time between March 28, 2021 and July 24, 2023, whether they entered into an arbitration agreement or not (“PAGA Members”)
- The settlement resolves a lawsuit alleging that Defendant failed to pay all wages, including all minimum and overtime wages; failed to provide compliant meal and rest periods or premium compensation in lieu thereof; failed to timely issue final wages upon separation of employment; failed to issue accurate and complete itemized wage statements; required employees to work subject to unlawful contract terms; failed to maintain and produce payroll records; engaged in violations of Business and Professions Code § 17200; and is subject to penalties under the Labor Code Private Attorneys General Act of 2004. The Settlement avoids costs and risks of continuing the lawsuit, pays money to employees, and releases Defendant from liability from the claims asserted in this lawsuit.
- Lawyers for the employees will ask the Court to award them up to \$350,000 as attorney’s fees and \$20,000 as expenses for investigating the facts, litigating the case, and negotiating the settlement. This will be paid from the settlement amount.
- Defendant denies liability and believes all appropriate wages were paid and that it otherwise complied with all Labor Code obligations. The Parties disagree on how much money could have been awarded if employees won at trial.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing	You do not need to take any action if you wish to receive your settlement payment. If the settlement is approved by the Court, you will automatically be mailed a settlement check at the address on file with the Settlement Administrator. If your address has changed, you must notify the Settlement Administrator of your new address. In exchange for the settlement payment, you will release claims against the Defendant, as detailed below.
Exclude Yourself	To exclude yourself, you must send a written Request for Exclusion to the Settlement Administrator by the applicable deadline, as detailed below. If you request exclusion, you will receive no money from the class settlement. This is the only option that allows you to ever be part of any other lawsuit against Greens Operations, Inc. about the legal claims that were brought in this case. Even if you exclude yourself, you will still be an PAGA Member subject to the PAGA settlement
Object	Write to the Settlement Administrator about why you don't like the settlement by the applicable deadline, as detailed below, and/or appear at the Final Approval Hearing to make an oral objection.
Go to a Hearing	Ask to speak in Court about the fairness of the settlement, as detailed below.

WHY DID YOU RECEIVE THIS NOTICE?

This notice explains a proposed settlement of a class action lawsuit, and informs you of your legal rights under that proposed settlement. You are receiving this notice because you may be a member of the Class on whose behalf this class action lawsuit has been brought.

WHAT IS THIS LAWSUIT ABOUT?

On June 14, 2022, Plaintiff Margarita Garcia ("Plaintiff"), a former employee of Defendant Greens Operations, Inc., filed this lawsuit in the Riverside County Superior Court. The lawsuit alleges violations of the California Labor Code and California Business and Professions Code. The lawsuit seeks to certify a class of all non-exempt employees of Defendant Greens Operations, Inc. in California at any time between July 24, 2019 and July 24, 2023 who have not entered into an arbitration agreement with Defendant ("Class Period"). Specifically, the lawsuit alleges that members of the Class were not paid all wages, including all minimum and overtime wages due; provided compliant meal and rest periods or premium compensation in lieu thereof; timely issued final wages upon separation of employment; provided employee files upon request; issued accurate and complete itemized wage statements; and related claims. The Settlement seeks recovery of wages, liquidated damages, damages, interest, statutory and civil penalties, restitution, attorney's fees, and costs. Defendant denies all of the material allegations in the lawsuit and denies that it owes Class Members any remedies. The Court has not made a ruling on the merits of the case.

The lawyers for the parties are:

Plaintiff's Attorneys

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Gaines & Gaines, APLC
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
Phone: (866) 550-0855

Defendant's Attorneys

Kevin Wattles, Esq.
Soltman, Levitt, Flaherty & Wattles LLP
90 E. Thousand Oaks Boulevard, Suite 300
Thousand Oaks, California 91360

SUMMARY OF THE SETTLEMENT

A. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Plaintiff believes she would have prevailed on her claims at a trial. Defendant does not believe that Plaintiff would have won anything from a trial. There has been no trial. Instead, both sides agreed to a settlement, which is memorialized in the Settlement Agreement and Release of Claims ("Settlement" or "Settlement Agreement"), in order to avoid the further costs, risks, and uncertainty of a trial. Plaintiff and Plaintiff's Attorneys believe the settlement is fair, reasonable, adequate, and in the best interests of all Class Members.

B. Who is in the Settlement Class? Who is a PAGA Member?

The Settlement encompasses a class composed of all non-exempt employees of Defendant Greens Operations, Inc. in California at any time between July 24, 2019 and July 24, 2023 who have not entered into an arbitration agreement with Defendant ("Class Period"). It also encompasses PAGA Members composed of all non-exempt employees of Defendant Greens Operations, Inc. in California at any time between March 28, 2021 and July 24, 2023 ("PAGA Period").

C. What does the Settlement provide?

1. Gross Settlement Amount.

The Settlement provides that Defendant will pay \$1,000,000 (the "Gross Settlement Amount") to settle the lawsuit.

2. Net Settlement Proceeds.

The "Net Settlement Proceeds" is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Proceeds is the Gross Settlement Amount less the following amounts that will be requested at the Final Approval Hearing and are subject to comment or objection by Participating Class Members. The Court will set these amounts at the Final Approval Hearing.

(a) **Class Counsel's Attorney's Fees** in an amount set by the Court, not to exceed 35% of the Gross Settlement Amount (estimated at \$350,000);

(b) **Class Counsel's Documented Litigation Costs/Expenses** in an amount set by the Court, not to exceed \$20,000;

(c) **Service Payment and General Release Payment to the Class Representative** in an amount set by the Court, not to exceed \$15,000 to Plaintiff for her service in the lawsuit;

(d) **Settlement Administration Costs** which are currently estimated to not exceed \$20,000, for administering the settlement; and

(e) **PAGA Payment** in the total amount of \$100,000 for the settlement of claims arising under the California Private Attorneys General Act ("PAGA"). Of that amount, 75% or \$75,000, shall be paid to the California Labor and Workforce Development Agency ("LWDA"). The remaining 25%, or \$25,000, shall be included in the Net Settlement Proceeds for payment to PAGA Members.

3. Individual Payment Amount.

Your share of the Net Settlement Proceeds will be determined by the formula detailed in section E below.

D. What Are You Giving Up To Get A Payment Or Stay In The Class?

Upon the Effective Date, and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all Settlement Class Members who do not timely opt-out of the Settlement will be deemed to have fully released and discharged Defendant Greens Operations, Inc., and its present and former officers, directors, members, owners, managers, shareholders, agents, operators, partners, joint ventures, subsidiaries, parent companies, related entities, consultants, attorneys, successors or assignees ("Released Parties") from any and all Released Class Claims which arose during their employment in a non-exempt position in California during the Class Period. "Released Class Claims" means any and all claims and/or causes of action which accrued during the Class Period during employment in a non-exempt position in California, that are alleged, or that could have been alleged in the Action based on the facts set forth in the First Amended Complaint in the Action as part of the preliminary approval process (which includes direct class action claims under Labor Code §§ 201-203, 226(a), 226.7, 510, 512, 1174, 1174.5, 1194, 1194.2, and 1198 and under Business & Professions Code section 17200 *et seq.* predicated on the underlying Labor Code claims alleged). No PAGA claims are encompassed in the Released Class Claims.

2. Upon the Effective Date, and subject to Defendant's full payment of the Gross Settlement Amount and all associated employer payroll tax obligations, Plaintiff and all PAGA Members will be deemed to have fully released and discharged the Released Parties from any and all Released PAGA Claims which arose during their employment in a non-exempt position in California during the PAGA Period. "Released PAGA Claims" means any and all PAGA claims and/or causes of action which accrued during the PAGA Period during employment in a non-exempt position in California, that are alleged in the First Amended Complaint on file in the Action, or that could have been alleged in the Action based on the facts set forth in the First Amended Complaint, including Labor Code §§ 201-202, 226(a), 226.7, 432.5, 510, 512, 1174, 1174.5, 1194, and 1198. No PAGA Member may opt out of the PAGA portion of the Settlement.

E. How Is My Share Of The Settlement Calculated?

Each participating Class Member (those who do not opt out of the Settlement) shall receive an “Individual Payment Amount,” which is distributable to each Class Member who participates in the Settlement (i.e., who does not submit a valid request for exclusion form), and a PAGA portion of the Individual Payment Amount, which is distributable to each PAGA Members regardless of whether they participate in the Settlement (PAGA Members will receive the PAGA portion of the Individual Payment Amount even if they exclude themselves from the Settlement or are not members of the Class).

“Individual Payment Amount” means the portion of the Net Settlement Proceeds distributable to each Class Member who participates in the Class Settlement (i.e., who does not submit a valid request for exclusion form) and each PAGA Member, whether they participate in the Class Settlement or not. As to participating Class Members, the class portion of the Individual Payment Amount will be determined by dividing the Net Settlement Proceeds, less the \$25,000 PAGA allocation, by the total number of weeks worked by the entire Settlement Class in a non-exempt position in California during the Class Period, net of opt outs, resulting in the class workweek value; and then multiplying the class workweek value by the number of weeks worked by each participating Class Member in a non-exempt position in California during the Class Period.

As to the PAGA Members, the PAGA portion of the Individual Payment Amount will be determined by dividing the PAGA settlement amount (\$25,000) by the total number of weeks worked by all PAGA Members in a non-exempt position in California during the PAGA Period, resulting in the PAGA workweek value; and then multiplying the PAGA workweek value by the number of weeks worked by each PAGA Member in a non-exempt position in California during the PAGA Period.

For tax purposes, the class portion of each Individual Payment Amount will be apportioned (a) 20% as wages (reported on an IRS Form W-2 and subject to applicable withholdings); and (b) 80% equally as penalties and interest (reported on an IRS Form 1099, if required). The PAGA portion of each Individual Payment Amount will be apportioned 100% as penalties (reported on an IRS Form 1099, if required). All Individual Payment Amounts paid to Class Members and PAGA Members will be subject to any applicable wage garnishments, liens, or other legally mandated treatment as required by law.

Settlement Class Payment: According to the records of Defendant, you worked [REDACTED] weeks while employed as a non-exempt employee in California from July 24, 2019 through July 24, 2023, and you [did/did not] enter into an arbitration agreement with Defendant. Based on these weeks worked, you are entitled to an Individual Payment Amount of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court. Note that if you entered into an arbitration agreement with Defendant, you will not be paid a Settlement Class Payment.

PAGA Payment: According to the records of Defendant, you worked [REDACTED] weeks while employed as a non-exempt employee in California from March 28, 2021 through July 24, 2023. Based on these weeks worked, you are entitled to a PAGA Payment Amount of approximately \$[REDACTED]. This amount is subject to change based on the final ruling of the Court.

Please be advised that the individual data above is presumed to be correct unless you submit documentation proving otherwise. If you disagree with the data, please submit an explanation and evidence in support of your position to the Settlement Administrator no later than [REDACTED], 2023. In the event of a dispute, the Settlement Administrator will resolve the challenge with input from the Defendant and will make a final and binding determination without a hearing or right of appeal by you.

THE SETTLEMENT HEARING

The Court will conduct a final fairness hearing regarding the proposed settlement (the “Final Settlement Hearing”) on [REDACTED], at 8:30 a.m., in the Courtroom of Judge Kira Klatchko of the Riverside County Superior Court, Department PS1, located at 3255 E Tahquitz Canyon Way Palm Springs, California 92262. The Court will determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorney’s fees and costs to be awarded to Plaintiff’s Attorneys; and (v) the amount that should be awarded to Plaintiff as a Service Payment and General Release Payment. At the Final Settlement Hearing, the Court will hear all properly filed objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, or to enter an appearance and represent yourself.

WHAT ARE YOUR OPTIONS?

- **OPTION 1 – DO NOTHING AND PARTICIPATE IN THE SETTLEMENT**

IF YOU TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL AUTOMATICALLY RECEIVE YOUR SHARE OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT. YOU ARE NEVER REQUIRED TO GO TO COURT OR PAY ANYTHING TO THE LAWYERS IN THIS CASE. If you move, you must update your address with the Settlement Administrator. If you disagree with pre-printed data indicated in section E above, you must submit an explanation and/or documentation to the Settlement Administrator to justify your position, postmarked no later than [REDACTED]. The Settlement Administrator's address is [Settlement Administrator address].

- **OPTION 2 – OBJECT TO THE SETTLEMENT**

If you wish to remain a Settlement Class Member, but you object to the proposed settlement (or any of its terms) and wish the Court to consider your objection at the Final Settlement Hearing, you may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense. All written objections, supporting papers, and/or notices of intent to appear at the Final Approval Hearing must clearly identify the case name and number and be mailed to the Settlement Administrator at [Settlement Administrator address]. Written objections must be postmarked no later than [REDACTED].

- **OPTION 3 – EXCLUDE YOURSELF FROM THE SETTLEMENT**

You have a right to exclude yourself ("opt out") from the Settlement Class, but if you choose to do so, you will not receive any benefits from the proposed settlement except you will participate in the PAGA portion thereof and be paid a share of the PAGA settlement. With that exception, you will not be bound by a judgment in this case and you will have the right to file your own lawsuit against the Defendant and pursue your own claims in a separate suit. You can opt out of the Class by completely filling out and mailing the enclosed Request for Exclusion Form to the Settlement Administrator at the above-stated address, such that it is postmarked no later than [REDACTED].

ARE THERE MORE DETAILS ABOUT THE SETTLEMENT?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed "Settlement Agreement and Release of Claims" which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Riverside County Superior Court, located at 3255 E Tahquitz Canyon Way, Palm Springs, California 92262.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at [address], [telephone number].

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

**BY ORDER OF THE SUPERIOR COURT OF
THE STATE OF CALIFORNIA**

EXHIBIT 2

REQUEST FOR EXCLUSION

ONLY COMPLETE THIS REQUEST FOR EXCLUSION FORM IF YOU WANT TO OPT OUT OF (NOT PARTICIPATE IN) THE SETTLEMENT OF THE ACTION KNOWN AS *Margarita Garcia v. Greens Operations, Inc.*, Riverside County Superior Court Case. No. CVBL2200087. **IF YOU OPT OUT OF THE SETTLEMENT, YOU WILL NOT RECEIVE ANY PORTION OF THE SETTLEMENT AMOUNT.**

I confirm that I was employed by Defendant Greens Operations, Inc. as a non-exempt employee in California between July 24, 2019 and July 24, 2023 and did not enter into an arbitration agreement.

I do not wish to receive any payment under the terms of the proposed class action settlement or to otherwise participate in the proposed settlement.

Date: _____

Signature: _____

Print Name: _____

Residence Street Address: _____

City, State and Zip Code: _____

IN ORDER TO BE VALID, THIS REQUEST FOR EXCLUSION FORM MUST BE COMPLETED, SIGNED, MAILED BY FIRST CLASS MAIL, AND POSTMARKED ON OR BEFORE **[45 days after mailing of Notice]**. Send this signed request for exclusion form to the Settlement Administrator:

Greens Operations, Inc. Claims Administrator

c/o _____

EXHIBIT 3

DANIEL F. GAINES, ESQ. SBN 251488
 daniel@gaineslawfirm.com
 ALEX P. KATOFISKY, ESQ. SBN 202754
 alex@gaineslawfirm.com
 EVAN S. GAINES, ESQ. SBN 287668
 evan@gaineslawfirm.com
GAINES & GAINES, APLC
 4550 East Thousand Oaks Boulevard, Suite 100
 Westlake Village, CA 91362
 Telephone: (818) 703-8985
 Facsimile: (818) 703-8984

Attorneys for Plaintiff Margarita Garcia, on behalf of herself, the general public, and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

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

MARGARITA GARCIA, on behalf of herself,
 the general public, and all “aggrieved
 employees” pursuant to Labor Code § 2698 *et*
seq.,

Plaintiff,

v.

GREENS OPERATIONS, INC., a California
 corporation, and DOES 1 through 10,
 inclusive,

Defendants.

CLASS ACTION

CASE NO: CVBL2200087

Assigned to the Hon. Kira Klatchko, Dept. PS1

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT FOR:**

**1. FAILURE TO PAY ALL MINIMUM
 AND OVERTIME WAGES (LABOR
 CODE §§ 226.7, 510, 1194, AND 1194.2;
 IWC WAGE ORDER 5-2001)**

**2. FAILURE TO PROVIDE REST
 PERIODS OR COMPENSATION IN LIEU
 THEREOF (LABOR CODE § 226.7; IWC
 WAGE ORDER 5-2001)**

**3. FAILURE TO PROVIDE MEAL
 PERIODS OR COMPENSATION IN LIEU
 THEREOF (LABOR CODE §§ 226.7, 512,
 1174, 1174.5, AND 1198; IWC WAGE
 ORDER 5-2001)**

**4. KNOWING AND INTENTIONAL
 FAILURE TO COMPLY WITH
 ITEMIZED EMPLOYEE WAGE
 STATEMENT PROVISIONS (LABOR
 CODE § 226(a), (e))**

**5. FAILURE TO MAINTAIN AND
 PRODUCE PAYROLL RECORDS
 (LABOR CODE §§ 226(e), 1174 AND
 1174.5)**

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**6. FAILURE TO TIMELY PAY WAGES
DUE AT SEPARATION OF
EMPLOYMENT (LABOR CODE §§ 201-
203)**

**7. VIOLATION OF BUSINESS AND
PROFESSIONS CODE § 17200**

**8. PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7,
510, 512, 1194, AND 1198 AND
PURSUANT TO LABOR CODE § 2699(a)
FOR VIOLATIONS OF LABOR CODE §§
226.3, 432.5, AND 558**

DEMAND FOR JURY TRIAL

Complaint Filed: June 14, 2022

Plaintiff MARGARITA GARCIA (“Plaintiff”), on behalf of herself, all similarly situated individuals, and on behalf of the general public, complains of Defendant GREENS OPERATIONS, INC., a California corporation, and/or any subsidiaries or affiliated companies (hereinafter collectively referred to as “Defendants”), and each of them, as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Class Action and Representative Action, pursuant to Code of Civil Procedure § 382 and Labor Code § 2698 *et seq.*, on behalf of Plaintiff and the Class of individuals described in detail below against Defendants.

2. From at least July 24, 2019 through July 24, 2023 (the “liability period”), Defendants have had a consistent policy of failing to pay all minimum and overtime wages due; provide legally compliant meal and rest periods, or compensation in lieu thereof; maintain and produce payroll records; timely pay all wages due upon separation of employment; and issue accurately itemized wage statements.

3. Plaintiff, on behalf of herself and Class Members, brings this action pursuant to Labor Code §§ 201-203, 226, 226.3, 226.7, 432.5, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, and 1198 seeking compensation for all unpaid wages, meal and rest period premium wages, statutory penalties, injunctive and other equitable relief, and reasonable attorneys’ fees and costs.

4. Plaintiff, on behalf of herself and Class Members, pursuant to Business & Professions Code §§ 17200-17208, also seeks injunctive relief, restitution, and disgorgement of all benefits Defendants enjoyed from their failure to pay all wages due.

5. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code §§ 2698 *et seq.*, seek penalties for Defendants' various violations of the California Labor Code.

6. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants employed Plaintiff and Class Members throughout California, including in Riverside County.

II.

PARTIES

A. Plaintiff

7. Plaintiff MARGARITA GARCIA was employed by Defendants as a non-exempt employee in Riverside County, California from March 2018 to September 2021.

8. During her work with Defendants, Plaintiff was:

- a. Willfully denied the payment of all minimum and overtime wages due;
- b. Willfully denied all meal and rest periods or compensation in lieu thereof;
- c. Willfully denied accurately itemized wage statements; and
- d. Willfully denied the production of her employee file;
- e. Willfully denied the timely payment of all wages upon separation of her employment.

B. Defendants

9. Defendant GREENS OPERATIONS, INC. is a California corporation that employed Plaintiff and Class Members throughout the State of California, including in Riverside County.

10. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will

1 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
2 designated hereinafter as DOES when such identities become known.

3 11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
4 in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme,
5 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
6 attributable to the other Defendants.

7 12. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
8 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
9 provisions of the California Labor Code as alleged herein.

10 III.

11 CLASS ACTION ALLEGATIONS

12 13. Plaintiff brings this action on behalf of herself, and all others similarly situated as a
13 Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiff seeks to represent the
14 following class composed of and defined as follows:

15 THE CLASS

16 All non-exempt employees of Defendant Greens Operations, Inc. in
17 California at any time between July 24, 2019 and July 24, 2023.

18 14. Plaintiff reserves the right under Rule 3.765, California Rules of Court, to amend or
19 modify this class description with greater specificity or further division into subclasses or limitation
20 to particular issues.

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

24 A. Numerosity

25 16. The potential Class Members as defined are so numerous that joinder of all class
26 members is impracticable. While the precise number of Class Members has not been ascertained at
27 this time, Plaintiff is informed and believes, and based thereon alleges, that Defendants currently
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1 employ, and during the relevant time periods employed, over 50 persons in the State of California
2 who fall within the Class definition.

3 17. Accounting for employee turnover during the relevant period necessarily increases this
4 number. Plaintiff alleges Defendants' employment records would provide information as to the
5 number and location of Class Members. Joinder of Class Members is not practicable.

6 **B. Commonality**

7 18. There are questions of law and fact common to the Class that predominate over any
8 questions affecting only individual class members. These common questions of law and fact include,
9 without limitation:

- 10 a. Whether Defendants failed to pay all minimum and overtime wages due to
11 Plaintiff and Class Members, in violation of Labor Code §§ 226.7, 510, 1194,
12 and 1194.2 and IWC Wage Order 5-2001;
- 13 b. Whether Defendants failed to properly provide rest periods, or compensation
14 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §
15 226.7 and IWC Wage Order 5-2001;
- 16 c. Whether Defendants failed to properly provide meal periods, or compensation
17 in lieu thereof to Plaintiff and Class Members, in violation of Labor Code §§
18 226.7, 512, 558, 1174, 1174.5, and 1198 and IWC Wage Order 5-2001;
- 19 d. Whether Defendants failed to provide Plaintiff and Class Members with
20 accurately itemized wage statements, in accordance with Labor Code § 226(a)
21 and (e);
- 22 e. Whether Defendants failed to maintain and produce payroll records, in
23 violation of Labor Code §§ 226(e), 1174, and 1174.5;
- 24 f. Whether Defendants failed to timely Plaintiff and pay Class Members all
25 wages due and owing at the separation of their employment, in violation of
26 Labor Code §§ 201-203; and
- 27 g. Whether Plaintiff and Class Members are entitled to equitable relief pursuant
28 to Business & Professions Code § 17200 *et seq.*

C. Typicality

19. The claims of the named Plaintiff are typical of the claims of Class Members. Plaintiff and Class Members sustained injuries and damages arising out of and caused by Defendants' common course of conduct in violation of laws, regulations that have the force and effect of law, and statutes as alleged herein.

D. Adequacy of Representation

20. Plaintiff will fairly and adequately represent and protect the interests of Class Members. Counsel who represents Plaintiff are competent and experienced in litigating large employment class actions.

E. Superiority of Class Action

21. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all proposed Class Members is not practicable, and questions of law and fact common to the proposed Class predominate over any questions affecting only individual members of the proposed Class. Each member of the proposed Class has been damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices.

22. 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. Plaintiff is 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.

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IV.

CAUSES OF ACTION**FIRST CAUSE OF ACTION****PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS****FAILURE TO PAY ALL MINIMUM AND OVERTIME WAGES****(LABOR CODE §§ 226.7, 510, 1194, AND 1194.2 AND IWC WAGE ORDER 5-2001)**

23. Plaintiff incorporates paragraphs 1 through 22 of this Complaint as though fully set forth herein.

24. During the liability period, Defendants failed to pay Plaintiff and Class Members all minimum wages and overtime wages due, in violation of Labor Code §§ 510 and 1194 and IWC Wage Order 5-2001. Plaintiff and Class Members frequently work well over eight hours per day every workday, and often on weekends and holidays. There are overtime hours that are worked but not paid for at all. Defendants also fail to properly compute commission wages and other non-base hourly wages earned by Plaintiff and Class Members into their regular rate of pay, in violation of Labor Code §§ 226.7, 510, 512, 558, and 1194. Defendants fail to properly blend commission wages and other non-base hourly wages into the regular rate of pay and instead pay Plaintiff and Class Members overtime at the base hourly rate of pay. This violates Labor Code §§ 226.7, 510, 512, 558, and 1194;

25. As a result of the unlawful acts of Defendants in willfully failing to pay all minimum and overtime wages due, Plaintiff and Class Members have been deprived of wages in amounts to be determined at trial, and are entitled to restitution and recovery of such amounts, plus interest thereon, attorneys' fees, and costs, pursuant to Labor Code § 1194, and liquidated damages pursuant to Labor Code § 1194.2.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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V.

SECOND CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF

(LABOR CODE § 226.7 AND IWC WAGE ORDER 5-2001)

26. Plaintiff incorporates paragraphs 1 through 25 of this Complaint as though fully set forth herein.

27. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more rest periods as set forth in Labor Code § 226.7 and IWC Wage Order 5-2001.

28. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001. Plaintiff and Class Members were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. Plaintiff and Class Members were simply denied and not authorized to take their legally entitled rest periods and were never paid premium wages for missed rest periods. This violates Labor Code § 226.7 and IWC Wage Order 5-2001.

29. Pursuant to Labor Code § 226.7 and IWC Wage Order 5-2001, Plaintiff seeks the payment of all rest period compensation which she and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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VI.**THIRD CAUSE OF ACTION****PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS****FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF
(LABOR CODE §§ 226.7, 512, 558, 1174, 1174.5, AND 1198 AND IWC WAGE ORDER 5-2001)**

30. Plaintiff incorporates paragraphs 1 through 29 of this Complaint as though fully set forth herein.

31. Plaintiff and Class Members are entitled to one hour of pay for each day that Defendants failed to properly provide one or more meal periods as set forth in Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001.

32. Defendants failed to pay premium wages to Plaintiff and Class Members who were denied proper meal periods, in violation of Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001. Plaintiff and Class Members were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or second meal period. Defendants also fail to maintain records indicating the start and end time of each meal period, if one ever occurs. This violates Labor Code §§ 226.7, 512, 558, 1174, 1174.5, and 1198 and IWC Wage Order 5-2001;

33. Pursuant to Labor Code §§ 226.7 and 512 and IWC Wage Order 5-2001, Plaintiff seeks the payment of all meal period compensation which she and Class Members are owed for four years preceding the filing of this Action, according to proof.

Wherefore, Plaintiff and the class she seeks to represent request relief as described below.

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VII.**FOURTH CAUSE OF ACTION****PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS****KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED****EMPLOYEE WAGE STATEMENT PROVISIONS****(LABOR CODE § 226(a), (e))**

34. Plaintiff incorporates paragraphs 1 through 33 of this Complaint as though fully set forth herein.

35. Section 226(a) of the California Labor Code requires Defendants to provide wage statements to employees. In those wage statements, Defendants must provide an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee..., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a).

36. Defendants failed to issue Plaintiff and Class Members wage statements that fully and accurately itemized the requirements set forth in Labor Code § 226(a). As stated above, Plaintiff and Class Members were not paid all wages due. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code § 226(a)(1) total hours worked, in violation of Labor Code § 226(a)(2), net wages earned, in violation of Labor Code § 226(a)(5), and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code § 226(a)(9).

37. As a consequence of Defendants' willful conduct in failing to provide Class Members with accurate itemized wage statements, Plaintiff and Class Members have been injured because they have not been paid all wages due and were issued wage statements which do not reflect, and fail to state, all information required by Labor Code § 226(a). The missing information cannot be discerned at all from the face of the wage statements themselves. Plaintiff and Class Members are entitled to penalties pursuant to Labor Code § 226(e) to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000 per employee, and are entitled to an award of costs and reasonable attorneys' fees pursuant to Labor Code § 226(h).

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

VIII.

FIFTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

FAILURE TO MAINTAIN AND PRODUCE PAYROLL RECORDS

(LABOR CODE §§ 226(e), 1174, AND 1174.5)

38. Plaintiff incorporates paragraphs 1 through 37 of this Complaint as though fully set forth herein.

39. During the Class Period, as part of Defendants' failed to retain and produce records in accordance with Labor Code §§ 226(e), 1174, and 1174.5. Plaintiff requested her employee file and Defendants refused to produce it. This violates Labor Code §§ 1174 and 1174.5.

40. As a proximate result of Defendants' unlawful actions and omissions, Plaintiff and Class Members have been damaged in an amount according to proof at trial, and are entitled to all wages earned and due, plus interest thereon. Additionally, Plaintiff and Class Members are entitled to all available statutory penalties, including but not limited to penalties pursuant to California Labor Code §§ 226(e) and 1174.5, and an award of costs, expenses, and reasonable attorneys' fees, including but not limited to those provided in California Labor Code § 226(e), as well as other available remedies.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

IX.**SIXTH CAUSE OF ACTION****PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS****FAILURE TO TIMELY PAY WAGES DUE AT****SEPARATION OF EMPLOYMENT****(LABOR CODE §§ 201-203)**

41. Plaintiff incorporates paragraphs 1 through 40 of this Complaint as though fully set forth herein.

42. California Labor Code § 201 and § 202 require Defendants to pay employees all wages due within 72 hours after resignation of employment or the day of termination of employment. Labor Code § 203 provides that if an employer willfully fails to timely pay such wages, the employer must, as a penalty, continue to pay the subject employee's daily wages until the back wages are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

43. Defendants paid Plaintiff and Class Members their final wages beyond the time frames set forth in Labor Code §§ 201 and 202 in violation of Labor Code § 203. Plaintiff and Class Members were not paid all wages due and owing throughout the course of their employment, as detailed above. Consequently, at the time of their separation from employment with Defendants, they were not paid all final wages due and owing for the entirety of their employment.

44. More than 30 days have passed since Plaintiff and certain Class Members have left Defendants' employ.

45. As a consequence of Defendants' willful conduct in not paying wages owed timely upon separation of employment, Plaintiff and Class Members are entitled to up to 30 days' wages as a penalty under Labor Code §§ 203 for Defendants' failure to timely pay legal wages at separation of employment.

Wherefore, Plaintiff and the Class she seeks to represent request relief as described below.

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X.

SEVENTH CAUSE OF ACTION

PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS

UNFAIR COMPETITION PURSUANT TO

BUSINESS & PROFESSIONS CODE § 17200 ET SEQ.

46. Plaintiff incorporates paragraphs 1 through 45 of this Complaint as though fully set forth herein.

47. This is a Class Action for Unfair Business Practices. Plaintiff, on her own behalf and on behalf of the general public, and on behalf of others similarly situated, brings this claim pursuant to Business & Professions Code § 17200 *et seq.* The conduct of all Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff, the general public, and Class Members. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

48. Plaintiff is a “person” within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

49. Business & Professions Code § 17200 *et seq.* prohibits unlawful and unfair business practices.

50. Wage and hour laws express fundamental public policies. Properly providing employees with all wages due is a fundamental public policy of this State and of the United States. Labor Code § 90.5(a) articulates the public policies of this State to enforce vigorously minimum labor standards, to ensure that employees are not required or permitted to work under substandard and unlawful conditions, and to protect law-abiding employers and its employees from competitors who lower their costs by failing to comply with minimum labor standards.

51. Defendants have violated statutes and public policies. Through the conduct alleged in this Complaint, Defendants, and each of them, have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Professions Code § 17200 *et seq.* depriving Plaintiff,

1 and all persons similarly situated, and all interested persons of rights, benefits, and privileges
2 guaranteed to all employees under law.

3 52. Defendants' conduct, as alleged herein, constitutes unfair competition in violation of
4 §17200 *et seq.* of the Business & Professions Code.

5 53. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise
6 of reasonable care should have known that the conduct was unlawful. As such, it is a violation of §
7 17200 *et seq.* of the Business & Professions Code.

8 54. As a proximate result of the above-mentioned acts of Defendants, Plaintiff and others
9 similarly situated have been damaged in a sum as may be proven.

10 55. Unless restrained by this Court, Defendants will continue to engage in the unlawful
11 conduct, as alleged above. Pursuant to Business & Professions Code § 17200 *et seq.*, this Court should
12 make such orders or judgments, including the appointment of a receiver, as may be necessary to
13 prevent the use or employment, by Defendants, its agents, or employees, of any unlawful or deceptive
14 practice prohibited by the Business & Professions Code, and/or, including but not limited to,
15 disgorgement of profits which may be necessary to restore Plaintiff and Class Members to the money
16 Defendants have unlawfully failed to pay.

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XI.

EIGHTH CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR
CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1194, AND 1198 AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3, 432.5, AND 558**

56. Plaintiff incorporates paragraphs 1 through 55 of this Complaint as though fully set forth herein.

57. As a result of the acts alleged above, including the Labor Code violations set forth herein, Plaintiff seeks penalties pursuant to Labor Code § 2698 *et seq.* against Defendants on behalf of herself and all other non-exempt California employees employed at any time from March 28, 2021 through July 24, 2023 (“Aggrieved Employees”).

58. Furthermore, Defendants improperly required Plaintiff and Aggrieved Employees to agree to illegal terms as a condition of their employment including, but not limited to, covering all cash shortages. Labor Code § 432.5 provides that “No employer . . . shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer . . . thereof to be prohibited by law.”

59. For each such violation, Plaintiff and Aggrieved Employees are entitled to penalties in an amount to be shown at the time of trial subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1194, and 1198; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3, 432.5, and 558.

60. Penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

61. On March 28, 2022, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the

violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of March 28, 2022. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages and liquidated damages pursuant to Labor Code §§ 510, 1194, and 1194.2 in the amount of all unpaid overtime and minimum wages due to Plaintiff and Class Members;
2. For compensatory damages in the amount of one hour of wages for each day on which a meal and/or rest period was not properly provided to Plaintiff and Class Members, pursuant to Labor Code § 226.7;
3. For penalties pursuant to Labor Code § 226(e) for Plaintiff and Class Members;
4. For restitution for unfair competition pursuant to Business & Professions Code § 17200 *et seq.* for Plaintiff and Class Members;
5. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
6. An award providing for payment of costs of suit pursuant to Labor Code §§ 226(h), 1174.5, 1194, 1198, and other applicable law;
7. An award of attorneys' fees pursuant to Labor Code §§ 226(h), 1194, 1198, and other applicable law;
8. An award of prejudgment and post-judgment interest; and
9. Such other and further relief as this Court may deem just and proper.

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1 Dated: August 30, 2023

Respectfully submitted,

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3 GAINES & GAINES
A Professional Law Corporation

4
5 By: _____
6 DANIEL F. GAINES
7 EVAN S. GAINES
Attorney for Plaintiff

8 **DEMAND FOR JURY TRIAL**

9 Plaintiff hereby demands a trial of her claims by jury to the extent authorized by law.

10 Dated: August 30, 2023

Respectfully submitted,

11 GAINES & GAINES
12 A Professional Law Corporation

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14 By: _____
15 DANIEL F. GAINES
16 EVAN S. GAINES
17 Attorney for Plaintiff



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